sifma

Invested in America

May 2, 2023

Ms. Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: ***Joint Industry Plan; Notice of Filing of Amendment to the National Market System Plan Governing the Consolidated Audit Trail; File No. 4-698***

Dear Ms. Countryman:

The Securities Industry and Financial Markets Association ("SIFMA")[1] respectfully submits this comment letter to the U.S. Securities and Exchange Commission (the "Commission") in response to the proposal by the self-regulatory organizations ("SROs) to establish a revised funding model ("Funding Proposal")[2] for the consolidated audit trail ("CAT") and to establish a fee schedule in accordance with the Funding Proposal. The Funding Proposal replaces and is virtually identical to the prior "Executed Share Model" that was withdrawn by the SROs on March 1, 2023.[3] As such, SIFMA continues to have the same concerns with the Funding Proposal that we had with the Executed Share Model, and accordingly, our prior comments on the Executed Share Model apply equally to the Funding Proposal.[4] As set forth below and stated previously regarding the Executed Share Model, the Commission should disapprove the Funding Proposal because the SROs as the CAT NMS Plan Participants ("Participants") have not demonstrated that the Funding Proposal meets the relevant standards governing SRO fees under the Securities Exchange Act of 1934 ("Exchange Act").

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[1] SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry's one million employees, we advocate on legislation, regulation and business policy affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit http://www.sifma.org.

[2] See Release No. 34-97151 (March 15, 2023), 88 FR 17086 (March 21, 2023). Capitalized terms not otherwise defined in this letter have the same meanings as they do in the CAT NMS Plan and/or the Funding Proposal.

[3] See Release No. 34-97212 (March 28, 2023), 88 FR 19693 (April 3, 2023).

[4] See (https://www.sec.gov/comments/4-698/4698-20132695-303187.pdf) ("June 2022 Comment Letter"), (https://www.sec.gov/comments/4-698/4698-20145239-310561.pdf) ("October 2022 Comment Letter"), (https://www.sec.gov/comments/4-698/4698-20152795-320485.pdf) ("December 2022 Comment Letter"), and (https://www.sec.gov/comments/4-698/4698-20154753-322976.pdf) ("January 2023 Comment Letter").

While SIFMA staff appreciated meeting with the Participants on April 14, 2023 to share our concerns with the proposed definition of "executing broker" in the Funding Proposal, we continue to be disappointed with the SROs' overall lack of consultation and collaboration with SIFMA and its members on other critical aspects of the Funding Proposal. As we have stated previously, we recognize and accept that Industry Members will be responsible for a portion of CAT costs. Nonetheless, we continue to believe that the process followed by the SROs in connection with establishing the Executed Share Model, as well as the Funding Proposal, has been significantly flawed. In submitting the Funding Proposal, the SROs have continued to follow a problematic path of not meaningfully soliciting industry input on a viable CAT funding model.

We also find it extremely noteworthy that the Financial Industry Regulatory Authority, Inc. ("FINRA"), the not-for-profit self-regulator for the entire brokerage industry, submitted a comment letter on the Funding Proposal urging the Commission to disapprove it.[5] In its letter, FINRA asserts that the proposal "fails to adequately address concerns that have been previously raised both by FINRA and industry members regarding, among other things, the inequitable allocation to FINRA of a disproportionate share of the total CAT costs to be borne by the [SROs], the reasonableness and fairness of such an approach, and the impact it would have on FINRA and FINRA members."[6] As the Commission knows, FINRA is funded by Industry Members. As we have stated previously, this Industry Member funding of FINRA should be taken into account in determining whether the proposed allocation of CAT costs between Participants and Industry Members under the Funding Proposal is fair and reasonable. More importantly, it should lead the Commission to disapprove the proposal because it would cause Industry Members to pay not only for their proposed share of CAT costs, but also for FINRA's share of CAT costs, leading Industry Members to pay in excess of 80% of total CAT cost under the proposal. In addition, as FINRA notes in its comment letter, the Participants' treatment of FINRA under the proposal is manifestly unfair, as the Participants are proposing to assess FINRA approximately 34% of the Participants' share of CAT costs. Consistent with our discussion below, we support the points raised by FINRA in its comment letter regarding the proposal's inequitable allocation of fees and its conclusion that the Commission disapprove it.[7]

We further request that if and when a CAT funding model is approved, that Industry Members be given ample time to implement any necessary changes to systems and processes for them to be able to capture their portion of CAT costs. We would suggest a minimum of a year for such an implementation period, but as noted, are happy to further discuss this and other issues related to CAT funding directly with the SROs.

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[5] See (https://www.sec.gov/comments/4-698/4698-20164063-334005.pdf) ("FINRA Comment Letter").

[6] Id.

[7] To be clear, our support of the FINRA Comment Letter relates to points regarding the inequitable allocation of fees and its conclusion that the Commission disapprove the proposal, and not to certain other suggestions such as the one to create a CAT funding model based on the Section 31 fee model.

I. Executive Summary

As noted, SIFMA continues to have the same concerns with the Funding Proposal that we had with the Executed Share Model. Therefore, all of our prior comments on the Executed Share Model continue to apply to the Funding Proposal. These include our objections to the way in which the Participants propose to handle and allocate Historical CAT Costs, which we continue to believe is inconsistent with the Exchange Act fee standards.[8] We are focusing in this letter on certain of our prior comments that need to be further elaborated in light of the Funding Proposal. We believe for the reasons set forth below, as well as in our prior comment letters, that the Commission should disapprove the Funding Proposal as the Participants have not met their burden under the Exchange Act of demonstrating that the proposal (1) provides "for the equitable allocation of reasonable dues, fees, and other charges," (2) is "not designed to permit unfair discrimination between customers, issuers, brokers or dealers," and (3) does not "impose any burden on competition not necessary or appropriate in furtherance of the purposes" of the Exchange Act. Specifically, we believe that:

- The definition of "executing broker" in the proposal leads to the inequitable allocation of fees;

- The Participants' decision to allocate two-thirds of CAT costs to Industry Members – and in excess of 80% if Industry Member funding of FINRA is considered - is unfair and unreasonable, as well as arbitrary, because the Participants are equally responsible for the complexity of the trading activity in the equity and options markets, complexity that could exponentially increase if the Commission moves forward with its equity auction and new minimum pricing increment proposals;[9] and

- CAT continues to need an independent cost review mechanism to help ensure that future CAT Fees are fair and reasonable and to ensure that controls are put into place to guard against unchecked spending.

We address each of these points in more detail below.

II. Discussion

A. The Definition of "executing broker" in the Funding Proposal Leads to the Inequitable Allocation of Fees

As noted in the Funding Proposal, SIFMA supported the switch in the Executed Share Model from proposing to assess the Industry Member portion of CAT Fees on clearing brokers to proposing to assess this portion of CAT Fees on executing brokers. We supported this switch

[8] See SIFMA's June 2022 Comment Letter, October 2022 Comment Letter, and January 2023 Comment Letter. Our prior comments also highlight, among other things, the problems with the Participants' decision to provide for a reserve of not more than 25% of the CAT budget as part of the budget.

[9] See Release No. 34-96495 (December 14, 2022), 88 FR 128 (January 3, 2023) (Order Competition Rule); Release No. 34-96494 (December 14, 2022), 87 FR 80266 (December 29, 2022) (Regulation NMS: Minimum Pricing Increments, Access Fees, and Transparency of Better Priced Orders).

because the Participants' initial decision to allocate CAT Fees to clearing brokers would have led to unfair burdens on them and could have resulted in them shouldering the burden of CAT costs in scenarios in which they could not determine which clearing client was responsible for the costs. In connection with making this recommendation, we noted in our January 2023 Comment Letter that the Participants needed to provide significantly more detail on who would be defined as an "executing broker" under the proposal, as the term is used in a variety of contexts in the industry and is sometimes applied to various brokers who have a role in the lifespan of a single order. In response, the Participants now are proposing to define "executing broker" in effectively the same way as parties to trade reports are identified under the SROs' rules. We believe that this proposed definition continues to suffer from the same problems as the Participants' prior proposal to allocate CAT Fees to clearing brokers, and accordingly, would lead to the inequitable allocation of the CAT Fees among Industry Members.

Under the proposed definition, the Participants would use CAT transaction reports submitted by the exchanges and FINRA to identify the transaction for purposes of calculating the amount of CAT Fees. These reports also will be used to identify the CAT Executing Broker for the Buyer and the CAT Executing Broker for the Seller for purposes of allocating such CAT Fees between the buying and selling firms in the transaction. Thus, under the definition, the exchange or FINRA member representing the buyer and the exchange or FINRA member representing the seller in a transaction each would be charged one-third of the total CAT Fees for the transaction. The remaining one-third of the CAT Fees would be charged to the exchange on which the transaction was executed, or to FINRA if the trade was executed over-the-counter ("OTC"). Further, for OTC transactions, the proposal provides that if one of the parties is not a FINRA member, then the FINRA member on the other side of the transaction would be responsible for two-thirds of the CAT Fees for the transaction.

The Participants also propose to use the same reporting paradigm for transactions executed on an alternative trading system ("ATS"). Specifically, if an ATS is identified as the executing party and/or the contra-side executing party in the TRF/ORF/ADF Transaction Data Event, then the ATS would be a CAT Executing Broker for purposes of the Funding Proposal. If the ATS is identified as the executing party for the buyer in such transaction reports, then the ATS would be the CAT Executing Broker for the Buyer, and if the ATS is identified as the executing party for the seller in such transaction reports, then the ATS would be the CAT Executing Broker for the Seller. An ATS also could be both the CAT Executing Broker for the Buyer and the CAT Executing Broker for the Seller under the proposal.

In assessing any funding model, it is important to recognize that CAT operates on a cost-recovery basis and that such costs are a direct result of the total number of messages that CAT Reporters (both Participants and Industry Members) send to CAT, the costs of processing and linking such messages, and the costs to CAT of providing tools and mechanisms to the SEC and SROs to analyze the CAT data. Though SIFMA agrees with the SROs' decision to move away from the original proposal that would have assessed fees based solely on message traffic, that method did at least ensure that all CAT Reporters contributed to the overall funding of CAT.

In an apparent effort to simplify the billing methodology, the Participants now are proposing to assess CAT Fees on the buying and selling Industry Member in a transaction. Similar to the problem with the Participants' prior proposal to assess CAT Fees on clearing

brokers, such an approach would result in the inequitable allocation of the fees to just a subset of Industry Members, as opposed to all CAT Reporters. This would occur because the "executing brokers" under the proposal are often the last broker in the chain of many brokers that originate, handle, and process the order before it reaches the executing broker.

Any analysis of a funding model that charges only a subset of brokers-dealers needs to evaluate whether there is an expectation that such firms would pass on costs to others, or whether they would absorb them, and to what extent this has any negative impacts on competition. In other words, like clearing brokers under the prior proposal, the Participants would place executing brokers in the position of having to collect the Industry Member portion of CAT Fees on behalf of the Participants, causing the executing brokers to incur expenses that other Industry Members would not incur.

For example, in the common situation of an introducing broker sending an order to another broker for execution, that other broker would be considered the executing broker under the proposal and therefore be assessed the CAT Fee for one side of the trade. Similarly, in the common situation in which an order consolidator is used in a transaction to be executed on an exchange, the order consolidator would be treated as the executing broker in the transaction and be assessed the CAT Fee for at least one side of the trade. The Funding Proposal creates similar issues for transactions executed on an ATS, where for a variety of reasons the ATS may be structured so that it reports one or both sides of a trade to CAT and the tape.

In scenarios such as these, Industry Members executing trades on behalf of introducing brokers, as well as ones acting as order consolidators and ATSs, would be responsible for CAT Fees on transactions that did not originate with them. Moreover, firms such as these often are not set up to track and pass through fees to the client firms that sent them the orders that resulted in executions. Thus, under the proposal, they would be faced with either paying the fee on behalf of their clients or developing software and processes to collect such fees from their clients. Like the problems clearing brokers faced under Participants' prior proposal, Industry Members defined as executing brokers under the Funding Proposal would be subject to unfair burdens and could shoulder CAT costs in scenarios in which they could not determine which client firm was responsible for creating the CAT costs by initiating the transaction.

Subject to further data and analysis by the Participants, including projected fees for each Industry Member similar to what the Participants provided in Exhibit C of the Funding Proposal, we preliminarily believe the most reasonable way to allocate CAT costs among Industry Members is to treat the Industry Member that originated the order as being the "executing broker" and therefore the one responsible for CAT Fees. In the alternative, the proposal could be modified to specify that the "originating broker" would be billed the CAT Fee, with the originating broker being defined as the broker-dealer that first reported to CAT an associated order that resulted in the transaction (e.g., "MENO" or "MONO" events under the CAT Reporting Technical Specifications for Industry Members). Such an approach would be more consistent with our understanding of the approach taken under prior CAT funding proposals based on message traffic, which while problematic for many reasons, did subject all Industry Members that brought activity to the market to CAT Fees. In contrast, under the Funding Proposal, only a subset of such Industry Members would be responsible for CAT costs, resulting in an unfair allocation of CAT Fees.

Under this contemplated approach, Participants would assess CAT Fees on the Industry Member that originated the ultimately executed order, whether the firms did so on behalf of a client or on behalf of itself as a principal. Based on our review of the latest CAT technical specifications, the Industry Member who originates a new principal order or the Industry Member who initially receives and routes a customer order for execution on an agency basis would be directly assessed CAT Fees. While the Participants suggest that this approach involves more steps than the approach set forth in the proposal because it would require CAT to link transactions back to the Industry Member on either side that originated the order, we believe it could be simpler because CAT could start with new order events (e.g., MENO or MONO events) and then look for any Execution or Fulfillment that is directly associated with that event. Even if this approach involves linking transactions, we understand that CAT has already been set up to do this for regulatory purposes, so it would appear to be relatively easy to accommodate this approach.

Of course, we very much would welcome further discussion and dialogue with the Participants on the definition of executing broker (as well as other aspects of the Funding Proposal). As noted, SIFMA staff appreciated meeting with the Participants on April 14, 2023 to discuss the executing broker definition. We continue to believe that the best way to achieve a viable CAT funding model is through a dialogue between the Participants and the Industry Members.

B. The Participants' Decision to Allocate Two-Thirds of CAT Costs to Industry Members is Inconsistent with the Exchange Act Fee Standards and Arbitrary

As set forth in our prior comments on the Executed Share Model, we continue to believe that the Participants' have not met their burden under the Exchange Act of demonstrating that allocating two-thirds of CAT costs to Industry Members – and in excess of 80% if Industry Member funding is appropriately considered - is consistent with the Exchange Act fee standards and not otherwise arbitrary.[10] The Participant Exchanges' position that such an allocation satisfies these standards largely is based on their assertion that the complexity and costs in CAT primarily are driven by the complexity of Industry Members' business models.[11] In support of this view, the Participant Exchanges note that the Industry Members' reporting scenarios document is more complicated than the Participants' reporting scenarios document, pointing out

[10] As discussed in our prior comment letters on the Executed Share Model and noted in the FINRA Comment Letter, Industry Members' allocation of total CAT costs would be even higher than two-thirds if Industry Member funding of FINRA is considered. As we have argued, the Commission should take into account such Industry Member funding of FINRA in connection with determining whether the proposed allocation between Participants and Industry Member satisfies the Exchange Act fee standards.

[11] We have previously commented on the Participants' responsibility for creating the unnecessarily complex Industry Member technical reporting specifications and the need for Industry Member input to make them more workable. In addition, we note that we use the reference "Participant Exchanges" in certain parts of this letter rather than "Participants," as it is clear that the large exchange groups are dictating the CAT funding model decisions based on the CAT NMS Plan voting structure. The FINRA Comment letter makes this abundantly clear. FINRA's letter also highlights a point we made in our prior comment letters about the manifest unfairness of the Participants Exchanges choosing to treat FINRA in different ways in the CAT NMS Plan and the CT Plan based on the outcome that is most financially beneficial to the exchanges.

that the Industry Members' document includes multiple reporting scenarios including ones for "stop and conditional orders" and "floor activity."[12]

In making this argument, however, the Participant Exchanges fail to acknowledge that certain of these reporting scenarios have been developed to address order types and activities established and governed by exchange rules, and that attributing any CAT complexity and costs associated with them to Industry Members is wholly inappropriate. In this regard, the Participant Exchanges provide no analysis of how their business decisions, such as creating 32 (and counting) equity and option exchanges, as well as different order types and fee structures for each of these exchanges, have led to complexity in how Industry Members route orders. Instead, they assert in the Funding Proposal that much of the order routing complexity in today's market is caused by Industry Members, without any further analysis of how their own rules and business decisions might be the cause of such complexity.

For instance, equity and options exchanges families have established maker-taker fee structures on certain of their exchanges to attract order flow. Under this structure, an exchange pays a per-share rebate to their members to encourage them to place resting liquidity-providing orders. If an execution occurs, the liquidity providing "maker" receives a rebate from the exchange, the "taker" that executes against that resting order pays a fee to the exchange, and the exchange's fee is the difference between the taker fee and the maker rebate in a transaction. This fee structure in turn has led to routing strategies designed to optimize the fees and rebates. These routing strategies, and the complexity and cost they create in CAT, are a direct result of the exchanges' business decisions to establish these and other types of exchange fee structures. Yet, the Participants provide no analysis in the Funding Proposal of how these and other business decisions have led to complexity and costs in CAT.

In seeking to allocate two-thirds of the CAT costs to Industry Members, the Participant Exchanges also argue that there are more Industry Members than Participants and that the Industry Members receive more in revenue than the Participants.[13] As we have noted, neither one of these assertions is relevant to demonstrating that the proposed allocation of CAT costs is fair and reasonable. In making these assertions, the Participant Exchanges are essentially arguing that CAT costs should be allocated based on the ability to pay rather than responsibility for generating cost. Such a position is completely inconsistent with the Participant Exchanges' proposed approach described above of allocating CAT costs based on approximate responsibility for generating them. It also is inconsistent with the historical CAT decision to allocate costs to the parties responsible for generating them.[14]

As we have previously stated, we continue to believe that assigning 50% of CAT costs to the Participant Exchanges and 50% to Industry Members is a more fair and reasonable way to allocate CAT costs than what is proposed in the Funding Proposal. The Participants admit in the

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[12] See Funding Proposal at 17104.

[13] Id. Rather than using other measures, we also understand that the Participants used FOCUS reports for determining Industry Member revenue, which contain broker-dealers' unaudited financial and operational information that is used by the Commission and SROs to monitor and supervise the firms.

[14] See generally Section 11.2 of the CAT NMS Plan.

Funding Proposal that it is not possible to precisely allocate CAT costs to the parties directly responsible for generating them.[15] They nonetheless also have asserted that Industry Members are responsible for much of the complexity and costs in CAT, and therefore it is fair and reasonable to allocate two-thirds of CAT costs to them. For the reasons set forth above and previously, and absent direct data to the contrary, we believe that it is just as reasonable to assert that the Participant Exchanges are equally responsible for the complexity and costs in CAT.

Therefore, absent a reliable way to directly allocate CAT costs to the parties responsible for generating them, assigning 50% of CAT costs to the Participant Exchanges and 50% to Industry Members would provide for an equal sharing of CAT costs between Participant Exchanges and Industry Members. Such an allocation would be justifiable under the Exchange Act because it treats Participant Exchanges and Industry Members the same from a cost allocation perspective based on their approximate responsibility for generating CAT costs, thus satisfying the fair and reasonable and other Exchange Act fee standards. As we have noted previously, under such an approach, FINRA could be assessed a nominal regulatory user fee to access CAT Data to perform its regulatory role. Treating FINRA differently from the Participant Exchanges would be justifiable under the Exchange Act fee standards because it is a non-profit and it conducts the vast majority of the self-regulatory activity for the brokerage industry.

Related to the allocation of CAT costs between Participants and Industry Members, the Participants also mistakenly suggest several times in the Funding Proposal that ultimately, CAT costs are going to be passed on to investors. Such an assertion is inaccurate because it is almost certain that there will be scenarios faced by Industry Members in which they will not be able to figure out who was responsible for generating certain Historical CAT Costs. More importantly, such an assertion appears to be designed to minimize the Participants' obligation to allocate CAT Fees consistent with the Exchange Act fee standards and for the Commission to make a finding that they did so. Losing sight of these standards could result in the inequitable allocation of CAT Fees based on the mistaken belief that the costs will just be passed along to investors anyway. Consistent with its statutory mandate, the Commission ultimately must find that the methodology and allocation under the Funding Proposal is consistent with the Exchange Act fee standards, regardless of how directly affected parties might ultimately choose to address their portion of the CAT Fees.

C. CAT Continues to Need an Independent Cost Review Mechanism to Help Ensure that Future CAT Fees are Fair and Reasonable and to Ensure that Controls are Put into Place to Guard against Unchecked Spending

We continue to have significant concerns about the lack of an independent cost control mechanism for the CAT budget that would help ensure that future CAT Fees are fair and reasonable and that would help guard against unchecked spending. Under the Funding Proposal, the Participants still are not planning to include a mechanism for the public to review and provide input on the development of the annual CAT budget prior to it being finalized. Rather, the only opportunity that Industry Members and other members of the public would have to review the budget would be when the individual SROs file fee changes to collect fees to fund the current CAT budget, well after the CAT budget is agreed to and approved by the Participants.

[15] See Funding Proposal at 17103.

As we have noted previously, a post-hoc review of the CAT budget is not an effective mechanism to help ensure that future CAT Fees are fair and reasonable.

On this point, the Participants' proposed approach contains numerous problems that would make it ineffective. As we understand it, the Participants through the CAT Operating Committee would agree to a CAT budget and CAT Fee prior to the beginning of the year and then would also conduct a mid-year review to determine if the CAT Fee needs to be adjusted based on whether there was an over or under collection as compared with actual CAT expenditures for the year up until that point. In either situation, after the budget is established / CAT Fee is adjusted, each Participants would then file rule changes to collect the CAT Fee. It would be at this point that the Commission would determine whether the CAT Fee is fair and reasonable and otherwise consistent with the Exchange Act fee standards.

Based on the practical challenges of sending the CAT Operating Committee back to the drawing board to modify the CAT budget, it seems highly unlikely that the Commission would determine that a proposed CAT Fee does not meet the Exchange Act fee standards and thus require the Participants to modify the budget. If such a situation were to occur, it would involve more steps than a simple SRO fee filing that needed to be withdrawn and modified. Based on our understanding, it would require all of the Participants to meet again through the Operating Committee to agree on modifying the CAT budget, as the budget would first need to be modified prior to determining the new CAT Fee as the fee is based on the CAT budget. It would then involve each Participant creating and submitting new fee filings to implement the modified CAT Fee. Given these logistical hurdles and the potential time involved, it seems implausible that the Commission would send the Participants back to the drawing board under such a process.

It seems even more implausible that the Commission would send the Participants back to the drawing board given the regulatory value of CAT data and the CAT system to the Commission. The Commission has indicated throughout the development of CAT that the CAT data is critical for the Commission to conduct its oversight functions. As a practical matter, this means that if Commission staff in the Division of Enforcement or Inspections wants the CAT to have functionality to make certain regulatory or surveillance functions easier, it is highly likely that this functionality will be added given that the Commission and its staff directly regulate and oversee the SROs as the developers and operators of the CAT system.

One could imagine a scenario in which staff in the Division of Enforcement or Examinations requests that the CAT have certain functionality, even if it is more cost effective for the staff to collect the information in another way, and the Participants reluctantly agreeing to include development costs for it in the proposed CAT budget because the Participants are directly regulated by the Commission. One could also imagine a scenario in which CAT data is used to support a Commission rulemaking, like the recent equity market structure proposals directed by the Chair, and how difficult it would be for the SROs to tell the Commission that the use of such data is exceedingly expensive or not cost-effective because the data could be obtained elsewhere at less cost. Given these dynamics, it is highly unlikely that the Commission would ever reject a CAT fee filing. Moreover, as these scenarios demonstrate, the Commission is directly conflicted in its role as the user and beneficiary of the CAT system for regulatory

functions and its role as the reviewer of the CAT budget and fee filings, a conflict that is only heightened due to a lack of a Commission funding obligation for CAT.

Given these factors, we continue to strongly believe that the CAT needs an independent review mechanism of proposed CAT expenditures to help ensure that the process fosters appropriate and cost-effective CAT spending, consistent with the Exchange Act. While we appreciate the changes in the Funding Proposal to provide greater transparency regarding the CAT Fee setting process and CAT costs, the approach continues to be flawed because it provides no mechanism for the public to review the proposed CAT budget prior to it being implemented. In our January 2023 Comment Letter, we suggested a process by which there would be a public vetting of the CAT budget prior to its approval by the CAT Operating Committee. This was one suggestion, but we continue to remain open to discussing other approaches with the Participants that are designed to provide an independent review mechanism of CAT spending choices. Such an independent review mechanism is critical given the practical problems with the Participants' proposed approach and the Commission's conflicted role as a beneficiary of the CAT regulatory data and reviewer of the CAT budget and fee filings. Given these considerations, we also reiterate our request that the Participants' proposed budget include as a separate line-item projected usage costs and system change costs related to the Commission's use and design of the CAT system.

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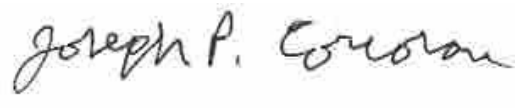
SIFMA greatly appreciates the opportunity to comment on the Funding Proposal. For the reasons discussed above, as well as in our prior comment letters on the Executed Share Model, we strongly urge the Commission to disapprove the proposed model. If you have any questions or require additional information, please do not hesitate to contact us by calling Ellen Greene at (212) 313-1287 or Joe Corcoran at (202) 962-7383.

Sincerely,

Ellen Greene
Managing Director
Equities & Options Market Structure



Joseph Corcoran
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Cc: The Hon. Gary Gensler, Chair
The Hon. Hester M. Peirce, Commissioner
The Hon. Caroline A. Crenshaw, Commissioner
The Hon. Mark T. Uyeda, Commissioner
The Hon. Jaime Lizarraga, Commissioner
Mr. Haoxiang Zhu, Director, Division of Trading and Markets