



DIVISION OF
TRADING AND MARKETS

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

May 1, 2018

Mr. Michael J. Simon
Chair
CAT NMS Plan Operating Committee
c/o Mr. Andre Owens
Wilmer Hale
1875 Pennsylvania Avenue NW
Washington, DC 20006

Dear Mr. Simon:

Thank you, as well as the non-SEC individuals listed below in the carbon copy line, for meeting with me and Chairman Clayton on April 9, 2018, to discuss our concerns with the progress of the exchanges and FINRA (collectively, the "SROs") in building the Consolidated Audit Trail ("CAT") under the CAT NMS Plan. This letter summarizes some of the important points raised at this meeting as well as raised on our call of May 26, 2018.

It is essential that senior personnel at each SRO focus on completing the CAT as soon as practicable and with all functionality required by the CAT NMS Plan to make the CAT an efficient and effective regulatory tool. The SROs have been out of compliance with the CAT NMS Plan since at least November 2017. Troublingly, there appears to be a willingness to further delay the development of, or even eliminate, critical elements of the CAT in order to reduce near-term SRO implementation burdens. As discussed, the requirements of the CAT NMS Plan cannot be interpreted away, and functionality that is fundamental to the long-term success and usability of CAT cannot be sacrificed to meet near-term goals or otherwise.

We are concerned about Thesys' performance to date. The SROs jointly selected Thesys for this role, and are responsible for Thesys' performance or lack thereof. To that end, I expect each SRO to make a good-faith effort to facilitate the ability of Thesys to build the CAT by providing appropriate guidance, data, and other support in a timely manner, and to closely monitor Thesys' development of the CAT to ensure its consistency with the CAT NMS Plan. The SROs bear responsibility for the requirements of the CAT NMS Plan and therefore bear the risk of non-performance by their contractor, Thesys.

To help get this project back on track, and to ensure the CAT is built in a way that achieves its objectives, I would like the SROs to submit, no later than May 25, 2018, a Master Plan for completing the CAT that includes all material steps to fully implement both Phase I (SRO reporting) and Phases II and III (industry reporting). The Master Plan should set forth a timeline with detailed, objective and achievable milestones, clearly defined obligations for the SROs and Thesys, and a comprehensive description of the functionality that will be delivered on

specified dates.¹ Among other things, the Master Plan should address implementation of the following: (1) data normalization for both SRO and industry reporting, including the normalization of broker-dealer names in Phase I; (2) treatment of time of order receipt and rejections consistent with the CAT NMS Plan;² (3) status of order book tools, data visualization, and sophisticated query functionality to support the regulatory users' needs, consistent with the CAT NMS Plan; and (4) industry technical specifications that take into account current industry practices and resolve legitimate industry concerns. To the extent that all of these items will not be completed by November 15, 2018, the Master Plan should include realistic timeframes for when each will be available in the CAT.

The Master Plan also should describe how the SROs will more effectively manage the work of Thesys going forward, and include a checklist of all material deliverables (with due dates) to be made by Thesys. As a particular item, the SROs will establish a process by which they will address any Thesys performance issues so that CAT implementation is not jeopardized. Periodic updates should be provided to Commission staff, including the extent to which Thesys meets the specified milestones. This process should describe how the SROs will evaluate and resolve any questions about Thesys' ability to perform within a reasonable timeframe. Specifically, the SROs should list, with specificity, what functionality must be completed by July 15 to have a successful launch of the CAT, what functionality will be available as of the launch date, and when any remaining functionality needed for a useful CAT will become available. Should Thesys not be able to provide such functionality in all material respects by these respective dates, I expect the SROs to promptly bring substantial additional and/or replacement resources to the project.

In addition, I expect that the SROs will streamline their decision-making and governance processes in order to ensure the CAT is implemented in a timely manner. Despite recent positive developments, such as the designation of working group chairs and increased engagement with industry, the CAT decision-making process remains challenging. The SROs collectively should appoint a single person from an SRO's regulatory staff, with extensive and current experience in developing and implementing audit trails, as well as with implementing surveillances. This person should be granted the authority to make day-to-day implementation decisions, including on interpretive issues, to communicate with the SEC, and to serve as the primary point of contact with Thesys. Of course, such a person's authority could be bounded by a budget and the material aspects of the Master Plan. The SROs should decide whether to identify such a designated person on or before the date the Master Plan is submitted.

I also expect the SROs' CAT fee filings to include modified cost allocations that address the concerns expressed at our meeting about whether the SROs' failure to meet the November

¹ For example, the Master Plan should specify a deadline by which Industry Members will be required to begin reporting to the CAT, as well as a timeline for the completion of key dependencies and any sub-dependencies to achieve that date, such as technical specifications and the resolution of each outstanding interpretive question.

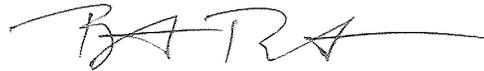
² See Letter from Heather Seidel to Michael Simon re CAT NMS Plan Participant Technical Specifications – Time of Order Receipt, dated July 13, 2017.

2017 deadline has increased the cost of Phase I. This is important. A great deal of time has been spent deciding matters that are trivial. This has been costly in many ways.

Finally, the failure to implement Phase I of CAT as scheduled has left the Commission without access to an important database to facilitate its analysis of market events and other matters. To address this failure, the SROs should provide the Commission with access to an alternative data set (or combination of sets), to allow the Commission to review trading across markets, until such time as CAT provides superior functionality.

Thank you again for meeting with me, the call and for your efforts to date on the CAT. I look forward to reviewing the Master Plan, and to the prompt implementation of a CAT that allows all of us to more effectively and efficiently fulfill our regulatory responsibilities. Should you or any of the SROs have any questions, please call either me at 202-551-5500 or Dave Shillman, Associate Director in the Division of Trading and Markets, at [REDACTED]

Sincerely,



Brett Redfearn
Director, Division of Trading and Markets

cc: Mr. Edward G. Boyle, CEO, BOX Holdings Group LLC and BOX Market LLC
Mr. Robert W. Cook, President and CEO, Financial Industry Regulatory Authority, Inc.
Mr. Thomas W. Farley, President, NYSE Group
Mr. Thomas P. Gallagher, Chairman and CEO, Miami International Holdings, Inc.
Mr. Bradley T. Katsuyama, President and CEO, IEX Group, Inc.
Mr. John K. Kerin, President and CEO, CHX Holdings, Inc.
Mr. Edward T. Tilly, Chairman and CEO, Cboe Global Markets, Inc.
Mr. Thomas A. Wittman, Executive Vice President, Head of Global Trading and Market
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The Office of the Chairman, U.S. Securities and Exchange Commission