

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-94314; File No. S7-08-22]

### **Notice of the Text of the Proposed Amendments to the National Market System Plan Governing the Consolidated Audit Trail for Purposes of Short Sale-related Data Collection**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Notice of the text of the proposed amendments to national market system plan.

**SUMMARY:** The Securities and Exchange Commission (“Commission”) is publishing notice of the text of the proposed amendments to the National Market System Plan Governing the Consolidated Audit Trail (“CAT NMS Plan”) in connection with the Commission’s issuance of Release No. 34-94313, the “Short Position and Short Activity Reporting by Institutional Investment Managers” (the “Proposing Release”).

**FOR FURTHER INFORMATION CONTACT:** Andrew Sherman, Special Counsel; and David Cohen, Attorney-Advisor, Office of Market Supervision, Division of Trading and Markets; and Timothy M. Riley, Branch Chief; Patrice M. Pitts, Special Counsel; James R. Curley, Special Counsel; Quinn Kane, Special Counsel; Jessica Kloss, Attorney-Advisor; Brendan McLeod, Attorney-Advisor; and Josephine J. Tao, Assistant Director, Office of Trading Practices, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street, NE, Washington, D.C. 20549, at (202) 551-5777.

In the Proposing Release, the Commission is proposing for comment a new rule prescribing a “buy to cover” order marking requirement under Regulation SHO (Proposed Rule 205) (17 CFR 242.205), as well as new Rule 13f-2 (Proposed Rule 13f-2) (17 CFR 240.13f-2) and related form (Proposed Form SHO) (17 CFR 249.XXX) under the Securities Exchange Act of 1934 (“Exchange Act”). Proposed Rule 13f-2 would require certain institutional investment

managers to report, on a monthly basis on new Proposed Form SHO, certain short position data and short activity data for certain equity securities as prescribed in Proposed Rule 13f-2.

Proposed Rule 205 would establish a new “buy to cover” order marking requirement for certain purchase orders effected by a broker-dealer for its own account or for the account of another person at the broker-dealer. In the Proposing Release, the Commission is also proposing amendments to the CAT NMS Plan that would require the reporting to the Consolidated Audit Trail of (i) “buy to cover” order marking information and (ii) reliance on the bona fide market making exception in Regulation SHO. This Notice is being given of the text of the proposed amendments to the CAT NMS Plan. For a full discussion of the proposed amendments to the CAT NMS Plan, see the Proposing Release.

To comment on the proposed amendments to the CAT NMS Plan (including the text contained in this notice), please provide comments to the rulemaking file S7-08-22, as outlined in the Proposing Release.

### **Statutory Authority and Text of Amendments to the CAT NMS Plan**

Pursuant to the Exchange Act and, particularly, Sections 2, 3, 5, 6, 11A(a)(3)(B), 15, 15A, 17(a) and (b), 19, and 23(a) thereof, 15 U.S.C. 78b, 78c, 78e, 78f, 78k-1, 78o, 78o-3, 78q(a) and (b), 78s, 78w(a), and pursuant to Rule 608(a)(2) and (b)(2) thereunder, the Commission proposes to amend the CAT NMS Plan in the manner set forth below.

Amend Section 6.4 of the CAT NMS Plan by modifying subparagraphs (d)(ii)(B) and (C) and adding subparagraphs (d)(ii)(D) and (E).

The revisions read as follows. Additions are underlined; deletions are [bracketed].

**Section 6.4. Data Reporting and Recording by Industry Members.**

(d) Required Industry Member Data

(i) No change.

(ii) No change.

(A) No change.

(1) – (3) No change.

(B) if the trade is cancelled, a cancelled trade indicator; [and]

(C) for original receipt or origination of an order, the Firm Designated ID for the relevant Customer, and in accordance with Section 6.4(d)(iv), Customer Account Information and Customer Identifying Information for the relevant Customer[.];

(D) for the original receipt or origination of an order to buy an equity security, whether such buy order is for an equity security that is a “buy to cover” order as defined by Rule 205(a) of Regulation SHO (17 CFR § 242.205(a)); and

(E) for the original receipt or origination of an order to sell an equity security, whether the order is a short sale effected by a market maker in connection with bona-fide market making activities in the

security for which exception Rule 203(b)(2)(iii) of Regulation SHO is  
claimed.

By the Commission.

Dated: February 25, 2022

Eduardo A. Aleman  
Deputy Secretary