



September 29, 2017

Via Electronic Mail (rule-comments@sec.gov)

Mr. Brent J. Fields
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File Nos. SR-FINRA-2017-013, SR-BatsBZX-2017-37, SR-BatsEDGX-2017-23, SR-BOX-2017-17, SR-C2-2017-018, SR-CBOE-2017-041, SR-ISE-2017-46, SR-IEX-2017-18, SR-MIAX-2017-20, SR-PEARL-2017-23, SR-NASDAQ-2017-055, SR-BX-2017-027, SR-Phlx-2017-43, SR-NYSE-2017-23, SR-NYSEArca-2017-57, SR-NYSEArca-2017-59, SR-NYSEMKT-2017-29, SR-NYSEMKT-2017-30; Self-Regulatory Organizations: Order Instituting Proceedings to Determine Whether to Approve or Disapprove the Proposed Rule Changes, as Modified by Amendments Thereto, to Eliminate Requirements That Will Be Duplicative of CAT

Dear Mr. Fields,

The Securities Industry and Financial Markets Association (“SIFMA”)¹ submits this letter to comment to the Securities and Exchange Commission (“Commission”) on the above-referenced proposed rule changes to eliminate requirements that will be duplicative of the Consolidated Audit Trail (“CAT”). The elimination of duplicative systems continues to be one of the CAT’s most critical issues, and we support proposals to eliminate the reporting rules for the Order Audit Trail System (“OATS”), Electronic Blue Sheets (“EBS”), Consolidated Options Audit Trail (“COATS”), and other regulatory reporting systems referenced in the SROs’ filings. SIFMA appreciates the Commission taking the step of further analysis, especially with respect to

¹ SIFMA is the voice of the U.S. securities industry. We represent the broker-dealers, banks and asset managers whose nearly 1 million employees provide access to the capital markets, raising over \$2.5 trillion for businesses and municipalities in the U.S., serving clients with over \$20 trillion in assets and managing more than \$67 trillion in assets for individual and institutional clients including mutual funds and retirement plans. 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>.

retirement of OATS.² We maintain the arguments that we made in our previous comment letters on the proposals, and we request that the Commission consider them as incorporated into this letter.³

OATS, EBS, and COATS, and must be retired as promptly as possible after the CAT begins operation. Once a firm's CAT reporting meets the prescribed error rates, calculated on the current systems' requested information, it should only report to CAT and be relieved of its duty to report to any reporting system duplicative of CAT. To facilitate the retirement of duplicate systems, the CAT processor should work with FINRA and the other SROs to develop a plan to ensure CAT requests the necessary information to meet all of their existing market supervisory obligations so that there is no need to run duplicative reporting systems any longer than absolutely necessary.

Individual Industry Member Exemptions

SIFMA reiterates our view that firms should be allowed to phase out of OATS reporting individually as they achieve reasonable CAT benchmarks, and that FINRA should not proceed with a single cutover.⁴ We recognize that SROs, to meet surveillance obligations, must continue the current reporting systems for a certain time to ensure that CAT operates properly and provides adequate data. However, these obligations do not justify FINRA's request for a single cutover with open-ended time frames for the retirement of OATS. Dual reporting puts the financial burden on the industry because the firms must build infrastructures, and employ additional people, to support dual reporting. Without a firm-by-firm solution, firms that manager their own regulatory reporting will incur, on average, \$725,615 per month to satisfy current obligations.⁵

The single cutover approach will result in a burden on competition on new and existing firms. New firms will face an unnecessary burden by being required to build an infrastructure to support dual reporting to OATS, CAT and other duplicative regulatory reporting systems. Whether a firm is a new broker-dealer or an ATS, there will be significant costs associated with supporting the dual regulatory reporting structure under the single cutover approach. Additionally, not all firms will be fully compliant with CAT at the same time and it would be

² See Securities Exchange Act Release No. 34-81499 (August 30, 2017), 82 FR 42168 (September 9, 2017).

³ Letter from Theodore R. Lazo, Managing Director and Associate General Counsel, SIFMA to Brent J. Fields, Secretary, Securities and Exchange Commission dated July 18, 2016 ("SIFMA July 2016 CAT Letter"). Letter from Ellen Greene, Managing Director, and Theodore R. Lazo, Managing Director and Associate General Counsel, SIFMA to Brent J. Fields, Secretary, Securities and Exchange Commission dated June 23, 2017 ("SIFMA June 2017 CAT Letter"). Letter from Theodore R. Lazo, Managing Director and Associate General Counsel, SIFMA to Brent J. Fields, Secretary, Securities and Exchange Commission dated July 28, 2017 ("SIFMA CAT Fees Letter").

⁴ *Id.*

⁵ SIFMA June 2017 CAT Letter at 4.

unfair to punish the firms that meet the prescribed error rates early by forcing them to file multiple reports. SIFMA's members will be prepared to comply with CAT on the first day of reporting. However, given the new reporting mechanisms and the complications of the reporting, it will take firms some amount of time to achieve consistent accuracy rates. Thus, the firms that meet the error rates on the first day face an unnecessary burden of filing duplicate reports until all firms satisfy the error thresholds.

Accuracy and Reliability Standards

While an average of 5% pre-correction and 2% post-correction error thresholds may be reasonable to determine when a firm should be relieved from filing duplicate reports, the measurements should only be limited to those fields currently reported to the existing systems.⁶ Because CAT asks for additional and nonconforming information than currently requested in reporting systems⁷, firms should not have to fully comply with CAT to retire the old systems. Further, the plan processor has not specified all the new data that it will request, so firms should not be judged on their ability to meet new reporting requirements to determine when old systems can be retired. Once a firm adequately provides CAT similar data to the information currently requested by an existing reporting system, such SRO will have the same information, and its current reporting system becomes obsolete.

The lack of transparency into which data elements will be used to determine when systems can be retired creates uncertainty about the retirement of systems. All of the SROs have set general guidelines stating that its system will be retired once it determines that CAT is operational and the CAT Data is sufficiently accurate and reliable for the SROs to perform its regulatory functions. The SROs and the plan processor need to work together to ensure CAT requests the appropriate data so there are no accuracy or reliability issues to hold up the retirement of duplicate systems. It will be an unacceptable result to build the CAT and then have the SROs inform the industry that it cannot retire its reporting systems because CAT does not include sufficient data to run adequate surveillances.

⁶ See SIFMA June 2017 Letter.

⁷ CAT asks for additional information, including but not limited to, customer data, text fields for stop price and expiration time on GTC orders, which may prolong the firms having to report duplicative information to the same systems.

CAT Test Period

SIFMA promotes CAT being launched in stages to allow firms to quickly solve the issues that are likely to come with reporting to a new system. Requiring firms to begin reporting to CAT all at once, rather than in stages, may create a false sense of higher error rates and increase the system's risk of malfunctioning due to an influx of data. SIFMA recommends that CAT reporting begin with equities, which will also facilitate the retirement of OATS, so firms can gain CAT reporting experience prior to developing CAT reporting systems for all transactions. The next stage of the rollout could be options, and continue down the line. Rolling out CAT in steps will help firms with full compliance beginning with the first day of reporting.

SIFMA recommends that firms not be subject to penalties for CAT reporting during the initial CAT reporting stages. The time between a firm filing its first CAT report and meeting the defined error rates to report solely to CAT should be viewed by regulators as a trial period. This trial period allows firms, SROs, and the plan processor to make any necessary adjustments without any unnecessary regulatory consequences. Firms will still be reporting to the current regulatory systems and therefore should not be subject to any penalties until CAT becomes the system of record for that firm.

OATS to CAT Converter

We appreciate the Commission asking questions to determine the feasibility of a CAT-to-OATS "converter,"⁸ and we support any method of eliminating duplicative reporting systems as soon as possible. However, the onus ultimately is on FINRA, and the other SROs, to develop a way to integrate the CAT data into its own surveillance protocols. FINRA could accomplish this by developing new surveillances that can be used with CAT data from day one of CAT. Alternatively, FINRA could develop a CAT to OATS "converter" that would allow FINRA to use CAT data in its existing surveillances. Either way, it is for FINRA to develop the solution.

If the SROs decide to proceed with a CAT to OATS converter, or any other systems transitions, the expenses should be borne solely by the SROs. It is inappropriate for the SROs to merely pass along necessary business expenses onto members to continue its regulatory obligations. Requiring the industry to pay for FINRA to find a way to use the CAT data to conduct surveillance is akin to hiring a security guard for surveillance and then having to pay a separate fee to upgrade his outdated surveillance systems.

⁸ See 82 FR 42168, 42210-14.

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SIFMA greatly appreciates the Commission's consideration of the issues raised above and would be pleased to discuss these comments in greater detail with the Commission and the Staff. If you have any questions, please contact either me (at [REDACTED] or [REDACTED]) or T.R. Lazo (at [REDACTED] or [REDACTED]).

Sincerely,



Ellen Greene
Managing Director



Theodore R. Lazo
Managing Director and
Associate General Counsel

cc: The Honorable Jay Clayton, Chairman
The Honorable Michael S. Piwowar, Commissioner
The Honorable Kara M. Stein, Commissioner

Gary Goldsholle, Deputy Director, Division of Trading and Markets
David S. Shillman, Associate Director, Division of Trading and Markets