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August 20, 2021

Ms. Vanessa Countryman
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

Re: Amendments to the National Market System Plan Governing the Consolidated Audit Trail ("Proposed Funding Model"); Release No. 34–91555; File No. 4–698.

Dear Ms. Countryman:

Dash Financial Technologies ("Dash") appreciates the opportunity to comment upon the above-referenced filing of proposed amendments to the National Market System Plan Governing the Consolidated Audit Trail ("Proposed Funding Model", "Funding Model" or "Model") submitted by the Operating Committee for Consolidated Audit Trail, LLC ("CAT") on behalf of the self-regulatory organizations ("Plan Participants" or "SROs").

By way of background, Dash is an industry-leading capital markets technology provider and a leading agency broker in the U.S. In listed options, Dash routes over 15% of the daily OCC options volume. Dash's highly customizable and completely transparent trading solutions are used by the institutional trading community to optimize execution costs and achieve their trading performance goals for both equities and options.

Dash believes that the Proposed Funding Model is defective and lacking in objectivity and transparency, particularly as it seeks to allocate 75% of the cost to Industry Members. The Model was designed absent a thoughtful analysis of underlying data as well as inputs from a variety of Industry Members. Furthermore, we do not believe that all message traffic is created equal. In using message traffic as the determinant of the cost allocation for Industry Members, the Model fails to distinguish messages that are simply a byproduct of the complex and fragmented market and a one-size-fits-all CAT data structure. Finally, we believe that the Funding Model should take into account the regulatory cost structure that is currently in place and potential savings from the implementation of CAT.

1. Apportionment of Cost

While we are supportive of the consideration given to the trade-to-quote ratio[1] with respect to listed options messages contributed by Market Maker Industry Members, we still find that additional granular data-driven analysis is required when apportioning the cost to Industry Members.

[1] Per Comment letter dated May 5, 2021 written by CAT NMS Plan Operating Chair, the trade-to-quote ratio for the fourth quarter of 2020 was roughly 0.01% for Listed Options and 4.77% for NMS Stocks.

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Firstly, the Model calls for discounting Market Maker Messages and using total message traffic across equities and options for all Industry Members[2]. This method of allocating the CAT fee might result in unintended outcomes, especially for non-Market Maker Industry Members. Similarly, firms handling institutional orders that require the use of algorithms to route and execute are likely to generate more messages resulting in a disproportionate allocation of the CAT fee than firms that largely execute in a high-touch environment. Absent a data-driven approach that considers the effects of these structural factors, we may end up with a faulty model for distributing costs.

Secondly, while we welcome the market making discount for options and equities, not all liquidity in the highly fragmented options market is provided by Industry Members who are registered on an exchange and have continuous quoting obligations. As an example, several entities who fit the "Professional Customer" origin code professionally trade listed options in the same manner as a broker or dealer and compete with broker-dealer orders and market maker quotes. In fact, they are treated in the same manner as a broker or dealer in securities for certain exchange rules.[3] With banks committing less capital to markets, a proliferation of options series requiring liquidity provision, and the overall reduction of liquidity, these unregistered entities play an invaluable role in liquidity provision. However, they would be ineligible for the market making discount as currently proposed, and their message traffic exaggerates the message traffic of the broker-dealers through whom they access the markets. The effect of the imposition of a new tax on these market participants on overall market quality should be considered as part of the re-proposal.

For the reasons outlined above, we believe that an execution-based formula instead of a message-driven formula, especially one that does not impact liquidity provision, should be studied more diligently. Without a rigorous data-driven approach, we will end up with unintended outcomes, which the options markets can ill afford at the current time.

2. Not all Messages Are Equal

It is a well-known fact that a large number of CAT reportable events provide no meaningful insights other than recording each event in the life cycle of an order, from origination to eventual execution or cancellation. While we appreciate that the multiplicity of messages is necessary to establish linkage and track the lifecycle of an order, we do not believe that the messages that merely establish continuity should be subject to a CAT fee, without regard to the outcome.[4]

Also, the routing practices today are simply a result of the overarching requirement to access protected quotes and to find liquidity in a highly fragmented market. In the case of options, a disproportionately high percentage of such messages are a byproduct of either direct or derivative changes to

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[2] Under the Proposed Funding Model, each Industry Member would pay a CAT fee that is calculated by multiplying each Industry Member's percentage of the total message traffic of all Industry Members each quarter by the Industry Member Allocation, subject to certain market making discounts, a minimum fee and a maximum fee. *See Page 4 of the* *[Proposed Funding Model.](#)*

[3] In the March 2, 2010 Notice of Filing of Proposed Rule Change Relating to the Designation of a "Professional Customer", NYSE Amex noted that Professional Customers place and cancel orders in relation to an option's theoretical value in much the same manner as a Market Maker.

[4] To illustrate, consider an IOC order that results in a Nothing Done or an order that is subsequently canceled and replaced. Also consider orders submitted to auctions that ultimately do not result in a match.

the underlying or correlated asset. As such, imposing a tax on messages that relate to bona fide orders that ultimately do not result in an execution does not serve the market well.

While the Proposed Funding Model describes the trade-to-quote ratio as an objective discounting method, no such discount is applicable to Industry Members whose messages are a direct result of the changes to the quotes. In order to properly and objectively discount messages, a more detailed analysis of the underlying CAT data categorized by the types of reported events is needed.

In this context, we also request the SEC to review strike proliferation in the options markets. With over 1 million strikes in over 3,500 optionable names, and with options trading across 16 exchanges, the unhindered proliferation of strikes has caused strain on all market participants, and if left unaddressed, the resulting inefficiencies will continue to result in an erosion of market quality as well as an increase in the overall cost, whether direct or incidental, including CAT related cost.[5]

3. Regulatory Cost

The Proposed Funding Model misses a bigger point. The 75% allocation to the Industry Members is the visible portion of a very large regulatory cost iceberg. Here is a look at some of the regulatory costs that options Industry Members already incur in aid of surveillance and rulemaking that are not considered within the Proposed Funding Model:

- Trading Activity Fee ("TAF"), which is $0.002 per contract for each sale of an option
- Gross Income Assessment, which is based on annual gross revenue
- Personnel Assessment, which is charged per representative
- Options Regulatory Fee ("ORF") to each exchange, which is assessed per contract (roughly $0.033 per contract) for transactions that clear in the customer range and is used by the exchanges towards supervision and regulation of options markets.
- These are separate and distinct from the regulatory transaction fees that are charged by the SROs for the purposes of recovering fees that the SROs pay to the US Securities and Exchange Commission under Section 31 of the Securities Exchange Act of 1934. These are typically charged on covered Call and Put sales.
- In addition to these direct regulatory costs, Industry Members have spent substantial sums to build or acquire capabilities to store and report data to CAT, to create the necessary supervisory processes, to implement connectivity, to enhance the monitoring of clock synchronization, and to obtain regulatory guidance regarding the ever evolving CAT NMS reporting requirements.

We firmly believe that the fees already collected by the SROs should offset some of the CAT-related costs. The SROs generate substantial revenue through the orders that are submitted by Industry Members such as Dash and by selling market data, of which we are ourselves consumers, as well as through the imposition of regulatory fees and fines. The Proposed Funding Model should be analyzed thoroughly for effective cost management, especially in the context of potentially overlapping fee structures and synergies that the SROs derive from the elimination of redundant systems and processes.

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[5] In our comment letter dated December 7, 2020 in connection with File No. SR-BX-2020-032), we wrote: "Dash strongly believes that the exchanges participating in the Options Listing Procedures Plan ("OLPP") must work in a concerted manner to alleviate this (strike proliferation) issue. The exchanges' inability to do so needs to be addressed as a matter of priority."

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Dash agrees that effective regulation requires sophisticated surveillance technology as well as access to comprehensive and timely information. However, we believe that the Funding Model must be transparent with respect to the cost of building the infrastructure and fair with respect to the allocation of the cost.

We ask the Commission to reject the Proposed Funding Model and to find ways to catalyze an in-depth analysis of CAT's operating expenses and cost allocation prior to approving any new model for funding CAT.

* * *

Sincerely,

Venu Palaparthi
Co-COO, Dash Financial Technologies LLC