

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-98739; File No. S7-08-22]

Notice of the Text of the Amendment to the National Market System Plan Governing the Consolidated Audit Trail for Purposes of Short Sale-Related Data Collection

AGENCY: Securities and Exchange Commission.

ACTION: Notice of the text of amendment to national market system plan.

SUMMARY: The Securities and Exchange Commission (“Commission”) is publishing notice of the text of the adopted amendment to the National Market System Plan Governing the Consolidated Audit Trail (“CAT NMS Plan”) in connection with the Commission’s issuance of Release No. 34-98738, “Short Position and Short Activity Reporting by Institutional Investment Managers” (“Adopting Release”), published elsewhere in this issue of the **Federal Register**.

DATES: *Effective date:* January 2, 2024.

Compliance date: The compliance date for the amendment to the CAT NMS Plan is July 1, 2025.

FOR FURTHER INFORMATION CONTACT: Timothy M. Riley, Branch Chief; Patrice M. Pitts, Special Counsel; James R. Curley, Special Counsel; Jessica Kloss, Attorney-Advisor; Brendan McLeod, Attorney-Advisor; Roland Lindmayer, Attorney-Advisor; and Josephine Tao, Assistant Director, Office of Trading Practices, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE, Washington, D.C. 20549, at (202) 551-5777.

SUPPLEMENTARY INFORMATION:

I. Background

In the Adopting Release, the Commission is adopting new 17 CFR 240.13f-2 (“Rule 13f-2”) and related Form SHO (referenced in 17 CFR 249.332) under the Securities Exchange Act of 1934 (“Exchange Act”). Rule 13f-2 requires certain institutional investment managers to

report, on a monthly basis on new Form SHO, certain prescribed short position data and short activity data for certain equity securities. The Commission is not adopting the proposed amendment to the CAT NMS Plan that would have required the reporting to the Consolidated Audit Trail of “buy to cover” order marking. The Commission is adopting an amendment to the CAT NMS Plan, pursuant to 17 CFR 242.608(a)(2) and (b)(2), to require the reporting to the Consolidated Audit Trail of reliance on the bona fide market making exception in Regulation SHO, with some non-substantive, technical changes with regard to the wording of the rule text.¹ This Notice is being given of the text of the adopted amendment to the CAT NMS Plan. For a full discussion of the adopted amendment to the CAT NMS Plan, see the Adopting Release.

II. Compliance Date

The Commission is setting a compliance date of 20 months from publication in the **Federal Register**, which is 18 months after the effective date of the Adopting Release.²

III. Statutory Authority and Text of the Amendment to the CAT NMS Plan

Pursuant to the Exchange Act and, particularly, Sections 2, 3, 5, 6, 11A(a)(3)(B), 15, 15A, 17(a) and (b), 19, and 23(a) thereof, 15 U.S.C. 78b, 78c, 78e, 78f, 78k-1, 78o, 78o-3, 78q(a) and (b), 78s, and 78w(a), and pursuant to Rules 608(a)(2) and (b)(2) thereunder, the Commission is amending the CAT NMS Plan in the manner set forth below.

Amend Section 6.4 of the CAT NMS Plan by modifying paragraphs (d)(ii)(B) and (C) and adding paragraph (d)(ii)(D).

The revisions read as follows. Additions are *italicized*; deletions are [bracketed].

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¹ See *Short Position and Short Activity Reporting by Institutional Investment Managers*, Exchange Act Release No. 34-98738 (Oct. 13, 2023), at n. 38 and accompanying text.

² *Id.* at 141 (discussing compliance date for amendment to the CAT NMS Plan).

Section 6.4. Data Reporting and Recording by Industry Members.

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(d) Required Industry Member Data

(i) No change.

(ii) No change.

(A) No change.

(1) – (3) No change.

(B) if the trade is cancelled, a cancelled trade indicator; [and]

(C) for original receipt or origination of an order, the Firm

Designated ID for the relevant Customer, and in accordance with

Section 6.4(d)(iv), Customer Account Information and Customer

Identifying Information for the relevant Customer[.]; *and*

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(D) for the original receipt or origination of an order to sell

an equity security, whether the order is for a short sale effected by a

market maker in connection with bona fide market making activities in

the security for which the exception in Rule 203(b)(2)(iii) of Regulation

SHO is claimed.

By the Commission.

Dated: October 13, 2023.

J. Matthew DeLesDernier,

Deputy Secretary.