



July 13, 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:

In discussions with staff of the U.S. Securities and Exchange Commission (the “Commission”) after the Commission issued its order instituting proceedings to determine whether to approve or disapprove the Funding Proposal for the consolidated audit trail (“CAT”),<sup>1</sup> the staff suggested that the Securities Industry and Financial Markets Association (“SIFMA”)<sup>2</sup> engage the self-regulatory organizations (“SROs”) as the CAT NMS Plan Participants (“Participants”) in a dialogue to modify or replace the current Funding Proposal with another more viable and sustainable funding mechanism for the CAT.<sup>3</sup> In response, SIFMA reached out to the CAT Operating Committee through its outside counsel to initiate that dialogue. To date, SIFMA has not received a response.

SIFMA emphasizes Industry Members’ willingness to work with the Commission and the SROs to develop a viable and sustainable CAT funding model. Nonetheless, we repeatedly are placed in the position of having to respond to formal proposals by the CAT Operating Committee through the notice and comment process for NMS Plan amendments, rather than through a collaborative dialogue. This practice has resulted in an inefficient process that has delayed resolution on CAT funding for several years and significantly increased Historical CAT Costs. SIFMA again calls on the SROs to engage in meaningful dialogue and collaboration with the industry prior to submitting yet another formal CAT funding model with the Commission.

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<sup>1</sup> See Release No. 34-97750 (June 16, 2023), 88 FR 41142 (June 23, 2023).

<sup>2</sup> 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 is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit <http://www.sifma.org>.

<sup>3</sup> 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.

As detailed in SIFMA’s prior comment letters,<sup>4</sup> including those regarding the Participants’ immediately prior Executed Share Model,<sup>5</sup> the Commission should disapprove the current Funding Proposal because the Participants have not demonstrated that the proposal meets the required standards under the Securities Exchange Act of 1934 (“Exchange Act”). In particular, the Participants have not demonstrated 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.<sup>6</sup> The Funding Proposal, moreover, strays far beyond the CAT plan the Commission contemplated in 2012 and 2016 and raises significant constitutional issues. We believe a dialogue between Industry Members and the SROs can effectively address these issues and result in a viable CAT funding model appropriate for Commission review and consideration.

Accordingly, we urge the Commission to formally disapprove the current Funding Proposal with instructions to the SROs to engage Industry Members in a dialogue to propose an appropriate CAT funding model that complies with the Exchange Act, addresses other issues inherent in the current proposal, and offers a sustainable and fair CAT funding model without further delay.

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SIFMA greatly appreciates the opportunity to comment on the Funding Proposal and Commission’s order instituting proceedings. For the reasons discussed in our prior comment letters on the prior Executed Share Model and the current Funding Proposal, we believe the Commission should disapprove the current Funding Proposal. We further ask that the Commission direct the SROs to engage in a dialogue with Industry Members regarding an appropriate CAT funding 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.

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<sup>4</sup> 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”); (<https://www.sec.gov/comments/4-698/4698-20154753-322976.pdf>) (“January 2023 Comment Letter”); (<https://www.sec.gov/comments/4-698/4698-182799-335422.pdf>) (“May 2023 Comment Letter”); and (<https://www.sec.gov/comments/4-698/4698-199319-399182.pdf>) (“June 2023 Comment Letter”).

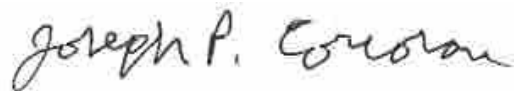
<sup>5</sup> The Funding Proposal replaces and is virtually identical to the prior “Executed Share Model” that was withdrawn by the SROs on March 1, 2023. See Release No. 34-97212 (March 28, 2023), 88 FR 19693 (April 3, 2023).

<sup>6</sup> See, e.g., Sections 6 and 15A of the Exchange Act.

Sincerely,

Handwritten signature of Ellen Greene in blue ink.

Ellen Greene  
Managing Director  
Equities & Options Market Structure

Handwritten signature of Joseph P. Corcoran in black ink.

Joseph Corcoran  
Managing Director, Associate General Counsel  
SIFMA

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