

February 24, 2014

VIA EMAIL

Ms. Elizabeth M. Murphy
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File No. 4-668: National Market System Plan Governing the Process of Selecting a Plan Processor and Creating a Plan for the Consolidated Audit Trail Pursuant to Regulation NMS Rule 613 (the “Selection Plan”)

Dear Ms. Murphy:

The undersigned eighteen registered national securities exchanges (the “Exchanges”)¹ and the Financial Industry Regulatory Authority, Inc. (“FINRA,” and together with the Exchanges, the “SROs”) write to provide our response to comments received by the Securities and Exchange Commission (“SEC” or “Commission”) for the above-referenced proposal.²

The SROs previously responded to six comment letters received in response to the Selection Plan the Commission published on November 15, 2013, including two prior letters from the Financial Information Forum (“FIF”).³ This letter addresses points raised by the FIF’s February 12, 2014

¹ Specifically, BATS Exchange, Inc.; BATS Y-Exchange, Inc.; BOX Options Exchange, LLC; Chicago Board Options Exchange, Inc.; C2 Options Exchange, Inc.; Chicago Stock Exchange, Inc.; EDGA Exchange, Inc.; EDGX Exchange, Inc.; International Securities Exchange, LLC; Miami International Securities Exchange LLC; The NASDAQ Stock Market LLC; NASDAQ OMX BX, Inc.; NASDAQ OMX PHLX LLC; National Stock Exchange, Inc.; New York Stock Exchange, LLC; NYSE MKT, LLC; NYSE Arca, Inc.; and Topaz Exchange, LLC.

² See Securities Exchange Act Release 34-70892 (Nov. 15, 2013), 78FR 69910 (Nov. 21, 2013) Joint Industry Plan; BATS Exchange, Inc., BATS-Y Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, Miami International Securities Exchange LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and Topaz Exchange, LLC; Notice of Filing of Proposed National Market System Plan Governing the Process of Selecting a Plan Processor and Developing a Plan for the Consolidated Audit Trail.

³ See Letter to Elizabeth M. Murphy, Secretary, Commission, from the SROs, dated January 31, 2014 (“SRO Response Letter”).

comment letter.⁴ The SROs carefully considered the FIF's three points and respond with further clarification below.

I. Non-disclosure Agreement

The FIF stated that the scope of the NDA undermines the SROs' objective of receiving industry input during the CAT bid and selection process because an inability to share anonymized information to a broader industry group will materially impact the SROs' ability to receive feedback from the industry. If NDAs are to be used, the FIF requested that they be limited to include only Bidders' proprietary information.

The SROs understand that broad industry input during the development of the CAT NMS Plan is important to SRO consideration of the bids. The SROs will continue to discuss details with the DAG members while preserving a fair selection process and confidential bid information. The SROs executed NDAs with the Bidders and are required to protect Bidders' confidential information while simultaneously gathering industry input. The SROs recognize that without NDAs the Bidders are not likely to provide information adequate for the SROs to fully analyze their proposals. In order to secure the bid and selection process and to protect Bidder information, the SROs believe it is important to require NDAs from non-SRO members who are part of the Development Advisory Group ("DAG") as well. Doing so will allow the SROs to identify appropriate bid information to share with DAG members and will obligate DAG members to preserve the confidentiality of any information provided during the CAT bidding and selection process. The SROs plan to share the terms of the NDA with DAG members in advance of receipt of the first bid. The SROs will also discuss with DAG members the possibility that trade association members participating in specialized CAT working groups may become party to the NDA in order to facilitate feedback to the DAG. The SROs understand and are considering comments from the FIF and others; however, details of the NDA are not germane to the Selection Plan

As noted in the SRO Response Letter, after executed NDAs are in place the SROs will provide the DAG with appropriate bid information to allow the DAG members to understand advantages and disadvantages of the options being considered by the SROs. The SROs will seek DAG members' views of the bid information provided as a meaningful contribution to the SROs' analysis of the bids. The SROs are committed to working with the DAG to identify particular sections of the Request for Proposal ("RFP")⁵ that will benefit from industry input. The SROs will tailor their industry outreach approach, as well as the anonymized bid information to be disclosed, based on the content of the bids received.

⁴ Letter to Elizabeth M. Murphy, Secretary, Commission, from Manisha Kimmel, Executive Director, Financial Information Forum, dated December 23, 2013 ("FIF Letter").

⁵ The full RFP is available at <http://catnmsplan.com>.

II. Clarification of Terms

In its letter, the FIF requested clarification of certain terms from the SRO Response Letter.

a) Clarification of “affiliations with bidding entities”

The FIF requests clarification of the term “affiliations with bidding entities” and recommends a definition that would prohibit DAG members from directly participating in the drafting of a CAT bid. The SROs understand and will consider the request, but as noted above, intend to separate the drafting of an NDA with the DAG from the process of approving the Selection Plan.

b) Material subcontractors

The FIF requested that the SROs provide a list of material subcontractors expected to participate in a response to the RFP. The SROs will not know the identity of any subcontractors until the RFP responses are submitted, as Bidders were not required to identify subcontractors at the time they submitted their intent to bid. After the RFP responses have been submitted, the list of Bidders and associated subcontractors disclosed by the Bidders will be published to the www.catnmsplan.com website.

c) Functional separation of non-SRO participants

The FIF requested clarification of whether non-SRO DAG participants will be required to functionally separate their business personnel from those personnel participating in the DAG and reviewing anonymized bid information. The request specifically relates to those non-SRO DAG participants that may be resource constrained like the SROs, as the SROs described in the SRO Response Letter. The DAG NDA will address the inherent risk of sharing information from Bidders’ RFP responses. Functional separation is a tool that may be used by non-SRO DAG members to satisfy the NDA if they have conflicts of interest. The SROs strongly believe that non-SRO DAG members should not share bid details or other information from DAG discussions with any bidding entity. To the extent that non-SRO DAG members are involved with the preparation of or participation in a bid, such members should have functional separation between personnel participating on the DAG and personnel working on the bids, similar to those restrictions imposed on Bidders SROs under Section V(D) of the Selection Plan.

III. Finalization of Key Functionality Issues

In its letter, the FIF requested that key functionality issues be finalized prior to the bid submission date, noting that the SROs and SEC should work together to finalize exemptive requests and communicate those decisions to Bidders prior to bid submission.

The FIF Letter specifically requested finalization of the firm-designated ID model and options market maker quote relief.

The SROs understand the importance of providing information to Bidders in order to obtain bids that best meet the requirements of Rule 613. The SROs will continue to communicate relevant information on decisions they have made to Bidders and the industry as soon as practicable. The SROs have held conference calls for Bidders to communicate such information, and also have provided updates on certain aspects of the RFP via email and the www.catnmsplan.com website. The SROs have additionally posted responses to more than 60 questions received from Bidders on various topics related to the role of the CAT processor.

The SROs note that there is no intention to deviate from the current timeline for Bidders to submit their bids, which is approximately four weeks after the SEC's approval of a Selection Plan. Under the SEC's most recent exemptive relief, the SROs must file the CAT NMS Plan by September 30, 2014 so any delay in receiving the bids will shorten the timeframe for SROs to share information with the industry and evaluate the bids.

* * * * *

Respectfully submitted,

Ms. Elizabeth M. Murphy
February 24, 2014
Page 5 of 6

BATS EXCHANGE, INC.

BY: Damara Schademann

BOX OPTIONS EXCHANGE LLC

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EDGA EXCHANGE, INC.

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Ms. Elizabeth M. Murphy
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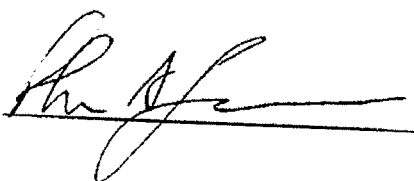
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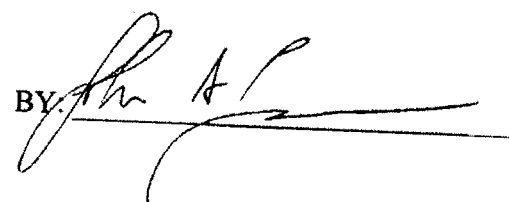
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Enclosure

cc: The Hon. Mary Jo White, Chair
The Hon. Luis A. Aguilar, Commissioner
The Hon. Daniel M. Gallagher, Commissioner
The Hon. Kara M. Stein, Commissioner
The Hon. Michael Piwowar, Commissioner
Mr. John Ramsay, Acting Director of Trading and Markets
Mr. James R. Burns, Deputy Director of Trading and Markets
Mr. David S. Shillman, Associate Director of Trading and Markets

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