



SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103528]

Order Extending Temporary Conditional Exemptive Relief, Pursuant to Section 36(a)(1) of the Securities Exchange Act of 1934 and Rule 608(e) of Regulation NMS thereunder, from Certain Requirements of Appendix D, Section 3 of the National Market System Plan Governing the Consolidated Audit Trail

July 23, 2025.

I. Introduction

On May 29, 2025,¹ Financial Information Forum (“FIF”) requested that the Securities and Exchange Commission (the “Commission” or the “SEC”) extend temporary conditional exemptive relief, pursuant to its authority under section 36(a)(1) of the Securities Exchange Act of 1934 (“Exchange Act”)² and Rule 608(e) of Regulation NMS under the Exchange Act,³ related to the requirements set forth in Appendix D, section 3 of the national market system plan governing the consolidated audit trail (the “CAT NMS Plan”)⁴ that the consolidated audit trail (the “CAT”) “must be able to create the lifecycle between . . . [c]ustomer orders to ‘representative’ orders created in firm accounts for the purpose of facilitating a customer order (e.g., linking a customer order handled on a riskless principal basis to the street-side proprietary

¹ See Letter from Howard Meyerson, Managing Director, Financial Information Forum, to Commission, dated May 29, 2025, available at <https://fif.com/index.php/working-groups/category/271-comment-letters?download=3276:fif-request-for-six-month-extension-of-the-current-exemptive-relief-relating-to-rep-order-linkage&view=category> (the “Request”).

² 15 U.S.C. 78mm(a)(1).

³ 17 CFR 242.608(e).

⁴ See Securities Exchange Act Release No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (“CAT NMS Plan Approval Order”). The CAT NMS Plan is Exhibit A to the CAT NMS Plan Approval Order. See *id.* at 84943–85034. The CAT NMS Plan functions as the limited liability company agreement of the jointly owned limited liability company formed under Delaware state law through which the Participants conduct the activities of the CAT (the “Company”). Each Participant is a member of the Company and jointly owns the Company on an equal basis. The Participants submitted to the Commission a proposed amendment to the CAT NMS Plan on August 29, 2019, which they designated as effective on filing. Under the amendment, the limited liability company agreement of a new limited liability company named Consolidated Audit Trail, LLC serves as the CAT NMS Plan, replacing in its entirety the CAT NMS Plan. See Securities Exchange Act Release No. 87149 (Sept. 27, 2019), 84 FR 52905 (Oct. 3, 2019).

order).”⁵ For the reasons set forth below, the Commission has determined to grant FIF’s request for a six-month extension of the temporary conditional exemptive relief previously provided by the Commission with respect to the above-described requirements set forth in Appendix D, section 3 of the CAT NMS Plan for representative order scenarios in which Industry Members do not have a systematic or direct link between their order management systems and execution management systems.

II. Background

On July 18, 2012, the Commission adopted Rule 613 of Regulation NMS, which required national securities exchanges and national securities associations (the “Participants”)⁶ to jointly develop and submit to the Commission a national market system plan to create, implement, and maintain the CAT.⁷ The goal of Rule 613 was to create a modernized audit trail system that would provide regulators with timely access to a comprehensive set of trading data, thus enabling regulators to more efficiently and effectively analyze and reconstruct market events, monitor market behavior, conduct market analysis to support regulatory decisions, and perform surveillance, investigation, and enforcement activities. On November 15, 2016, the Commission approved the national market system plan required by Rule 613 – the CAT NMS Plan.⁸

On December 16, 2020, the Commission issued an exemptive relief order regarding the implementation of the CAT NMS Plan (the “First Order”).⁹ This order granted temporary

⁵ See *id.* at Appendix D, section 3. A representative order is an order originated in a firm-owned or -controlled account, including principal, agency average price and omnibus accounts, by an industry member for the purpose of working one or more customer or client orders. See, e.g., Securities Exchange Act Release No. 88702 (Apr. 20, 2020), 85 FR 23075, 23076 n.26 (Apr. 24, 2020).

⁶ The Participants include BOX Exchange LLC, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors’ Exchange LLC, Long-Term Stock Exchange, Inc., MEMX LLC, Miami International Securities Exchange LLC, MIAX Emerald, LLC, MIAX PEARL, LLC, MIAX Sapphire, LLC, Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE National, Inc., and NYSE Texas, Inc.

⁷ See Securities Exchange Act Release No. 67457 (July 18, 2012), 77 FR 45722 (Aug. 1, 2012); 17 CFR 242.613.

⁸ See CAT NMS Plan Approval Order, *supra* note 4.

⁹ See Securities Exchange Act Release No. 90688 (Dec. 16, 2020), 85 FR 83634 (Dec. 22, 2020).

conditional exemptive relief from several requirements set forth in the CAT NMS Plan, including the requirements set forth in Appendix D, section 3 of the CAT NMS Plan that the CAT “must be able to create the lifecycle between . . . [c]ustomer orders to ‘representative’ orders created in firm accounts for the purpose of facilitating a customer order (e.g., linking a customer order handled on a riskless principal basis to the street-side proprietary order).”¹⁰ This relief was initially granted until July 31, 2023.¹¹

On July 8, 2022, the Commission issued a new exemptive relief order (the “Second Order”),¹² which superseded the First Order and modified and/or clarified certain aspects of the First Order. The Second Order granted temporary conditional exemptive relief until July 31, 2024, from the above-described linkage requirements set forth in Appendix D, section 3 for “representative order scenarios in which Industry Members do not have a systematic or direct link between their order management systems and execution management systems.”¹³ The Commission subsequently issued an order (the “Third Order”), on May 19, 2023, extending such exemptive relief until January 31, 2025.¹⁴ This relief was superseded by a new order issued by the Commission on November 2, 2023 (the “Fourth Order”),¹⁵ which was intended to mirror the temporary conditional exemptive relief granted by the Third Order (and the Second Order) with respect to the requirements set forth in Appendix D, section 3 of the CAT NMS Plan regarding lifecycle linkages between customer orders and representative orders for scenarios in which Industry Members do not have a systematic or direct link between their order management

¹⁰ See id. at 83636. The Commission stated its understanding that “the Participants do not currently have the ability to create lifecycles in certain representative order scenarios, particularly because of the difficulty of linking representative orders for Industry Members with separate order management systems and execution management systems that do not currently have a systematic or direct link between them.” Id.

¹¹ Id.

¹² See Securities Exchange Act Release No. 95234 (July 8, 2022), 87 FR 42247 (July 14, 2022).

¹³ Id. at 42256. The term “Industry Member” is defined as “a member of a national securities exchange or a member of a national securities association.” See CAT NMS Plan, supra note 4, at section 1.1.

¹⁴ See Securities Exchange Act Release No. 97530 (May 19, 2023), 88 FR 33655 (May 24, 2023).

¹⁵ See Securities Exchange Act Release No. 98848 (Nov. 2, 2023), 88 FR 77128 (Nov. 8, 2023).

systems and execution management systems.¹⁶ The Fourth Order maintained the January 31, 2025 deadline established by the Third Order.¹⁷ On January 17, 2025, the Commission again extended this temporary conditional exemptive relief until July 31, 2025 (the “Fifth Order”).¹⁸

III. Request for Relief

FIF requests that the Commission extend the previously granted temporary conditional exemptive relief until January 31, 2026.¹⁹

Without such relief, FIF states that it understands that Industry Members would be required to report linkage to a specific representative order.²⁰ FIF states that it may be difficult or impossible for Industry Members to comply with the requirements to report linkages for certain scenarios. “In some scenarios,” FIF states that “no representative order exists, and thus it is not possible for Industry Members to provide the linkage to a specific representative order.”²¹ In other scenarios, FIF states that “Industry Members do not maintain this linkage in their books and records.”²² Finally, FIF states that there are scenarios in which “the CAT system does not provide a method to provide linkage to a specific representative order.”²³

FIF states that Industry Members would therefore be faced with “one of the following choices: (i) submit large numbers of Order Fulfillment events that the CAT system would reject and that would not be repairable; (ii) abandon certain common existing trading workflows that

¹⁶ Id. at 77132.

¹⁷ Id.

¹⁸ See Securities Exchange Act Release No. 102234 (Jan. 17, 2025), 90 FR 8078 (Jan. 23, 2025).

¹⁹ See Request, supra note 1, at 2.

²⁰ Id.; see also, e.g., FAQ F5, available at https://catnmsplan.com/faq?search_api_fulltext=&field_topics=76&sort_by=field_faq_number (“All Industry Members will be required to provide representative order linkages to unlinked OMS/EMS and position fill scenarios no later than July 31, 2025 due to the expiry of the exemptive relief granted by the SEC on January 17, 2025.”).

²¹ See Request, supra note 1, at 2.

²² Id.

²³ Id. FIF states that these scenarios are more fully described in a previous request for exemptive relief submitted to the Commission. Id.; see also Letter from Howard Meyerson, Managing Director, FIF, to Commission, dated July 2, 2024, available at <https://fif.com/index.php/working-groups/category/271-comment-letters?download=2962:fif-exemptive-request-letter-to-the-sec-on-representative-order-linkage&start=10&view=category>.

are fundamental to the current equity trading markets; or (iii) refrain from reporting large numbers of Order Fulfillment events to CAT.”²⁴ FIF further explained the potential harms that could flow from the expiration of the existing exemptive relief:

For example, it is a common workflow for Industry Members to trade as principal against customer orders without the Industry Member creating a firm order. . . .If Industry Members submit large numbers of Order Fulfillments that the CAT system will reject, this will present a significant processing and workflow challenge for the CAT system, the regulators and Industry Members as large numbers of rejected and unsubmitted CAT events pile-up. This will also generate increased processing and operational costs for the CAT system and FINRA CAT and increased operational costs for Industry Members. If Industry Members were to refrain from reporting Order Fulfillments to CAT, this would result in less data being reported to CAT as compared to reporting these Order Fulfillment events without linkage.²⁵

FIF states that its members have further identified for Commission staff and other regulators the challenges with implementing certain CAT linkage requirements relating to representative orders and order fulfillments in presentations²⁶ and previous exemptive relief requests that were submitted to the Commission in March 2024 and July 2024.²⁷

IV. Discussion

Section 36(a)(1) of the Exchange Act grants the Commission the authority to “conditionally or unconditionally exempt any person, security, or transaction . . . from any provision or provisions of [the Exchange Act] or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.”²⁸ Rule 608(e) of Regulation NMS similarly grants the

²⁴ See Request, supra note 1, at 2-3 (footnote omitted).

²⁵ See id. at 3.

²⁶ Id.

²⁷ See id. at 3-4 n.14-15 and associated text.

²⁸ 15 U.S.C. 78mm(a)(1).

Commission the authority to “exempt from [Rule 608], either unconditionally or on specified terms and conditions, any self-regulatory organization, member thereof, or specified security, if the Commission determines that such exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system.”²⁹

The Commission has determined that additional time is needed to identify and evaluate appropriate long-term solutions for certain trading scenarios.³⁰ In developing those solutions, the Commission emphasizes its willingness to consider alternative solutions that achieve the regulatory goals of Rule 613 and the CAT NMS Plan. The Commission therefore determines that the requested extension of the existing temporary conditional exemptive relief is appropriate in the public interest and consistent with the protection of investors under section 36(a)(1) of the Exchange Act, as well as consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets, and the perfection of the mechanisms of a national market system under Rule 608(e) of Regulation NMS.

Specifically, the Commission extends the existing temporary conditional exemptive relief granted by the Commission from the requirements set forth in Appendix D, section 3 of the CAT NMS Plan related to lifecycle linkages between customer orders and representative orders³¹ for representative order scenarios in which Industry Members do not have a systematic or direct link between their order management systems and execution management systems, until January 31, 2026. Such relief is intended to mirror the exemptive relief provided by the Second Order, the Third Order, the Fourth Order, and the Fifth Order.

V. Conclusion

²⁹ 17 CFR 242.608(e).

³⁰ Additionally, Commission staff have been instructed to undertake a comprehensive review of the CAT. See Prepared Remarks Before SEC Speaks, Chairman Paul S. Atkins, May 19, 2025, [available at](https://www.sec.gov/newsroom/speeches-statements/atkins-prepared-remarks-sec-speaks-051925) <https://www.sec.gov/newsroom/speeches-statements/atkins-prepared-remarks-sec-speaks-051925>.

³¹ The requirements related to lifecycle linkages between customer orders and representative orders set forth in Appendix D, section 3 of the CAT NMS Plan are described in the Second Order. See Second Order, [supra](#) note 12, at 42255-56.

Accordingly, IT IS HEREBY ORDERED, pursuant to section 36(a)(1) of the Exchange Act³² and Rule 608(e) under the Exchange Act,³³ that the above-described temporary conditional exemptive relief be extended.

By the Commission.

Sherry R. Haywood,

Assistant Secretary.

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³² 15 U.S.C. 78mm(a)(1).

³³ 17 CFR 242.608(e).