UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In The Matter of: The Application of SECURITIES INDUSTRY AND FINANCIAL MARKETS ASSOCIATION, For Review of Action Taken by CAT LLC and Certain Self-Regulatory Organizations	Admin. Proc. File No. 3-19766

CONSOLIDATED AUDIT TRAIL, LLC'S AND PARTICIPANTS' MEMORANDUM OF LAW IN OPPOSITION TO SIFMA'S MOTION TO STAY

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Consolidated Audit Trail, LLC ("CAT LLC") and the participants of the CAT NMS Plan (the "Participants")[1] respectfully submit this memorandum of law in opposition to the Securities Industry and Financial Markets Association's ("SIFMA") motion for a stay (the "Stay Motion") pending the resolution of SIFMA's application (the "Application") for review pursuant to Sections 19(d) and 19(f) of the Securities Exchange Act of 1934 (the "Exchange Act"). The Stay Motion should be denied in its entirety.

PRELIMINARY STATEMENT

The Securities and Exchange Commission (the "Commission") should deny SIFMA's extraordinary and unprecedented request for a stay of CAT LLC and SRO actions that are entirely consistent with the Exchange Act and the CAT NMS Plan particularly because SIFMA's challenge is unlikely to prevail and it has not articulated any harm (let alone irreparable harm). A stay would also harm CAT LLC and the Participants and impede the orderly implementation of the consolidated audit trail (the "CAT").

The Commission adopted Rule 613 of Regulation NMS and tasked the SROs with creating the CAT to "oversee our securities markets on a consolidated basis – and in so doing, better protect these markets and investors."[2] In advance of live CAT reporting, CAT LLC prepared a standard reporter agreement (the "CRA") for all CAT reporters (including the SROs and industry members ("Industry Members")) to execute. The CRA is authorized by the CAT NMS Plan as well as the SROs' implementing CAT compliance rules, and contains customary limitation of liability and indemnification provisions of the sort to which Industry Members routinely agree and impose on

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[1] SIFMA's filings are ambiguous as to whether CAT LLC has been named as a respondent to these proceedings. In light of that ambiguity, CAT LLC is listed as a signatory to this brief. Because CAT LLC is not an SRO, however, it is not a proper party under Section 19(d). Counsel for CAT LLC is authorized to represent that this memorandum of law is submitted on behalf of CAT LLC and the individual Participants named in SIFMA's application.

[2] Nov. 14, 2017 Statement on the Status of the Consolidated Audit Trail, Chairman Clayton, available at https://www.sec.gov/news/public-statement/statement-status-consolidated-audit-trail-chairman-jay-clayton.

their own customers. Nonetheless, SIFMA baldly and incorrectly asserts that the CRA's terms are "unfair, inappropriate, and bad policy."[3]

A denial of access proceeding is not the proper vehicle for SIFMA to raise these concerns because the Commission lacks jurisdiction to hear this Application. Neither CAT LLC nor the SROs have denied Industry Members (or SIFMA) access to any "service offered" by an SRO within the meaning of Exchange Act Section 19(d). A "service" refers to core functions of an SRO offered to firms to enable them to operate (*e.g.*, access to trading data) – not an SEC-mandated regulatory program.[4] And SIFMA lacks standing to bring this petition because it is not an aggrieved party.

Jurisdictional hurdles aside, SIFMA has fallen far short of satisfying its burden to obtain the extraordinary relief of a stay. SIFMA will not prevail on the merits. *First*, the CAT NMS Plan contains multiple provisions – including provisions granting CAT LLC broad authority to do anything that may be necessary, proper or advisable to create, implement, and maintain the CAT; set access terms; and maintain the CAT's solvency – that allow, if not mandate, that CAT LLC require Industry Members to execute the CRA. *Second*, the CAT NMS Plan mandates that the individual Participants will not be liable for CAT LLC's losses, which necessitates limitation of liability and indemnification provisions that extend to the Participants. *Third*, the CAT NMS Plan also mandates that each Participant enact Compliance Rules that direct Industry Members to submit data to the CAT System in accordance with the decisions of the CAT Operating Committee.

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[3] April 22, 2020 Memorandum of Law in Support of SIFMA's Stay Motion ("SIFMA Br.") at 2.

[4] CAT LLC and the Participants intend to seek leave to file a motion for Summary Disposition on the jurisdictional grounds discussed in this memorandum and other jurisdictional defects in SIFMA's Application including: (1) CAT LLC, an NMS facility, is not a permissible party under Section 19(d) and (2) the Participants are not denying "access" to anyone by virtue of *CAT LLC's* CRA.

Thus, the CRA and its customary limitation of liability and indemnification provisions are authorized by the Commission-approved CAT NMS Plan and consistent with the Exchange Act.

SIFMA's Application, unsupported by a declaration from any fact witness, fails to make *any* showing of irreparable harm. The prospect of defending against a hypothetical disciplinary action (which SIFMA fears the Industry Members who choose not to sign the CRA will face) is not irreparable harm. Moreover, Industry Members can avoid any such harm by signing the CRA during the pendency of this proceeding. And while SIFMA speculates that doing so would expose Industry Members to "competitive harm" in the event of a future, hypothetical data breach (April 22, 2020 Declaration of Lorin L. Reisner in Support of SIFMA's Application ("Reisner Decl.") ¶ 17), it is black letter law that financial harm is not irreparable. *See infra* at 18-20. SIFMA's failure to articulate – let alone prove through admissible evidence – any irreparable harm eliminates the need even to consider the remaining stay factors.

But those factors also strongly weigh in favor of denying SIFMA's Application. First, the harm to non-moving parties weighs against a stay because if the Stay Motion is granted, the CAT would be forced to accept data from approximately 1,200 Industry Members without any reporting agreement, exposing CAT LLC and the Participants to uncertain obligations and inappropriate risk that was never considered by the Commission when it adopted Rule 613 or approved the CAT NMS Plan. Second, it would be a disservice to the public interest for the Commission either to stay execution of the CRA and thereby compromise protections aimed at ensuring the viability of CAT LLC, or to stay the reporting deadlines and prevent CAT LLC and the Participants from implementing the important market regulation tool that the SEC envisioned when it enacted Rule 613.

For all these reasons, SIFMA's Stay Motion should be denied.

BACKGROUND

A. The Consolidated Audit Trail

On July 11, 2012, the Commission adopted Rule 613 of Regulation NMS to enhance regulatory oversight of the U.S. securities markets. The rule directs the Participants to create a "Consolidated Audit Trail" that would strengthen the ability of regulators – including the Commission and the SROs – to surveil the securities markets. *See* 17 C.F.R. § 242.613 (2012).

Rule 613 establishes only a broad framework and required the Participants to collectively submit a plan to create, implement, and maintain the CAT (the "CAT NMS Plan"). *See* Consol. Audit Trail, Exchange Act Release No. 67457, 2012 WL 2927797 (July 18, 2012), 77 Fed. Reg. 45722, 45743 (Aug. 1, 2012). To implement the requirements of Rule 613 – including the development of the CAT NMS Plan – the SROs formed CAT NMS LLC and, subsequently, CAT LLC. (*See* May 6, 2020 Declaration of Michael Simon ("Simon Decl.") ¶ 13).

B. The Participants and the Industry Collaborate to Develop and Implement the CAT NMS Plan

The Participants solicited extensive feedback on all aspects of the CAT NMS Plan from SIFMA, Industry Members, and other interested stakeholders including by creating a comprehensive website, making multiple requests for comment, and hosting a series of public events. (Ex. A, at 3-4;[5] *see also* Simon Decl. ¶¶ 14-22 for additional details regarding Industry Members' collaboration with the Participants).

Based on extensive feedback from Industry Members and other constituencies, the Participants submitted a proposed CAT NMS Plan along with subsequent amendments, many of

[5] All exhibits are attached to the May 6, 2020 Declaration of David Oliwenstein.

which have already been approved by the SEC.[6] Among other relevant provisions, the current SEC-approved CAT NMS Plan:

- Mandates that the Participants shall not have any liability for any debts, liabilities, commitments, or any other obligations of CAT LLC or for any losses of CAT LLC (§ 3.8.(b));

- Requires the CAT Operating Committee to build financial stability to support CAT LLC as a going concern (§ 11.2.(f));

- Provides CAT LLC broad authority to: (i) create, implement and maintain the CAT system and (ii) do anything else that may be necessary, incidental, proper, advisable or convenient to accomplish the foregoing purpose that is not prohibited by the Exchange Act or other applicable law (§ 2.6.);

- Requires Industry Members to utilize the methods provided by the Plan Processor and approved by the Operating Committee to transmit data to the CAT's central repository (§ 6.4.(e));

- Requires that each Participant enact Compliance Rules that direct its members to submit data to the CAT System in accordance with the decisions of the CAT Operating Committee and the Participants (§§6.4.(a)-(d));[7]

- Requires the Operating Committee to annually approve CAT LLC's budget, which covers projected costs, revenues and the funding of any reserve that the Operating Committee deems reasonably appropriate for prudent operation of CAT LLC (§ 11.1.(a)); and

- Grants the Operating Committee discretion to establish funding for CAT LLC, including the fees that the Participants and Industry Members shall pay (§ 11.1.(b)).

(Ex. B).

C. CAT LLC Prepares an Industry Standard Reporter Agreement

Following the Commission's approval of the CAT NMS Plan, the Participants continued to solicit feedback from SIFMA and Industry Members regarding the CAT. For example, the Participants created an advisory committee of Industry Members (the "Advisory Committee") to

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[6] The Commission approved the proposed CAT NMS Plan on November 15, 2016.

[7] *See, e.g.*, IEX Rule 11.630(a)(1); BOX Exchange LLC, Rule 16030(a)(1); Cboe Exchange, Inc., Rule 7.22(a)(1); FINRA, Rule 6830(a)(1); Long-Term Stock Exchange, Rule 11.630(a)(1); Miami International Securities Exchange, LLC, Rule 1703(a)(1); The Nasdaq Stock Market LLC, General Rule 7, Section 3(a)(1); NYSE, Rule 6830(a)(1).

advise CAT LLC on the implementation, operation, and administration of the CAT. (*See* Ex. B, § 4.13.). The Advisory Committee comprises a variety of broker-dealers (among other constituencies) that are representative of the industry. (Simon Decl. ¶ 19).

On or around August 29, 2019, the Participants shared with the Advisory Committee and the Commission staff a draft CRA. (Simon Decl. ¶ 22; Ex. C).[8] The CRA, among other things, grants CAT Reporters access to the CAT System (§ 2.1.), sets forth the requirements for the submission of Data (§ 3.2.), defines how the data in the CAT system may and may not be used and provides other terms of use (e.g., § 2.4.), and sets forth the CAT Reporter's payment obligations (§ 4.) and the term of the CRA (§ 6.1.).

The CRA's limitation of liability provision (the "Limitation of Liability Provision") provides:

> TO THE EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES SHALL THE TOTAL LIABILITY OF CATLLC OR ANY OF ITS REPRESENTATIVES TO CAT REPORTER UNDER THIS AGREEMENT FOR ANY CALENDAR YEAR EXCEED THE LESSER OF THE TOTAL OF THE FEES ACTUALLY PAID BY CAT REPORTER TO CATLLC FOR THE CALENDAR YEAR IN WHICH THE CLAIM AROSE OR FIVE HUNDRED DOLLARS ($500.00).

(Ex. E, § 5.5.).

The scope and substance of the Limitation of Liability Provision is squarely in line with industry standards. For instance, it is similar in scope to the liability provision in an agreement – the FINRA Entitlement Program Terms of Use (i.e., the "OATS Agreement") – that virtually all Industry Members have agreed to in connection with an existing regulatory reporting system that has been existence for over 20 years: the Order Audit Trail System ("OATS") (Ex. F, § 6). Additionally, trade reporting facilities, SRO regulatory reporting systems, and NMS plans

[8] One month earlier, a version of the FINRA CAT Onboarding Guide that notes that CAT reporters will be required to sign a CAT Reporter Agreement was shared with a working group that includes Advisory Committee members. (Ex. D).

routinely require that Industry Members execute reporter agreements with broad limitation of liability provisions. *See* Appendix A. Further, the Limitation of Liability Provision is similar in substance and scope to provisions that Industry Members routinely use when they are in possession of customer data (including order and trade data). *See id.* Finally, each exchange has rules, approved by the Commission, that broadly provide that the Participants shall not be liable to Industry Members.[9]

The CRA also contains an indemnification provision (the "Indemnification Provision") that requires Industry Members to indemnify CAT LLC and the Participants, in limited circumstances, from third party claims arising from **Industry Member acts and omissions**:

1) A breach of the warranty **by the Industry Member** that it "has the full legal right to submit to the CAT System the CAT Data" (§ 5.2.(a));

2) A failure **by the Industry Member or any of its agents** "to protect and secure CAT Data under its control, including any PII that is part of the CAT Data" (§5.2.(b));

3) A failure **by the Industry Member or any of its agents** "to protect its own systems from misuse … or unauthorized access to the CAT System by or through [the Industry Member's] systems" (§5.2.(c)); or

4) A failure **by the Industry Member or any of its agents** "to comply with its obligations under this [CRA]" (§5.2.(d)) (emphasis added).

As with the Limitation of Liability Provision, the CRA's Indemnification Provision complies with industry norms routinely reflected in agreements for other NMS plans and regulatory reporting facilities (including OATS), as well as customer agreements utilized by Industry Members. *See* Appendix B.

The Operating Committee approved the CRA by unanimous written consent on August 29, 2019. (Simon Decl. ¶ 22).

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[9] *See* NYSE, LLC Rule 17, BOX Exchange LLC, Rule 7230; Cboe Exchange, Inc., Rule 1.10; Investors Exchange LLC, Rule 11.260; Long-Term Stock Exchange, Rule 11.260; Miami International Securities Exchange, LLC, Rule 527; Nasdaq, Rule 4626.

D. CAT LLC and the Participants Proposed in Good Faith to Revise the CRA to Address SIFMA's Concerns Regarding Liability Issues

Even though the CRA's Limitation of Liability Provision is consistent with longstanding industry practice, SIFMA has voiced its objections. In response, the Participants advanced several proposals to resolve SIFMA's concerns regarding allocation of liability, including joint funding models and other formulations. (Ex. G at 2); *see also* March 27, 2020 alternative "term sheets" (Ex. H) (each containing a compromise proposal); (Simon Decl. ¶¶ 23-26). Throughout these discussions, the Participants made clear they were willing to consider in good faith any reasonable proposals offered by SIFMA. SIFMA repeatedly declined that offer, insisting upon the wholesale deletion of the Limitation of Liability Provision. (Id. at ¶ 26).

Notwithstanding SIFMA's objections, between September 2019 and the date of this Opposition, over 1,300 Industry Members executed the CRA with the Limitation of Liability and Indemnification Provisions. (Id. at ¶ 32).

E. The CAT's Extensive Cybersecurity

In approving the CAT NMS Plan, the Commission approved CAT LLC's extensive cybersecurity policies, procedures, systems and controls. (*See* Ex. B, § 6.12., Appendix D10-D15). The CAT NMS Plan requires that the CAT's plan processor (the "Plan Processor") develop a comprehensive information security program that addresses the security and confidentiality of all information accessible from the CAT and the operational risks associated with accessing the CAT. Prior to the filing of this Application, the Participants offered – at the Commission's suggestion – to facilitate a meeting with security officials from the SROs and the Industry Members to discuss CAT's security. (Ex. I at 1-2).

F. Industry Members Withdraw Previously Executed Testing Agreements

To enable the minority of Industry Members who had refused to execute the CRA to begin testing their connectivity to the CAT, in December 2019, CAT LLC created a Limited Testing Acknowledgment Form, which enabled Industry Members to test with obfuscated data. (Simon Decl. ¶ 32; Ex. J).

On or around March 31, 2020, one Industry Member rescinded its execution of the Limited Testing Acknowledgment Form and indicated that it intended to submit production data to the CAT without executing the CRA. (Simon Decl. ¶ 33). Shortly thereafter, nine additional Industry Members rescinded their Limited Testing Agreements. (Id. ¶ 33). In total, approximately 1,200 Industry Members are required to report equity data to the CAT on June 22, 2020. (Id. at ¶ 35).

ARGUMENT

A stay is an extraordinary remedy for which SIFMA, as the moving party, bears the burden of proof. *In re Alpine Sec. Corp.*, Exchange Act Release No. 87599, 2019 WL 6251313, at *5 (Nov. 22, 2019). SIFMA has not met this burden, and its Stay Motion must be denied.

In determining whether to grant a stay the Commission considers four factors: (i) the likelihood that the moving party will succeed on the merits; (ii) the likelihood that the moving party will suffer irreparable harm without a stay; (iii) the likelihood that another party will suffer substantial harm as a result of a stay; and (iv) the impact of a stay on the public interest. *Id.*

All four factors weigh against a stay here. Yet, to conclude that a stay is not warranted, the Commission need not proceed further than the first two factors, which are the most critical, and often dispositive, especially where, as here, the applicant has failed to demonstrate any likelihood of success or irreparable harm. *See In re Windsor St. Capital, L.P.*, Exchange Act Release No. 83340, 2018 WL 2426502, at *3 (May 29, 2018).

A. SIFMA Is Unlikely to Succeed on the Merits

As a threshold matter, the Commission lacks jurisdiction to hear this Application because neither CAT LLC nor the SROs have denied Industry Members access to any "service offered" by an SRO within the meaning of Section 19(d). In the event the Commission nonetheless considers the Application on the merits, it should determine that the CAT NMS Plan and the SROs' implementing CAT Compliance Rules authorize CAT LLC to require Industry Members to execute the CRA. Any limit imposed on Industry Members' access to the CAT as a result of their failure to sign the CRA is therefore "in accordance with the rules of the [SROs]" and "consistent with the purposes of the Exchange Act." 15 U.S.C. § 78s(d)(1).

1. SIFMA Cannot Show a Likelihood of Success on the Merits Because the Commission Lacks Jurisdiction to Review SIFMA's Application

Section 19(d) provides four **exclusive** bases for the Commission to exercise jurisdiction over an applicant's challenge to SRO action. If, as here, none of these bases applies, the Commission "must dismiss the proceeding." *In re Sky Capital*, LLC, Exchange Act Release No. 55828, 2007 WL 1559228, at *3 (May 30, 2007).

SIFMA brings this Application under the third basis of Section 19(d)(1), which applies when an SRO "prohibits or limits any person in respect to **access to services** offered by such organization or member thereof." 15 U.S.C. § 78s(d)(1) (emphasis added). SIFMA must therefore show that the Commission should exercise jurisdiction because an SRO has "denied or limited [an applicant's] ability to utilize one of the fundamentally important services offered by the SRO." *Sky Capital*, 2007 WL 1559228, at *4 (dismissing petition for lack of jurisdiction). SIFMA's Application simply assumes, without analysis, that "[t]he CAT System is clearly a service offered by the SROs." *See* SIFMA Br. at 11.

The Commission's precedents, however, teach otherwise. They consistently construe "services" to refer to core functions of an SRO offered to firms to enable them to operate.[10] For instance, in *In re Bloomberg L.P.*, Exchange Act Release No. 49076, 2004 WL 67566, at *2-3 (Jan. 14, 2004), the primary decision on which SIFMA relies, the Commission exercised jurisdiction where the SRO placed restrictions on the display and use of liquidity data that it provided. *See also In re Higgins*, Exchange Act Release No. 24429, 1987 WL 757509, at *5 (May

[10] SIFMA incorrectly asserts that the CAT NMS Plan allows the Participants to use CAT data for commercial purposes. (*See* Ex. B, § 6.5.(g)).

6, 1987) (exercising jurisdiction because operation of a trading floor is the principal service offered by a national securities exchange to its members, and by its members to investors).[11]

By contrast, the Commission has declined jurisdiction where, as here, the SRO action involved activities by exchanges relating to regulatory oversight and rule enforcement. *See In re Morgan Stanley & Co., Inc.*, Exchange Act Release No. 39459, 1997 WL 802072, at *3 (Dec. 17, 1997) (holding that an application was not reviewable where NASD refused to grant an exemption from a prohibition on engaging in municipal securities business because disciplinary sanction was not a "service"). CAT LLC and the Participants are implementing the CAT in their regulatory capacities to comply with Rule 613. Indeed, the reason the Commission evaluates whether denial of access to "services" causes an unfair burden on competition is because "services" invariably involve offerings needed by Industry Members to compete in the marketplace (not offerings needed to comply with an SRO's regulatory obligations).[12] *See Higgins*, 1987 WL 757509, at *6 (noting review under Section 19(f) involves assessment of "**burden on competition**") (emphasis added).

2. SIFMA Lacks Standing to Bring this Application

SIFMA lacks statutory standing. Section 19(d) of the Exchange Act provides a remedy to "any person aggrieved" by SRO action. Because SIFMA has not alleged that it has attempted to report, or even has any data to report, to the CAT – as opposed to one of SIFMA's members –

[11] *See also In re Scattered Corp.*, Exchange Act Release. No. 37249, 1996 WL 284622 (May 29, 1996) (Commission had jurisdiction to review the refusal to process a request to register as a market maker because such action limited access to exchange's offerings).

[12] *See, e.g.*, *Sky Capital*, 2007 WL 1559228, at *4 (forum provided by NASD to address unfair practices or disparate treatment not a "fundamentally important service"); *In re Simpson*, Exchange Act Release No. 40690, 1998 WL 801399, at *3 (Nov. 19 1998) ("We do not view permitting any person to file a complaint against an NASD member or associated person and conducting any resulting proceeding as offering a 'service' for purposes of Section 19(d).").

SIFMA has not been denied access to any service, and it therefore is not an aggrieved person. *See* S. Rep. 94-75, 1975 WL 12347, at *25 (Apr. 14, 1975), 1975 U.S.C.C.A.N. at 203-04 (Section 19(d) provides a remedy for those "directly affected by" SRO action).

Furthermore, SIFMA cannot meet the three part "associational standing" test in which it would have to show that: "(a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." *In re Sec. Indus. & Fin. Mkts. Ass'n*, Exchange Act Release No. 72182, 2014 WL 1998525, at *7 (May 16, 2014). At a minimum, SIFMA cannot meet the first two requirements because the overwhelming majority of SIFMA members have signed the CRA (Simon Decl. ¶¶ 32-35) and have access to the CAT. SIFMA claims that Industry Members informed SIFMA that they signed the CRA because "they had no other practical choice" (Reisner Decl. ¶ 21) but offers no admissible evidence – for example, a declaration from each of SIFMA's members – to support that assertion.

Given that the vast majority of SIFMA's members have access to the CAT and thus suffered no injury, and that SIFMA is advocating for a position that most of its members have not taken, this is not a case where associational standing can be established.

3. The CRA Including the Limitation of Liability and Indemnification Provisions Is Fully Consistent with the CAT NMS Plan and Industry Standards

SIFMA's Application fares no better on the merits. Under Section 19(f) of the Exchange Act, the Commission shall set aside an action of an SRO and "require it to … grant … access to services offered by the [SRO]" if it finds that: (1) the specific grounds on which such denial, bar, or prohibition or limitation is based do not exist in fact, (2) that such denial, bar, or prohibition or limitation is not in accordance with the rules of the self-regulatory organization, or (3) that such

rules are, and were applied in a manner, inconsistent with the purposes of the Exchange Act. 15 U.S.C. § 78s(f). No such findings can be made here.

CAT LLC's authority to require Industry Members to sign a reporter agreement is clear under the CAT NMS Plan. Section 2.6 provides CAT LLC with the authority to do anything that "may be necessary, incidental, proper, advisable or convenient to [create, implement, and maintain CAT] and that is not prohibited by … the Exchange Act." (Ex. B, § 2.6.). The CAT NMS Plan further provides that "each Industry Member may utilize such methods as may be provided by the Plan Processor and approved by the Operating Committee to transmit Industry Member Data to the Central Repository." (Ex. B, § 6.4.(e)). It would be unreasonable to expect CAT LLC to accept data from over 1,300 Industry Members without creating standardized, uniform terms governing how those Industry Members will report. At a minimum, it was certainly "necessary…proper, advisable or convenient" for CAT LLC to create those terms and memorialize them in an agreement. (Ex. B, § 2.6.).

The CAT NMS Plan, moreover, expressly contemplates that each Participant will enact Compliance Rules that direct its members to submit data to the CAT System in accordance with the decisions of CAT LLC's Operating Committee. (Ex. B, §§ 6.4.(a)-(d)). For example, IEX Rule 11.630(a)(1) provides that "each Industry Member shall record and electronically report to the Central Repository…in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan." The other Participants have substantively identical requirements in their SEC-approved rules.[13] Because the Operating Committee approved the CRA (which prescribes the

[13] *See, e.g.*, BOX Exchange LLC, Rule 16030(a)(1); Cboe Exchange, Inc., Rule 7.22(a)(1); FINRA, Rule 6830(a)(1); Long-Term Stock Exchange, Rule 11.630(a)(1); Miami International Securities Exchange, LLC, Rule 1703(a)(1); The Nasdaq Stock Market LLC, General Rule 7, Section 3(a)(1); NYSE, Rule 6830(a)(1).

manner through with Industry Members will report data), the Participants' Compliance Rules require Industry Members to sign it.

The CAT NMS Plan also authorizes the Limitation of Liability and Indemnification Provisions to which SIFMA objects. It provides that the Participants shall not have "**any personal liability**…for any debts, liabilities, commitments, or any other obligations of [CAT LLC] or for **any losses** of [CAT LLC]." (Ex. B, § 3.8.(b)) (emphasis added). This provision, approved by the Commission when it adopted the CAT NMS Plan, is not optional. Other provisions in the CAT NMS Plan likewise authorize – indeed, arguably require – CAT LLC and the Participants to limit their liability and require indemnification from Industry Members. For instance, the section regarding "Funding Principles" provides that the Operating Committee "**shall** seek … to build financial stability to support [CAT LLC] as a going concern." (Ex. B, § 11.2.(f)). If SIFMA's hypothetical disaster data breach scenario occurred (*see* SIFMA Br. at 5-6), it is difficult to imagine how CAT LLC would ensure its solvency without limitation of liability and indemnification provisions. In any event, it is certainly "advisable or convenient" for CAT LLC to ensure its solvency, in accordance with the requirements of the CAT NMS Plan, through the Limitation of Liability and Indemnification Provisions in the CRA. (Ex. B, § 2.6.).

As another example, the CAT NMS Plan grants the Operating Committee discretionary authority to charge fees to Industry Members (subject to Commission approval), establish funding mechanisms for the CAT, and approve CAT LLC's budget. (Ex. B, §§ 11.1(a), 11.1(b)). Implicit in this broad authority is the recognition that the Operating Committee has the authority to reasonably allocate liability between Industry Members and the Participants.[14]

[14] Because of the provisions in the CAT NMS Plan requiring the Limitation of Liability and Indemnification Provisions in the CRA, granting SIFMA's Application and shifting liability from Industry Members to CAT LLC and the Participants without notice and comment would amount to a procedurally improper amendment of the CAT NMS Plan and Rule 613.

In light of these provisions, the crux of SIFMA's argument appears to be that the CAT NMS Plan does not contain the precise words "reporter agreement" or "limitation of liability." But this is not nearly sufficient to support SIFMA's request for extraordinary relief. At bottom, CAT LLC's decision to implement CAT reporting through a CRA that includes the Limitation of Liability and Indemnification Provisions is well within the plain meaning of the CAT NMS Plan and the discretion afforded to CAT LLC thereunder. (Ex. B, § 2.6.).

Bloomberg is readily distinguishable. In *Bloomberg*, the Commission concluded that certain provisions in vendor agreements relating to an SRO's Liquidity Quote Service were not in accordance with a Commission order that had conditioned approval of a proposed rule change on specific revisions to the vendor agreements. *See Bloomberg L.P.*, 2004 WL 67566, at *4. *Bloomberg* was thus decided on a bespoke factual record that has limited application here. By contrast, as discussed above (*see supra* at 13-15), the CRA is authorized by the CAT NMS Plan and SRO rules – all of which were approved by the Commission following notice and comment – and, unlike the vendor agreements in *Bloomberg*, the CRA's provisions do not run afoul of any Commission order.

SIFMA repeatedly asserts that the CRA's Limitation of Liability and Indemnity Provisions are "unfair, inappropriate, and bad policy." SIFMA Br. at 2; April 22, 2020 Letter from Lorin L. Reisner to Vanessa Countryman; *In re Application of SIFMA,* Application for Review of SRO Action, Admin Proc File No. 3-19766, at 2; (Reisner Decl. ¶ 17). But SIFMA's views about good policy are irrelevant and ring hollow when considering the CRA within the context of well-settled industry standards. Trade and other regulatory reporting agreements – including those for other NMS facilities – generally contain broad limitation of liability and indemnification provisions. *See respectively* Appendix A at 1-4; Appendix B at 1-4. Likewise, Industry Members themselves

regularly require their own customers to agree to similar limitations of liability and indemnification provisions. *See respectively* Appendix A at 5-7; Appendix B at 5-6. Finally, each Exchange has rules, approved by the Commission, that broadly provide that the Participants shall not be liable to Industry Members. *See Supra* at 7. These liability rules expressly extend to "facilities,"[15] and both the Commission and SIFMA have recognized that the CAT system is a facility of the SROs. *See* Consol. Audit Trail, Release No. 67457 (July 18, 2012); SIFMA Br. at 11. Thus, SIFMA cannot plausibly claim to be aggrieved by risk allocations widely adopted throughout the industry – and repeatedly approved by the Commission. *See id*.

SIFMA's self-professed "guiding principle" is "they who hold the data bear the liability." April 22, 2020 Letter from Lorin L. Reisner to Vanessa Countryman at 2. It is, however, apparent that SIFMA does not mean what it says. *Compare id. with* Appendix A 5-7. Despite being "in possession of the data," many of SIFMA's Industry Members routinely disclaim liability to their own customers. Appendix A 5-7. Conversely, by its wholesale objection to the CRA's Indemnification Provision, SIFMA takes the position that Industry Members in possession of data should ***not*** have to take responsibility for their ***own*** breaches and failures – including an Industry Member's failure "to protect and secure CAT Data ***under its control***" (§5.2.(b)) and an Industry Member's failure "to protect ***its own systems*** from misuse" (§5.2.(c) (emphasis added)). SIFMA Br. at 2. SIFMA offers a convenient principle, not a guiding one.

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[15] *See, e.g.*, Cboe Exchange, Inc., Rule 1.10(a) ("claims that arise out of the use or enjoyment of the facilities afforded by the Exchange"); Investors Exchange LLC, Rule 11.260(a)(1) ("growing out of the use or enjoyment of any facility of the Exchange"); Long-Term Stock Exchange, Rule 11.260(a)(1) ("growing out of the use or enjoyment of any facility of the Exchange"); Miami International Securities Exchange, LLC, Rule 527(a) ("claims that arise out of the use or enjoyment of the facilities or services afforded by the Exchange"); BOX Exchange LLC, Rule 7230(b) ("claims arising out of the use of the facilities, systems or equipment afforded by BOX"); Nasdaq GEMX, Section 27(a) ("claims arising out of the use of the facilities, systems or equipment afforded by the Exchange"); New York Stock Exchange LLC, Rule 17(a) ("growing out of the use or enjoyment by such member, allied member or member organization of the facilities afforded by the Exchange"). FINRA does not operate its own securities exchange and therefore does not have a comparable rule. (Ex. K).

For all these reasons, SIFMA has not demonstrated a likelihood of succeeding on the merits.

B. SIFMA Has Not Articulated Any Irreparable Harm that Industry Members Would Suffer Absent a Stay

SIFMA has not alleged – let alone proven – that Industry Members will suffer irreparable harm absent a stay. This failure, standing alone, compels denial of SIFMA's Stay Motion. *In re Bruce Zipper*, Exchange Act Release No. 82158, 2017 WL 571255, at *5 (Nov. 27, 2017) (failure to demonstrate irreparable harm "eliminates the need to balance the other factors"); *In re Am. Petroleum Inst.*, Exchange Act Release No. 68197, 2012 WL 5462858, at *3 (Nov. 8, 2012) (failure to demonstrate imminent, irreparable harm, by itself, is a sufficient basis to deny a stay).[16]

SIFMA alleges Industry Members may suffer two types of harms absent a stay: 1) enforcement or disciplinary actions against Industry Members who opt not to execute a CRA (SIFMA Br. at 13-14) and 2) unspecified financial damages resulting from a hypothetical future data breach. (Reisner Decl. ¶ 17). As an initial matter, SIFMA's *only* evidentiary support for its purported irreparable harm is a declaration from its outside counsel. It offers no declarations from any of its members describing what harm will irreparably befall them if they execute the CRA or explaining why, in the face of purported irreparable harm, the vast majority of SIFMA members nonetheless chose to execute the CRA. *In re Kabani & Co., Inc.*, Exchange Act Release No. 80403, 2017 WL 1295034 (Apr. 7, 2017) ("[M]ovants provide no evidentiary support for [their] prediction" that complained-of harm will cause their business to cease operations.) (citing SEC

[16] SIFMA rests much of its irreparable harm argument on *In re Bloomberg* (SIFMA Br. at 14), but SIFMA omits that the stay in that case was issued on a "brief, interim" basis and was lifted only 17 days later, when the Commission concluded the alleged future harm to Bloomberg's business did not warrant a stay. *In re Bloomberg L.P.*, Exchange Act Release No. 47999, 2003 WL 2157776, at *2 (June 6, 2003). In granting its interim stay, the Commission noted that the exchange's opposition papers were not even due to be filed until after the launch of the challenged service. *In re Bloomberg L.P.*, Exchange Act Release No. 47891, 2003 WL 21184560, at *2 (May 20, 2003). After undertaking its more comprehensive evaluation, the Commission declined to extend the stay because Bloomberg had not demonstrated irreparable harm. *In re Bloomberg L.P.*, 2003 WL 2157776, at *2 (June 6, 2003).

Rule of Practice 401(a), 17 C.F.R. § 201.401(a) ("[I]f the facts are subject to dispute, [a stay] motion shall be supported by affidavits or other sworn statements or copies thereof.")).

More fundamentally, neither proffered harm satisfies Rule 401(a). The Commission has held that having to defend against an enforcement action is not an irreparable injury. *See In re Edward M. Daspin*, Exchange Act Release No. 86230, 2019 WL 2717085, at *3 (June 28, 2019) ("The Supreme Court has [] recognized that the expense and disruption of defending against an adjudicatory proceeding does not constitute irreparable harm, even when a party takes issue with the institution or lawfulness of the proceedings."). *Daspin* comports with the bedrock equitable principle of preliminary relief that only harm that is truly irreparable may justify a stay. *See, e.g.*, *In re Am. Petroleum Inst.*, 2012 WL 5462858, at *3 (Nov. 8, 2012). As the Commission recognized in *Daspin*, the harm from any enforcement or disciplinary action that results from an Industry Member's choice not to execute the CRA can be remedied by the Commission (or by the SROs) if the CRA ultimately is found to be improper. *See Daspin* 2019 WL 2717085, at *3; *In re Meyers Assocs., L.P.*, Exchange Act Release No. 77994, 2016 WL 3124674, at *4 (June 3, 2016) ("[t]he Commission and courts have consistently held…that mere injuries, however substantial, in terms of money, time, and energy necessarily expended in the absence of a stay, are not enough to constitute irreparable harm.").[17] Industry Members can avoid any short-term "harm" from defending against an SRO disciplinary action by signing the CRA while the Application is

[17] SIFMA asserts that a denial of access to SRO services in the absence of alternatives can constitute irreparable harm. *See* SIFMA Br. at 13-14. However, the irreparable harm in both cases upon which SIFMA relies depended on a threat to market competition, which is not present here. *In re Bunker Ramo*, Exchange Act Release No. 14606, 1978 WL 197047, at *4 (Mar. 24, 1978) ("petitioners could be forced out of this line of business during the pendency of contractual negotiations"); *Bloomberg L.P.*, 2003 WL 21184560, at *2 (finding that conditions at issue would "severely disadvantage and indeed cripple the ability of small to middle-market investment firms to compete").

pending. If the Commission subsequently invalidates the CRA, Industry Members will be freed from its Limitation of Liability and Indemnity Provisions without any irremediable harm.

SIFMA also alleges that Industry Members may face unspecified harm due to a hypothetical CAT data breach, but this purported harm rests on pure speculation and is not irreparable. (*See* Reisner Decl. ¶ 17). The theoretical possibility of a data breach is insufficient to warrant a stay, especially considering CAT LLC's extensive cybersecurity protocols, which were approved by the Commission following notice and comment. (*See* Ex. B, § 6.12., Appendix D10-D15; Simon Decl. ¶¶ 27-31).

Nor has SIFMA demonstrated that Industry Members will suffer any cognizable damages in the event of a hypothetical data breach. *See Alpine Sec. Corp.*, 2019 WL 6251313, at *10 ("A stay will not be granted against something merely feared as liable to occur at some indefinite time; rather, the party seeking a stay must show that the injury complained of is of such imminence that there is a clear and present need for equitable relief to prevent irreparable harm."). Moreover, harm that is solely financial in nature – i.e., the type of harm SIFMA speculates Industry Members might suffer (Reisner Decl. ¶ 17) – is insufficient as a matter of law. *In re Robert J. Prager*, Exchange Act Release No. 50634, 2004 WL 2480717, at *1 (Nov. 4, 2004); *see also Meyers Assocs.*, 2016 WL 3124674, at *4 ("The Commission has generally refused to grant stays based on applicants' claims that [a] decision will negatively affect, or even close, a business.").

During the pendency of SIFMA's Application, Industry Members may choose to either sign the CRA or potentially subject themselves to disciplinary actions. Neither of these paths constitutes irreparable harm and, as such, a stay is unwarranted.[18]

[18] So long as at least one of the two options that Industry Members have does not constitute irreparable harm, they are obligated to exercise it. *See In re Gregory Evan Goldstein*, Exchange Act Release No. 68904, 2013 WL 503416, at *5 (Feb. 11, 2013) (no irreparable harm where applicant could remedy the situation causing its suspension).

C. It Is More Likely for CAT LLC to Be Substantially Harmed By a Stay Than for SIFMA Members to Be Irreparably Harmed in the Absence of a Stay

A stay is more likely to harm CAT LLC and the Participants than the absence of a stay would harm Industry Members. *See Meyers Assocs.*, 2016 WL 3124674, at *5. A stay of the requirement to sign the CRA would force CAT LLC to accept data from a multitude of Industry Members without any terms or conditions. Without a CRA, each of the approximately 1,200 Industry Members with reporting obligations beginning on June 22 presumably could unilaterally determine the terms under which it reported data. This chaotic scenario would create an untenable situation for operating the CAT and fly in the face of the CAT NMS Plan. (Ex. B, 6.4(e)).

Moreover, even in SIFMA's hypothetical data breach scenario, CAT LLC is the entity most likely to suffer harm. Individual Industry Members would only be harmed by a breach that affected their individual data; CAT LLC, by contrast, would be harmed in any breach scenario.

D. A Stay Is Not in the Public Interest

SIFMA argues that the public interest would be served by a stay of the CAT deadlines or the CRA requirement to enable Industry Members to obtain Commission review. SIFMA Br. at 15. But SIFMA's conclusory assertion that a stay is necessary to enable the Commission to fairly adjudicate the issues can be made whenever any party seeks preliminary relief. Moreover, the cases upon which SIFMA relies all involved stays designed to "preserve the status quo." *See In re PalmWorks, Inc.*, Exchange Act Release No. 43294, 2000 WL 1335343, at *2 (Sept. 15 ,2000); *In re Intelispan, Inc.*, Exchange Act Release No. 42738, 2000 WL 511471, at *1 (May 1, 2000). In light of the fact over 1,300 Industry Members have signed the CRA and with CAT reporting scheduled to commence on June 22, a stay would disrupt rather than preserve the status quo. *See Alpine Sec. Corp.*, 2019 WL 6251313 (public interest weighed against a stay that would alter the status quo).

The public interest is best served by permitting the CAT to proceed. As Rule 613 contemplates, the CAT will play a vital role in enabling the Commission, the SROs, and other enforcement authorities to surveil the securities markets and protect investors. *See* Consol. Audit Trail, 2012 WL 2927797, at *8 (the Commission determined that the CAT was necessary for the prompt and accurate recording of material information about all orders in NMS securities). Abruptly staying CAT deadlines is plainly contrary to the public interest in reaching these goals.

CONCLUSION

For the foregoing reasons, CAT LLC and the Participants respectfully request that the Commission deny SIFMA's Stay Motion in its entirety.

Dated: New York, New York
May 6, 2020

Respectfully submitted,

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UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In The Matter of: The Application of SECURITIES INDUSTRY AND FINANCIAL MARKETS ASSOCIATION, For Review of Action Taken by CAT LLC and Certain Self-Regulatory Organizations	Admin. Proc. File No. 3-19766

CERTIFICATE OF COMPLIANCE WITH WORD LIMIT

Pursuant to Rule 154(c) of the Commission's Rules of Practice, I hereby certify that this memorandum of law contains 6,973 words, according to the word-processing system used to prepare the brief, exclusive of the cover page, table of contents, table of authorities, and appendices.

Dated: New York, New York
May 6, 2020

Ari Berman

Ari M. Berman

APPENDIX A

Limitation of Liability Provisions

I. NMS Plans

NMS Plan	Agreement	Limitation of Liability Provision in Agreement
Consolidated Audit Trail (CAT)	Consolidated Audit Trail Reporter Agreement (*available at* https://www.catnmsplan.com/sites/default/files/2020-02/Consolidated-Audit-Trail-Reporter-Agreement%2808-29-19%20FINAL%29.pdf)	**5.5. Limitation of Liability:** Provides that liability of Consolidated Audit Trail ("CATLLC") and its Representatives to CAT Reporter under the Agreement shall not "for any calendar year exceed the lesser of the total of the fees actually paid by CAT Reporter to CATLLC for the calendar year in which the claim arose or five hundred dollars." **5.6. Damage Exclusion:** Provides that CATLLC and its Representatives shall not "be liable to CAT Reporter or any other person for lost revenues, lost profits, loss of business, or any incidental, consequential, special, exemplary, punitive or other direct or indirect damages of any kind or nature." **5.7. Data Exclusion:** Provides that CATLLC and its Representatives shall not "be liable for any inconvenience caused by the loss of any data, for the loss or corruption of any CAT Reporter data or for any delays or interruptions in the operation of the CAT System from any cause."
Consolidated Tape Association Plan/ Consolidated Quotation Plan (CTA/CQ Plan)	Form of Subscriber Contract (Agreement for Receipt of Consolidated Network A Data and NYSE Market Data) (*available as Exhibit D*: https://www.ctaplan.com/publicdocs/ctaplan/notifications/trader-update/CQ_Plan_Composite_as_of_December_6_2019.pdf)	**6. Data Not Guaranteed.** No disseminating party (i.e., NYSE, any other Authorizing SRO and the Processor) "shall be liable in any way to Subscriber or to any other person for (a) any inaccuracy, error or delay in, or omission of, (i) any such data, information or message, or (ii) the transmission or delivery of any such data, information or message, or (b) any loss or damage arising from or occasioned by (i) any such inaccuracy, error, delay or omission, (ii) non-performance, or (iii) interruption in any such data, information or message, due either to any negligent act or omission by any disseminating party or to any "Force Majeure" (i.e.….equipment or software malfunction) or any other cause beyond the reasonable control of any disseminating party."

Unlisted Trading Privileges Plan	UTP Plan Subscriber Agreement (*available at* http://www.utpplan.com/DOC/subagreement.pdf)	**6. Limitation of Liability:** • "Nasdaq shall not be liable to Subscriber, its Vendor or any other Person for indirect, special, punitive, consequential or incidental loss or damage (including, but not limited to, trading losses, loss of anticipated profits, kiss by reasons of shutdown in operation or increased expenses of operation, costs of cover or other indirect loss or damage) of any nature arising from any cause whatsoever." • The "liability of Nasdaq within a single year of the Agreement…is limited to an amount of Subscriber's damages that are actually incurred by Subscriber in reasonable reliance (combined with the total of all claims or losses of Subscriber's Vendor and any other Person claiming through, on behalf of or as harmed by Subscriber) and which amount does not exceed the lesser of:" (i) a prorated month's credit of any monies due directly to Nasdaq from Subscriber or, if applicable, from any other Person, for the Information at issue during the period at issue, or if Subscriber or any other Person no longer receives either the Information or any other data and/or information offered by Nasdaq, a refund of any monies due directly to Nasdaq from Subscriber or, if applicable, from any other Person, for the Information at issue during the period at issue; or (ii) $500.
Options Price Authority Facility (OPRA)	Vendor Agreement (*available at* https://assets.website-files.com/5ba40927ac854d8c97bc92d7/5c6f058889c3684b7571a552_OPRA%20Vendor%20Agreement%20100118.pdf)	**12. No Warranty as to OPRA Data:** Provides that "neither OPRA, the Processor nor any Participant shall be liable in any way to Vendor or to any Subscriber for any loss, damages, cost or expense which may arise out of any failure of performance by OPRA, the Processor or any Participant, or from any delays inaccuracies, errors in, or omissions of, any OPRA Data or in the transmission or delivery thereof, whether or not due to any negligent act or omission on the part of OPRA, the Processor or any Participant. In no event shall OPRA, the Processor or any Participant be liable for any incidental, special, indirect or consequential damages, including but not limited to lost profits, trading losses, or damages resulting from inconvenience, or loss or use of any OPRA Data."

II. Trade Reporting Facilities and Regulatory Reporting Systems

Trade Reporting Facility	Agreement	Limitation of Liability Provision in Agreement
FINRA Market Transparency Facilities: **1. Trade Reporting and Compliance Engine (TRACE)** **2. OTC Reporting Facility (ORF)** **3. Alternative Display Facility (ADF)**	FINRA Transparency Services Participation Agreement (*available at* https://www.finra.org/sites/default/files/FINRA_Transparency_Services_Participation_Agreements-Version-1.4.pdf)	**Section 18. Limitation of Liability:** Provides that: • FINRA shall not be liable to Participant "for indirect, special, punitive, consequential, or incidental loss or damage (including trading losses, loss of opportunity, loss of anticipated revenues, loss of anticipated profits, loss by reason of shutdown in operation or increased expenses of operation, or other loss or damage) of any nature arising from any cause whatsoever." • FINRA shall not be liable to Participant "for any unavailability, interruption, delay, incompleteness, or inaccuracy of the Service or the Information and Data unless such unavailability, interruption, delay, incompleteness, or inaccuracy of the Service or Information and Data lasts for an entire Business Day and continues at the commencement of the immediately succeeding Business Day." • "If FINRA is for any reason held liable, …the aggregate liability of FINRA within a single year is limited to the lower of: (1) if Participant continues to receive the Service or any other data and/or information offered by FINRA, a prorated month's credit of any monies due to FINRA from Participant for the period at issue or, if Participant no longer receives either the Service or any other data and/or information offered by FINRA, a refund of any monies due to FINRA from Participant for the period at issue; or (2) $5,000.00." • "FINRA shall not be responsible for or liable…for any unavailability, interruption, delay, incompleteness, or inaccuracy of the Service of the Information and Data that is not caused by FINRA."
FINRA/Nasdaq TRFs **1. FINRA /Nasdaq TRF Carteret** **2. FINRA /Nasdaq TRF Chicago**	Nasdaq U.S. Services Agreement (*available at* http://www.nasdaqtrader.com/content/marketregulation/membership/NasdaqServicesAgreement.pdf)	**Section 13. Limitation of Liability:** Provides that: • Nasdaq "shall not be liable to Subscriber…for trading losses, loss of anticipated profits, loss by reason of shutdown in operation or for increased expenses of operation, or for indirect, special, punitive, consequential, or incidental loss or damage of any nature arising from any cause whatsoever." • "Nasdaq shall not be liable to Subscriber…for the unavailability, interruption, delay, incompleteness or inaccuracy of information from Nasdaq's third party information and software providers."

Order Audit Trail System (OATS)	FINRA Entitlement Program Terms of Use[1] (*available at* https://www.finra.org/sites/default/files/Entitlement_Program_Privacy_Statement.pdf)	**6. Disclaimer of Warranty; Limitation of Liability:** Provides that: • "This disclaimer of liability applies to any damages or injury caused by any failure of performance, error, omission, interruption, deletion, defect, delay in operation or transmission, computer virus, communication line failure, theft or destruction or unauthorized access to, alteration of, or use of record, whether for breach of contract, tortious behavior, negligence, or under any other cause of action." • "In no event will FINRA, its affiliates or licensors, or any person or entity involved in creating, producing or distributing the Web Site, the application, materials or services accessible through the Web Site or software underlying the foregoing, for or on behalf of FINRA, be liable for any damages, including, without limitation, direct, indirect, incidental, special, consequential or punitive damages arising out of the use or inability to use the Web Site or the applications, materials or services accessible through the Web Site." • "Neither FINRA, nor its affiliates, licensors, information providers or content partners shall be liable regardless of the cause or duration, for any errors, inaccuracies, omissions, or other defects in, or untimeliness or unauthenticity of, the information contained within the Web Site or the applications, materials or services accessible through the Web Site, or for any delay or interruption in the transmission thereof to the Subscriber, or for any claims or losses arising therefrom or occasioned thereby or for any disciplinary or regulatory action taken thereupon." "Neither, FINRA, nor its affiliates, licensors, information providers or content partners shall be liable for any third-party claims or losses of any nature, including, but not limited to, lost profits, punitive or consequential damages."

[1] All applicants for FINRA Membership are required to execute this agreement under FINRA Rule 1013(a)(R).

III. Industry Member Agreements

Industry Member	Agreement	Limitation of Liability Provision in Agreement
Vanguard	Electronic Services Agreement (effective September 5, 2017) (*available at* https://personal.vanguard.com/pdf/v718.pdf)	**Section 14. Limitations of Liability:** • "In no event will [Vanguard Brokerage Services "(VBS)"] and its affiliates, agents, licensors, or service providers, the Information Providers, or the Information Transmitters be liable to you or anyone else for any consequential, incidental, special, exemplary, punitive, or indirect damages (including, but not limited to, lost profits, trading losses, and damages) that result from inconvenience, delay, the use of, or loss of the use of the Electronic Services, even if VBS or its affiliates, agents, licensors, or service providers, the Information Providers, or the Information Transmitters have been advised of the possibility of such damages or losses." • "Neither VBS and its affiliates, agents, licensors, or service providers, the Information Providers, nor the Information Transmitters shall be liable for any loss resulting from a cause over which such entity does not have direct control, including, but not limited to, failure of electronic or mechanical equipment or communication lines, telephone, or other interconnect problems, bugs, errors, configuration problems, or incompatibility of computer hardware or software, failure or unavailability of wireless access, internet access, internet service providers, or other equipment or services relating to your computer, intermediate computer or communications networks or facilities, data transmission facilities or your telephone or telephone service, or unauthorized access, theft, operator errors, severe weather, earthquakes, other natural disasters, or labor disputes."
E*TRADE	E*TRADE Customer Agreement (effective April 15, 2019) (*available at* https://us.etrade.com/e/t/estation/contexthelp?id=1209031000)	**Section 14. Limitation of Liability:** • Provides that "no E*TRADE Indemnified Parties shall be liable for any action taken or omitted to be taken by any of them hereunder or in connection herewith except for their breach of this Customer Agreement, gross negligence, or willful misconduct." • "In no event shall any E*TRADE Indemnified Parties be held liable for (i) indirect, consequential, exemplary, or punitive damages or (ii) any loss of any kind caused, directly or indirectly, by any Force Majeure Event, and the Account Holder unconditionally waives any right it may have to claim or recover such damages (even if the Account Holder has informed an E*TRADE Indemnified Party of the possibility or likelihood of such damages)."

		○ ""Force Majeure Event" shall mean any act beyond E*TRADE's control, including any…communications, system or power failures, cybersecurity incident, and equipment or software malfunction." • "…[T]he Account Holder expressly agrees that under no circumstances will the total, aggregate liability of E*TRADE Indemnified Parties to the Account Holder or any party claiming by or through the Account Holder, for any cause whatsoever, exceed $1,000, regardless of the form of action and whether in contract, statute, tort, or otherwise."
Charles Schwab	Electronic Services Agreement (effective January 2020) (*available at* https://www.schwab.com/legal/schwab-brokerage-account-agreement)	**5. Limitations of Liability:** • Schwab "will not be liable under any circumstances for any consequential, incidental, special or indirect damages…This includes, but is not limited to, claims for lost profits, trading losses and damages that may result from the use, inconvenience, delay or loss of use of the Information or for omissions or inaccuracies in the Information." • "[T]he liability of Schwab… arising out of any legal claim… in any way connected with Schwab's Electronic Services or Information will not exceed the amount you originally paid for the Electronic Services related to your claim." • "Schwab… will not be liable for any loss that results from a cause over which that entity does not have direct control. Such causes include, but are not limited to: (1) the failure of electronic or mechanical equipment or communication lines; (2) telephone or other interconnect problems; (3) bugs, errors, configuration problems or the incompatibility of computer hardware or software; (4) the failure or unavailability of Internet access; (5) problems with Internet service providers or other equipment or services relating to your computer or network; (6) problems with intermediate computer or communications networks or facilities; (7) problems with data transmission facilities or your telephone, cable or wireless service; or (8) unauthorized access, theft, operator errors, severe weather, earthquakes, other natural disasters or labor disputes. Schwab is also not responsible for any damage to your computer, software, modem, telephone, wireless device or other property resulting in any way from your use of Schwab's Electronic Services."

Bank of America	Electronic Trading Terms and Conditions (November 2019) (*available at* https://www.bofaml.com/content/dam/boamlimages/documents/PDFs/baml_electronic_trading_platform_terms_final_12_03_2015.pdf)	**10. Indemnity, Disclaimer of Warranties and Limitation of Liability** • 10.3: "In no event shall BofA…be liable for: (a) any losses suffered or incurred by customer or any third party which arise out of or in connection with these Terms or any breach or non-performance of these terms no matter how fundamental (including by reason of BofA's negligence) including, for the avoidance of doubt, any losses that occur as a result of an action or inaction of BofA, including BofA's indicative prices, any relevant market or any other party that directly or indirectly results in a customer offer and/or customer order being executed, failing to be executed, or being executed on a delayed basis, (b) any losses, damages, claims, costs or expenses which arise out of or relate to (i) any service interruption or failure or incorrect operation for any reason of BofA electronic trading services or associated communications systems or equipment, or (ii) any incomplete or incorrect executed transactions resulting from incomplete, incorrect, failed, intercepted or misdirected communications; or (c) any indirect, incidental, special or consequential loss, damage, claim, cost or expense (including, without limitation, any economic loss or damage, loss of profits, revenue, goodwill or anticipated savings, loss of or corruption to data, loss of operation time or loss of contracts) of any nature…" • 10.6: "BofA shall not be considered in breach of these Terms in the event of any failure or delay for reasons not within BofA's reasonable control, including, without limitation, war, disaster, acts of nature, power failure, failure of communications services or networks, labor stoppage, sabotage, computer virus, hacking, unrest or disputes, or acts or omissions of Customer…"
TD Ameritrade	Client Agreement (2019) (*available at* https://www.tdameritrade.com/retail-en_us/resources/pdf/AMTD182.pdf)	**7(c). Limitation of Liability:** "Subject to Applicable Rules, in no event will [TD Ameritrade, its] affiliates, the Third-Party Providers or their respective licensors, employees, distributors, or agents be liable to [the account owner] or any third party for any direct, indirect, incidental, special, punitive, or consequential losses or damages of any kind with respect to the Services." **14(g). Force Majeure:** "[TD Ameritrade] will not be liable for loss caused directly or indirectly by conditions beyond [its] reasonable control, including but not limited to Force Majeure events. "Force Majeure" means events that are beyond the reasonable control of a party, including but not limited to the following: disasters, extraordinary weather conditions, earthquakes or other acts of God,…terrorists acts, government restrictions, exchange or market rulings, suspension of trading, computer or communication line failure, or failure of market centers or transmission facilities."

APPENDIX B

Indemnification Provisions

I. NMS Plans

NMS Plan	Agreement	Indemnification Provision in Agreement
Consolidated Audit Trail (CAT)	Consolidated Audit Trail Reporter Agreement (*available at* https://www.catnmsplan.com/sites/default/files/2020-02/Consolidated-Audit-Trail-Reporter-Agreement%2808-29-19%20FINAL%29.pdf)	**Section 5.2:** Requires CAT Reporters to indemnify CAT LLC, the Participants, the Plan Processor from third party claims in four limited circumstances: 1) A breach of the warranty by the CAT Reporter that it "has the full legal right to submit to the CAT system the CAT Data" that it submitted (§ 5.2(a)); 2) A failure by the CAT Reporter or any of its agents "to protect and secure CAT Data under its control, including any PII that is part of the CAT data" (§5.2(b)); 3) A failure by the CAT Reporter or any of its agents "to protect its own systems from misuse … or unauthorized access to the CAT System by or through CAT Reporter's systems" (§5.2(c)); or 4) A failure by the CAT Reporter or any of its agents "to comply with its obligations under this Agreement" (§5.2(d)).
Consolidated Tape Association Plan/ Consolidated Quotation Plan (CTA/CQ Plan)	Form of Subscriber Contract (Agreement for Receipt of Consolidated Network A Data and NYSE Market Data) (*available as Exhibit D*: https://www.ctaplan.com/publicdocs/ctaplan/notifications/trader-update/CQ_Plan_Composite_as_of_December_6_2019.pdf)	**Section 15(e): "**Indemnification - Subscriber shall indemnify and hold harmless each Authorizing SRO from and against any liability, loss or damages caused by (i) any inaccuracy in or omission from, (ii) Subscriber's failure to furnish or to keep, or (iii) Subscriber's delay in furnishing or keeping, any report or record that this Paragraph 15 requires. Subscriber shall do so even if Subscriber depends on information from a third party and the third party caused the inaccuracy, omission, failure or delay. Without limiting the generality of the foregoing, if NYSE determines that, as a consequence of any such inaccuracy, omission, failure or delay, applicable Subscriber charges were not billed when incurred, Subscriber may be billed for those charges and Subscriber shall promptly pay those charges plus any applicable tax.")

Unlisted Trading Privileges Plan	UTP Plan Subscriber Agreement (*available at* http://www.utpplan.com/DOC/subagreement.pdf)	**Section 9. Claims and Losses:** "Subscriber will indemnify Nasdaq and hold Nasdaq and its employees, officers, directors and other agents harmless from any and all Claims or Losses imposed on, incurred by or asserted as a result of or relating to: (a) any noncompliance by Subscriber with the terms and conditions hereof; (b) any third-party actions related to Subscriber's receipt and use of the Information, whether authorized or unauthorized under the Agreement."
Options Price Authority Facility (OPRA)	Vendor Agreement (*available at* https://assets.website-files.com/5ba40927ac854d8c97bc92d7/5c6f058889c3684b7571a552_OPRA%20Vendor%20Agreement%20100118.pdf)	6(d): "Vendor agrees to indemnify, hold harmless and defend OPRA, each Participant, the Processor and each Affiliate of the foregoing from and against any and all claims, suits, proceedings at law or in equity, and any and all liability, loss, damages, costs or expenses (other than fees and expenses of attorneys separately retained by any of the indemnified parties) arising out of or in connection with any allegation that an Electronic Subscriber Agreement is unenforceable or invalid, if any of the reasons for the alleged unenforceability or invalidity of the contract is based upon or related to the fact that the contract was entered into or administered electronically; provided, however, that Vendor shall be notified promptly in writing of any such claims and Vendor shall have sole control of the defense of any such claim, suit or proceeding and all negotiations for settlement or compromise thereof, but only insofar as such settlement or compromise does not impose any liability on OPRA, any Participant, any Affiliate thereof, or the Processor." 17: "Vendor hereby agrees to indemnify, hold harmless and defend OPRA, each Participant and each Affiliate of a Participant from and against any and all suits, proceedings at law or in equity, and any and all liability, loss, damages and expenses (other than fees and expenses of attorneys separately retained by any of the indemnified parties), arising out of, or in connection with any claim by any person that the use of Vendor's Service infringes any United States patent or violates any property right…"

II. Trade Reporting Facilities and Regulatory Reporting Systems

Trade Reporting Facility	Agreement	Indemnification Provision in Agreement
FINRA Market Transparency Facilities: **1. Trade Reporting and Compliance Engine (TRACE)** **2. OTC Reporting Facility (ORF)** **3. Alternative Display Facility (ADF)**	FINRA Transparency Services Participation Agreement (*available at* https://www.finra.org/sites/default/files/FINRA_Transparency_Services_Participation_Agreements-Version-1.4.pdf)	**Section 20. Indemnification:** "Participant shall be liable to, indemnify, defend and hold harmless FINRA its, employees, directors, and other agents against, any and all Claims or Losses imposed on, incurred by or asserted against FINRA, its employees, directors, and other agents arising out of or in connection with this Agreement and access, receipt or use of the Service, including all Testing Services, provided pursuant hereto to the extent that the Claims and Losses result from (i) acts or omissions of the Participant or its Users, (ii) breach of this Agreement by Participant or its Users, (iii) Participant's or its Users' access, receipt or use of the Service (including representations about the Service), (iv) as a result of a claim by a third party to intellectual property rights related to Participant's hardware, software, or services used with the Services or use of the Services in combination with the Participant's hardware, software, or services, including any claim alleging contributory infringement, or (v) any defense of or participation by FINRA its, employees, directors, and other agents in any action, suit, arbitration, mediation, judicial or administrative proceeding, or any other proceeding involving any Claims or Losses described in this Agreement caused by or related to any act or omission by Participant or any party obtaining access to the Service or Testing Services intentionally, knowingly or negligently from or through Participant."
FINRA/Nasdaq TRFs **1. FINRA /Nasdaq TRF Carteret** **2. FINRA /Nasdaq TRF Chicago**	Nasdaq U.S. Services Agreement (*available at* http://www.nasdaqtrader.com/content/marketregulation/membership/NasdaqServicesAgreement.pdf)	**Section 14. Indemnification: "**Subscriber shall be liable to, indemnify against, and hold the Nasdaq Affiliates harmless from, any and all Claims or Losses (as those terms are defined in subsection (F) herein) imposed on, incurred by or asserted against any Nasdaq Affiliate by an unaffiliated third party to the extent that the Claims and Losses result from the breach or alleged breach of this Agreement by the Subscriber, its employees, directors, agents or associated persons, or from the receipt or use of the Services (including representations about the Services) by Subscriber, its affiliates, its customers, or its employees, directors, agents or associated persons."

Order Audit Trail System (OATS)	FINRA Entitlement Program Terms of Use[1] (*available at* https://www.finra.org/sites/default/files/Entitlement_Program_Privacy_Statement.pdf)	**Section 9. Indemnification:** "Subscriber agrees to defend, indemnify and hold harmless FINRA, its affiliates, licensors, information providers or content partners and their respective directors, officers, employees and agents from and against all claims and expenses, including attorneys' fees, arising out of the use of the Web Site or the applications, materials or services accessible through the Web Site by Subscriber or Subscriber's Account(s)."

[1] All applicants for FINRA Membership are required to execute this agreement under FINRA Rule 1013(a)(R).

III. Industry Member Agreements

Industry Member	Agreement	Indemnification Provision in Agreement
Vanguard	Electronic Services Agreement (effective September 5, 2017) (*available at* https://personal.vanguard.com/pdf/v718.pdf)	**15. Indemnification:** "You agree to defend, indemnify, and hold harmless VBS and its agents, licensors, and service providers, the Information Providers, and the Information Transmitters, and each of its and their affiliates, officers, directors, employees, agents, and contractors, from and against any and all claims, losses, liabilities, costs, and expenses (including, but not limited to, attorneys' fees) arising from (i) Your improper use of or access to the Electronic Services; (ii) Your furnishing of any of the Information to any third party; or (iii) Your violation of this Electronic Services Agreement, state or federal securities laws or regulations, or any third party's rights, including, but not limited to, infringement of any intellectual property right, violation of any proprietary right, and invasion of any privacy rights. This obligation will survive any termination of this Electronic Services Agreement."
E*TRADE	E*TRADE Customer Agreement (effective April 15, 2019) (*available at* https://us.etrade.com/e/t/estation/contexthelp?id=1209031000)	**15. Indemnification:** "The Account Holder agrees fully to indemnify, hold harmless, and reimburse the E*TRADE Indemnified Parties, on a current basis, from and against any and all Losses arising out of or relating to: (i) any transaction effected for or in the Account in accordance with any communication, notice, instruction, or order received from the Account Holder, the Account Holder's agent, or an individual any E*TRADE Indemnified Party believes to be authorized to act on behalf of the Account Holder; (ii) any erroneous, mismatched, or incomplete identifying information on any electronic funds transfer instruction; (iii) failure of the Account Holder to perform their obligations hereunder, including without limitation failure to satisfy any Obligations due to E*TRADE or timely deliver in Good Deliverable Form any Collateral sold for the Account; (iv) breach of any representation, warranty, or covenant made by the Account Holder hereunder or any subsequent false or misleading statement or representation made by the Account Holder or its agents; (v) any act or omission by the Account Holder with respect to any of their accounts; (vi) the Account Holder's failure to comply with any provision of Applicable Law; (vii) any action taken by any E*TRADE Entity to enforce its rights under this Customer Agreement; (viii) any Event of Default by the Account Holder; and (ix) any violation or infringement by the Account Holder or its agents of any copyright or other intellectual property right."
Charles Schwab	Electronic Services Agreement (effective January 2020) (*available at* https://www.schwab.com/legal/schwab-brokerage-account-agreement)	**17. Indemnification:** "You agree to defend, indemnify and hold Schwab, the Information Providers and the Information Transmitters harmless from and against any and all claims, losses, liability costs and expenses (including, but not limited to, attorneys' fees) arising from your violation of this Agreement, state or federal securities laws or regulations, or any third party's rights, including, but not limited to, infringement of any copyright, violation of any proprietary right and invasion of any privacy rights."

Bank of America	Electronic Trading Terms and Conditions (November 2019) (*available at* https://www.bofaml.com/content/dam/boamlimages/documents/PDFs/baml_electronic_trading_platform_terms_final_12_03_2015.pdf)	**10. Indemnity, Disclaimer of Warranties and Limitation of Liability** • 10.1: "Customer…agrees to indemnify, defend and hold harmless BofA and its directors, officers, employees, contractors and agents from and against any and all direct and indirect losses, claims, liability, damages, expenses (including reasonable legal fees and advertising costs reasonably incurred by BofA in connection with mitigating any damage caused to BofA's reputation and goodwill) (Losses) in connection with (i) any claim arising out of any breach of these Terms by Customer, any Authorized Person or any other employee, officer, contractor or agent (whether authorized or not) of Customer and (ii) any regulatory or other investigation or proceeding arising out of Customer's use of the services provided by BofA pursuant to these Terms and any Executed Transactions resulting therefrom (including any resulting fines, loss of business caused by any suspension or ban from any relevant market, expenses or other costs arising from an actual or alleged breach by Customer of any Applicable Law and any reasonable legal costs incurred in liaising with any regulator or relevant market)."
TD Ameritrade	Client Agreement (2019) (*available at* https://www.tdameritrade.com/retail-en_us/resources/pdf/AMTD182.pdf)	**14(h). Indemnification:** "I agree to indemnify and hold harmless [TD Ameritrade]…from any and all liabilities, losses, costs, judgments, penalties, claims, actions, damages, expenses, or attorney's fees (collectively "Losses") resulting or arising directly or indirectly from use of the Services or transactions in my Account, except to the extent that such Losses are the direct result of [TD Ameritrade's] gross negligence or willful misconduct."

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In The Matter of: The Application of SECURITIES INDUSTRY AND FINANCIAL MARKETS ASSOCIATION, For Review of Action Taken by CAT LLC and Certain Self-Regulatory Organizations	Admin. Proc. File No. 3-19766

CERTIFICATE OF SERVICE

Pursuant to Rule 150 of the Commission's Rules of Practice, I, David Oliwenstein, hereby certify that on May 6, 2020, I caused a true and correct copy of Consolidated Audit Trail, LLC's Memorandum of Law in Opposition to SIFMA's Motion to Stay as well as the accompanying declarations and exhibits, to be delivered to the recipients listed below in the manner indicated.

Via Email

The Honorable Vanessa Countryman
Secretary
U.S. Securities and Exchange
100 F Street, N.E.
Washington, DC 20549

Lorin L. Reisner, Esq.
David S. Huntington, Esq.
Jeffrey J. Recher, Esq.
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, New York 10019
Counsel for Petitioner Securities Industry and Financial Markets Association

Dated: New York, New York
May 6, 2020

David Oliwenstein
David Oliwenstein

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In The Matter of: The Application of SECURITIES INDUSTRY AND FINANCIAL MARKETS ASSOCIATION, For Review of Action Taken by CAT LLC and Certain Self-Regulatory Organizations	Admin. Proc. File No. 3-19766

DECLARATION OF MICHAEL SIMON WITH RESPECT TO CONSOLIDATED AUDIT TRAIL, LLC'S AND PARTICIPANTS' OPPOSITION TO SIFMA'S MOTION TO STAY

I, Michael Simon, pursuant to 28 U.S.C. § 1746, declare as follows:

Introduction and Personal Background

1. I have served as Chairman of the Consolidated Audit Trail, LLC ("CAT LLC") Operating Committee, in a non-voting capacity, since 2017.

2. I started my legal career as a staff attorney at the U.S. Securities and Exchange Commission (the "Commission") in 1978. By the time I left the Commission in 1986, I was an Assistant Director of Market Regulation with responsibility for clearing and oversight of over-the-counter trading and the U.S. National Market.

3. In 1987 and 1988, I served as Assistant General Counsel at National Securities Clearing Corporation, the then-largest securities clearing corporation in the U.S. Thereafter, I worked at Milbank LLP as an associate, senior associate, and counsel from 1988-1998, where I maintained a securities regulatory practice including as primary outside counsel to the New York Stock Exchange.

4. For eighteen years thereafter, from 1998 to 2016, I worked as the General Counsel, Chief Regulatory Officer and Secretary of the International Securities Exchange ("ISE"), one of

the leading options exchanges. Beginning in 2012, I represented ISE in connection with its involvement with the Consolidated Audit Trail ("CAT"), including acting as an ISE representative on the working groups that developed and created the CAT NMS Plan, which the Commission ultimately approved. When Nasdaq purchased ISE in 2016, I coordinated Nasdaq's CAT activities, first as an employee of Nasdaq and thereafter as a consultant. While employed as a Nasdaq consultant, the CAT LLC Operating Committee elected me as its Chairman.

5. From 2017 to the present, I have been an Independent Senior Advisor to Deloitte & Touche LLP ("Deloitte"), where my work has focused on serving as Chairman of the Operating Committee. The Operating Committee is composed of representatives from the participants ("Participants") and is responsible for managing and supervising all aspects of the business of CAT LLC.

6. As Chairman, I have helped oversee and coordinate the development of the CAT System. I interact daily with members of the Operating Committee and regularly liaise with CAT LLC's outside counsel (including Wilmer Cutler Pickering Hale and Dorr LLP and Pillsbury Winthrop Shaw Pittman LLP) and Deloitte, which has provided, among other things, project management services to CAT LLC, the Commission staff and the CAT's plan processor.

7. In my capacity as Chairman, I set Operating Committee agendas, moderate Operating Committee meetings, and fulfill tasks prescribed by the Operating Committee, including reviewing and signing documents on behalf of the Operating Committee, and facilitating all other committee, subcommittee or working group meetings where appropriate as determined by the Operating Committee.

8. Given my extensive involvement with the CAT project since 2012, I have knowledge of many aspects of the project, including the reporter agreement that is the subject of this proceeding.

9. I respectfully submit this declaration with respect to CAT LLC's and the Participants' May 6, 2020 Opposition to the Securities Industry and Financial Markets Association's ("SIFMA") Motion to Stay SRO Action Pending Commission Review of SIFMA's Application Pursuant to Exchange Act Sections 19(d) and 19(f) (the "Application").

The Formation of Consolidated Audit Trail, LLC

10. On May 6, 2010, in less than one hour of trading, the major market indexes dropped by over 9% (i.e., about $1 trillion in market value) before rebounding, in what came to be called the "Flash Crash."

11. In response, on July 11, 2012, the Commission adopted Rule 613 of Regulation NMS, requiring certain self-regulatory organizations ("SROs") to develop a "Consolidated Audit Trail" that would allow regulators, including the Commission and the individual SROs, to efficiently and accurately track and analyze activity throughout the U.S. securities markets.

12. Because Rule 613 provides only a broad framework for the CAT, the Participants were required to collectively submit a plan to design, implement, and operate the CAT for the Commission's approval.

13. In order to effectuate a collective plan, on November 29, 2016, the SROs formed CAT NMS, LLC, and subsequently, on August 29, 2019, CAT LLC. As of August 29, 2019, the Participants have collectively operated and managed the CAT exclusively through CAT LLC.

CAT LLC Engaged Industry Members and SIFMA to Provide Comments on the CAT NMS Plan

14. Over the two-year period of developing the CAT NMS Plan, the SROs sought feedback from industry members ("Industry Members") as well as SIFMA and other interested stakeholders. Among other methods of soliciting feedback, CAT LLC made numerous requests for comments from Industry Members, hosted a series of public events to address inquiries, and created a comprehensive website that addressed all aspects of the plan.[1]

15. The Participants submitted to the Commission a proposed NMS plan on September 30, 2014. Before the Commission could approve that initial plan, on February 27, 2015, the SROs submitted a proposed plan that amended and replaced the initially submitted plan. The Commission approved the proposed CAT NMS Plan on November 15, 2016 as well as subsequent amendments on January 11, 2017, May 22, 2017, July 21, 2017, October 31, 2017, January 10, 2018, and August 29, 2019.

Industry Members Advised on the CAT NMS Plan Through the Development Advisory Group

16. Before the plan was submitted to the Commission for approval, to create additional opportunities for Industry Members to provide feedback on the contents of the plan, the Participants created a committee comprised of a cross-section of Industry Members (the "Development Advisory Group" or "DAG") to formally advise the Participants regarding the CAT NMS Plan.

17. The DAG's members included broker-dealers of varying sizes, as well as SIFMA and two other industry trade associations. The DAG effectively functioned as a forum for Industry

[1] The website is available at http://catnmsplan.com/.

Members and their trade associations to raise issues for discussion with the Participants regarding all aspects of the CAT NMS Plan.

18. The Participants held thirty-six meetings with the DAG before the CAT NMS Plan was submitted for Commission approval on February 27, 2015. Such meetings included discussions regarding, among other topics, the CAT NMS Plan's proposed method of funding for the CAT. The proposed CAT NMS Plan submitted for approval by the Commission took into account the extensive feedback received from Industry Members.

Industry Members Advised on the CAT Through the Advisory Committee

19. After approval of the CAT NMS Plan, the Participants continued to seek feedback from Industry Members and SIFMA regarding the implementation, operation, and administration of the CAT. One way in which the Participants obtained this feedback was by the creation of an advisory group of Industry Members and other interested constituencies (the "Advisory Committee"). The Advisory Committee was comprised of broker-dealers of varying sizes and types of business, an individual who maintains a securities account, an academic, and institutional investors.

20. Advisory Committee members were entitled to, and did, attend every meeting of CAT LLC's Operating Committee (with the exception of those that were held in executive session).

21. Advisory Committee members were also entitled to, and did, participate in meetings of a CAT subcommittee and working groups. While in attendance at Operating Committee, subcommittee, or working group meetings, Advisory Committee members could, and did, express their views on matters pending before these various groups.

The Reporter Agreement Is Shared with the Advisory Committee and Approved by the Operating Committee

22. On or around August 29, 2019, the Participants shared with the Advisory Committee a draft reporter agreement (the "Reporter Agreement") that memorializes the methods through which Industry Members must transmit data to the CAT. The Operating Committee approved the Reporter Agreement and a CAT Reporting Agent Agreement by unanimous written consent on August 29, 2019.

The Participants Attempt to Resolve a Disagreement With SIFMA Regarding the Reporter Agreement

23. Following the approval of the Reporter Agreement by the Operating Committee, SIFMA raised concerns with the agreement's limitation of liability provision ("Limitation of Liability Provision"), particularly in relation to a potential CAT data breach. To the best of my recollection, at no time during these discussions did SIFMA raise any concerns regarding the Reporter Agreement's indemnification provision.

24. The Participants attempted to engage in a constructive dialogue with SIFMA in an effort to address SIFMA's concerns regarding the Limitation of Liability Provision. For example, in February and March 2020, representatives from the Participants met with SIFMA to discuss SIFMA's concerns regarding liability in the event of a CAT data breach.

25. The Participants also made several substantive proposals to revise the Reporter Agreement to address SIFMA's concerns. One of those proposals involved the creation of a reserve to cover damages in the event of a data breach, which would be funded collectively by the Participants and Industry Members. Additionally, on March 27, 2020, CAT LLC provided SIFMA with two alternative "term sheets", each of which contained a potential resolution of the parties' disagreement regarding liability issues.

26. Throughout these discussions, the Participants stated that they were willing to consider any reasonable proposals from Industry Members. However, SIFMA did not offer any substantive proposals to address the parties' underlying disagreement on liability issues and instead stated that it would only accept an agreement without any limitation of liability provision.

Cybersecurity Measures of the CAT

27. The CAT NMS Plan contains specific requirements that CAT LLC must implement to ensure the cybersecurity of the CAT. In approving the CAT NMS Plan, the Commission approved CAT LLC's proposed cybersecurity policies, procedures, systems and controls. *See* CAT NMS Plan, Appendix D.

28. Following the approval of the CAT NMS Plan, CAT LLC designed and implemented a cybersecurity system that satisfied every requirement in the Commission-approved CAT NMS Plan.

29. Additionally, CAT LLC has designated a Chief Information Security Officer responsible for creating and enforcing policies, procedures, and control structures regarding data security.

30. The cyber policies, procedures, systems and controls implemented by the CAT's plan processor (i.e., FINRA CAT) are routinely assessed by an external auditor and subject to examination by the Commission's Office of Compliance Inspections and Examinations.

31. Prior to SIFMA's filing of this Application, the Participants offered (at the Commission's suggestion) to facilitate a meeting with security officials from the Participants and the Industry Members to discuss CAT's security.

Industry Members Withdraw Testing Agreements

32. Between September 2019 and May 5, 2020, over 1,300 Industry Members executed the CAT Reporter Agreement containing the limitation of liability provision. To enable the approximately 60 Industry Members who did not execute the Reporter Agreement to begin testing their connectivity to CAT while continuing negotiations with the Participants regarding liability issues, in December 2019, CAT LLC created a Limited Testing Acknowledgment Form. The Limited Testing Acknowledgement Form enables Industry Members to test with obfuscated data (i.e., as opposed to production data).

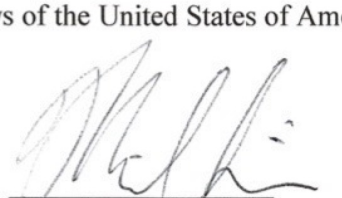
33. On or around March 31, 2020, one Industry Member rescinded its execution of the Limited Testing Acknowledgment Form and indicated that it intended to submit production data to the CAT without executing either the Limited Testing Acknowledgement Form or the Reporter Agreement. Shortly thereafter, nine additional Industry Members rescinded their Limited Testing Acknowledgment Forms.

34. As of May 6, 2020, four of the ten Industry Members that rescinded their Limited Testing Acknowledgement Forms re-executed the form, enabling those Industry Members to again test connectivity to the CAT System using obfuscated data.

35. In total, approximately 1,200 Industry Members are required to report equity data to the CAT on June 22, 2020.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: May 6, 2020



Michael Simon

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In The Matter of: The Application of SECURITIES INDUSTRY AND FINANCIAL MARKETS ASSOCIATION, For Review of Action Taken by CAT LLC and Certain Self-Regulatory Organizations	Admin. Proc. File No. 3-19766

DECLARATION OF DAVID OLIWENSTEIN IN SUPPORT OF CONSOLIDATED AUDIT TRAIL, LLC'S AND PARTICIPANTS' OPPOSITION TO SIFMA'S MOTION TO STAY

I, David Oliwenstein, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am counsel at the law firm of Pillsbury Winthrop Shaw Pittman LLP and respectfully submit this declaration in support of Consolidated Audit Trail, LLC's ("CAT LLC") and Participants' Opposition to Securities Industry and Financial Markets Association's ("SIFMA") April 22, 2020 Motion to Stay.

2. Attached to this Declaration as Exhibit A is a true and correct copy of a letter dated September 30, 2014 from the CAT LLC Participants to Brent J. Fields, Secretary, U.S. Securities and Exchange Commission.

3. Attached to this Declaration as Exhibit B is a true and correct copy of excerpts of the Consolidated Audit Trail NMS Plan.

4. Attached to this Declaration as Exhibit C is a true and correct copy of an email dated August 29, 2019 from the CAT LLC Operating Committee to the CAT LLC Advisory Committee, attaching a draft of the Consolidated Audit Trail Reporter Agreement and Consolidated Audit Trail Reporting Agent Agreement.

5. Attached to this Declaration as Exhibit D is a true and correct copy of excerpts of a draft of the FINRA CAT Onboarding Guide, dated July 31, 2019.

6. Attached to this Declaration as Exhibit E is a true and correct copy of the Consolidated Audit Trail Reporter Agreement.

7. Attached to this Declaration as Exhibit F is a true and correct copy of the FINRA Entitlement Program Terms of Use.

8. Attached to this Declaration as Exhibit G is a true and correct copy of a letter dated February 18, 2020 from Michael Simon, CAT LLC Operating Committee Chair, to Ellen Greene, Managing Director of SIFMA.

9. Attached to this Declaration as Exhibit H is a true and correct copy of an email dated March 27, 2020 from Michael Simon, CAT LLC Operating Committee Chair, to Ellen Greene, Managing Director of SIFMA, attaching two alternative Term Sheets.

10. Attached to this Declaration as Exhibit I is a true and correct copy of a letter dated March 3, 2020 from Michael Simon, CAT LLC Operating Committee Chair, to the Honorable Jay Clayton.

11. Attached to this Declaration as Exhibit J is a true and correct copy of the Consolidated Audit Trail Industry Member Limited Testing Acknowledgment Form.

12. Attached to this Declaration as Exhibit K is a true and correct copy of excerpts of certain Self-Regulatory Organization rules of the CAT LLC Participants.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: New York, New York
May 6, 2020

David Oliwenstein
David Oliwenstein

EXHIBIT A

September 30, 2014

VIA EMAIL AND COURIER

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

Re: National Market System Plan Governing the Consolidated Audit Trail Pursuant to Rule 613 of Regulation NMS under the Securities Exchange Act of 1934

Dear Mr. Fields:

The parties to the National Market System Plan Governing the Consolidated Audit Trail ("Plan") – BATS Exchange, Inc. ("BATS"); BATS Y-Exchange, Inc. ("BYX"); BOX Options Exchange LLC ("BOX"); C2 Options Exchange, Incorporated ("C2"); Chicago Board Options Exchange, Incorporated ("CBOE"); Chicago Stock Exchange, Inc. ("CHX"); EDGA Exchange, Inc. ("EDGA"); EDGX Exchange, Inc. ("EDGX"); Financial Industry Regulatory Authority, Inc. ("FINRA"); International Securities Exchange, LLC ("ISE"); ISE Gemini, LLC ("ISE Gemini"); Miami International Securities Exchange LLC ("MIAX"); NASDAQ OMX BX, Inc. ("BX"); NASDAQ OMX PHLX LLC ("PHLX"); The NASDAQ Stock Market LLC ("NASDAQ"); National Stock Exchange, Inc. ("NSX"); New York Stock Exchange LLC ("NYSE"); NYSE MKT LLC ("NYSE MKT"); and NYSE Arca, Inc. ("NYSE Arca") (collectively, the "Participants")[1] – respectfully file the Plan with the Securities and Exchange Commission (the "Commission" or "SEC") for approval pursuant to Rule 608 of Regulation NMS ("Rule 608") under the Securities Exchange Act of 1934 ("Exchange Act").

Rule 608 authorizes self-regulatory organizations "to act jointly in … [p]reparing and filing a national market system plan or any amendment thereto."[2] For purposes of Regulation NMS, a "national market system plan" includes "any joint self-regulatory organization plan in connection with … [t]he development and implementation of procedures … designed to achieve compliance by self-regulatory organizations and their members with any section of this Regulation NMS."[3] Rule 613 of Regulation NMS ("Rule 613") requires the Participants to jointly file a national market system plan to govern the creation, implementation, and maintenance of a consolidated audit trail and central repository.[4] The Plan being submitted by the Participants for approval governs the creation, implementation, and maintenance of a consolidated audit trail ("CAT") and central repository ("Central Repository"). The Participants respectfully request that the Commission approve the Plan.

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1 Capitalized terms have the same meaning as set forth in Section 1.1 of the Plan.
2 17 C.F.R. § 242.608(a)(3)(ii).
3 17 C.F.R. § 242.600(b)(43).
4 17 C.F.R. § 242.613(a).

Background

On July 11, 2012, the Commission adopted Rule 613 under the Exchange Act[5] to require the national securities exchanges and national securities association to jointly submit a national market system plan to create, implement, and maintain a consolidated audit trail and central repository.[6] Rule 613 outlines a broad framework for the creation, implementation, and maintenance of the consolidated audit trail, including the minimum elements the Commission believes are necessary for an effective consolidated audit trail.[7]

Since the adoption of Rule 613, the Participants have worked to formulate an effective Plan. To this end, the Participants have, among other things, developed a plan for selecting the plan processor, solicited and evaluated bids, and engaged diverse industry participants in the development of the Plan. Throughout, the Participants have sought to implement a process that is fair, transparent, and consistent with the standards and considerations in Rule 613.

The Request for Proposal and Selection Plan

On February 26, 2013, the Participants published a request for proposal ("RFP") soliciting bids from parties interested in serving as the plan processor.[8] The Participants concluded that publication of an RFP was necessary to ensure that potential alternative solutions to creating the Plan could be presented and considered, and that a detailed and meaningful cost-benefit analysis could be performed. The Participants asked any potential bidders to notify the Participants of their intent to bid by March 5, 2013. Initially, 31 firms submitted intentions to bid, four of which were Participants or affiliates of Participants. In the following weeks and months, the Participants engaged with potential bidders with respect to, among other things, the selection process, selection criteria, and potential bidders' questions and concerns.[9]

On September 4, 2013, the Participants filed with the Commission a national market system plan to govern the process for Participant review of the bids submitted in response to the RFP, the procedure for evaluating the bids, and, ultimately, selection of the plan processor (the "Selection Plan").[10] The Commission approved the Selection Plan as filed on February 21, 2014.[11] On March 21, 2014, the Participants received ten bids in response to the RFP.

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5 17 C.F.R. § 242.613.

6 17 C.F.R. § 242.613(a)(1).

7 Securities Exchange Act Release No. 67457 (July 18, 2012), 77 Fed. Reg. 45722, 45743 (Aug. 1, 2012) ("Adopting Release").

8 *See* Appendix A for the Consolidated Audit Trail National Market System Plan Request for Proposal (issued Feb. 26, 2013, version 3.0 updated Mar. 4, 2014). Other materials related to the RFP are available at http://catnmsplan.com/process/.

9 In an effort to ensure bidders were aware of all information provided in response to bidders' questions related to the RFP, the Participants published answers to questions received from bidders at http://catnmsplan.com/process/.

10 *See* Securities Exchange Act Release No. 70892 (Nov. 15, 2013), 78 Fed. Reg. 69910 (Nov. 21, 2013).

11 *See* Securities Exchange Act Release No. 71596 (Feb. 21, 2014), 79 Fed. Reg. 11152 (Feb. 27, 2014) (the "Selection Plan Approval Order").

The Selection Plan divides the review and evaluation of bids, and the selection of the plan processor, into various stages, certain of which have been completed to date.[12] Specifically, pursuant to the Selection Plan, a selection committee reviewed all bids and determined which bids contained sufficient information to allow the Participants to meaningfully assess and evaluate the bids. The ten submitted bids were deemed "Qualified Bids,"[13] and so passed to the next stage, in which each bidder presented its bids to the Participants on a confidential basis. On July 1, 2014, after conducting careful analysis and comparison of the bids, the Selection Committee voted and selected a shortlist of six eligible bidders.[14] The Selection Committee will determine which shortlisted bidders will be provided the opportunity to revise their bids. After the Selection Committee assesses and evaluates any revised bids, the Selection Committee will select the plan processor via two rounds of voting by the Senior Voting Officers as specified in the Plan.[15]

Selection Plan Governance and Operations

The Selection Plan established an Operating Committee responsible for formulating, drafting, and filing with the Commission the Plan and for ensuring that the Participants' joint obligations under Rule 613 were met in a timely and efficient manner.[16] Each Participant selected one individual and one substitute to serve on the Operating Committee, with other representatives of each Participant permitted to attend Operating Committee meetings.[17] In formulating the Plan, the Participants also engaged multiple persons across a wide range of roles and expertise, engaged the consulting firm Deloitte & Touche LLP as a project manager, and engaged the law firm Wilmer Cutler Pickering Hale and Dorr LLP to serve as legal counsel in drafting the Plan. Within this structure, the Participants focused on, among other things, comparative analyses of the proposed technologies and operating models, development of funding models to support the building and operation of the CAT, and detailed review of governance considerations. Since July 2012, the Participants have held approximately 509 meetings related to the CAT.[18] These governance and organizational structures will continue to be in effect until the Commission's final approval of the Plan.[19]

Engagement with Industry Participants

Throughout the process of developing the Plan, the Participants consistently have been engaged in meaningful dialogue with industry participants with respect to the development of the CAT. From the outset of this process, the Participants have recognized that industry input is a

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12 *See, e.g., id.* at 11154.

13 A list of Qualified Bidders is available at http://catnmsplan.com/web/groups/catnms/@catnms/documents/appsupportdocs/p493591.pdf.

14 The announcement and list of the shortlisted bidders is available at: http://catnmsplan.com/web/groups/catnms/@catnms/documents/appsupportdocs/p542077.pdf.

15 *See* Selection Plan Approval Order, 79 Fed. Reg. at 11154.

16 *Id.*

17 *Id.*

18 Additional information regarding these meetings can be found at http://catnmsplan.com/.

19 Selection Plan Approval Order, 79 Fed. Reg. at 11155.

critical component in the creation of the Plan. To this end, the Participants created a website[20] to update the public on the progress of the Plan, published a request for comment on multiple issues related to the Plan, held multiple public events to inform the industry of the progress of the CAT and to address inquiries, and formed, and later expanded, a Development Advisory Group (the "DAG") to solicit more input from a representative industry group.

The DAG conducted 36 meetings[21] to discuss, among other things, technical and operational aspects the Participants were considering for the Plan. The Participants twice issued press releases soliciting participants for the DAG, and a wide spectrum of firms was deliberately chosen to provide insight from various industry segments affected by the CAT.[22] The DAG currently consists of the Participants, and 27 diverse firms and organizations (including broker-dealers of varying sizes, the Options Clearing Corporation, a service bureau and three industry trade associations) with a variety of subject matter expertise.[23] The DAG meetings have included discussions of topics such as option market maker quote reporting, requirements for capturing Customer IDs, timestamps and clock synchronization, reporting requirements for order handling scenarios, costs and funding, error handling and corrections, and potential elimination of systems made redundant by the CAT.[24]

In addition, the CAT website includes a variety of resources for the public with respect to the development of the CAT. The site contains an overview of the process, an expression of the guiding principles behind the Plan development, links to relevant regulatory actions, gap analyses comparing the requirements of Rule 613 with current reporting systems, the CAT implementation timeline, a summary of the RFP process, a set of frequently-asked-questions (updated on an ongoing basis), questions for comment from the industry, industry feedback on the development of the Plan, and announcements and notices of upcoming events. This website, along with the requests for comments and many public events (announced on the site), have been a venue for public communication with respect to the development of the Plan.

Request for Exemption from Certain Requirements under Rule 613

Following multiple discussions between the Participants and both the DAG and the bidders, as well as among the Participants themselves, the Participants recognized that some provisions of Rule 613 would not permit certain solutions to be included in the Plan that the Participants determined advisable to effectuate the most efficient and cost-effective CAT. Consequently, the Participants have drafted a request for exemptive relief from certain provisions of Rule 613 regarding: (1) options market maker quotes; (2) Customer-IDs; (3) CAT-Reporter-IDs; (4) CAT-Order-IDs on allocation reports; and (5) timestamp granularity. Specifically, the Participants plan to request that the Commission grant an exemption from:

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20 The website is http://catnmsplan.com/.

21 In addition to these meetings, DAG subcommittee meetings also were held.

22 For a list of DAG members, *see* "Summary of the Consolidated Audit Trail Initiative," at 8, (Aug. 6, 2014), available at http://catnmsplan.com/web/groups/catnms/@catnms/documents/appsupportdocs/p571933.pdf.

23 The list of current DAG members is available at http://catnmsplan.com/PastEvents/.

24 *See, e.g., id.* at 9.

- Rule 613(c)(7) to relieve options market makers from the obligation to report quotation information pursuant to Rule 613(c)(7), and permit the options exchanges to provide to the CAT all market maker quotes received by the options exchange as well as any cancels, modifications or executions related to those quotes.

- Rule 613(c)(7)(i)(A), (c)(7)(iv)(F), and (c)(8) to permit the inclusion of the Customer Information Approach in the Plan.[25] Under the Customer Information Approach, the Plan would require each broker-dealer reporting to the Central Repository to assign a unique firm-designated identifier to each trading account, rather than Customer-IDs.

- Rule 613(c)(7)(ii)(D), (c)(7)(ii)(E), (c)(7)(iii)(D), (c)(7)(iii)(E), (c)(7)(iv)(F), (c)(7)(v)(F), and (c)(8) to permit each broker-dealer reporting information to the Central Repository to provide to the Central Repository existing SRO-assigned market participant identifiers (*e.g.*, FINRA MPID, Nasdaq MPID, NYSE Mnemonic, CBOE User Acronym, CHX Acronym) used in the routing or execution of any CAT Reportable Event along with information to identify the CAT Reporter itself (*e.g.*, CRD number, Legal Entity Identifier), rather than CAT-Reporter-IDs.

- Rule 613(c)(7)(vi)(A) and (C) to permit the use of a firm designated-identifier as an identifier on allocation reports, rather than the CAT-Order-ID and sub-account numbers.

- The provisions in Rule 613(d)(3) that require Manual Order Event information in Rules 613(c)(7)(i)(E), 613(c)(7)(ii)(C), 613(c)(7)(iii)(C) and 613(c)(7)(iv)(C) to be reported to the millisecond, thereby allowing the SROs to include the Manual Order Event time stamp requirements in the Plan to the second.

The Participants believe that the above relief is critical to the development of a cost-effective approach to the CAT.

Deadline Extension Requests

Rule 613(a)(1) requires that the Participants jointly file the Plan on or before April 28, 2013.[26] In recognition of the complexity of the project to create the Plan to govern the creation, maintenance and implementation of the CAT and Central Repository, the SEC provided the Participants with two extensions of this deadline. The Commission first extended the deadline to December 6, 2013,[27] and then again extended the deadline to September 30, 2014.[28] Since the

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[25] The Customer Information Approach to the reporting of customer information by CAT Reporters was first detailed in the RFP Concepts Document published by the Participants in January 2013 and is available on the catnmsplan.com website

[26] Adopting Release, 77 Fed. Reg. at 45789.

[27] *See* Securities Exchange Act Release No. 69060 (Mar. 7, 2013), 78 Fed. Reg. 15771 (Mar. 12, 2013); *see also* Letter from Robert L.D. Colby, Executive Vice President and Chief Legal Officer, FINRA, to Elizabeth M. Murphy, Secretary, SEC, dated Feb. 7, 2013.

SEC granted this second extension, however, at least three factors adversely affected the Participants' projected timetable for filing the Plan by September 30, 2014: an extended preliminary process regarding the bidder selection procedures, the complex need for exemptive relief from certain requirements of Rule 613, and cost analyses and the funding model. These factors prompted the Participants to begin to consider in June whether to file an extension request, to have discussions during the summer with the SEC staff regarding such a request, and ultimately to file a final request on September 5, 2014 to extend the deadline for filing the Plan to December 19, 2014.[29] The Participants sought to extend the deadline to December 19, 2014 to incorporate additional views from the industry, further refine the technical description and requirements proposed, and allow additional time for the industry to better evaluate the proposed cost and funding considerations. On September 30, 2014, the Participants withdrew this final request.

Requirements Pursuant to Rule 608(a)

A. Description of Plan

Rule 613 requires the Participants to "jointly file … a national market system plan to govern the creation, implementation, and maintenance of a consolidated audit trail and central repository."[30] The purpose of the Plan, and the creation, implementation and maintenance of a comprehensive audit trail for the U.S. securities market described therein, is to "substantially enhance the ability of the SROs and the Commission to oversee today's securities markets and fulfill their responsibilities under the federal securities laws."[31] It "will allow for the prompt and accurate recording of material information about all orders in NMS securities, including the identity of customers, as these orders are generated and then routed throughout the U.S. markets until execution, cancellation, or modification. This information will be consolidated and made readily available to regulators in a uniform electronic format."[32]

1. LLC Agreement

The Participants propose to conduct the activities related to the CAT in a limited liability company pursuant to a limited liability agreement, entitled the Limited Liability Company Agreement of CAT NMS, LLC ("Company"). The Participants will jointly own on an equal basis the limited liability company. The limited liability company will create, implement and maintain the CAT and Central Repository. The limited liability company agreement ("LLC

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28 *See* Securities Exchange Act Release No. 71018 (Dec. 6, 2013), 78 Fed. Reg. 75669 (Dec. 12, 2013); *see also* Letter from Robert L.D. Colby, Executive Vice President and Chief Legal Officer, FINRA to Elizabeth Murphy, Secretary, SEC, dated Nov. 8, 2013.

29 *See* Letter from Robert L.D. Colby, Executive Vice President and Chief Legal Officer, FINRA, to Lynn M. Powalski, Deputy Secretary, SEC, dated Sept. 5, 2014.

30 17 C.F.R. § 242.613(a)(1).

31 Adopting Release,77 Fed. Reg. at 45726.

32 *Id.* Note that the Plan also includes certain recording and reporting obligations for OTC Equity Securities.

Agreement") itself, including its appendices, is the proposed Plan, which would be a national market system plan as defined in Rule 600(b)(43) of Regulation NMS.

2. Participants

Each currently approved national securities exchange and national securities association subject to Rule 613(a)(1) would be a Participant in the Plan. Article III of the Plan provides that any entity approved by the Commission as a national securities exchange or national securities association under the Exchange Act after the date the LLC Agreement is signed ("Agreement Date") will become a Participant by satisfying each of the following requirements: (1) executing a counterpart of the LLC Agreement as then in effect; and (2) paying a fee to the Company in an amount determined by a Majority Vote of the Operating Committee as fairly and reasonably compensating the Company and the Participants for costs incurred in creating, implementing and maintaining the CAT System (including such costs incurred in evaluating and selecting a Plan Processor) and for costs the Company incurs in providing for the prospective Participant's participation in the Company, including after consideration of the certain factors enumerated in the Agreement ("Participation Fee").

A number of factors are relevant to the determination of a Participation Fee. Such factors include: (1) the portion of costs previously paid by the Company for the development, expansion and maintenance of the Company's facilities which, under GAAP, would have been treated as capital expenditures and would have been amortized over the five years preceding the admission of the prospective Participant; (2) an assessment of costs incurred and to be incurred by the Company for modifying the CAT System or any part thereof to accommodate the prospective Participant, which costs are not otherwise required to be paid or reimbursed by the prospective Participant; (3) Participation Fees paid by other Participants admitted as such after the Agreement Date; (4) elapsed time from the Effective Date to the anticipated date of admittance of the prospective Participant; and (5) such other factors, if any, as may be determined to be appropriate by the Operating Committee and approved by the Commission. In the event that the Company and a prospective Participant do not agree on the amount of the Participation Fee, such amount will be subject to review by the SEC pursuant to Section 11A(b)(5) of the Exchange Act. The amendment of the LLC Agreement reflecting the admission of a new Participant will be effective only when: (1) it is approved by the SEC in accordance with Rule 608 or otherwise becomes effective pursuant to Rule 608; and (2) the prospective Participant pays the Participation Fee.

An applicant for participation in the Company may apply for limited access to the CAT System for planning and testing purposes pending its admission as a Participant by submitting to the Company a completed Application for Limited Access to the CAT System in a form provided by the Company, accompanied by payment of a deposit in the amount established by the Company, which will be applied or refunded as described in such application.

All Company Interests will have the same rights, powers, preferences and privileges and be subject to the same restrictions, qualifications and limitations. Once admitted, each Participant will be entitled to one vote on any matter presented to Participants for their consideration and may participate equally in any distribution made by the Company (other than a distribution made pursuant to Section 10.2 of the LLC Agreement).

Article III also describes a Participant's ability to transfer a Company Interest. A Participant may only transfer any Company Interest to a national securities exchange or national securities association that succeeds to the business of such Participant as a result of a merger or consolidation with such Participant or the transfer of all or substantially all of the assets or equity of such Participant ("Permitted Transferee"). A Participant may not transfer any Company Interest to a Permitted Transferee unless: (1) such Permitted Transferee executes a counterpart of the LLC Agreement; and (2) the amendment to the LLC Agreement reflecting the transfer is approved by the SEC in accordance with Rule 608 or otherwise becomes effective pursuant to Rule 608.

In addition, Article III addresses the voluntary resignation and termination of participation in the Plan. Any Participant may voluntarily resign from the Company, and thereby withdraw from and terminate its right to any Company Interest, only if: (1) a Permitted Legal Basis for such action exists; and (2) such Participant provides to the Company and each other Participant no less than thirty days prior to the effective date of such action written notice specifying such Permitted Legal Basis, including appropriate documentation evidencing the existence of such Permitted Legal Basis, and, to the extent applicable, evidence reasonably satisfactory to the Company and other Participants that any orders or approvals required from the SEC in connection with such action have been obtained. A validly withdrawing Participant will have the rights and obligations discussed below with regard to termination of participation.

A Participant's participation in the Company, and its right to any Company Interest, will terminate as of the earliest of: (1) the effective date specified in a valid resignation notice; (2) such time as such Participant is no longer registered as a national securities exchange or national securities association; or (3) the date of termination for failure to pay fees. With regard to the payment of fees, each Participant is required to pay all fees or other amounts required to be paid under the Plan within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated) (the "Payment Date"). If a Participant fails to make such a required payment by the Payment Date, any balance in the Participant's Capital Account will be applied to the outstanding balance. If a balance still remains with respect to any such required payment, the Participant will pay interest on the outstanding balance from the Payment Date until such fee or amount is paid at a per annum rate equal to the lesser of: (1) the Prime Rate plus 300 basis points; or (2) the maximum rate permitted by applicable law. If any such remaining outstanding balance is not paid within thirty days (or such longer period as the Operating Committee may determine) after the Payment Date, the Participants agree that the Participants will file an amendment to the LLC Agreement requesting the termination of the participation in the Company of such Participant, and its right

to any Company Interest, with the SEC. Such amendment will be effective only when it is approved by the SEC in accordance with Rule 608 or otherwise becomes effective pursuant to Rule 608.

From and after the effective date of termination of a Participant's participation in the Company, profits and losses of the Company will cease to be allocated to the Capital Account of the Participant. A terminated Participant will be entitled to receive the balance in its Capital Account as of the effective date of termination adjusted for profits and losses through that date, payable within ninety days of the effective date of termination, and will remain liable for its proportionate share of costs and expenses allocated to it for the period during which it was a Participant, for obligations under Section 3.8(c) regarding the return of amounts previously distributed (if required by a court of competent jurisdiction), for its indemnification obligations pursuant to Section 4.7, and for obligations under Section 9.6 regarding confidentiality, but it will have no other obligations under the Plan following the effective date of termination. The LLC Agreement will be amended to reflect any termination of participation in the Company of a Participant, provided that such amendment will be effective only when it is approved by the SEC in accordance with Rule 608 or otherwise becomes effective pursuant to Rule 608.

3. Management

Article IV of the Plan establishes the overall governance structure for the management of the Company. Specifically, the Participants propose that the Company be managed by an Operating Committee (except for situations in which the approval of the Participants is required by the Plan or by non-waivable provisions of applicable law).

The Operating Committee will consist of one voting member representing each Participant and one alternate voting member representing each Participant who will have a right to vote only in the absence of the Participant's voting member of the Operating Committee. Each of the voting and alternate voting members of the Operating Committee will be appointed by the Participant that he or she represents, and will serve at the will of the Participant appointing such member and will be subject to the confidentiality obligations of the Participant that he or she represents as set forth in Section 9.6. One individual may serve as the voting member of the Operating Committee for multiple Affiliated Participants.

The Operating Committee will elect, by Majority Vote, one of its members to act as Chair for a term of two years. No person may serve as Chair for more than two successive full terms and no person then appointed to the Operating Committee by a Participant that then serves, or whose Affiliate serves, as the Plan Processor will be eligible to serve as the Chair. The Chair will preside at all meetings of the Operating Committee, designate a person to act as Secretary and perform such other powers as the Operating Committee may from time to time prescribe. The Chair will not be entitled to a tie-breaking vote at any meeting of the Operating Committee.

Each of the members of the Operating Committee, including the Chair, will be authorized to cast one vote for each Participant that he or she represents on all matters voted upon by the Operating Committee. Action of the Operating Committee will be authorized by Majority Vote (except under certain designated circumstances) subject to the approval of the SEC whenever such approval is required under the Exchange Act and the rules thereunder. For example, the Plan specifically notes that a Majority Vote of the Operating Committee is required to: (1) select the Chair; (2) select the members of the Advisory Committee (as described below); (3) interpret the LLC Agreement (unless otherwise noted therein); (4) approve any recommendation by the Chief Compliance Officer pursuant to Section 6.2(a)(v)(A); and (5) determine to hold an Executive Session of the Operating Committee.

Article IV requires a Supermajority Vote of the Operating Committee, subject to the approval of the SEC when required, for the following: (1) selecting a Plan Processor, other than the Initial Plan Processor selected in accordance with Article V of the Plan; (2) terminating the Plan Processor without cause in accordance with Section 6.1(m); (3) approving the Plan Processor's appointment or removal of the Information Security Officer, Chief Compliance Officer, or any Independent Auditor in accordance with Section 6.1(b); (4) entering into, modifying or terminating any Material Contract (if the Material Contract is with a Participant or an Affiliate of a Participant, such Participant and Affiliated Participant will be recused from any vote); (5) making any Material Systems Change; (6) approving the initial Technical Specifications or any Material Amendment to the Technical Specifications proposed by the Plan Processor; (7) amending the Technical Specifications on its own motion; and (8) any other matter specified elsewhere in the Plan as requiring a vote, approval or other action of the Operating Committee by a Supermajority Vote.

A member of the Operating Committee or any Subcommittee thereof (as discussed below) may recuse himself or herself from voting on any matter under consideration by the Operating Committee or such Subcommittee if such member determines that voting on such matter raises conflicts of interest. In addition, the Operating Committee or any Subcommittee may have a member recused from voting on a matter under consideration by the Operating Committee or such Subcommittee if those members (excluding the member proposed to be recused) determines that voting on such matter raises a conflict of interest. No member of the Operating Committee or any Subcommittee will be automatically recused from voting on any matter except matters involving Material Contracts as discussed in the prior paragraph, as otherwise discussed in the LLC Agreement, and as follows: (1) if a Participant is bidding to be the Plan Processor or is an Affiliate of a Person bidding to be the Plan Processor, members appointed to the Operating Committee or any Subcommittee by such Participant or any of its Affiliated Participants will be recused from any vote (a) described in Section 5.1(b)(ii) and (iii); or (b) concerning any contract to which such Participant or any of its Affiliates is a party in its capacity as Plan Processor; and (2) if a Participant is then serving as Plan Processor or is an Affiliate of the Person then serving as Plan Processor, members appointed to the Operating Committee or any Subcommittee by such Participant or any of its Affiliated Participants will be recused from any vote concerning: (a) the proposed removal of such Participant or any of its

Affiliates as Plan Processor; or (b) any contract to which such Participant of any of its Affiliates is a party in its capacity as Plan Processor.

Article IV also addresses meetings of the Operating Committee.[33] Meetings of the Operating Committee may be attended by each Participant's voting representative and its alternate voting representative and by a maximum of two nonvoting representatives of each Participant, by members of the Advisory Committee, by the Chief Compliance Officer, by other representatives of the Company and the Plan Processor, by representatives of the SEC and by such other persons that the Operating Committee may invite to attend. The Operating Committee, however, may, where appropriate, determine to meet in Executive Session during which only voting members of the Operating Committee will be present. The Operating Committee, however, may invite other representatives of the Participants or of the Company, or SEC staff to be present during an Executive Session. Any determination of the Operating Committee to meet in an Executive Session will be made upon a Majority Vote and will be reflected in the minutes of the meeting. In addition, any Person that is not a Participant but has a published Form 1 Application or Form X-15AA-1 on file with the SEC to become a national securities exchange or national securities association, respectively, will be permitted to appoint one primary representative and one alternate representative to attend regularly scheduled Operating Committee meetings in the capacity of a non-voting observer, but will not be permitted to have any representative attend a special meeting, emergency meeting or meeting held in Executive Session of the Operating Committee.

The Operating Committee may, by Majority Vote, designate by resolution one or more Subcommittees it deems necessary or desirable in furtherance of the management of the business and affairs of the Company. Any member of the Operating Committee desiring to serve on any Subcommittee (other than the Compliance Subcommittee) may serve, and such member may designate no more than two representatives of the Participant that appointed such member to attend meetings of the Subcommittee. No more than one member of the Operating Committee appointed thereto by Affiliated Participants may serve on any Subcommittee. The Operating Committee may permit an individual who is not then a member of the Operating Committee to serve on a Subcommittee. Subject to the requirements of the Plan and non-waivable provisions of Delaware law, a Subcommittee may exercise all the powers and authority of the Operating Committee in the management of the business and affairs of the Company as so specified in the resolution of the Operating Committee. Article V requires that the Operating Committee maintain a Compliance Subcommittee comprised of five members of the Operating Committee or other individuals to aid the Chief Compliance Officer as needed.

Article IV also sets forth the requirements for the formation and functioning of an Advisory Committee, which will advise the Participants on the implementation, operation and administration of the Central Repository.

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[33] Article IV also addresses, among other things, different types of Operating Committee meetings (regular, special and emergency), frequency of such meeting, how to call such meetings, the location of the meetings, the role of the Chair, and notice regarding such meetings.

Article IV describes the composition of the Advisory Committee as follows. No member of the Advisory Committee may be employed by or affiliated with any Participant or any of its Affiliates or facilities. The Operating Committee will select one member from representatives of each of the following categories to serve on the Advisory Committee on behalf of himself or herself individually and not on behalf of the entity for which the individual is then currently employed: (1) a broker-dealer with no more than 150 registered persons; (2) a broker-dealer with at least 151 and not more than 499 registered persons; (3) a broker-dealer with 500 or more registered persons; (4) a broker-dealer with a substantial wholesale customer base; (5) a broker-dealer that is approved by a national securities exchange (a) to effect transactions on the trading floor of such exchange as a specialist, market maker or floor broker or (b) to act as an institutional broker on such exchange; (6) a proprietary-trading broker-dealer; (7) a clearing firm; (8) an individual who maintains a securities account with a registered broker or dealer but who otherwise has no material business relationship with a broker or dealer or with a Participant; (9) a member of academia with expertise in the securities industry or any other industry relevant to the operation of the CAT System; (10) an institutional investor trading on behalf of a public entity or entities; (11) an institutional investor trading on behalf of a private entity or entities; and (12) an individual with significant and reputable regulatory expertise. The members selected to represent categories (1) through (12) above must include, in the aggregate, representatives of no fewer than three broker-dealers that are active in the options business and representatives of no fewer than three broker-dealers that are active in the equities business. In addition, upon a change in employment of any such selected member, a Majority Vote of the Operating Committee will be required for such member to be eligible to continue to serve on the Advisory Committee. Furthermore, the SEC's Chief Technology Officer (or individual then currently employed in a comparable position providing equivalent services) will serve as an observer of the Advisory Committee (but not be a member). The members of the Advisory Committee will have a term of three years.[34]

Members of the Advisory Committee will have the right to attend meetings of the Operating Committee or any Subcommittee to submit their views to the Operating Committee or any Subcommittee on LLC Agreement matters prior to a decision by the Operating Committee on such matters. A member of the Advisory Committee will not have a right to vote on any matter considered by the Operating Committee or any Subcommittee. In addition, the Operating Committee or any Subcommittee may meet in Executive Session if the Operating Committee determines by Majority Vote that such an Executive Session is advisable.[35] Although members of the Advisory Committee will have the right to receive information concerning the operation of the Central Repository, the Operating Committee retains the authority to determine the scope and content of information supplied to the Advisory Committee. Any information received by

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[34] Four of the initial twelve members of the Advisory Committee will have an initial term of one year, and another four of the initial twelve members of the Advisory Committee will have an initial term of two years.

[35] The Operating Committee may solicit and consider views on the operation of the Central Repository in addition to those of the Advisory Committee.

members of the Advisory Committee will be confidential unless otherwise specified by the Operating Committee.

4. Initial Plan Processor Selection

Article V of the Plan sets forth the process for the Participants' evaluation of Bids and the selection process for narrowing down the Bids and choosing the Initial Plan Processor. Article V of the Plan incorporates the same language as approved by the Commission for Article V and VI of the Selection Plan. The initial steps in the evaluation and selection process were and will be performed pursuant to the Selection Plan; the final two rounds of evaluation and voting, as well as the final selection of the Plan Processor, will be performed pursuant to the Plan.[36] The sections of the Plan governing these final two voting rounds are set forth in Article V(e) of the Plan.

As discussed above, the Selection Committee has selected the Shortlisted Bids pursuant to the Selection Plan. After reviewing the Shortlisted Bids, the Participants have identified the optimal proposed solutions for the CAT and, to the extent possible, included such solutions in the Plan.[37] The Selection Committee will determine, by majority vote, which Shortlisted Bidders will have the opportunity to revise their Bids. To reduce potential conflicts of interest, the Plan also provides that if a Bid submitted by or including a Bidding Participant or an Affiliate of a Bidding Participant is a Shortlisted Bidder, that Bidding Participant will be recused from all votes regarding whether a Shortlisted Bidder will be permitted to revise its Bid.

The Selection Committee will review and evaluate all Shortlisted Bids, including any permitted revisions submitted by Shortlisted Bidders. In performing this review and evaluations, the Selection Committee may consult with the industry participants.[38]

After receipt of any permitted revisions, the Selection Committee will select the Plan Processor from the Shortlisted Bids in two rounds of voting where, each Participant has one vote via its Voting Senior Officer. In the first round, each Voting Senior Officer will select a first and second choice, with the first choice receiving two points and the second choice receiving one point. The two Shortlisted Bids receiving the highest cumulative scores in the first round will advance to the second round.[39] In the event of a tie, the tie will be broken by assigning one point per vote to the tied Shortlisted Bids, and the Shortlisted Bid with the most votes will advance. If this procedure fails to break the tie, a revote will be taken on the tied Bids with each vote receiving one point. If the tie persists, the Participants will identify areas for discussion, and revotes will be taken until the tie is broken.

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[36] By its terms, the Selection Plan will terminate upon Commission approval of the Plan.

[37] As noted above, the Participants believe certain exemptive relief is necessary to include in the Plan all of the provisions the Participants believe are part of the optimal solution for the CAT.

[38] The Participants intend to continue to consult with the DAG until the Plan is approved. After that time, the Advisory Committee will be established and the Participants may consult with the Advisory Committee as part of the Participant's process for selecting the Plan Processor.

[39] Each round of voting throughout the Plan is independent of other rounds.

Once two Shortlisted Bids have been chosen, the Voting Senior Officers of the Participants will vote for a single Shortlisted Bid from the final two to determine the Plan Processor. If one or both of the final Bids is submitted by or includes a Bidding Participant or an Affiliate of a Bidding Participant, the Bidding Participant must recuse itself from the final vote. In the event of a tie, a revote will be taken. If the tie persists, the Participants will identify areas for discussion and, following these discussions, revotes will be taken until the tie is broken. As set forth in Article VI of the Plan, following the selection of the Plan Processor, the Participants will file with the Commission a statement identifying the Plan Processor and including the information required by Rule 608.

5. Functions and Activities of CAT System

a. Plan Processor

Article VI describes the responsibilities of the selected Plan Processor. Specifically, the Plan Processor will use the policies, procedures, control structures and real time tools, including standards, set forth in, or otherwise contemplated by, the Plan to perform its duties regarding the CAT and the Central Repository. In addition, the Plan Processor is required to develop and, with the prior approval of the Operating Committee, implement policies, procedures, control structures and real time tools, including standards, related to the CAT System that are consistent with Rule 613(e)(4). The Plan Processor will (1) comply with applicable provisions of 15 U.S. Code §78u-6 (Securities Whistleblower Incentives and Protection) and the recordkeeping requirements of Rule 613(e)(8); (2) ensure the effective management and operation of the Central Repository; (3) ensure the accuracy of the consolidation of the CAT Data reported to the Central Repository; and (4) design and implement appropriate policies and procedures (a) to provide for the escalation of reviews of proposed technological changes and upgrades to the Operating Committee; and (b) with respect to the handling of surveillance (including coordinated, 17d-2 or RSA surveillance) queries and requests for data. Any policy, procedure or standard (and any material modification or amendment thereto) applicable primarily to the performance of the Plan Processor's duties as the Plan Processor (excluding any policies, procedures or standards generally applicable to all of the Plan Processor's operations and employees) will become effective only upon approval by the Operating Committee.

The Plan Processor may enter into, comply with and periodically review appropriate service level agreements with third parties applicable to the Plan Processor's functions related to the CAT System. Such agreements are subject to the periodic review of the Chief Compliance Officer and/or the Independent Auditor. In addition, the Plan Processor (1) will, on an ongoing basis and consistent with any applicable policies and procedures, evaluate and implement potential system changes and upgrades to maintain and improve the normal day to day operating function of the Central Repository; (2) will, on an as needed basis and consistent with any applicable operational and escalation policies and procedures, and subject to prior approval of the Operating Committee, implement such material system changes and upgrades as may be

required to ensure effective functioning of the Central Repository; and (3) will, on an as needed basis, subject to prior approval of the Operating Committee, implement system changes and upgrades to the Central Repository to ensure compliance with applicable laws, regulations or rules (including those promulgated by the SEC or any SRO). In addition, upon request of the Operating Committee or any Subcommittee, the Plan Processor will attend any meeting of the Operating Committee or any Subcommittee. The Plan Processor will provide the Operating Committee regular reports on the CAT System's operation and maintenance.

The Plan Processor may appoint such officers as it deems necessary and appropriate to perform its functions under the Plan and Rule 613. The Plan Processor, however, will be required to appoint, at a minimum, a Chief Compliance Officer, an Information Security Officer, and an Independent Auditor. The Operating Committee, by Supermajority Vote, will approve any appointment or removal of the Information Security Officer, the Chief Compliance Officer, and any Independent Auditor.

The Plan Processor will designate an employee of the Plan Processor to serve, subject to the approval of the Operating Committee by Supermajority Vote, as the Chief Compliance Officer. Any person designated to serve as the Chief Compliance Officer will be appropriately qualified to serve in such capacity based on the powers, privileges, duties and responsibilities provided to the Chief Compliance Officer and will dedicate such person's entire working time to such service (except for any time required to attend to any incidental administrative matters related to such person's employment with the Plan Processor that do not detract in any material respect from such person's service as the Chief Compliance Officer). Article VI sets forth various responsibilities of the Chief Compliance Officer. With respect to all its duties and responsibilities as set forth in the LLC Agreement, the Chief Compliance Officer will report to the Operating Committee. The Plan Processor, subject to the oversight of the Operating Committee, will ensure that the Chief Compliance Officer has appropriate resources to fulfill its obligations under the Plan and Rule 613. The compensation (including base salary and bonus) of the Chief Compliance Officer will be subject to review and approval by the Operating Committee. The Operating Committee will render the Chief Compliance Officer's annual performance review.

The Plan Processor also will designate an employee of the Plan Processor to serve, subject to the approval of the Operating Committee by Supermajority Vote, as the Information Security Officer. Any person designated to serve as the Information Security Officer will be appropriately qualified to serve in such capacity based on the powers, privileges, duties and responsibilities provided to the Information Security Officer under the LLC Agreement and will dedicate such person's entire working time to such service (except for any time required to attend to any incidental administrative matters related to such person's employment with the Plan Processor that do not detract in any material respect from such person's service as the Information Security Officer). Consistent with Section 6.12, the Information Security Officer will be responsible for creating and enforcing appropriate policies, procedures, standards, control

structures and real time tools to monitor and address data security issues for the Plan Processor and the Central Repository.

As described in Article VI of the Plan, the Plan Processor's performance under the Plan is subject to formal review by the Operating Committee. During the first four years of the Plan Processor's performance in such capacity, the Plan Processor's performance is subject to formal review by the Operating Committee at least once each year, or from time to time upon the request of two Participants that are not Affiliated Participants. The Operating Committee will notify the SEC of any determination made by the Operating Committee concerning the continuing engagement of the Plan Processor as a result of the Operating Committee's review of the Plan Processor and will supply the SEC with a copy of any reports that may be prepared in connection therewith. Following the completion of the first four years of the Plan Processor's performance in such capacity, the Plan Processor's performance is subject to formal review at least once each two year period, or from time to time upon the request of two Participants that are not Affiliated Participants, but not more frequently than once each year. The Operating Committee will notify the SEC of any determination made by the Operating Committee concerning the continuing engagement of the Plan Processor as a result of its review of the Plan Processor and will supply the SEC with a copy of any reports that may be prepared in connection therewith.

The Operating Committee, by Supermajority Vote, may remove the Plan Processor from such position at any time. The Operating Committee may remove the Plan Processor from such position at any time if it determines that the Plan Processor has failed to perform its functions in a reasonably acceptable manner in accordance with the provisions of the Plan or that the Plan Processor's expenses have become excessive and are not justified. In making such a determination, the Operating Committee will consider, among other factors: (1) the reasonableness of the Plan Processor's response to requests from Participants or the Company for technological changes or enhancements; (2) results of any assessments performed pursuant to Section 6.6; (3) the timeliness of conducting preventative and corrective IT system maintenance for reliable and secure operations; and (4) such other factors related to experience, technological capability, quality and reliability of service, costs, back-up facilities, failure to meet service level agreement(s) and regulatory considerations as the Operating Committee may determine to be appropriate.

In addition, the Plan Processor may resign upon two year's (or such other period as may be determined by the Operating Committee by Supermajority Vote) prior written notice. The Operating Committee will fill any vacancy in the Plan Processor position by Supermajority Vote, and will establish a Selection Subcommittee in accordance with Article VI to evaluate and review bids and make a recommendation to the Operating Committee with respect to the selection of the successor Plan Processor.

b. Central Repository

The Central Repository, under the oversight of the Plan Processor, will receive, consolidate, and retain all Participant Data, Industry Member Data and SIP Data ("CAT Data"). The Central Repository will collect (from a Securities Information Processor or pursuant to an NMS Plan) and retain on a current and continuing basis, in a format compatible with the Participant Data and Industry Member Data the following (collectively, "SIP Data"): (1) information, including the size and quote condition, on the National Best Bid and National Best Offer for each NMS Security; (2) transaction reports reported pursuant to an effective transaction reporting plan filed with the SEC pursuant to, and meeting the requirements of, Rule 601; and (3) Last Sale Reports.

The Central Repository will retain the information collected pursuant to paragraphs (c)(7) and (e)(7) of Rule 613 in a convenient and usable standard electronic data format that is directly available and searchable electronically without any manual intervention by the Plan Processor for a period of not less than six years. In addition, the Plan Processor will implement and comply with the records retention policy contemplated by Section 6.1(d)(i).

The Plan Processor will provide Participants and the SEC access to the Central Repository (including all systems operated by the Central Repository), and access to and use of the CAT Data stored in the Central Repository, solely for the purpose of performing their respective regulatory and oversight responsibilities pursuant to the federal securities laws, rules and regulations or any contractual obligations. The Plan Processor will create and maintain a method of access to the CAT Data stored in the Central Repository that includes the ability to run searches and generate reports. The method in which the CAT Data is stored in the Central Repository will allow the ability to return results of queries that are complex in nature including market reconstruction and time based order book states. The Plan Processor will, promptly following request by the Operating Committee (which request will be made at least annually), certify to the Operating Committee that only the Participants and the SEC have access to the Central Repository (other than access provided to any Industry Member for the purpose of correcting CAT Data previously reported to the Central Repository by such Industry Member).[40]

The Operating Committee also will adopt policies and procedures, including standards, requiring CAT Data reported to the Central Repository be timely, accurate, and complete and ensuring the integrity of such CAT Data (*e.g.*, that such CAT Data has not been altered and remains reliable). The Plan Processor will be responsible for implementing such policies and procedures. The Technical Specifications will describe the mechanisms and protocols for Participant Data and Industry Member Data submission for all key phases, including at a minimum, file transmission and receipt, validation of Participant Data and Industry Member Data, and validation of linkages. The Technical Specifications will describe the mechanisms and protocols for managing and handling corrections of CAT Data. The Plan Processor will require

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[40] Section A.4 of Appendix C describes the security and confidentiality of the CAT Data, including how access to the Central Repository is controlled.

an audit trail for corrected CAT Data in accordance with mechanisms and protocols approved by the Operating Committee.

The Plan Processor will, without limiting the obligations imposed on the Participants by the LLC Agreement, and in accordance with the framework set forth in Appendix C, be responsible for the security and confidentiality of all CAT Data received and reported to the Central Repository. Without limiting the foregoing, the Plan Processor will require all individuals who have access to the Central Repository (including the respective employees and consultants of the Participants and the Plan Processor) to agree: (1) to use appropriate safeguards to ensure the confidentiality of the CAT Data stored in the Central Repository; and (2) not to use the CAT Data stored in the Central Repository for purposes other than surveillance and regulation in accordance with such individual's employment duties; provided that a Participant will be permitted to use the CAT Data it reports to the Central Repository for regulatory, surveillance, commercial or other purposes permitted by applicable law, rule or regulation. The Plan Processor will require all individuals who have access to the Central Repository (including the respective employees and consultants of the Participants and the Plan Processor) to execute a personal "Safeguard of Information Affidavit" in a form approved by the Operating Committee providing for personal liability for misuse of data. The Plan Processor will develop and maintain a comprehensive information security program for the Central Repository that employs state of the art technology. This program will be reviewed regularly by the Chief Compliance Officer. The Plan Processor also will implement and maintain a mechanism to confirm the identity of all individuals permitted to access the CAT Data stored in the Central Repository and maintain a record of all instances where such CAT Data was accessed.

Furthermore, each Participant will adopt and enforce policies and procedures that: (1) implement effective information barriers between such Participant's regulatory and non-regulatory staff with regard to access and use of CAT Data stored in the Central Repository; (2) permit only persons designated by Participants to have access to the CAT Data stored in the Central Repository; and (3) impose penalties for staff non-compliance with any of its or the Central Repository's policies or procedures with respect to information security. Each Participant will report, as promptly as reasonably practicable, and in any event within 24 hours, to the Chief Compliance Officer any instance of noncompliance with the policies and procedures adopted by such Participant pursuant to Section 6.5(e)(ii). Neither the Company nor any Participant will provide any regulator access to the CAT Data stored in the Central Repository unless such regulator will have entered into a binding agreement with the Company or such Participant requiring such regulator to adopt and enforce policies and procedures substantially comparable to those contemplated by Section 6.5(e)(ii) and to comply with reporting requirements substantially comparable to those provided in the first sentence of this Section 6.5(e)(iii).

In addition, the Plan Processor will: (1) ensure data confidentiality and security during all communications between CAT Reporters and the Plan Processor, data extractions, manipulation and transformation, loading to and from the Central Repository, and data maintenance by the

Central Repository; (2) require the establishment of secure controls for data retrieval and query reports by Participant regulatory staff and the Commission; and (3) otherwise provide appropriate database security for the Central Repository.

c. Data Recording and Reporting by Participants

The Plan also sets forth the requirements regarding the data recording and reporting by Participants.[41] Each Participant will record and electronically report to the Central Repository accurate details for each Order and each Reportable Event the following information, as applicable ("Participant Data"; also referred to as "Recorded Industry Member Data", as discussed in the next section):

- for original receipt or origination of an Order: (1) Customer-ID(s) for each customer; (2) CAT-Order-ID; (3) CAT-Reporter-ID of the Industry Member receiving or originating the Order; (4) date of Order receipt or origination; (5) time of Order receipt or origination (using timestamps pursuant to Section 6.8); (6) the Material Terms of the Order as described in the Technical Specifications; and (7) other information as may be prescribed in the Technical Specifications.

- for the routing of an Order: (1) CAT-Order-ID; (2) date on which the Order is routed; (3) time at which the Order is routed (using timestamps pursuant to Section 6.8); (4) CAT-Reporter-ID of the Industry Member or Participant routing the Order; (5) CAT-Reporter-ID of the Industry Member or Participant to which the Order is being routed; (6) if routed internally at the Industry Member, the identity and nature of the department or desk to which an Order is routed; (7) the Material Terms of the Order as described in the Technical Specifications; and (8) other information as may be prescribed in the Technical Specifications.

- for the receipt of an Order that has been routed, the following information: (1) CAT-Order-ID; (2) date on which the Order is received; (3) time at which the Order is received (using timestamps pursuant to Section 6.8); (4) CAT-Reporter-ID of the Industry Member or Participant receiving the Order; (5) CAT-Reporter-ID of the Industry Member or Participant routing the Order; (6) the Material Terms of the Order as described in the Technical Specifications; and (7) other information as may be prescribed in the Technical Specifications.

- if the Order is modified or cancelled: (1) CAT-Order-ID; (2) date the modification or cancellation is received or originated; (3) time the modification or cancellation is received or originated (using timestamps pursuant to Section 6.8); (4) price and remaining size of the Order, if modified; (6) other changes in Material Terms of the

[41] Participants may, but are not required to, coordinate compliance with the recording and reporting efforts through the use of regulatory services agreements and/or agreements adopted pursuant to Rule 17d-2 under the Exchange Act.

Order, if modified; (6) the CAT-Reporter-ID of the Industry Member or Customer-ID of the Person giving the modification or cancellation instruction; and (7) other information as may be prescribed in the Technical Specifications.

- if the Order is executed, in whole or in part: (1) CAT-Order-ID; (2) date of execution; (3) time of execution (using timestamps pursuant to Section 6.8); (4) execution capacity (principal, agency or riskless principal); (5) execution price and size; (6) the CAT-Reporter-ID of the Participant or Industry Member executing the Order; (7) whether the execution was reported pursuant to an effective transaction reporting plan or the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information; and (8) other information as may be prescribed in the Technical Specifications.

- for an allocation Order event: (1) account number for any subaccounts to which the execution is allocated (in whole or in part); (2) CAT-Reporter-ID of the clearing broker or prime broker, if applicable; (3) Customer Account Information; (4) fill size; and (5) fill price.

- other information or additional events as may be prescribed in the Technical Specifications.

Each Participant will report Participant Data to the Central Repository for consolidation and storage in a format specified by the Plan Processor, approved by the Operating Committee and compliant with Rule 613. Each Participant is required to record the Participant Data contemporaneously with the Reportable Event. In addition, each Participant must report the Participant Data to the Central Repository by 8:00 a.m. Eastern Time on the trading day following the day that the Participant recorded the Participant Data. Participants may voluntarily report the Participant Data prior to the 8:00 a.m. Eastern Time deadline.

Each Participant that is a national securities exchange is required to comply with the above recording and reporting requirements for each NMS Security registered or listed for trading on such exchange or admitted to unlisted trading privileges on such exchange. Each Participant that is a national securities association is required to comply with the above recording and reporting requirements for each Eligible Security for which transaction reports are required to be submitted to the association.

d. Data Reporting and Recording by Industry Members

The Plan also sets forth the data reporting and recording requirements for Industry Members. Specifically, each Participant, through its adoption of its Compliance Rule, will require its Industry Members to record and electronically report to the Central Repository for each Order and each Reportable Event the information referred to in Section 6.3(d), as applicable ("Recorded Industry Member Data") – that is, Participant Data discussed above . In addition, each Participant will require its Industry Members to record and report to the Central Repository the following ("Received Industry Member Data" and, collectively with the Recorded Industry

Member Data, "Industry Member Data"): (1) if the Order is executed, in whole or in part: (a) account number for any subaccounts to which the execution is allocated (in whole or in part); (b) CAT-Reporter-ID of the clearing broker or prime broker, if applicable; and (c) CAT-Order-ID of any contra-side order(s); (2) if the trade is cancelled, a cancelled trade indicator; and (3) for original receipt or origination of an Order: (a) information of sufficient detail to identify the Customer; and (b) Customer Account Information as further described in requirements approved by the Operating Committee. Each Participant will, through its adoption of its Compliance Rule, require its Industry Members to record and report to the Central Repository other information or additional events as may be prescribed in the Technical Specifications.

Each Participant will require its Industry Members to report the Industry Member Data to the Central Repository for consolidation and storage in a format specified by the Plan Processor, approved by the Operating Committee and compliant with Rule 613. Each Participant will require its Industry Members to record Recorded Industry Member Data contemporaneously with the applicable Reportable Event. In addition, each Participant will require its Industry Members to report: (1) Recorded Industry Member Data to the Central Repository by 8:00 a.m. Eastern Time on the trading day following the day the Industry Member records such Recorded Industry Member Data; and (2) Received Industry Member Data to the Central Repository by 8:00 am Eastern Time on the trading day following the day the Industry Member receives such Received Industry Member Data. Industry Members may voluntarily report Industry Member Data prior to the applicable 8:00 a.m. Eastern Time deadline.

Each Participant that is a national securities exchange must require its Industry Members to comply with the above data recording and reporting requirements for each NMS Security registered or listed for trading on such exchange or admitted to unlisted trading privileges on such exchange. Each Participant that is a national securities association must require its Industry Members to comply with these provisions for each Eligible Security for which transaction reports are required to be submitted to the association.

e. Regular Written Assessment

As described in Article VI, the Participants are required to provide the Commission with a written assessment of the operation of the CAT that meets the requirements set forth in Rule 613 and the LLC Agreement at least every two years or more frequently in connection with any review of the Plan Processor's performance under the Plan pursuant to Section 6.1(j). The Chief Compliance Officer will oversee this assessment and will provide the Participants a reasonable time to review and comment on the written assessment prior to its submission to the SEC. In no case will the written assessment be changed or amended in response to a comment from a Participant; rather any comment by a Participant will be provided to the SEC at the same time as the written assessment.

f. Timestamps and Synchronization of Business Clocks

Each Participant is required to, and must require its Industry Members, via its Compliance Rule, to synchronize its Business Clocks at a minimum to within 50 milliseconds of the time maintained by the National Institute of Standards and Technology, and report information required pursuant to Rule 613 and the Plan to the Central Repository in milliseconds. Pursuant to Rule 613(d)(1), this synchronization standard is consistent with industry standards. To the extent that any Participant or Industry Member utilizes timestamps in increments finer than the minimum required by the Plan, the Participant or Industry Member is required to make reports to the Central Repository utilizing such finer increment. The Chief Compliance Officer will annually evaluate and make a recommendation to the Operating Committee as to whether industry standards have evolved such that the required synchronization should be shortened or the required time stamp should be in finer increments.

g. Technical Specifications

Section 6.9 of the Plan establishes the requirements involving the Plan Processor's publication of Technical Specifications and updates thereto as needed. The Plan Processor will publish technical specifications and updates thereto, providing detailed instructions regarding the submission of CAT Data by Participants and Industry Members to the Plan Processor for entry into the Central Repository ("Technical Specifications"). The Technical Specifications will be made available on a publicly available web site to be developed and maintained by the Plan Processor. The initial Technical Specifications will require the approval of the Operating Committee by Supermajority Vote.

The Technical Specifications will include a detailed description of the following: (1) the specifications for the layout of files and records submitted to the Central Repository; (2) the process for the release of new data format specification changes; (3) the process for industry testing for any changes to data format specifications; (4) the procedures for obtaining feedback about and submitting corrections to information submitted to the Central Repository ; (5) each data element, including permitted values, in any type of report submitted to the Central Repository; (6) any error messages generated by the Plan Processor in the course of validating the data; (7) the process for file submissions (and re-submissions for corrected files); (8) the storage and access requirements for all files submitted; (9) metadata requirements for all files submitted to the CAT System; (10) any required secure network connectivity; (11) data security standards, which will, at a minimum: (a) satisfy all applicable regulations regarding database security, including provisions of Regulation Systems Compliance and Integrity under the Exchange Act proposed by the Commission on March 7, 2013, as finally adopted; (b) to the extent not otherwise provided for under the LLC Agreement (including Appendix C thereto), set forth such provisions as may be necessary or appropriate to comply with Rule 613(e)(4); and (c) comply with industry best practices; and (12) any other items reasonably deemed appropriate by the Plan Processor or Operating Committee.

The process for amending the Technical Specifications varies depending on whether the change is material. An amendment will be deemed "material" if it would require a Participant or

an Industry Member to engage in significant changes to the coding necessary to submit information to the Central Repository. Except for Material Amendments to the Technical Specifications, the Plan Processor will have the sole discretion to amend and publish interpretations regarding the Technical Specifications; however, all non-Material Amendments made to the Technical Specifications and all published interpretations will be provided to the Operating Committee in writing at least ten days before being published. Such non-Material Amendments and published interpretations will become effective ten days following provision to the Operating Committee unless two unaffiliated Participants call for a vote to be taken on the proposed amendment or interpretation. If an amendment or interpretation is called for a vote by two or more unaffiliated Participants, the proposed amendment must be approved by Majority Vote of the Operating Committee. Material Amendments to the Technical Specifications require Supermajority Vote of the Operating Committee. The Operating Committee, by Supermajority Vote, may amend the Technical Specifications on its own motion.

h. Surveillance

Each Participant will develop and implement a surveillance system, or enhance existing surveillance systems, reasonably designed to make use of the consolidated information contained in the Central Repository. Unless otherwise ordered by the SEC, within fourteen months after the Effective Date, each Participant must initially implement a new or enhanced surveillance system(s) as required by Rule 613 and Section 6.7(c) of the Plan. Participants may, but are not required to, coordinate surveillance efforts through the use of regulatory services agreements and agreements adopted pursuant to Rule 17d-2 under the Exchange Act.

The Plan Processor will provide Plan Participants and SEC regulatory staff with access to all CAT Data stored in the Central Repository. Regulators will have access to processed CAT Data through two different methods: an online targeted query tool, and user-defined direct queries and bulk extracts. The on-line targeted query tool will provide authorized users with the ability to retrieve CAT Data via an online query screen that includes the ability to choose from a variety of pre-defined selection criteria. Targeted queries must include date(s) and/or time range(s), as well as one or more of a variety of fields. For targeted search criteria, the minimum acceptable response times would be measured in time increments of less than one minute. For the complex queries that either scan large volumes of CAT Data (*e.g.*, multiple trade dates) or return large result sets (*i.e.*, greater than one million records), the response time should generally be available within 24 hours of the submission of the request. Regardless of the complexity of the criteria used within the online query tool, any query request for CAT Data within one trade date of the most recent 12 months should return results within three hours. Online query tool searches that include trade data only in the search criteria should meet the following requirements: (1) a search for all trades in a single security for a specific Customer or CAT Reporter in a specified time window for a single date should return results within one minute; (2) a search for all trades for a specific Customer or CAT Reporter in a specified time window for a single date should return results within one minute; (3) a search for all trades for a specific Customer or CAT Reporter in a specified date range (maximum one month) should return results

within 30 minutes; and (4) a search for all trades for a specific Customer or CAT Reporter in a specified date range (maximum 12 month duration from the most recent 24 months) should return results within six hours.

The user-defined direct queries and bulk extracts will provide authorized users with the ability to retrieve CAT Data via a query tool or language that allows users to query all available attributes and data sources. For user-defined direct queries and bulk extracts, the minimum acceptable response times would be measured in time increments of less than one minute. For complex queries that either scan large volumes of CAT Data (*e.g.*, multiple trade dates) or return large result sets (*i.e.*, greater than one million records), the response time should generally be available within 24 hours of the submission of the request. User-defined queries that include trade data only in the search criteria should meet the following requirements: (1) a search for all trades in a single security for a specific Customer or CAT Reporter in a specified time window for a single date should return results within one minute; (2) a search for all trades for a specific Customer or CAT Reporter in a specified time window for a single date should return results within one minute; (3) a search for all trades for a specific Customer or CAT Reporter in a specified date range (maximum one month) should return results within 30 minutes; and (4) a search for all trades for a specific Customer or CAT Reporter in a specified date range (maximum 12 month duration from the most recent 24 months) should return results within six hours.

Extraction of CAT Data will consistently with all permission rights granted by the Plan Processor. All CAT Data returned will be encrypted, and PII data will be masked unless users have permission to view the CAT Data that has been requested.

The Plan Processor will implement an automated mechanism to monitor direct query usage. Such monitoring will include automated alerts to notify the Plan Processor of potential issues with bottlenecks or excessively long queues for queries or CAT Data extractions. The Plan Processor will provide the Operating Committee or its designee(s) details as to how the monitoring will be accomplished and the metrics that will be used to trigger alerts.

The Plan Processor will reasonably assist Participants and regulatory staff (including those of Participants) with creating queries. Without limiting the manner in which regulatory staff (including those of Participants) may submit queries, the Plan Processor will submit queries on behalf of regulatory staff (including those of Participants) as reasonably requested. The Plan Processor will staff a CAT help desk to provide technical expertise to assist regulatory staff (including those of Participants) with questions about the content and structure of the CAT Data.

i. Information Security Program

The Plan Processor is required to implement and maintain technology policies and procedures (including policies and procedures implementing the requirements of Section A.4 of Appendix C) that will safeguard CAT Data reported to the Central Repository and comply with: (1) all applicable regulations regarding database security, including provisions of Regulation

Systems Compliance and Integrity under the Exchange Act proposed by the Commission on March 7, 2013, as finally adopted; (2) industry best practices for database security; and (3) the standards and requirements set forth in the following Special Publications of the National Institute of Standards and Technology, in each case as such standards and requirements may be replaced by successor publications or modified, amended, supplemented: 800-23 (Guidelines to Federal Organizations on Security Assurance and Acquisition/Use of Tested/Evaluated Products); 800-115 (Technical Guide to Information Security Testing and Assessment); 800-133 (Recommendation for Cryptographic Key Generation); and 800-137 (Information Security Continuous Monitoring for Federal Information Systems and Organizations). Such policies and procedures will be subject to periodic review and audit by, or at the direction of, the Operating Committee.

6. Financial Matters

Articles VII and VIII of the Plan address certain financial matters related to the Company. In particular, the Plan states that any net profit or net loss will be allocated among the Participants equally. In addition, cash and property of the Company will be distributed to the Participants only as approved by the Operating Committee by Supermajority Vote. All Participants will participate equally in any distributions, except as otherwise provided in the LLC Agreement.

Article XI addresses the funding of the Company. On an annual basis the Operating Committee will approve an operating budget for the Company. The budget will include the projected costs of the Company, including the costs of developing and operating the CAT System for the upcoming year, and the sources of all revenues to cover such costs, as well as the funding of any reserve that the Operating Committee reasonably deems appropriate for prudent operation of the Company.

Subject to certain funding principles set forth in Article XI, the Operating Committee will have discretion to establish funding for the Company, including: (1) establishing fees that the Participants will pay; and (2) establishing fees for Industry Members that will be implemented by Participants. In establishing the funding of the Company, the Operating Committee will consider the following funding principles: (1) to create transparent, predictable revenue streams for the Company that are aligned with the anticipated costs to build, operate and administer the CAT and the other costs of the Company; (2) to establish an allocation of the Company's related costs among Participants and Industry Members that is consistent with the Exchange Act, taking into account the timeline for implementation of the CAT and distinctions in the securities trading operations of Participants and Industry Members and their relative impact upon Company resources and operations; (3) to provide for ease of billing and other administrative functions; (4) to avoid any disincentives such as placing an inappropriate burden on competition and a reduction in market quality; and (5) to build financial stability to support the Company as a going concern. The Participants will file with the SEC under Section 19(b) of the Exchange Act any such uniform fees on Industry Members that the Operating Committee approves, and such fees will be labeled as "Consolidated Audit Trail Funding Fees."

To fund the initial development and implementation of the CAT, the Company will time the imposition and collection of all fees on Participants and Industry Members in a manner reasonably related to the timing when the Company expects to incur such initial development and implementation costs.

The Company expects to recover its operating costs in the following manner. The Operating Committee may establish fixed fees to be payable by Participants and Industry Members, with the Operating Committee having discretion, but not the obligation, to establish categories of fixed fees, depending on the securities trading operations of the Participant or Industry Member, the type of business in which the Participant or Industry Member engages and any other factors the Operating Committee reasonably determines appropriate. In addition, the Operating Committee may establish Industry Member and Participant activity fees based on the aggregate dollar amount of trading volume, share or contract trading volume, message traffic or any other factors that the Operating Committee reasonably determines appropriate, with the Operating Committee having discretion, but not the obligation, to establish differing levels of such fees depending on factors the Operating Committee reasonably determines appropriate. Furthermore, the Operating Committee may establish any other fees ancillary to the operation of the CAT that it reasonably determines appropriate, including: fees for the late or inaccurate reporting of information to the CAT; fees for correcting submitted information; and fees based on access and use of the CAT for regulatory and oversight purposes (and not including any reporting obligations). For the avoidance of doubt, the Operating Committee may establish, as it reasonably determines appropriate, any fixed fee, any variable fee, any combination of a fixed fee and a variable fee, or any other fee.

The Company will make publicly available a schedule of effective fees and charges adopted pursuant to this Agreement as in effect from time to time. Such schedule will be developed after the Plan Processor is selected. The Operating Committee will review the fee schedule on at least an annual basis and will make any changes to such fee schedule that it deems appropriate. The Operating Committee is authorized to review the fee schedule on a more regular basis, but will not make any changes on more than a semi-annual basis unless, pursuant to a Supermajority Vote, the Operating Committee concludes that such change is necessary for the adequate funding of the Company.

The Operating Committee will establish a system for the collection of fees authorized under the LLC Agreement. The Operating Committee may include such collection responsibility as a function of the Plan Processor or another administrator. Alternatively, the Operating Committee may use the facilities of a clearing agency registered under Section 17A of the Exchange Act to provide for the collection of such fees.

Each Industry Member will pay all applicable fees authorized under the Article XI within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If an Industry Member fails to pay any such fee when due, such Industry Member will pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (1) the Prime Rate plus 300 basis

points; or (2) the maximum rate permitted by applicable law. Each Participant will pay all applicable fees authorized under Article XI as required by Section 3.7(b).

Disputes with respect to fees charged to Participants or Industry Members pursuant to Article XI will be determined by the Operating Committee.

7. Amendments

Section 12.3, which governs amendments to the Plan, states that, except with respect to the addition of new Participants (Section 3.3), the transfer of Company Interest (Section 3.4), and the termination of a Participant's participation in the Plan (Section 3.8) (which are discussed above), any change to the Plan requires a written amendment authorized by the affirmative vote of not less than two-thirds of all of the Participants, or with respect to Section 3.8 by the affirmative vote of all the Participants. Such proposed amendment must be approved by the Commission pursuant to Rule 608 or otherwise becomes effective under Rule 608. Notwithstanding the foregoing, to the extent that the SEC grants exemptive relief applicable to any provision of this Agreement, Participants and Industry Members will be entitled to comply with such provision pursuant to the terms of the exemptive relief so granted at the time such relief is granted irrespective of whether the LLC Agreement has been amended.

8. Participant Rule Applicable to Industry Members

Under Article III, each Participant agrees to comply with and enforce compliance by its Industry Members with the provisions of Rule 613 and the Plan, as applicable, to the Participant and its Industry Members. Accordingly, each Participant is required to file a rule with the SEC, substantially in the form set forth in Appendix B to the Plan, requiring compliance by its Industry Members with the provisions of Rule 613 and the Plan.

9. Appendix C: Considerations

Rule 613(a)(1) requires that the Plan discuss twelve considerations that explain the choices made by the Participants to meet the requirements specified in Rule 613 for the CAT. In accordance with this requirement, the Participants have addressed each of the twelve considerations in detail in Appendix C.

B. Governing or Constituent Documents

Rule 608 requires copies of all governing or constituent documents relating to any person (other than a self-regulatory organization) authorized to implement or administer such plan on behalf of its sponsors. The Participants will submit to the Commission such documents related to the Plan Processor when the Plan Processor is selected.

C. Development and Implementation Phases

The terms of the Plan will be effective immediately upon approval of the Plan by the Commission (the "Effective Date"). The Plan sets forth each of the significant phases of development and implementation contemplated by the Plan, together with the projected date of completion of each phase. These include the following:

- On or prior to 60 days after SEC approval of the LLC Agreement, each Participant will file the Compliance Rule with the SEC, substantially in the form set forth as Appendix B, requiring compliance by its Industry Members with the provisions of Rule 613 and of this Agreement.

- Within two months after the Effective Date, the Participants will jointly select the winning Shortlisted Bid and the Plan Processor pursuant to the process set forth in Section VI of the Selection Plan as incorporated into the Plan. Following the selection of the Plan Processor, the Participants will file with the Commission a statement identifying the Plan Processor and including the information required by Rule 608.

- Within four months after the Effective Date, each Participant will, and, through its adoption of its Compliance Rule, will require its Industry Members to, synchronize its Business Clocks and certify to the Chief Compliance Officer (in the case of Participants) or the applicable Participant (in the case of Industry Members) that it has met this requirement.

- Within six months after the Effective Date, the Participants must jointly provide to the SEC a document outlining how the Participants could incorporate into the CAT information with respect to debt securities, including primary market transactions in debt securities, which includes details for each Order and Reportable Event that may be required to be provided, which market participants may be required to provide the data, the implementation timeline, and a cost estimate.

- Within one year after the Effective Date, each Participant must report Participant Data to the Central Repository.

- Within fourteen months after the Effective Date, each Participant must implement a new or enhanced surveillance system(s).

- Within two years after the Effective Date, each Participant must, through its adoption of its Compliance Rule, require its Industry Members (other than Small Industry Members) to report Industry Member Data to the Central Repository.

- Within three years after the Effective Date, each Participant must, through its adoption of its Compliance Rule, require its Small Industry Members to provide Industry Member Data to the Central Repository.

In addition, Industry Members and Participants will be required to participate in industry testing with the Central Repository on a schedule to be determined by the Operating Committee. Furthermore, Section C.9 of Appendix C sets forth additional implementation details concerning the elimination of rules and systems.

The Chief Compliance Officer will appropriately document objective milestones to assess progress toward the implementation of this Agreement.

D. Analysis of Impact on Competition

The Plan does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The Participants do not believe that the Plan introduces terms that are unreasonably discriminatory for the purposes of Section 11A(c)(1)(D) of the Exchange Act. As noted in Section A, the Participants are aware that potential conflicts of interest are raised because a Participant, or an Affiliate of a Participant, may be both submitting a Bid (or participating in a Bid) and participating in the evaluation of Bids to select the Plan Processor. As described in Section A, the Selection Plan previously approved by the Commission and incorporated in the Plan includes multiple provisions designed to mitigate the potential impact of these conflicts by imposing restrictions on the Voting Senior Officers and by requiring the recusal of Bidding Participants for certain votes taken by the Selection Committee.

E. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plan

The Participants have no written understandings or agreements relating to interpretations of, or participation in, the Plan other than those set forth in the Plan itself. For example, Section 4.3(a)(iii) states that the Operating Committee only may authorize the interpretation of the LLC Agreement by Majority Vote, Section 6.9(c)(i) addresses interpretations of the Technical Specifications, and Section 8.2 addresses the interpretation of Sections 8.1 and 8.2. In addition, Section 3.3 sets forth how any entity registered as a national securities exchange or national securities association under the Exchange Act may become a Participant.

F. Dispute Resolution

The Plan does not include a general provision addressing the method by which disputes arising in connection with the operation of the Plan will be resolved. The Plan does, however, provide the means for resolving disputes regarding the Participation Fee. Specifically, Article III states that, in the event that the Company and a prospective Participant do not agree on the amount of the Participation Fee, such amount will be subject to the review by the SEC pursuant to Section 11A(b)(5) of the Exchange Act. In addition, the Plan addresses disputes with respect to fees charged to Participants or Industry Members pursuant to Article XI. Specifically, such disputes will be determined by the Operating Committee. Decisions by the Operating

Committee on such matters will be binding on Participants and Industry Members, without prejudice to the rights of any Participant or Industry Member to seek redress from the SEC pursuant to Rule 608 or in any other appropriate forum.

* * * * *

The Participants look forward to further discussions with the Staff regarding the attached proposed Plan.

Respectfully submitted,

[*Signature Pages Follow*]

BATS EXCHANGE, INC.

By: Tamara Schademann

Name: Tamara Schademann

Title: EVP, CRO

BATS Y-EXCHANGE, INC.

By: Tamara Schademann

Name: Tamara Schademann

Title: EVP, CRO

BOX OPTIONS EXCHANGE LLC

By: L. J. Fall

Name: Lisa J. Fall

Title: President

C2 OPTIONS EXCHANGE, INC

By: Timothy Thompson

Name: Timothy Thompson

Title: Chief Regulatory Officer, Sr. V.P.

CHICAGO BOARD OPTIONS EXCHANGE, INC

By: Timothy Thompson

Name: Timothy Thompson

Title: Chief Regulatory Officer, Sr. V.P.

CHICAGO STOCK EXCHANGE, INC.

By: 

Name: Peter D. Santori

Title: Executive Vice President
Chief Compliance Officer
Chief Regulatory Officer

EDGA EXCHANGE, INC.

By: Tamara Schademann

Name: Tamara Schademann

Title: EVP, CRO

EDGX EXCHANGE, INC.

By: Tamara Schademann

Name: Tamara Schademann

Title: EVP, CRO

FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC.

By: Marcia E. Asquith

Name: Marcia E. Asquith

Title: Senior Vice President and Corporate Secretary

INTERNATIONAL SECURITIES EXCHANGE, LLC

By: _____ Digitally signed by mtallan@ise.com DN: cn=mtallan@ise.com Date: 2014.09.30 13:59:40 -04'00'

Name: Gary Katz

Title: President & CEO

ISE GEMINI, LLC

By: _____ Digitally signed by mtallan@ise.com DN: cn=mtallan@ise.com Date: 2014.09.30 14:00:04 -04'00'

Name: Gary Katz

Title: President & CEO

MIAMI INTERNATIONAL SECURITIES EXCHANGE LLC

By: _____

Name: Edward Deitzel

Title: EVP, CRO

THE NASDAQ STOCK MARKET LLC

By: _____

Name: John A. Zecca

Title: SVP

NASDAQ OMX BX, INC.

By: _____

Name: John A. Zecca

Title: SVP + CRO

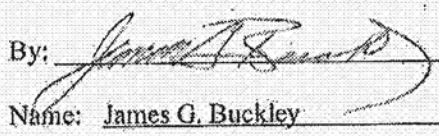
NASDAQ OMX PHLX LLC

By: _____

Name: Joseph P. Cusick

Title: VP & CRO

NATIONAL STOCK EXCHANGE, INC.

By: 

Name: James G. Buckley

Title: Chief Regulatory Officer

NYSE ARCA, INC.

By: _____

Name: Elizabeth King

Title: Secretary & General Counsel

NEW YORK STOCK EXCHANGE LLC

By: _____

Name: Elizabeth King

Title: Secretary & General Counsel

NYSE MKT LLC

By: _____

Name: Elizabeth King

Title: Secretary & General Counsel

Enclosure

cc: The Hon. Mary Jo White, Chair
The Hon. Luis A. Aguilar, Commissioner
The Hon. Daniel M. Gallagher, Commissioner
The Hon. Kara M. Stein, Commissioner
The Hon. Michael S. Piwowar, Commissioner
Mr. Stephen I. Luparello, Director of Trading and Markets
Mr. David S. Shillman, Associate Director of Trading and Markets

EXHIBIT B

LIMITED LIABILITY COMPANY AGREEMENT
OF
CONSOLIDATED AUDIT TRAIL, LLC
a Delaware Limited Liability Company

other applicable requirements for the organization, continuation and operation of a limited liability company in accordance with the laws of the State of Delaware and any other jurisdiction in which the Company shall conduct business, and shall continue to do so for so long as the Company conducts business therein. Each member of the Operating Committee is hereby designated as an "authorized person" within the meaning of the Delaware Act.

Section 2.6. **Purposes and Powers**. The Company may engage in: (a) the creation, implementation, and maintenance of the CAT pursuant to SEC Rule 608 and SEC Rule 613; and (b) any other business or activity that now or hereafter may be necessary, incidental, proper, advisable or convenient to accomplish the foregoing purpose and that is not prohibited by the Delaware Act, the Exchange Act or other applicable law and is consistent with tax exempt status under Section 501(c)(6) of the Code. The Company shall have and may exercise all of the powers and rights conferred upon limited liability companies formed pursuant to the Delaware Act.

Section 2.7. **Term**. The term of the Company commenced on the date the Certificate was filed with the office of the Secretary of State of Delaware, and shall be perpetual unless dissolved as provided in this Agreement.

ARTICLE III

PARTICIPATION

Section 3.1. **Participants**. The name and address of each Participant are set forth on Exhibit A. New Participants may only be admitted to the Company in accordance with Section 3.5. No Participant shall have the right or power to resign or withdraw from the Company, except: (a) upon a Transfer of record ownership of all of such Participant's Company Interest in compliance with, and subject to, the provisions of Section 3.4; or (b) as permitted by Section 3.6. No Participant may be expelled or required to resign or withdraw from the Company except upon a Transfer of record ownership of all of such Participant's Company Interest in compliance with, and subject to, the provisions of Section 3.4, or as provided by Section 3.7(a)(ii) or Section 3.7(a)(iii).

Section 3.2. **Company Interests Generally**.

(a) All Company Interests shall have the same rights, powers, preferences and privileges, and shall be subject to the same restrictions, qualifications and limitations. Additional Company Interests may be issued only as permitted by Section 3.3.

(b) Without limiting Section 3.2(a), each Participant shall be entitled to one vote on any matter presented to the Participants for their consideration at any meeting of the Participants (or by written action of the Participants in lieu of a meeting).

(c) Company Interests shall not be evidenced by certificates.

(d) Each Participant shall have an equal Company Interest as each other Participant.

The Participant shall pay interest on the outstanding balance from the Payment Date until such fee or amount is paid at a per annum rate equal to the lesser of: (i) the Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law. If any such remaining outstanding balance is not paid within thirty (30) days after the Payment Date, the Participants shall file an amendment to this Agreement requesting the termination of the participation in the Company of such Participant, and its right to any Company Interest, with the SEC. Such amendment shall be effective only when it is approved by the SEC in accordance with SEC Rule 608 or otherwise becomes effective pursuant to SEC Rule 608.

(c) In the event a Participant becomes subject to one or more of the events of bankruptcy enumerated in § 18-304 of the Delaware Act, that event by itself shall not cause the termination of the participation in the Company of the Participant so long as the Participant continues to be registered as a national securities exchange or national securities association. A terminated Participant shall remain liable for its proportionate share of costs and expenses allocated to it for the period during which it was a Participant, for obligations under Section 3.8(c), for its indemnification obligations pursuant to Section 4.1, and for obligations under Section 9.6, but it shall have no other obligations under this Agreement following the effective date of termination. This Agreement shall be amended to reflect any termination of participation in the Company of a Participant pursuant to this Section 3.7; provided that such amendment shall be effective only when it is approved by the Commission in accordance with SEC Rule 608 or otherwise becomes effective pursuant to SEC Rule 608.

Section 3.8. Obligations and Liability of Participants.

(a) Except as may be determined by the unanimous vote of all the Participants or as may be required by applicable law, no Participant shall be obligated to contribute capital or make loans to the Company. No Participant shall have the right to withdraw or to be repaid any capital contributed by it or to receive any other payment in respect of any Company Interest, including as a result of the withdrawal or resignation of such Participant from the Company, except as specifically provided in this Agreement.

(b) Except as provided in this Agreement and except as otherwise required by applicable law, no Participant shall have any personal liability whatsoever in its capacity as a Participant, whether to the Company, to any Participant or any Affiliate of any Participant, to the creditors of the Company or to any other Person, for the debts, liabilities, commitments or any other obligations of the Company or for any losses of the Company. Without limiting the foregoing, the failure of the Company to observe any formalities or requirements relating to exercise of its powers or management of its business or affairs under this Agreement or the Delaware Act shall not be grounds for imposing personal liability on any Participant or any Affiliate of a Participant for any liability of the Company.

(c) In accordance with the Delaware Act, a member of a limited liability company may, under certain circumstances, be required to return amounts previously distributed to such member. It is the intent of the Participants that no distribution to any Participant shall be deemed a return of money or other property paid or distributed in violation of the Delaware Act. The payment of any such money or distribution of any such property to a Participant shall be deemed to be a compromise within the meaning of the Delaware Act, and the Participant

shall keep minutes and make such reports as the Operating Committee may from time to time request. Except as the Operating Committee may otherwise determine, any Subcommittee may make rules for the conduct of its business, but unless otherwise provided by the Operating Committee or in such rules, its business shall be conducted as nearly as possible in the same manner as is provided in this Agreement for the Operating Committee.

(b) The Operating Committee shall maintain a compliance Subcommittee (the "Compliance Subcommittee"). The Compliance Subcommittee's purpose shall be to aid the Chief Compliance Officer (who shall directly report to the Operating Committee in accordance with Section 6.2(a)(iii)) as necessary, including with respect to issues involving:

(i) the maintenance of the confidentiality of information submitted to the Plan Processor or Central Repository pursuant to SEC Rule 613, applicable law, or this Agreement by Participants and Industry Members;

(ii) the timeliness, accuracy, and completeness of information submitted pursuant to SEC Rule 613, applicable law, or this Agreement by Participants and Industry Members; and

(iii) the manner in and extent to which each Participant is meeting its obligations under SEC Rule 613, Section 3.11, and as set forth elsewhere in this Agreement and ensuring the consistency of this Agreement's enforcement as to all Participants.

Section 4.13. Advisory Committee.

(a) An advisory committee to the Company (the "Advisory Committee") shall be formed and shall function in accordance with SEC Rule 613(b)(7) and this Section 4.13.

(b) No member of the Advisory Committee may be employed by or affiliated with any Participant or any of its Affiliates or facilities. A Representative of the SEC shall serve as an observer of the Advisory Committee (but shall not be a member thereof). The Operating Committee shall select one (1) member to serve on the Advisory Committee from representatives of each category identified in Sections 4.13(b)(i) through 4.13(b)(xii) to serve on the Advisory Committee on behalf of himself or herself individually and not on behalf of the entity for which the individual is then currently employed; provided that the members so selected pursuant to Sections 4.13(b)(i) through 4.13(b)(xii) must include, in the aggregate, representatives of no fewer than three (3) broker-dealers that are active in the options business and representatives of no fewer than three (3) broker-dealers that are active in the equities business; and provided further that upon a change in employment of any such member so selected pursuant to Sections 4.13(b)(i) through 4.13(b)(xii) a Majority Vote of the Operating Committee shall be required for such member to be eligible to continue to serve on the Advisory Committee:

(i) a broker-dealer with no more than 150 Registered Persons;

(ii) a broker-dealer with at least 151 and no more than 499 Registered Persons;

(iii) a broker-dealer with 500 or more Registered Persons;

(iv) a broker-dealer with a substantial wholesale customer base;

(v) a broker-dealer that is approved by a national securities exchange (A) to effect transactions on an exchange as a specialist, market maker, or floor broker; or (B) to act as an institutional broker on an exchange;

(vi) a proprietary-trading broker-dealer;

(vii) a clearing firm;

(viii) an individual who maintains a securities account with a registered broker or dealer but who otherwise has no material business relationship with a broker or dealer or with a Participant;

(ix) a member of academia who is a financial economist;

(x) three institutional investors, including an individual trading on behalf of an investment company or group of investment companies registered pursuant to the Investment Company Act of 1940;

(xi) an individual with significant and reputable regulatory expertise; and

(xii) a service bureau that provides reporting services to one or more CAT Reporters.

(c) Four of the fourteen initial members of the Advisory Committee, as determined by the Operating Committee, shall have an initial term of one (1) year. Five of the fourteen initial members of the Advisory Committee, as determined by the Operating Committee, shall have an initial term of two (2) years. All other members of the Advisory Committee shall have a term of three (3) years. No member of the Advisory Committee may serve thereon for more than two consecutive terms.

(d) The Advisory Committee shall advise the Participants on the implementation, operation, and administration of the Central Repository, including possible expansion of the Central Repository to other securities and other types of transactions. Members of the Advisory Committee shall have the right to attend meetings of the Operating Committee or any Subcommittee, to receive information concerning the operation of the Central Repository (subject to Section 4.13(e)), and to submit their views to the Operating Committee or any Subcommittee on matters pursuant to this Agreement prior to a decision by the Operating Committee on such matters; provided that members of the Advisory Committee shall have no right to vote on any matter considered by the Operating Committee or any Subcommittee and that the Operating Committee or any Subcommittee may meet in Executive Session if, by Majority Vote, the Operating Committee or Subcommittee determines that such an Executive Session is advisable. The Advisory Committee may provide the Operating Committee with recommendations of one or more candidates for the Operating Committee to consider when selecting members of the Advisory Committee pursuant to Section 4.3(a)(ii); provided, however, that the Operating Committee, at its sole discretion, will select the members of the Advisory

Committee pursuant to Section 4.3(a)(ii) from the candidates recommended to the Operating Committee by the Advisory Committee, the Operating Committee itself, Participants or other persons. The Operating Committee may solicit and consider views on the operation of the Central Repository in addition to those of the Advisory Committee.

(e) Members of the Advisory Committee shall receive the same information concerning the operation of the Central Repository as the Operating Committee; provided, however, that the Operating Committee may withhold information it reasonably determines requires confidential treatment. Any information received by members of the Advisory Committee in furtherance of the performance of their functions pursuant to this Agreement shall remain confidential unless otherwise specified by the Operating Committee.

ARTICLE V

INITIAL PLAN PROCESSOR SELECTION

Section 5.1. Selection Committee. The Participants shall establish a Selection Committee in accordance with this Article V to evaluate and review Bids and select the Initial Plan Processor.

(a) Composition. Each Participant shall select from its staff one (1) senior officer ("Voting Senior Officer") to represent the Participant as a member of the Selection Committee. In the case of Affiliated Participants, one (1) individual may be (but is not required to be) the Voting Senior Officer for more than one or all of the Affiliated Participants. Where one (1) individual serves as the Voting Senior Officer for more than one Affiliated Participant, such individual shall have the right to vote on behalf of each such Affiliated Participant.

(b) Voting.

(i) Unless recused pursuant to Sections 5.1(b)(ii), 5.1(b)(iii), or 5.1(b)(iv), each Participant shall have one vote on all matters considered by the Selection Committee.

(ii) No Bidding Participant shall vote on whether a Shortlisted Bidder shall be permitted to revise its Bid pursuant to Section 5.2(c)(ii) or 5.2(d)(i) below if a Bid submitted by or including the Participant or an Affiliate of the Participant is a Shortlisted Bid.

(iii) No Bidding Participant shall vote in the process narrowing the set of Shortlisted Bidders as set forth in Section 5.2(c)(iii) if a Bid submitted by or including the Participant or an Affiliate of the Participant is a Shortlisted Bid.

(iv) No Bidding Participant shall vote in any round if a Bid submitted by or including the Participant or an Affiliate of the Participant is a part of such round.

(v) All votes by the Selection Committee shall be confidential and non-public. All such votes shall be tabulated by an independent third party approved by the Operating Committee, and a Participant's individual votes shall not be disclosed to other Participants or to the public.

(F) whether the modification or cancellation instruction was given by the Customer or was initiated by the Industry Member or Participant;

(v) if the order is executed, in whole or in part:

(A) CAT-Order-ID;

(B) date of execution;

(C) time of execution (using timestamps pursuant to Section 6.8);

(D) execution capacity (principal, agency or riskless principal);

(E) execution price and size;

(F) SRO-Assigned Market Participant Identifier of the Participant or Industry Member executing the order;

(G) whether the execution was reported pursuant to an effective transaction reporting plan or the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information; and

(vi) other information or additional events as may be prescribed in Appendix D, Reporting and Linkage Requirements.

(e) CAT-Reporter-ID.

(i) Each Participant must submit to the Central Repository, on a daily basis,

(A) all SRO-Assigned Market Participant Identifiers used by its Industry Members or itself; and

(B) information to identify (1) each such Industry Member, including CRD number and LEI if such LEI has been obtained, and itself, including LEI, if such LEI has been obtained.

(ii) The Plan Processor will use the SRO-Assigned Market Participant Identifiers and identifying information to assign a CAT-Reporter-ID to each Industry Member or Participant for internal use across all CAT Data in the Central Repository.

(f) Means of Transmission. As contemplated in Appendix D, each Participant may utilize such methods as may be provided by the Plan Processor and approved by the Operating Committee to transmit Participant Data to the Central Repository.

Section 6.4. Data Reporting and Recording by Industry Members. The requirements for Industry Members under this Section 6.4 shall become effective on the second

anniversary of the Effective Date in the case of Industry Members other than Small Industry Members, or the third anniversary of the Effective Date in the case of Small Industry Members, and shall remain effective thereafter until modified or amended in accordance with the provisions of this Agreement and applicable law.

(a) Format. As contemplated in Appendix D, Data Types and Sources, each Participant shall, through its Compliance Rule, require its Industry Members to report Industry Member Data to the Central Repository for consolidation and storage in a format or formats specified by the Plan Processor, approved by the Operating Committee and compliant with SEC Rule 613.

(b) Timing of Recording and Reporting.

(i) As further described in Appendix D, Reporting and Linkage Requirements, each Participant shall, through its Compliance Rule, require its Industry Members to record Recorded Industry Member Data contemporaneously with the applicable Reportable Event.

(ii) Consistent with Appendix D, Reporting and Linkage Requirements, each Participant shall, through its Compliance Rule, require its Industry Members to report: (A) Recorded Industry Member Data to the Central Repository by 8:00 a.m. Eastern Time on the Trading Day following the day the Industry Member records such Recorded Industry Member Data; and (B) Received Industry Member Data to the Central Repository by 8:00 a.m. Eastern Time on the Trading Day following the day the Industry Member receives such Received Industry Member Data. Each Participant shall, through its Compliance Rule, permit its Industry Members to voluntarily report Industry Member Data prior to the applicable 8:00 a.m. Eastern Time deadline.

(c) Applicable Securities.

(i) Each Participant that is a national securities exchange shall, through its Compliance Rule, require its Industry Members to report Industry Member Data for each NMS Security registered or listed for trading on such exchange or admitted to unlisted trading privileges on such exchange.

(ii) Each Participant that is a national securities association shall, through its Compliance Rule, require its Industry Members to report Industry Member Data for each Eligible Security for which transaction reports are required to be submitted to such association.

(d) Required Industry Member Data.

(i) Subject to Section 6.4(c) and Section 6.4(d)(iii) with respect to Options Market Makers, and consistent with Appendix D, Reporting and Linkage Requirements, and the Technical Specifications, each Participant shall, through its Compliance Rule, require its Industry Members to record and electronically report to the Central Repository for each order and each Reportable Event the information referred to in Section 6.3(d), as applicable ("Recorded Industry Member Data").

(ii) Subject to Section 6.4(c) and Section 6.4(d)(iii) with respect to Options Market Makers, and consistent with Appendix D, Reporting and Linkage Requirements, and the Technical Specifications, each Participant shall, through its Compliance Rule, require its Industry Members to record and report to the Central Repository the following, as applicable ("Received Industry Member Data" and collectively with the information referred to in Section 6.4(d)(i) "Industry Member Data"):

(A) if the order is executed, in whole or in part:

(1) An Allocation Report;

(2) SRO-Assigned Market Participant Identifier of the clearing broker or prime broker, if applicable; and

(3) CAT-Order-ID of any contra-side order(s);

(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.

(iii) With respect to the reporting obligations of an Options Market Maker with regard to its quotes in Listed Options, Reportable Events required pursuant to Section 6.3(d)(ii) and (iv) shall be reported to the Central Repository by an Options Exchange in lieu of the reporting of such information by the Options Market Maker. Each Participant that is an Options Exchange shall, through its Compliance Rule, require its Industry Members that are Options Market Makers to report to the Options Exchange the time at which a quote in a Listed Option is sent to the Options Exchange (and, if applicable, any subsequent quote modifications and/or cancellation time when such modification or cancellation is originated by the Options Market Maker). Such time information also shall be reported to the Central Repository by the Options Exchange in lieu of reporting by the Options Market Maker.

(iv) Each Industry Member must submit an initial set of the Customer information required in Section 6.4(d)(ii)(C) for Active Accounts to the Central Repository upon the Industry Member's commencement of reporting to the Central Repository. Each Industry Member must submit to the Central Repository any updates, additions or other changes to the Customer information required in Section 6.4(d)(ii)(C) on a daily basis for all Active Accounts. In addition, on a periodic basis as designated by the Plan Processor and approved by the Operating Committee, each Industry Member will be required to submit to the Central Repository a complete set of all Customer information required in Section 6.4(d)(ii)(C). The Plan Processor will correlate such Customer information across all Industry Members, use it to assign a Customer-ID for each Customer, and use the Customer-ID to link all Reportable Events associated with an order for a Customer.

(v) Each Participant shall, through its Compliance Rule, require its Industry Members to record and report to the Central Repository other information or additional events as may be prescribed in Appendix D, Reporting and Linkage Requirements.

(vi) Each Industry Member must submit to the Central Repository information sufficient to identify such Industry Member, including CRD number and LEI, if such LEI has been obtained.

(e) Means of Transmission. As contemplated in Appendix D, Data Types and Sources, each Industry Member may utilize such methods as may be provided by the Plan Processor and approved by the Operating Committee to transmit Industry Member Data to the Central Repository.

Section 6.5. Central Repository.

(a) Collection of Data.

(i) The Central Repository, under the oversight of the Plan Processor, and consistent with Appendix D, Central Repository Requirements, shall receive, consolidate, and retain all CAT Data.

(ii) The Central Repository shall collect (from a SIP or pursuant to an NMS Plan) and retain on a current and continuing basis, in a format compatible with the Participant Data and Industry Member Data, all data, including the following (collectively, "SIP Data"):

(A) information, including the size and quote condition, on quotes including the National Best Bid and National Best Offer for each NMS Security;

(B) Last Sale Reports and transaction reports reported pursuant to an effective transaction reporting plan filed with the SEC pursuant to, and meeting the requirements of, SEC Rules 601 and 608;

(C) trading halts, Limit Up/Limit Down price bands, and Limit Up/Limit Down indicators; and

(D) summary data or reports described in the specifications for each of the SIPs and disseminated by the respective SIP.

(b) Retention of Data.

(i) Consistent with Appendix D, Data Retention Requirements, the Central Repository shall retain the information collected pursuant to paragraphs (c)(7) and (e)(7) of SEC Rule 613 in a convenient and usable standard electronic data format that is directly available and searchable electronically without any manual intervention by the Plan Processor for a period of not less than six (6) years. Such data when available to the Participant regulatory staff and the SEC shall be linked.

(ii) The Plan Processor shall implement and comply with the records retention policy contemplated by Section 6.1(d)(i) (as such policy is reviewed and updated periodically in accordance with Section 6.1(d)(i)).

(c) Access to the Central Repository

(i) Consistent with Appendix D, Data Access, the Plan Processor shall provide Participants and the SEC access to the Central Repository (including all systems operated by the Central Repository), and access to and use of the CAT Data stored in the Central Repository, solely for the purpose of performing their respective regulatory and oversight responsibilities pursuant to the federal securities laws, rules and regulations or any contractual obligations.

(ii) The Plan Processor shall create and maintain a method of access to CAT Data stored in the Central Repository that includes the ability to run searches and generate reports. The method in which the CAT Data is stored in the Central Repository shall allow the ability to return results of queries that are complex in nature, including market reconstruction and the status of order books at varying time intervals.

(iii) The Plan Processor shall, at least annually and at such earlier time promptly following a request by the Operating Committee, certify to the Operating Committee that only Participants and the SEC have access to the Central Repository (other than access provided to any Industry Member for the purpose of correcting CAT Data previously reported to the Central Repository by such Industry Member).

(iv) Appendix C, The Security and Confidentiality of Information Reported to the Central Repository, and Appendix D, Data Security, describes the security and confidentiality of the CAT Data, including how access to the Central Repository is controlled.

(d) Data Accuracy

(i) The Operating Committee shall set and periodically review a maximum Error Rate for data reported to the Central Repository. The initial maximum Error Rate shall be set to 5%.

(ii) Consistent with Appendix D, Reporting and Linkage Requirements and Data Security, the Operating Committee shall adopt policies and procedures, including standards, requiring CAT Data reported to the Central Repository be timely, accurate, and complete, and to ensure the integrity of such CAT Data (e.g., that such CAT Data has not been altered and remains reliable). The Plan Processor shall be responsible for implementing such policies and procedures.

(iii) Appendix D, Receipt of Data from Reporters, describes the mechanisms and protocols for Participant Data and Industry Member Data submission for all key phases, including:

(A) file transmission and receipt validation;

(B) validation of CAT Data; and

(C) validation of linkages.

(e) Appendix D, Receipt of Data from Reporters, also describes the mechanisms and protocols for managing and handling corrections of CAT Data. The Plan Processor shall require an audit trail for corrected CAT Data in accordance with mechanisms and protocols approved by the Operating Committee.

(f) Data Confidentiality

(i) The Plan Processor shall, without limiting the obligations imposed on Participants by this Agreement and in accordance with the framework set forth in, Appendix D, Data Security, and Functionality of the CAT System, be responsible for the security and confidentiality of all CAT Data received and reported to the Central Repository. Without limiting the foregoing, the Plan Processor shall:

(A) require all individuals who have access to the Central Repository (including the respective employees and consultants of the Participants and the Plan Processor, but excluding employees and Commissioners of the SEC) to agree: (1) to use appropriate safeguards to ensure the confidentiality of CAT Data stored in the Central Repository; and (2) not to use CAT Data stored in the Central Repository for purposes other than surveillance and regulation in accordance with such individual's employment duties; provided that a Participant will be permitted to use the Raw Data it reports to the Central Repository for regulatory, surveillance, commercial or other purposes as permitted by applicable law, rule, or regulation;

(B) require all individuals who have access to the Central Repository (including the respective employees and consultants of the Participants and the Plan Processor, but excluding employees and Commissioners of the SEC) to execute a personal "Safeguard of Information Affidavit" in a form approved by the Operating Committee providing for personal liability for misuse of data;

(C) develop and maintain a comprehensive information security program with a dedicated staff for the Central Repository, consistent with Appendix D, Data Security, that employs state of the art technology, which program will be regularly reviewed by the Chief Compliance Officer and Chief Information Security Officer;

(D) implement and maintain a mechanism to confirm the identity of all individuals permitted to access the CAT Data stored in the Central Repository and maintain a record of all instances where such CAT Data was accessed; and

(E) implement and maintain appropriate policies regarding limitations on trading activities of its employees and independent contractors involved with all CAT Data consistent with Section 6.1(n).

(ii) Each Participant shall adopt and enforce policies and procedures that:

(A) implement effective information barriers between such Participant's regulatory and non-regulatory staff with regard to access and use of CAT Data stored in the Central Repository;

(B) permit only persons designated by Participants to have access to the CAT Data stored in the Central Repository; and

(C) impose penalties for staff non-compliance with any of its or the Plan Processor's policies or procedures with respect to information security.

(iii) Each Participant shall as promptly as reasonably practicable, and in any event within 24 hours, report to the Chief Compliance Officer, in accordance with the guidance provided by the Operating Committee, any instance of which such Participant becomes aware of: (A) noncompliance with the policies and procedures adopted by such Participant pursuant to Section 6.5(e)(ii); or (B) a breach of the security of the CAT.

(iv) The Plan Processor shall:

(A) ensure data confidentiality and security during all communications between CAT Reporters and the Plan Processor, data extractions, manipulation and transformation, loading to and from the Central Repository and data maintenance by the Central Repository;

(B) require the establishment of secure controls for data retrieval and query reports by Participant regulatory staff; and

(C) otherwise provide appropriate database security for the Central Repository.

(v) The Company shall endeavor to join the FS-ISAC and comparable bodies as the Operating Committee may determine.

(g) Participants Confidentiality Policies and Procedures. The Participants shall establish, maintain and enforce written policies and procedures reasonably designed to (1) ensure the confidentiality of the CAT Data obtained from the Central Repository; and (2) limit the use of CAT Data obtained from the Central Repository solely for surveillance and regulatory purposes. Each Participant shall periodically review the effectiveness of the policies and procedures required by this paragraph, and take prompt action to remedy deficiencies in such policies and procedures.

(h) A Participant may use the Raw Data it reports to the Central Repository for regulatory, surveillance, commercial or other purposes as otherwise not prohibited by applicable law, rule or regulation.

Section 6.6. Written Assessments, Audits and Reports.

(a) One-Time Written Assessments and Reports. The Participants shall provide the SEC with the following written assessments, audits and reports:

(i) at least one (1) month prior to submitting a rule filing to establish initial fees for CAT Reporters, an independent audit of fees, costs, and expenses incurred by the Participants on behalf of the Company prior to the Effective Date of the Plan that will be publicly available;

(ii) within six (6) months of effectiveness of the Plan, an assessment of the clock synchronization standard, including consideration of industry standards based on the type of CAT Reporter, Industry Member and type of system, and propose any appropriate amendment based on this assessment;

(iii) within twelve (12) months of effectiveness of the Plan, a report detailing the Participants' consideration of coordinated surveillance (e.g., entering into 17d-2 agreements or regulatory services agreements);

(iv) within 24 months of effectiveness of the Plan, a report discussing the feasibility, benefits, and risks of allowing an Industry Member to bulk download the Raw Data it submitted to the Central Repository;

(v) within 36 months of effectiveness of the Plan, an assessment of errors in the customer information submitted to the Central Repository and whether to prioritize the correction of certain data fields over others;

(vi) within 36 months of effectiveness of the Plan, a report on the impact of tiered-fees on market liquidity, including an analysis of the impact of the tiered-fee structure on Industry Members' provision of liquidity; and

(vii) prior to the implementation of any Material Systems Change, an assessment of the projected impact of such Material Systems Change on the maximum Error Rate.

(b) Regular Written Assessment of the Plan Processor's Performance.

(i) Requirement.

(A) Annually, or more frequently in connection with any review of the Plan Processor's performance under this Agreement pursuant to Section 6.1(n), the Participants shall provide the SEC with a written assessment of the operation of the CAT that meets the requirements of SEC Rule 613, Appendix D, and this Agreement.

(ii) Extraction of CAT Data shall be consistent with all permission rights granted by the Plan Processor. All CAT Data returned shall be encrypted, and PII data shall be masked unless users have permission to view the CAT Data that has been requested.

(iii) The Plan Processor shall implement an automated mechanism to monitor direct query usage. Such monitoring shall include automated alerts to notify the Plan Processor of potential issues with bottlenecks or excessively long queues for queries or CAT Data extractions. The Plan Processor shall provide the Operating Committee or its designee(s) details as to how the monitoring will be accomplished and the metrics that will be used to trigger alerts.

(iv) The Plan Processor shall reasonably assist regulatory staff (including those of Participants) with creating queries.

(v) Without limiting the manner in which regulatory staff (including those of Participants) may submit queries, the Plan Processor shall submit queries on behalf of a regulatory staff (including those of Participants) as reasonably requested.

(vi) The Plan Processor shall staff a CAT help desk, as described in Appendix D, CAT Help Desk, to provide technical expertise to assist regulatory staff (including those of Participants) with questions about the content and structure of the CAT Data.

Section 6.11. Debt Securities and Primary Market Transactions. Unless otherwise ordered by the Commission, within six (6) months after the Effective Date, the Participants shall jointly provide to the SEC a document outlining how the Participants could incorporate into the CAT information with respect to equity securities that are not NMS Securities or OTC Equity Securities, including Primary Market Transactions in securities that are not NMS Securities or OTC Equity Securities and in debt securities, which document shall include details for each order and Reportable Event that may be required to be provided, which market participants may be required to provide the data, the implementation timeline, and a cost estimate.

Section 6.12. Information Security Program. The Plan Processor shall develop and maintain a comprehensive information security program for the Central Repository, to be approved and reviewed at least annually by the Operating Committee, and which contains at a minimum the specific requirements detailed in Appendix D, Data Security.

ARTICLE VII

INTENTIONALLY OMITTED

ARTICLE VIII

TAX STATUS

The Company intends to operate in a manner such that it qualifies as a "business league" within the meaning of Section 501(c)(6) of the Code. The Operating Committee shall cause the Company to: (i) make an election to be treated as a corporation for U.S. federal income tax purposes by filing Form 8832 with the Internal Revenue Service effective as of the date of

ARTICLE XI

FUNDING OF THE COMPANY

Section 11.1. Funding Authority.

(a) On an annual basis the Operating Committee shall approve an operating budget for the Company. The budget shall include the projected costs of the Company, including the costs of developing and operating the CAT for the upcoming year, and the sources of all revenues to cover such costs, as well as the funding of any reserve that the Operating Committee reasonably deems appropriate for prudent operation of the Company.

(b) Subject to Section 11.2, the Operating Committee shall have discretion to establish funding for the Company, including: (i) establishing fees that the Participants shall pay; and (ii) establishing fees for Industry Members that shall be implemented by Participants. The Participants shall file with the SEC under Section 19(b) of the Exchange Act any such fees on Industry Members that the Operating Committee approves, and such fees shall be labeled as "Consolidated Audit Trail Funding Fees."

(c) To fund the development and implementation of the CAT, the Company shall time the imposition and collection of all fees on Participants and Industry Members in a manner reasonably related to the timing when the Company expects to incur such development and implementation costs. In determining fees on Participants and Industry Members the Operating Committee shall take into account fees, costs and expenses (including legal and consulting fees and expenses) incurred by the Participants on behalf of the Company prior to the Effective Date in connection with the creation and implementation of the CAT, and such fees, costs and expenses shall be fairly and reasonably shared among the Participants and Industry Members. Any surplus of the Company's revenues over its expenses shall be treated as an operational reserve to offset future fees.

(d) Consistent with this Article XI, the Operating Committee shall adopt policies, procedures, and practices regarding the budget and budgeting process, assignment of tiers, resolution of disputes, billing and collection of fees, and other related matters. For the avoidance of doubt, as part of its regular review of fees for the CAT, the Operating Committee shall have the right to change the tier assigned to any particular Person in accordance with fee schedules previously filed with the Commission that are reasonable, equitable and not unfairly discriminatory and subject to public notice and comment, pursuant to this Article XI. Any such changes will be effective upon reasonable notice to such Person.

Section 11.2. Funding Principles. In establishing the funding of the Company, the Operating Committee shall seek:

(a) to create transparent, predictable revenue streams for the Company that are aligned with the anticipated costs to build, operate and administer the CAT and the other costs of the Company;

(b) to establish an allocation of the Company's related costs among Participants and Industry Members that is consistent with the Exchange Act, taking into account

the timeline for implementation of the CAT and distinctions in the securities trading operations of Participants and Industry Members and their relative impact upon Company resources and operations;

(c) to establish a tiered fee structure in which the fees charged to: (i) CAT Reporters that are Execution Venues, including ATSs, are based upon the level of market share; (ii) Industry Members' non-ATS activities are based upon message traffic; and (iii) the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venues and/or Industry Members).

(d) to provide for ease of billing and other administrative functions;

(e) to avoid any disincentives such as placing an inappropriate burden on competition and a reduction in market quality; and

(f) to build financial stability to support the Company as a going concern.

Section 11.3. Recovery.

(a) The Operating Committee will establish fixed fees to be payable by Execution Venues as provided in this Section 11.3(a):

(i) Each Execution Venue that: (A) executes transactions; or (B) in the case of a national securities association, has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange, in NMS Stocks or OTC Equity Securities will pay a fixed fee depending on the market share of that Execution Venue in NMS Stocks and OTC Equity Securities, with the Operating Committee establishing at least two and no more than five tiers of fixed fees, based on an Execution Venue's NMS Stocks and OTC Equity Securities market share. For these purposes, market share for Execution Venues that execute transactions will be calculated by share volume, and market share for a national securities association that has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange in NMS Stocks or OTC Equity Securities will be calculated based on share volume of trades reported, provided, however, that the share volume reported to such national securities association by an Execution Venue shall not be included in the calculation of such national security association's market share.

(ii) Each Execution Venue that executes transactions in Listed Options will pay a fixed fee depending on the Listed Options market share of that Execution Venue, with the Operating Committee establishing at least two and no more than five tiers of fixed fees, based on an Execution Venue's Listed Options market share. For these purposes, market share will be calculated by contract volume.

(b) The Operating Committee will establish fixed fees to be payable by Industry Members, based on the message traffic generated by such Industry Member, with the Operating Committee establishing at least five and no more than nine tiers of fixed fees, based

- Integrate into the CAT and appropriately link reports representing records that are corrected by a CAT Reporter for the purposes of correcting data errors not identified in the data validation process;

- Assign a single CAT-Order-ID to all events contained within the lifecycle of an order so that regulators can readily identify all events contained therein; and

- Process and link Manual Order Events with the remainder of the associated order lifecycle.

3.1 Timelines for Reporting

CAT Data for the previous Trading Day must be reported to the Central Repository by 8:00 a.m. Eastern Time on the Trading Day following the day the Industry Member receives such data; however, the Plan Processor must accept data prior to that deadline, including intra-day submissions.

3.2 Other Items

The Plan Processor must anticipate and manage order data processing over holidays, early market closures and both anticipated and unanticipated market closures. The Plan Processor must allow and enable entities that are not CAT Reporters (e.g., service bureaus) to report on behalf of CAT Reporters only upon being permissioned by the CAT Reporter, and must develop appropriate tools to facilitate this process.

3.3 Required Data Attributes for Order Records Submitted by CAT Reporters

At a minimum, the Plan Processor must be able to receive the data elements as detailed in the CAT NMS Plan.

4. Data Security

4.1 Overview

SEC Rule 613 requires that the Plan Processor ensure the security and confidentiality of all information reported to and maintained by the CAT in accordance with the policies, procedures and standards in the CAT NMS Plan.

The Plan Processor must have appropriate solutions and controls in place to ensure data confidentiality and security during all communication between CAT Reporters and Data Submitters and the Plan Processor, data extraction, manipulation and transformation, loading to and from the Central Repository and data maintenance by the CAT System. The Plan Processor must address security controls for data retrieval and query reports by Participant and the SEC. The solution must provide appropriate tools, logging, auditing and access controls for all components of the CAT System, such as but not limited to access to the Central Repository, access for CAT Reporters, access to rejected data, processing status and CAT Reporter performance and comparison statistics.

The Plan Processor must provide to the Operating Committee a comprehensive security plan that covers all components of the CAT System, including physical assets and personnel, and the training of all persons who have access to the Central Repository consistent with Article VI, Section 6.1(m). The security plan must be updated annually. The security plan must include an overview of the Plan Processor's network security controls, processes and procedures pertaining to the CAT Systems. Details of the security plan must document how the Plan Processor will protect, monitor and patch the environment; assess it for vulnerabilities as part of a managed process, as well as the process for response to security incidents and reporting of such incidents. The security plan must address physical security controls for corporate, data center, and leased facilities where Central Repository data is transmitted or stored. The Plan Processor must have documented "hardening baselines" for systems that will store, process, or transmit CAT Data or PII data.

4.1.1 Connectivity and Data Transfer

The CAT System(s) must have encrypted internet connectivity. CAT Reporters must connect to the CAT infrastructure using secure methods such as private lines or (for smaller broker-dealers) Virtual Private Network connections over public lines. Remote access to the Central Repository must be limited to authorized Plan Processor staff and must use secure multi-factor authentication that meets or exceeds the Federal Financial Institutions Examination Council ("FFIEC") security guidelines surrounding authentication best practices.[264]

The CAT databases must be deployed within the network infrastructure so that they are not directly accessible from external end-user networks. If public cloud infrastructures are used, virtual private networking and firewalls/access control lists or equivalent controls such as private network segments or private tenant segmentation must be used to isolate CAT Data from unauthenticated public access.

4.1.2 Data Encryption

All CAT Data must be encrypted at rest and in flight using industry standard best practices (e.g., SSL/TLS) including archival data storage methods such as tape backup. Symmetric key encryption must use a minimum key size of 128 bits or greater (e.g., AES-128), larger keys are preferable. Asymmetric key encryption (e.g., PGP) for exchanging data between Data Submitters and the Central Repository is desirable.

Storage of unencrypted PII data is not permissible. PII encryption methodology must include a secure documented key management strategy such as the use of HSM(s). The Plan Processor must describe how PII encryption is performed and the key management strategy (e.g., AES-256, 3DES).

If public cloud managed services are used that would inherently have access to the data (e.g., BigQuery, S3, Redshift), then the key management surrounding the encryption of that data must be documented (particularly whether the cloud provider manages the keys, or if the Plan

[264] Federal Financial Institutions Examination Council, Supplement to Authentication in an Internet Banking Environment (June 22, 2011), *available at* http://www.ffiec.gov/pdf/Auth-ITS-Final%206-22-11%20(FFIEC%20Formated).pdf.

Processor maintains that control). Auditing and real-time monitoring of the service for when cloud provider personnel are able to access/decrypt CAT Data must be documented, as well as a response plan to address instances where unauthorized access to CAT Data is detected. Key management/rotation/revocation strategies and key chain of custody must also be documented in detail.

4.1.3 Data Storage and Environment

Data centers housing CAT Systems (whether public or private) must, at a minimum, be AICPA SOC 2 certified by a qualified third-party auditor that is not an affiliate of any of the Participants or the CAT Processor. The frequency of the audit must be at least once per year.

CAT compute infrastructure may not be commingled with other non-regulatory systems (or tenets, in the case of public cloud infrastructure). Systems hosting the CAT processing for any applications must be segmented from other systems as far as is feasible on a network level (firewalls, security groups, ACL's, VLAN's, authentication proxies/bastion hosts and similar). In the case of systems using inherently shared infrastructure/storage (e.g., public cloud storage services), an encryption/key management/access control strategy that effectively renders the data private must be documented.

The Plan Processor must include penetration testing and an application security code audit by a reputable (and named) third party prior to launch as well as periodically as defined in the SLA(s). Reports of the audit will be provided to the Operating Committee as well as remediation plan for identified issues. The penetration test reviews of the Central Repository's network, firewalls, and development, testing and production systems should help the CAT evaluate the system's security and resiliency in the face of attempted and successful systems intrusions.

4.1.4 Data Access

The Plan Processor must provide an overview of how access to PII and other CAT Data by Plan Processor employees and administrators is restricted. This overview must include items such as, but not limited to, how the Plan Processor will manage access to the systems, internal segmentation, multi-factor authentication, separation of duties, entitlement management, background checks, etc.

The Plan Processor must develop and maintain policies and procedures reasonably designed to prevent, detect, and mitigate the impact of unauthorized access or usage of data in the Central Repository. Such policies and procedures must be approved by the Operating Committee, and should include, at a minimum:

- Information barriers governing access to and usage of data in the Central Repository;
- Monitoring processes to detect unauthorized access to or usage of data in the Central Repository; and
- Escalation procedures in the event that unauthorized access to or usage of data is detected.

A Role Based Access Control ("RBAC") model must be used to permission user with access to different areas of the CAT System. The CAT System must support an arbitrary number of roles with access to different types of CAT Data, down to the attribute level. The administration and management of roles must be documented. Periodic reports detailing the current list of authorized users and the date of their most recent access must be provided to Participants, the SEC and the Operating Committee. The reports of the Participants and the SEC will include only their respective list of users. The Participants must provide a response to the report confirming that the list of users is accurate. The required frequency of this report will be defined by the Operating Committee. The Plan Processor must log every instance of access to Central Repository data by users.

Passwords stored in the CAT System must be stored according to industry best practices. Reasonable password complexity rules should be documented and enforced, such as, but not limited to, mandatory periodic password changes and prohibitions on the reuse of the recently used passwords.

Password recovery mechanisms must provide a secure channel for password reset, such as emailing a one-time, time-limited login token to a pre-determined email address associated with that user. Password recovery mechanisms that allow in-place changes or email the actual forgotten password are not permitted.

Any login to the system that is able to access PII data must follow non-PII password rules and must be further secured via multi-factor authentication ("MFA"). The implementation of MFA must be documented by the Plan Processor. MFA authentication capability for all logins is required to be implemented by the Plan Processor.

4.1.5 Breach Management

The Plan Processor must develop policies and procedures governing its responses to systems or data breaches. Such policies and procedures will include a formal cyber incident response plan, and documentation of all information relevant to breaches.

The cyber incident response plan will provide guidance and direction during security incidents. The plan will be subject to approval by the Operating Committee. The plan may include items such as:

- Guidance on crisis communications;
- Security and forensic procedures;
- Customer notifications;
- "Playbook" or quick reference guides that allow responders quick access to key information;
- Insurance against security breaches;

- Retention of legal counsel with data privacy and protection expertise; and

- Retention of a Public Relations firm to manage media coverage.

Documentation of information relevant to breaches should include:

- A chronological timeline of events from the breach throughout the duration of the investigation;

- Relevant information related to the breach (e.g., date discovered, who made the discovery, and details of the breach);

- Response efforts, involvement of third parties, summary of meetings/conference calls, and communication; and

- The impact of the breach, including an assessment of data accessed during the breach and impact on CAT Reporters.

4.1.6 PII Data Requirements

PII data must not be included in the result set(s) from online or direct query tools, reports or bulk data extraction. Instead, results will display existing non-PII unique identifiers (e.g., Customer-ID or Firm Designated ID). The PII corresponding to these identifiers can be gathered using the PII workflow described in Appendix D, Data Security, PII Data Requirements. By default, users entitled to query CAT Data are not authorized for PII access. The process by which someone becomes entitled for PII access, and how they then go about accessing PII data, must be documented by the Plan Processor. The chief regulatory officer, or other such designated officer or employee at each Participant must, at least annually, review and certify that people with PII access have the appropriate level of access for their role.

Using the RBAC model described above, access to PII data shall be configured at the PII attribute level, following the "least privileged" practice of limiting access as much as possible.

PII data must be stored separately from other CAT Data. It cannot be stored with the transactional CAT Data, and it must not be accessible from public internet connectivity. A full audit trail of PII access (who accessed what data, and when) must be maintained. The Chief Compliance Officer and the Chief Information Security Officer shall have access to daily PII reports that list all users who are entitled for PII access, as well as the audit trail of all PII access that has occurred for the day being reported on.

4.2 Industry Standards

The following industry standards—which is not intended to be an exclusive list—must be followed as such standards and requirements may be replaced by successor publications, or modified, amended, or supplemented and as approved by the Operating Committee (in the event of a conflict between standards, the more stringent standard shall apply, subject to the approval of the Operating Committee):

- National Institute of Standards and Technology:

    - 800-23 – Guidelines to Federal Organizations on Security Assurance and Acquisition / Use of Test/Evaluated Products
    - 800-53 – Security and Privacy Controls for Federal Information Systems and Organizations
    - 800-115 – Technical Guide to Information Security Testing and Assessment
    - 800-118 – Guide to Enterprise Password Management
    - 800-133 – Recommendation for Cryptographic Key Generation
    - 800-137 – Information Security Continuous Monitoring for Federal Information Systems and Organizations
    - To the extent not specified above, all other provisions of the NIST Cyber Security Framework

- Federal Financial Institutions Examination Council:

    - Authentication Best Practices

- International Organization for Standardization:

    - ISO/IEC 27001 – Information Security Management

The Company shall endeavor to join the FS-ISAC and comparable bodies as the Operating Committee may determine. The FS-ISAC provides real time security updates, industry best practices, threat conference calls, xml data feeds and a member contact directory. The FS-ISAC provides the Company with the ability to work with the entire financial industry to collaborate for the purposes of staying up to date with the latest information security activities.

5. BCP / DR Process

5.1 Overview

The Plan Processor must develop and implement disaster recovery ("DR") and business continuity plans ("BCP") that are tailored to the specific requirements of the CAT environment, and which must be approved and regularly reviewed by the Operating Committee. The BCP must address the protection of data, service for the data submissions, processing, data access, support functions and operations. In the context of this document, BCP generally refers to how the business activities will continue in the event of a widespread disruption and the DR requirements refer to how the CAT infrastructure will be designed to support a full data center outage. In addition, the Plan Processor must have SLAs in place to govern redundancy (i.e., no single point of failure) of critical aspects of the CAT System (e.g., electrical feeds, network connectivity, redundant processors, storage units, etc.) and must have an architecture to support and meet the SLA requirements. Any SLAs between the Plan Processor and third parties must be approved by the Operating Committee.

5.2 Industry Standards

EXHIBIT C

Rand, David A.

From: US CAT NMS Operating Committee <CATNMSOPS@deloitte.com>
Sent: Thursday, August 29, 2019 2:43 PM
To: allan@urwys.com; bonnie@wachtelco.com; brian.frambes@fmr.com; cmcmahon@wolve.com; David.Emero@gs.com; Gregg.Berman@citadelsecurities.com; jdraddy@jumptrading.com; John.Lassen@tdameritrade.com; merissa.billingsley@iongroup.com; Judy.McDonald@sig.com; mlouvk@gmail.com; Mehmet_Kinak@troweprice.com; LHarris@marshall.usc.edu; ronald.j.veith@jpmorgan.com
Cc: US CAT NMS Operating Committee; Ravenel, Alexander; Simon, Michael; Michael.Bevilacqua@wilmerhale.com; Soniya Shrivastav ; Gatrell, Robert; Cindy.Retterer@nasdaq.com; Lamie, Jennifer; WHCATFullTeam@wilmerhale.com
Subject: CAT Reporter & Reporting Agent Agreements
Attachments: CAT Consolidated Audit Trail Reporter Agreement - 8 29 19 Clean_(175637018)_(2).DOCX; CAT Consolidated Audit Trail Reporting Agent Agreement 8 29 19 Clean_(175576931)_(5).DOCX

Advisory Committee Members,

Please find attached CAT Reporter and Reporting Agent Agreements. These are final except for some non-substantive changes that will be made to account for the fact that URLs are not live yet. We will be sending these out on August 31st.

Regards,
The CAT Team

CONSOLIDATED AUDIT TRAIL REPORTER AGREEMENT

This Consolidated Audit Trail Reporter Agreement (this "Agreement") by and between CAT Reporter (as defined below) and Consolidated Audit Trail, LLC ("CATLLC", and, together with CAT Reporter, the "Parties") is entered into as of the date and time this Agreement is executed by CAT Reporter ("Effective Time").

WHEREAS, CAT Reporter desires to access and use the CAT System to comply with its obligations under the CAT NMS Plan, SEC Rule 613 and self-regulatory organization ("SRO") rules, as applicable, and CATLLC is making the CAT System available to CAT Reporter pursuant to the terms and conditions of this Agreement.

WHEREAS, the CAT System is operated by the Plan Processor on behalf of CATLLC.

NOW, THEREFORE, in consideration of the mutual terms contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS

1.1. Capitalized terms used in this Agreement but not otherwise defined herein have the meanings ascribed to such terms in the CAT NMS Plan, a copy of which is available at: https://www.catnmsplan.com/home/about-cat/cat-nms-plan/index.html.

1.2. For the avoidance of doubt, the definitions set forth in this Agreement shall prevail in the event of any conflict with the definitions set forth in the CAT NMS Plan:

"Authorized User" means an individual user who (a) is authorized to access the Central Repository by CAT Reporter and (b) satisfies (i) the applicable security obligations set forth at www._____.com/_____[1] and (ii) any other requirements CATLLC determines, in its sole discretion, to be necessary or appropriate from time to time and communicates to CAT Reporter via electronic notification.

"CAT Reporter" means the Industry Member or Participant that enters into this Agreement.

[1] NTD: Request from FINRA CAT.

"CAT Reporting Agent" means a third party entity (including an Affiliate of the CAT Reporter) engaged by CAT Reporter to report CAT Data to the Central Repository on behalf of CAT Reporter. For purposes of this Agreement, employees and contractors of a CAT Reporting Agent reporting CAT Data to the Central Repository on behalf of CAT Reporter shall be considered Authorized Users of CAT Reporter under this Agreement.

"Copy" means any paper, disk, tape, film, memory device, or other material or object on or in which any words, object code, source code or other symbols are written, recorded or encoded, whether permanent or transitory.

"Governmental Entity" means any (a) federal, state, local or foreign government or any court, arbitrational tribunal, administrative agency or commission or governmental or regulatory authority acting under the authority of the federal or any state, local or foreign government of competent jurisdiction or (b) any SRO with regulatory authority over CAT Reporter pursuant to the Exchange Act.

"Law" means any law, declaration, decree, directive, common law, legislative enactment, regulation, order, ordinance, rule, guidance, guideline or other binding restriction or requirement of or by any Governmental Entity, as may be amended, changed or updated from time to time.

"Person" means any individual, sole proprietorship, joint venture, partnership, corporation, company, firm, bank, association, cooperative, trust, estate, government, Governmental Entity or other entity of any nature.

"Technical Specifications" means the technical specifications for the CAT System that have been adopted and published by Plan Processor following approval by CATLLC.

2. PROVISION OF CAT SYSTEM

2.1. CAT System. Subject to the terms of this Agreement, CATLLC hereby grants CAT Reporter access to the CAT System and the ability to use the CAT System. CAT Reporter may access and use the CAT System only for the purpose of submitting CAT Data related to its business operations and correcting such CAT Data as provided in Section 3.3 and, in the event that CAT Reporter is a Participant, for such other uses as set forth in the CAT NMS Plan. CAT Reporter expressly consents to CATLLC's use of the submitted CAT Data for any purpose authorized by the CAT NMS Plan.

2.2. Authorized Users. CAT Reporter shall designate a "Super Account Administrator" who shall be responsible for establishing user names and initial passwords (each, "Access Credentials") for each account administrator account and each user account required by CAT Reporter. CAT Reporter is solely responsible for ensuring the security of Access Credentials and ensuring that each Authorized User accesses the CAT System using only the Access Credentials assigned to such Authorized User. Upon the request of CATLLC or the Plan Processor, CAT Reporter shall provide to CATLLC or the Plan Processor (as applicable) a complete list of its current Authorized Users. CAT Reporter shall be solely responsible for any action or inaction of any of its Authorized Users. CAT Reporter shall ensure that the Super Account Administrator disables user access for any Authorized User no longer authorized to access the CAT System. CAT Reporter shall notify CATLLC and Plan Processor promptly (but in any event within two (2) business days) after becoming aware that any Access Credentials are, or are suspected of being, lost, stolen or compromised. CAT Reporter shall remain responsible for any actions taken using Access Credentials until such Access Credentials are disabled. CAT Reporter shall also notify CATLLC and Plan Processor of the termination and/or replacement of CAT Reporter's Super Account Administrator.

2.3. CAT Reporter Contact Information. As part of the registration process for access to and use of the CAT System, CAT Reporter shall provide accurate contact information, including a notice address that CATLLC may use for any notice to CAT Reporter in accordance with Section 7.1, and shall promptly update such contact information and notice address upon any change to such contact information or notice address.

2.4. CAT Reporting Agents. In the event CAT Reporter elects to engage a CAT Reporting Agent to report CAT Data to the Central Repository on behalf of CAT Reporter, CAT Reporting Agent must enter into a written agreement with CATLLC pursuant to which CAT Reporting Agent agrees to fulfill the obligations of CAT Reporter under the applicable Participant's Compliance Rules. CAT Reporter acknowledges that CAT Reporting Agent will not be provided the ability to act on behalf of CAT Reporter absent such a written agreement. CAT Reporter remains responsible for compliance with the requirements of the applicable Participant's Compliance Rules, notwithstanding the existence of an agreement described in this Section 2.4.

2.5. Limitations on Use of the CAT System. CAT Reporter shall not do, attempt to do, nor authorize or permit any other Person to do, any of the following (directly or indirectly) (provided that nothing in this Section 2.5 is intended to limit any regulatory access and use permitted under the Plan):

(a) use the CAT System for any purpose, at any location or in any manner not specifically authorized by this Agreement;

(b) use the CAT System in any manner that would violate any applicable Law;

(c) disclose any Access Credentials to any Person other than to the Authorized User to which such Access Credentials apply;

(d) make or retain any Copy of any portion of the CAT System or any CAT Data except as specifically authorized by this Agreement;

(e) create or recreate any source code for the CAT System, or re-engineer, reverse engineer, decompile or disassemble or otherwise attempt to discover any source code, trade secret, algorithm, design or architecture or interface that comprises any portion of the CAT System;

(f) modify, adapt, translate or create derivative works based upon any portion of the CAT System (other than the APIs provided by the Plan Processor that are designed for integration into software systems of the CAT Reporters and the use of which is required to meet to the obligations of the Plan) or its documentation, or combine or merge any portion of the CAT System (other than such Plan Processor APIs) or its documentation with or into any other software or documentation;

(g) refer to or otherwise use any portion of the CAT System as part of any effort to develop a program having any functional attribute, visual interface or other feature similar to those of the CAT System;

(h) remove, erase or tamper with any copyright or other proprietary notice printed or stamped on, affixed to, or encoded or recorded in the CAT System, or fail to preserve all copyright and other proprietary notices in any Copy of any materials from, or relating to, the CAT System made by CAT Reporter;

(i) disclose any result of testing or benchmarking of the CAT System;

(j) sell, market, license, sublicense, distribute or otherwise grant to any Person, including any outsourcer, vendor, consultant or partner, other than an Authorized User or a CAT Reporting Agent, any right to use the CAT System or allow such other Person, other than an Authorized User or a CAT Reporting Agent, to use or have access to the CAT System, whether on CAT Reporter's behalf or otherwise;

(k) use the CAT System to conduct any type of service bureau or time-sharing operation or to provide remote processing, network processing, network telecommunications or similar services to any Person, whether on a fee basis or otherwise; or

(l) take or authorize any action or omission that could detrimentally interfere with the proper workings of the CAT System.

2.6. Notice of Breaches. CAT Reporter shall promptly give written notice to CATLLC and Plan Processor of any actual or suspected breach of any of the provisions of Section 2.5, whether or not intentional.

2.7. Regulatory Access. From and after the Effective Time, the records regarding CAT Reporter, if any, that are maintained or produced by the CAT System under this Agreement will be made available for examination, analysis and audit by Governmental Entities that have jurisdiction over CAT Reporter, and CAT Reporter expressly consents to such disclosure and use.

2.8. Disclosure Restrictions. To the extent CAT Reporter receives nonpublic, proprietary or confidential information from CATLLC, CAT Reporter shall not disclose or use such nonpublic, proprietary or confidential information unless such disclosure or use is required to meet its reporting obligations.

2.9. Plan Processor and Other Subcontractors. Services to be provided by CATLLC to CAT Reporter under this Agreement may be performed by the Plan Processor or any other subcontractor of CATLLC or the Plan Processor. In furtherance of the performance of such services, the Plan Processor or such other subcontractor may require access to CAT Reporter's information or data. CAT Reporter hereby authorizes CATLLC to release CAT Reporter's information or data to the Plan Processor or any such other subcontractor in furtherance of the

performance of services under this Agreement and agrees that CATLLC shall have no liability arising from such release or use of CAT Reporter's information or data.

2.10. Modifications. CATLLC reserves the right to modify, revise or update the CAT System, including to accommodate technology advances or changes in Law and will notify CAT Reporter of any such change that impacts CAT Reporters. Modifications, revisions or updates to the CAT System may result in changes in the Technical Specifications of the CAT System.

2.11. No Interference with Operation of the CAT System. No right or remedy granted to CAT Reporter by any provision of this Agreement shall be deemed or permitted to allow any relief that would in any way interfere with the operation of the CAT System.

3. CAT REPORTER'S OBLIGATIONS

3.1. Procurement of Access. CAT Reporter shall be responsible, at its expense, for procuring and maintaining the computer hardware, access to communications systems (such as private-line transport), software or other items necessary for CAT Reporter to submit data to the CAT System as set forth in the Technical Specifications.

3.2. CAT Data. CAT Reporter shall submit all CAT Data that CAT Reporter is required by the Plan to submit to the CAT System. CAT Reporter shall transmit such CAT Data to the CAT System electronically in the format prescribed by the Plan Processor from time to time in the Technical Specifications. CAT Reporter is solely responsible for ensuring that any information or data that CAT Reporter submits to the CAT System is accurate and complete. CAT Reporter shall maintain copies of all source data and current backup copies of all information and data submitted to the CAT System as required by the Plan. None of CATLLC or its Representatives shall have any liability for any loss or damage caused by CAT Reporter's failure to maintain any copy thereof.

3.3. Correction of Data. CAT Reporter shall correct all errors in CAT Data, or inaccurate CAT Data submitted to the CAT System as provided in the Plan and Technical Specifications. In the event that CAT Reporter is an Industry Member, CAT Reporter may access CAT Data submitted by or on behalf of such Industry Member solely for the purpose of making such corrections.

3.4. CAT Reporter Compliance. CAT Reporter shall ensure that it and each of its Authorized Users: (a) use appropriate safeguards to ensure the confidentiality of CAT Data and (b) do not use CAT Data stored in the Central Repository for any purpose other than a purpose expressly authorized by the CAT NMS Plan. Without limiting the foregoing, CAT Reporter shall comply with the applicable security obligations set forth at www._____.com/_____. CAT Reporter shall comply with all applicable Laws and obtain all necessary consents from any Person, including any of its employees, customers or other third parties from whom CAT Reporter collects information or data, if any, regarding the collection, use and distribution of such information or data to the CAT System. The information or data may include personal or other information about CAT Reporter, or any of its employees, customers or other third parties. CAT Reporter agrees that CATLLC may use this information or data to carry out its obligations with respect to the operation of the CAT System, including the provision of such information or data to the Plan Processor, the Participants, other subcontractors or any Governmental Entity.

4. PAYMENTS

4.1. Fees. The fees for CAT Reporter's access and use of the CAT System are set forth at www._____.com/Fees. In the event there are no fees set forth at www._____.com/Fees, CAT Reporter understands that CATLLC intends to charge fees once it receives approval for such fees. Such fees may be changed from time to time pursuant to fee filings made with the SEC.

4.2. Taxes. The fees and other amounts payable by CAT Reporter to CATLLC under this Agreement do not include any taxes of any jurisdiction that may be assessed or imposed upon the services provided under this Agreement, or otherwise assessed or imposed in connection with the transactions contemplated by this Agreement, including sales, use, excise, personal property, export, import or withholding taxes, or customs duties, excluding only taxes based upon CATLLC's net income. CAT Reporter shall directly pay any such taxes assessed against it, and CAT Reporter shall promptly reimburse CATLLC for any such taxes payable or collectable by CATLLC.

4.3. Payment Terms. CATLLC shall notify CAT Reporter on a regular basis of any fees due for access to or use of the CAT System. CAT Reporter shall pay the amount due to CATLLC within thirty (30) days after receipt of such notice (unless CATLLC otherwise specifies a longer payment period). Interest at the rate equal to the lesser of: (a) the Prime Rate plus 300 basis points or (b) the maximum rate permitted by applicable Law shall accrue on any

amount not paid by CAT Reporter to CATLLC when due under this Agreement, and shall be payable by CAT Reporter to CATLLC on demand. Any fees or other amounts paid by CAT Reporter under this Agreement are non-refundable.

5. REPRESENTATIONS, WARRANTIES, INDEMNIFICATION AND LIMITATIONS

5.1. Authority. Each Party represents and warrants to the other that such Party has (a) all requisite legal and company power to execute and deliver this Agreement; (b) taken all company or other action necessary for the authorization, execution and delivery of this Agreement; and (c) taken all action required to make this Agreement a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms. The individual executing this Agreement on behalf of CAT Reporter represents and warrants that he/she has the right to execute this Agreement and bind CAT Reporter to the terms and conditions of this Agreement.

5.2. CAT Data. CAT Reporter represents and warrants to CATLLC that CAT Reporter has the full legal right to submit to the CAT System the CAT Data submitted by or on behalf of CAT Reporter to the CAT System. CAT Reporter shall defend, indemnify and hold harmless CATLLC, each of the Participants, the Plan Processor and any other subcontractors of the Plan Processor or CATLLC providing software or services in connection with the CAT System, and any of their respective Affiliates and all of their directors, managers, officers, employees, contractors, subcontractors, advisors and agents ("Representatives") against any third party claim arising out of (a) a breach of the foregoing representation and warranty, (b) a failure by CAT Reporter or any of its CAT Reporting Agents to protect and secure CAT Data under its control, including any PII that is part of the CAT Data, (c) a failure by CAT Reporter or any of its CAT Reporting Agents to protect its own systems from misuse (including from unauthorized use and malware infections) or unauthorized access to the CAT System by or through CAT Reporter's systems, or (d) a failure by CAT Reporter or any of its CAT Reporting Agents to comply with its obligations under this Agreement. Each of CATLLC, the Participants and the Plan Processor and each of their subcontractors shall be considered an intended third-party beneficiary of this Section 5.2, and each such Person may enforce this Section 5.2 against CAT Reporter.

5.3. Exclusion for Unauthorized Actions. None of CATLLC or its Representatives shall have any liability under any provision of this Agreement with respect to any performance problem, claim of infringement or other matter

attributable to any unauthorized or improper access, use or modification of the CAT System by or on behalf of CAT Reporter, any unauthorized combination of the CAT System by CAT Reporter with other software, or any breach of this Agreement by CAT Reporter.

5.4. Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 5.1 OF THIS AGREEMENT, CATLLC MAKES NO REPRESENTATIONS OR WARRANTIES, ORAL OR WRITTEN, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, QUALITY, FITNESS FOR A PARTICULAR PURPOSE, COMPLIANCE WITH APPLICABLE LAWS, NON-INFRINGEMENT OR TITLE, SEQUENCING, TIMELINESS, ACCURACY OR COMPLETENESS OF INFORMATION, OR THOSE ARISING BY STATUTE OR OTHERWISE IN LAW, OR FROM A COURSE OF DEALING OR USAGE OF TRADE, REGARDING THE CAT SYSTEM OR ANY OTHER MATTER PERTAINING TO THIS AGREEMENT. CAT REPORTER ACCEPTS SOLE RESPONSIBILITY FOR ITS ACCESS TO AND USE OF THE CAT SYSTEM.

5.5. Limitation of Liability. TO THE EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES SHALL THE TOTAL LIABILITY OF CATLLC OR ANY OF ITS REPRESENTATIVES TO CAT REPORTER UNDER THIS AGREEMENT FOR ANY CALENDAR YEAR EXCEED THE LESSER OF THE TOTAL OF THE FEES ACTUALLY PAID BY CAT REPORTER TO CATLLC FOR THE CALENDAR YEAR IN WHICH THE CLAIM AROSE OR FIVE HUNDRED DOLLARS ($500.00).

5.6. Damage Exclusion. TO THE EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES SHALL CATLLC OR ANY OF ITS REPRESENTATIVES BE LIABLE TO CAT REPORTER OR ANY OTHER PERSON FOR LOST REVENUES, LOST PROFITS, LOSS OF BUSINESS, OR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE OR OTHER DIRECT OR INDIRECT DAMAGES OF ANY KIND OR NATURE, INCLUDING, SUCH DAMAGES ARISING FROM ANY BREACH OF THIS AGREEMENT, OR ANY TERMINATION OF THIS AGREEMENT, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT OR OTHERWISE, WHETHER OR NOT FORESEEABLE, EVEN IF CAT REPORTER OR ANY OTHER PERSON HAS BEEN ADVISED OR WAS AWARE OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.

5.7. Data Exclusion. TO THE EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES SHALL CATLLC OR ANY OF ITS REPRESENTATIVES BE LIABLE FOR ANY INCONVENIENCE CAUSED BY THE LOSS OF ANY DATA, FOR THE LOSS OR CORRUPTION OF ANY CAT REPORTER DATA OR FOR ANY DELAYS OR INTERRUPTIONS IN THE OPERATION OF THE CAT SYSTEM FROM ANY CAUSE.

5.8. Other Limitations. The representations and warranties made by CATLLC in this Agreement, and the obligations of CATLLC under this Agreement, apply only to CAT Reporter and not to any of its Affiliates, any CAT Reporting Agent, any of CAT Reporter's customers or any other third parties. Under no circumstances shall any Affiliate of CAT Reporter, CAT Reporting Agent or any CAT Reporter customer or other third party engaged by CAT Reporter, be considered a third party beneficiary of this Agreement or otherwise entitled to any rights or remedies under this Agreement, even if such Affiliates, customers, or other third parties are provided access to the CAT System or contribute or transmit data to or maintained in the CAT System. CATLLC shall not be deemed CAT Reporter's official record keeper for regulatory or other purposes and shall have no obligation to retain any records or data on CAT Reporter's behalf during the Term or after termination or expiration of this Agreement. No action or claim of any type relating to this Agreement may be brought or made by CAT Reporter more than one (1) year after the date of the event forming the basis for the action or claim. CAT Reporter agrees that the one (1) year period in the preceding sentence may not be tolled for any reason, whether sounding in law or equity.

6. TERM AND TERMINATION

6.1. Term. This Agreement commences at the Effective Time and remains in effect until terminated as provided under this Section 6 ("Term").

6.2. Termination by CAT Reporter. CAT Reporter may immediately terminate this Agreement, by giving notice of termination to CATLLC and to the Plan Processor.

6.3. Termination by CATLLC. CATLLC may immediately terminate this Agreement, by giving notice of termination to CAT Reporter, upon the occurrence of any of the following events: (a) CAT Reporter materially breaches any of its obligations under this Agreement and does not cure the breach within thirty (30) days (provided that the breach is susceptible to cure) after CATLLC gives notice to CAT Reporter describing the breach, except that

CATLLC may terminate this Agreement at any time without providing an opportunity to cure the breach by providing notice of termination to CAT Reporter if CAT Reporter commits a breach of Section 2.5 or 3.4, (b) CAT Reporter dissolves or liquidates or otherwise discontinues all or a significant part of its business, (c) any Governmental Entity requires CATLLC to terminate this Agreement or suspend performance hereunder with respect to CAT Reporter, (d) CAT Reporter ceases to be a Participant or Industry Member.

6.4. Effect of Termination. Upon a termination of this Agreement, whether under this Section 6 or otherwise, CAT Reporter shall immediately cease all access and use of the CAT System, disable all Authorized Users and request the Plan Processor to disable all Access Credentials that have not been disabled by CAT Reporter, and shall immediately notify CATLLC in writing that CAT Reporter has taken all such actions. CAT Reporter shall remain liable for all payments due to CATLLC with respect to the period ending on the date of termination. The provisions of Sections 1, 2.5, 2.6, 2.9, 2.11, 4, 5 and 7 and this Section 6.4 shall survive any termination of this Agreement, whether under this Section 6 or otherwise.

6.5. Enforcement. CAT Reporter acknowledges that the restrictions in this Agreement are reasonable and necessary to protect CATLLC's legitimate business interests. CAT Reporter acknowledges that any breach of any of the provisions of this Agreement shall result in irreparable injury to CATLLC for which money damages could not adequately compensate. If there is a breach, then CATLLC shall be entitled, in addition to all other rights and remedies which it may have at law or in equity, to a decree of specific performance or an injunction issued by any competent court, requiring the breach to be cured or enjoining all persons involved from continuing the breach, on use of affidavit evidence or otherwise, and without furnishing proof of actual damages or posting a bond or other surety.

6.6. Certain Other Remedies. CATLLC may, in its sole discretion and upon written notice to CAT Reporter, suspend performance of any or all of its services under this Agreement (including access to the CAT System) until and unless CATLLC determines, in its sole discretion and upon whatever conditions CATLLC chooses to impose on CAT Reporter, to resume performance of some or all of the suspended services or allow CAT Reporter access to the CAT System.

7. OTHER PROVISIONS

7.1. Notice. Any notice, consent or other communication under or regarding this Agreement shall be in writing and shall be deemed to have been received on the date of actual receipt (a) to CAT Reporter, at the address provided by CAT Reporter in accordance with Section 2.3; (b) to CATLLC, at the address for notices made available by CATLLC on the CAT System from time to time; or (c) to Plan Processor, at the address for notices made available on the CAT System from time to time.

7.2. Parties in Interest. This Agreement shall bind, benefit and be enforceable by and against CATLLC and CAT Reporter and, to the extent permitted hereby, their respective successors and assigns. CAT Reporter shall not assign this Agreement or any of its rights hereunder, nor delegate any of its obligations hereunder, without the prior consent of CATLLC. Any assignment in breach of this Section 7.2 shall be void.

7.3. Export Regulations. This Agreement is expressly made subject to any U.S. government and other applicable Laws regarding export from the U.S. or another country, and import into any country, of computer hardware, software, technical data or other items, or derivatives of such hardware, software, technical data or other items. Notwithstanding anything to the contrary in this Agreement, neither Party will directly or indirectly export (or re-export) any computer hardware, software, technical data or any other item, or any derivative of the same, or permit the shipment of the same: (a) into (or to a national or resident of) Cuba, North Korea, Iran, Sudan, Syria or any other country to which the U.S. has embargoed goods; (b) to anyone on the U.S. Treasury Department's List of Specially Designated Nationals, List of Specially Designated Terrorists or List of Specially Designated Narcotics Traffickers, or the U.S. Commerce Department's Denied Persons List; or (c) to any Person, country or destination for which the U.S. government or a U.S. governmental agency requires an export license or other authorization for export, without first having obtained any such license or other authorization required.

7.4. Relationship. The relationship between the Parties created by this Agreement is that of independent contractors and not partners, joint venturers or agents.

7.5. Force Majeure. Neither Party shall be liable for, nor shall either Party be considered in breach of this Agreement due to, any failure to perform its obligations under this Agreement (other than its payment obligations) as a result of a cause beyond its control, including any act of God or a public enemy or terrorist, act of any military, civil or regulatory authority, change in any Law, fire, flood, earthquake, storm or other like event, labor problem,

unavailability of supplies, or any other cause, whether similar or dissimilar to any of the foregoing, which could not have been prevented by the non-performing Party with reasonable care. CAT Reporter acknowledges that availability of the CAT System is subject to normal system downtime and that none of CATLLC or its Representatives are responsible for delays or inability to access or use services caused by communications problems.

7.6. Entire Understanding. This Agreement states the entire understanding between the Parties with respect to its subject matter, and supersedes all prior proposals, marketing materials, negotiations, representations, agreements and other written or oral communications between the Parties with respect to the subject matter of this Agreement. Any written, printed or other materials that CATLLC provides to CAT Reporter are provided on an "as is" basis, without warranty, and solely as an accommodation to CAT Reporter. In entering into this Agreement, each Party acknowledges and agrees that, except as expressly stated in Section 5, it has not relied on any representations made by the other. Any such representations are excluded.

7.7. Modification and Waiver; Severability. Except as set forth in this Section 7.7, no modification of this Agreement, and no waiver of any breach or obligation of this Agreement, shall be effective unless in writing and signed by an authorized representative of the Party against whom enforcement is sought. This Agreement may not be modified or amended except: (a) with written agreement of the Parties or (b) by CATLLC from time to time upon no less than sixty (60) days' notice to CAT Reporter. No waiver of any breach or obligation of this Agreement, and no course of dealing between the Parties, shall be construed as a waiver of any subsequent breach or obligation of this Agreement. A determination that any provision of this Agreement is invalid or unenforceable shall not affect the other provisions of this Agreement.

7.8. Headings; Interpretation; Negotiated Terms. Section headings are for convenience of reference only and shall not affect the interpretation of this Agreement. Unless the context otherwise requires, "or" shall be construed in the inclusive sense. The words "including", "include" or "includes" whether capitalized or not, means "including but not limited to". This Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or its professional advisors participated in the preparation of this Agreement. Unless stated otherwise, all references to a date or time of day in this Agreement are references to that date or time of day in New

York, New York. If any date specified in this Agreement as the only day, or the last day, for taking action falls on a day that is not a business day, then that action may be taken on the next business day.

7.9. Arbitration. ANY DISPUTE, CONTROVERSY OR CLAIM ARISING FROM OR RELATING TO THIS AGREEMENT SHALL BE FULLY AND EXCLUSIVELY FINALLY SETTLED BY AN ARBITRATION HELD IN THE CITY OF NEW YORK, STATE OF NEW YORK, U.S., UNDER THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION IN EFFECT FROM TIME TO TIME. The arbitrator may grant any remedy that the arbitrator deems just and equitable within the scope of this Agreement, except that the arbitrator may not, under any circumstance, grant a remedy inconsistent with or in violation of the limitations of liability in Section 5. The award of the arbitrator shall be final and binding, and judgment thereon may be entered in any court having jurisdiction. The prevailing Party in any proceeding commenced in connection with the subject matter of this Agreement shall be entitled to recover its reasonable attorneys' fees (including, if applicable, charges for in-house counsel), arbitration costs and other legal expenses from the other Party, as the arbitrator shall determine.

7.10. Third Party Beneficiaries. Except as explicitly set forth herein, nothing in this Agreement is intended to or shall confer upon any other Person any legal or equitable rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement, and except as explicitly set forth herein, no person or entity is intended to be or is a third party beneficiary of any of the provisions of this Agreement.

7.11. Governing Law. THIS AGREEMENT, AND ALL MATTERS BETWEEN CATLLC AND CAT REPORTER ARISING OUT OF OR RELATING TO THIS AGREEMENT, SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO ANY LAWS, RULES OR PROVISIONS THAT WOULD CAUSE THE APPLICATION OF LAWS OF ANY JURISDICTION OTHER THAN THOSE OF THE STATE OF NEW YORK.

7.12. Counterparts; Electronic Signature. [•]

Remainder of page intentionally blank.

The Parties have caused this Consolidated Audit Trail Reporter Agreement to be executed by their respective duly authorized representatives.

Consolidated Audit Trail, LLC

By: _____

Name: _____

Title: _____

CAT Reporter:

_____

OrgID: _____

By: _____

Name: _____

Title: _____

Date: _____

CONSOLIDATED AUDIT TRAIL REPORTING AGENT AGREEMENT

This Consolidated Audit Trail Reporting Agent Agreement (this "Agreement") by and between CAT Reporting Agent (as defined below) executing this Agreement and Consolidated Audit Trail, LLC ("CATLLC", and, together with CAT Reporting Agent, the "Parties") is entered into as of the date and time this Agreement is executed by CAT Reporting Agent ("Effective Time").

WHEREAS, CAT Reporting Agent desires to access and use the CAT System to report CAT Data to the Central Repository on behalf of a CAT Reporter to enable such CAT Reporter to comply with its obligations under the CAT NMS Plan, SEC Rule 613 and self-regulatory organization ("SRO") rules, as applicable, and CATLLC is making the CAT System available to CAT Reporting Agent pursuant to the terms and conditions of this Agreement.

WHEREAS, the CAT System is operated by the Plan Processor on behalf of CATLLC.

NOW, THEREFORE, in consideration of the mutual terms contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS

1.1. Capitalized terms used in this Agreement but not otherwise defined herein have the meanings ascribed to such terms in the CAT NMS Plan, a copy of which is available at: https://www.catnmsplan.com/home/about-cat/cat-nms-plan/index.html.

1.2. For the avoidance of doubt, the definitions set forth in this Agreement shall prevail in the event of any conflict with the definitions set forth in the CAT NMS Plan:

"Authorized User" means an individual user who (a) is authorized to access the Central Repository by CAT Reporting Agent and (b) satisfies (i) the applicable security obligations set forth at www._____.com/_____[1] and

[1] NTD: Request from FINRA CAT.

(ii) any other requirements CATLLC determines, in its sole discretion, to be necessary or appropriate from time to time and communicates to CAT Reporting Agent via electronic notification.

"CAT Reporter" means an Industry Member or Participant that enters into a Consolidated Audit Trail CAT Reporter Agreement with CATLLC.

"CAT Reporting Agent" means a Person (including an Affiliate of a CAT Reporter) engaged by a CAT Reporter to report CAT Data to the Central Repository on behalf of such CAT Reporter. For purposes of this Agreement, employees and contractors of a CAT Reporting Agent reporting CAT Data to the Central Repository on behalf of CAT Reporting Agent shall be considered Authorized Users of CAT Reporting Agent under this Agreement.

"Copy" means any paper, disk, tape, film, memory device, or other material or object on or in which any words, object code, source code or other symbols are written, recorded or encoded, whether permanent or transitory.

"Governmental Entity" means any (a) federal, state, local or foreign government or any court, arbitrational tribunal, administrative agency or commission or governmental or regulatory authority acting under the authority of the federal or any state, local or foreign government of competent jurisdiction or (b) any SRO with regulatory authority over CAT Reporting Agent or the CAT Reporter that engaged the CAT Reporting Agent pursuant to the Exchange Act.

"Law" means any law, declaration, decree, directive, common law, legislative enactment, regulation, order, ordinance, rule, guidance, guideline or other binding restriction or requirement of or by any Governmental Entity, as may be amended, changed or updated from time to time.

"Person" means any individual, sole proprietorship, joint venture, partnership, corporation, company, firm, bank, association, cooperative, trust, estate, government, Governmental Entity or other entity of any nature.

"Technical Specifications" means the technical specifications for the CAT System that have been adopted and published by Plan Processor following approval by CATLLC.

2. PROVISION OF CAT SYSTEM

2.1. CAT System. Subject to the terms of this Agreement, CATLLC hereby grants CAT Reporting Agent access to the CAT System and the ability to use the CAT System. CAT Reporting Agent may access and use the CAT System only on behalf of a CAT Reporter that has engaged and authorized CAT Reporting Agent within the CAT System to (a) submit CAT Data on behalf of that CAT Reporter related to the business operations of that CAT Reporter and/or (b) correct CAT Data submitted on behalf of that CAT Reporter as provided in Section 3.3 (as applicable).

2.2. Authorized Users. CAT Reporting Agent shall designate one or more "Account Administrators" who shall be responsible for establishing user names and initial passwords (each, "Access Credentials") for each user account required by CAT Reporting Agent. CAT Reporting Agent is solely responsible for ensuring the security of Access Credentials and ensuring that each Authorized User accesses the CAT System using only the Access Credentials assigned to such Authorized User. Upon the request of CATLLC or the Plan Processor, CAT Reporting Agent shall provide to CATLLC or the Plan Processor (as applicable) a complete list of its current Authorized Users. CAT Reporting Agent shall be solely responsible for any action or inaction of any of its Authorized Users. CAT Reporting Agent shall ensure that the Account Administrator disables user access for any Authorized User no longer authorized to access the CAT System. CAT Reporting Agent shall notify CATLLC and Plan Processor promptly (but in any event within two (2) business days) after becoming aware that any Access Credentials are, or are suspected of being, lost, stolen or compromised. CAT Reporting Agent shall remain responsible for any actions taken using Access Credentials until such Access Credentials are disabled. CAT Reporting Agent shall also notify CATLLC and Plan Processor of the termination and/or replacement of CAT Reporting Agent's Account Administrator.

2.3. CAT Reporting Agent Contact Information. As part of the registration process for access to and use of the CAT System, CAT Reporting Agent shall provide accurate contact information, including a notice address that CATLLC may use for any notice to CAT Reporting Agent in accordance with Section 7.1, and shall promptly update such contact information and notice address upon any change to such contact information or notice address.

2.4. Limitations on Use of the CAT System. CAT Reporting Agent shall not do, attempt to do, nor authorize or permit any other Person to do, any of the following (directly or indirectly) (provided that nothing in this Section 2.4 is intended to limit any regulatory access permitted under the Plan):

(a) use the CAT System for any purpose, at any location or in any manner not specifically authorized by this Agreement;

(b) use the CAT System in any manner that would violate any applicable Law;

(c) disclose any Access Credentials to any Person other than to the Authorized User to which such Access Credentials apply;

(d) make or retain any Copy of any portion of the CAT System or any CAT Data except as specifically authorized by this Agreement;

(e) create or recreate any source code for the CAT System, or re-engineer, reverse engineer, decompile or disassemble or otherwise attempt to discover any source code, trade secret, algorithm, design or architecture or interface that comprises any portion of the CAT System;

(f) modify, adapt, translate or create derivative works based upon any portion of the CAT System (other than the APIs provided by the Plan Processor that are designed for integration into software systems of the CAT Reporters and the use of which is required to meet to the obligations of the Plan) or its documentation, or combine or merge any portion of the CAT System (other than such Plan Processor APIs) or its documentation with or into any other software or documentation;

(g) refer to or otherwise use any portion of the CAT System as part of any effort to develop a program having any functional attribute, visual interface or other feature similar to those of the CAT System;

(h) remove, erase or tamper with any copyright or other proprietary notice printed or stamped on, affixed to, or encoded or recorded in the CAT System, or fail to preserve all copyright and other proprietary notices in any Copy of any materials from, or relating to, the CAT System made by CAT Reporting Agent;

(i) disclose any result of testing or benchmarking of the CAT System;

(j) sell, market, license, sublicense, distribute or otherwise grant to any Person, including any outsourcer, vendor, consultant or partner, other than an Authorized User, any right to use the CAT System or allow such other Person, other than an Authorized User, to use or have access to the CAT System, whether on CAT Reporting Agent's behalf or otherwise;

(k) use the CAT System to conduct any type of service bureau or time-sharing operation or to provide remote processing, network processing, network telecommunications or similar services to any Person, whether on a fee basis or otherwise; or

(l) take or authorize any action or omission that could detrimentally interfere with the proper workings of the CAT System.

2.5. Notice of Breaches. CAT Reporting Agent shall promptly give written notice to CATLLC and Plan Processor of any actual or suspected breach of any of the provisions of Section 2.4, whether or not intentional.

2.6. Regulatory Access. From and after the Effective Time, the records regarding CAT Reporting Agent, if any, that are maintained or produced by the CAT System under this Agreement will be made available for examination, analysis and audit by Governmental Entities that have jurisdiction over CAT Reporting Agent or the CAT Reporter that engaged the CAT Reporting Agent, and CAT Reporting Agent expressly consents to such disclosure and use.

2.7. Disclosure Restrictions. To the extent CAT Reporting Agent receives nonpublic, proprietary or confidential information from CATLLC, CAT Reporting Agent shall not disclose or use such nonpublic, proprietary or confidential information unless such disclosure or use is required to meet its reporting obligations.

2.8. Plan Processor and Other Subcontractors. Services to be provided by CATLLC to CAT Reporting Agent under this Agreement may be performed by the Plan Processor or any other subcontractor of CATLLC or the Plan Processor. In furtherance of the performance of such services, the Plan Processor or such other subcontractor may require access to CAT Reporting Agent's information or data. CAT Reporting Agent hereby authorizes CATLLC to release CAT Reporting Agent's information or data to the Plan Processor or any such other subcontractor in

furtherance of the performance of services under this Agreement and agrees that CATLLC shall have no liability arising from such release or use of CAT Reporting Agent's information or data.

2.9. Modifications. CATLLC reserves the right to modify, revise or update the CAT System, including to accommodate technology advances or changes in Law and will notify CAT Reporting Agent of any such change that that impacts CAT Reporting Agent. Modifications, revisions or updates to the CAT System may result in changes in the Technical Specifications of the CAT System.

2.10. No Interference with Operation of the CAT System. No right or remedy granted to CAT Reporting Agent by any provision of this Agreement shall be deemed or permitted to allow any relief that would in any way interfere with the operation of the CAT System.

3. CAT REPORTING AGENT'S OBLIGATIONS

3.1. Procurement of Access. CAT Reporting Agent shall be responsible, at its expense, for procuring and maintaining the computer hardware, access to communications systems (such as private-line transport), software or other items necessary for CAT Reporting Agent to submit data to, and to correct submitted data in, the CAT System as set forth in the Technical Specifications.

3.2. CAT Data. CAT Reporting Agent shall submit all CAT Data that the CAT Reporter that engaged the CAT Reporting Agent is required by the Plan to submit to the CAT System. CAT Reporting Agent shall transmit such CAT Data to the CAT System electronically in the format prescribed by the Plan Processor from time to time in the Technical Specifications. CAT Reporting Agent and the CAT Reporter that engaged the CAT Reporting Agent are solely responsible for ensuring that any information or data that CAT Reporting Agent submits to the CAT System is accurate and complete. CAT Reporting Agent shall maintain copies of all source data and current backup copies of all information and data submitted to the CAT System as required by the Plan. None of CATLLC or its Representatives shall have any liability for any loss or damage caused by CAT Reporting Agent's failure to maintain any copy thereof.

3.3. Correction of Data. CAT Reporting Agent or the CAT Reporter that engaged the CAT Reporting Agent shall correct all errors in CAT Data, or inaccurate CAT Data submitted to the CAT System as provided in the Plan and Technical Specifications. In the event that the CAT Reporter that engaged the CAT Reporting Agent is an Industry Member, CAT Reporting Agent may access CAT Data submitted on behalf of such Industry Member solely as authorized by such Industry Member.

3.4. CAT Reporting Agent Compliance. CAT Reporting Agent shall ensure that it and each of its Authorized Users: (a) use appropriate safeguards to ensure the confidentiality of CAT Data and (b) do not use CAT Data stored in the Central Repository for any purpose other than a purpose expressly authorized by this Agreement. Without limiting the foregoing, CAT Reporting Agent shall comply with the applicable security obligations set forth at www._____.com/_____. CAT Reporting Agent shall comply with all applicable Laws, and CAT Reporting Agent shall obtain (or shall ensure that the CAT Reporter that engaged CAT Reporting Agent has obtained) all necessary consents from any Person, including any of its employees, customers or other third parties from whom CAT Reporting Agent collects information or data, if any, regarding the collection, use and distribution of such information or data to the CAT System. The information or data may include personal or other information about CAT Reporting Agent, or any of its employees, customers or other third parties. CAT Reporting Agent agrees that CATLLC may use this information or data to carry out its obligations with respect to the operation of the CAT System, including the provision of such information or data to the Plan Processor, the Participants, other subcontractors or any Governmental Entity.

4. PAYMENTS

The fees for CAT Reporting Agent's access and use of the CAT System shall be paid by the CAT Reporter that engaged CAT Reporting Agent.

5. REPRESENTATIONS, WARRANTIES, INDEMNIFICATION AND LIMITATIONS

5.1. Authority. Each Party represents and warrants to the other that such Party has (a) all requisite legal and company power to execute and deliver this Agreement; (b) taken all company or other action necessary for the authorization, execution and delivery of this Agreement; and (c) taken all action required to make this Agreement a

legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms. The individual executing this Agreement on behalf of CAT Reporting Agent represents and warrants that he/she has the right to execute this Agreement and bind CAT Reporting Agent to the terms and conditions of this Agreement.

5.2. CAT Data. CAT Reporting Agent represents and warrants to CATLLC that CAT Reporting Agent has the full legal right to submit to the CAT System the CAT Data submitted by CAT Reporting Agent to the CAT System on behalf of the CAT Reporter that engaged CAT Reporting Agent. CAT Reporting Agent shall defend, indemnify and hold harmless CATLLC, each of the Participants, the Plan Processor and any other subcontractors of the Plan Processor or CATLLC providing software or services in connection with the CAT System, and any of their respective Affiliates and all of their directors, managers, officers, employees, contractors, subcontractors, advisors and agents ("Representatives") against any third party claim arising out of (a) a breach of the foregoing representation and warranty, (b) a failure by CAT Reporting Agent to protect and secure CAT Data that it submits, including any PII that is part of the CAT Data, (c) a failure by CAT Reporting Agent to protect its own systems from misuse (including from unauthorized use and malware infections) or unauthorized access to the CAT System by or through CAT Reporting Agent's systems, or (d) a failure by CAT Reporting Agent to comply with its obligations under this Agreement. Each of CATLLC, the Participants and the Plan Processor and each of their subcontractors shall be considered an intended third-party beneficiary of this Section 5.2, and each such Person may enforce this Section 5.2 against CAT Reporting Agent.

5.3. Exclusion for Unauthorized Actions. None of CATLLC or its Representatives shall have any liability under any provision of this Agreement with respect to any performance problem, claim of infringement or other matter attributable to any unauthorized or improper access, use or modification of the CAT System by or on behalf of CAT Reporting Agent, any unauthorized combination of the CAT System by CAT Reporting Agent with other software, or any breach of this Agreement by CAT Reporting Agent.

5.4. Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 5.1 OF THIS AGREEMENT, CATLLC MAKES NO REPRESENTATIONS OR WARRANTIES, ORAL OR WRITTEN, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, QUALITY, FITNESS FOR A PARTICULAR PURPOSE, COMPLIANCE WITH APPLICABLE LAWS, NON-INFRINGEMENT OR TITLE,

SEQUENCING, TIMELINESS, ACCURACY OR COMPLETENESS OF INFORMATION, OR THOSE ARISING BY STATUTE OR OTHERWISE IN LAW, OR FROM A COURSE OF DEALING OR USAGE OF TRADE, REGARDING THE CAT SYSTEM OR ANY OTHER MATTER PERTAINING TO THIS AGREEMENT. CAT REPORTING AGENT ACCEPTS SOLE RESPONSIBILITY FOR ITS ACCESS TO AND USE OF THE CAT SYSTEM.

5.5. Limitation of Liability. TO THE EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES SHALL THE TOTAL LIABILITY OF CATLLC OR ANY OF ITS REPRESENTATIVES TO CAT REPORTING AGENT UNDER THIS AGREEMENT FOR ANY CALENDAR YEAR EXCEED THE LESSER OF THE TOTAL OF THE FEES ACTUALLY PAID TO CATLLC BY THE CAT REPORTER THAT ENGAGED CAT REPORTING AGENT FOR THE CALENDAR YEAR IN WHICH THE CLAIM AROSE OR FIVE HUNDRED DOLLARS ($500.00).

5.6. Damage Exclusion. TO THE EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES SHALL CATLLC OR ANY OF ITS REPRESENTATIVES BE LIABLE TO CAT REPORTING AGENT OR ANY OTHER PERSON FOR LOST REVENUES, LOST PROFITS, LOSS OF BUSINESS, OR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE OR OTHER DIRECT OR INDIRECT DAMAGES OF ANY KIND OR NATURE, INCLUDING, SUCH DAMAGES ARISING FROM ANY BREACH OF THIS AGREEMENT, OR ANY TERMINATION OF THIS AGREEMENT, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT OR OTHERWISE, WHETHER OR NOT FORESEEABLE, EVEN IF CAT REPORTING AGENT OR ANY OTHER PERSON HAS BEEN ADVISED OR WAS AWARE OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.

5.7. Data Exclusion. TO THE EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES SHALL CATLLC OR ANY OF ITS REPRESENTATIVES BE LIABLE FOR ANY INCONVENIENCE CAUSED BY THE LOSS OF ANY DATA, FOR THE LOSS OR CORRUPTION OF ANY DATA SUBMITTED BY CAT REPORTING AGENT OR FOR ANY DELAYS OR INTERRUPTIONS IN THE OPERATION OF THE CAT SYSTEM FROM ANY CAUSE.

5.8. Other Limitations. The representations and warranties made by CATLLC in this Agreement, and the obligations of CATLLC under this Agreement, apply only to CAT Reporting Agent and not to any of its Affiliates, or any other third parties (including the CAT Reporter that engaged CAT Reporting Agent). Under no circumstances shall any Affiliate of CAT Reporting Agent or the CAT Reporter that engaged CAT Reporting Agent be considered a third party beneficiary of this Agreement or otherwise entitled to any rights or remedies under this Agreement, even if any such Affiliates or CAT Reporter is provided access to the CAT System or contribute or transmit data to or maintained in the CAT System. CATLLC shall have no obligation to retain any records or data submitted by CAT Reporting Agent during the Term or after termination or expiration of this Agreement. No action or claim of any type relating to this Agreement may be brought or made by CAT Reporting Agent more than one (1) year after the date of the event forming the basis for the action or claim. CAT Reporting Agent agrees that the one (1) year period in the preceding sentence may not be tolled for any reason, whether sounding in law or equity.

6. TERM AND TERMINATION

6.1. Term. This Agreement commences at the Effective Time and remains in effect until terminated as provided under this Section 6 ("Term").

6.2. Termination by CAT Reporting Agent. CAT Reporting Agent may immediately terminate this Agreement, by giving notice of termination to CATLLC and to the Plan Processor.

6.3. Termination by CATLLC. CATLLC may terminate this Agreement by giving notice to CAT Reporting Agent in the event of the termination of the Consolidated Audit Trail Reporter Agreement between CATLLC and all CAT Reporters that engaged CAT Reporting Agent to act as such, and CAT Reporting Agent remains without any active engagement with a CAT Reporter for more than ninety (90) days following the termination of the last active Consolidated Audit Trail Reporter Agreement between CATLLC and a CAT Reporter. CATLLC may also immediately terminate this Agreement, by giving notice of termination to CAT Reporting Agent, upon the occurrence of any of the following events: (a) CAT Reporting Agent materially breaches any of its obligations under this Agreement and does not cure the breach within thirty (30) days (provided that the breach is susceptible to cure) after CATLLC gives notice to CAT Reporting Agent describing the breach, except that CATLLC may terminate this

Agreement at any time without providing an opportunity to cure the breach by providing notice of termination to CAT Reporting Agent if CAT Reporting Agent commits a breach of Section 2.4 or 3.4, (b) CAT Reporting Agent dissolves or liquidates or otherwise discontinues all or a significant part of its business, (c) any Governmental Entity requires CATLLC to terminate this Agreement or suspend performance hereunder with respect to CAT Reporting Agent, (d) the CAT Reporter that engaged the CAT Reporting Agent ceases to be a Participant or Industry Member.

6.4. Effect of Termination. Upon a termination of this Agreement, whether under this Section 6 or otherwise, CAT Reporting Agent shall immediately cease all access and use of the CAT System, disable all Authorized Users and request the Plan Processor to disable all Access Credentials that have not been disabled by CAT Reporting Agent, and shall immediately notify CATLLC in writing that CAT Reporting Agent has taken all such actions. The provisions of Sections 1, 2.4, 2.5, 2.8, 2.10, 4, 5 and 7 and this Section 6.4 shall survive any termination of this Agreement, whether under this Section 6 or otherwise.

6.5. Enforcement. CAT Reporting Agent acknowledges that the restrictions in this Agreement are reasonable and necessary to protect CATLLC's legitimate business interests. CAT Reporting Agent acknowledges that any breach of any of the provisions of this Agreement shall result in irreparable injury to CATLLC for which money damages could not adequately compensate. If there is a breach, then CATLLC shall be entitled, in addition to all other rights and remedies which it may have at law or in equity, to a decree of specific performance or an injunction issued by any competent court, requiring the breach to be cured or enjoining all persons involved from continuing the breach, on use of affidavit evidence or otherwise, and without furnishing proof of actual damages or posting a bond or other surety.

6.6. Certain Other Remedies. CATLLC may, in its sole discretion and upon written notice to CAT Reporting Agent, suspend performance of any or all of its services under this Agreement (including access to the CAT System) until and unless CATLLC determines, in its sole discretion and upon whatever conditions CATLLC chooses to impose on CAT Reporting Agent, to resume performance of some or all of the suspended services or allow CAT Reporting Agent access to the CAT System.

7. OTHER PROVISIONS

7.1. Notice. Any notice, consent or other communication under or regarding this Agreement shall be in writing and shall be deemed to have been received on the date of actual receipt (a) to CAT Reporting Agent, at the address provided by CAT Reporting Agent in accordance with Section 2.3; (b) to CATLLC, at the address for notices made available by CATLLC on the CAT System from time to time; or (c) to Plan Processor, at the address for notices made available on the CAT System from time to time.

7.2. Parties in Interest. This Agreement shall bind, benefit and be enforceable by and against CATLLC and CAT Reporting Agent and, to the extent permitted hereby, their respective successors and assigns. CAT Reporting Agent shall not assign this Agreement or any of its rights hereunder, nor delegate any of its obligations hereunder, without the prior consent of CATLLC. Any assignment in breach of this Section 7.2 shall be void.

7.3. Export Regulations. This Agreement is expressly made subject to any U.S. government and other applicable Laws regarding export from the U.S. or another country, and import into any country, of computer hardware, software, technical data or other items, or derivatives of such hardware, software, technical data or other items. Notwithstanding anything to the contrary in this Agreement, neither Party will directly or indirectly export (or re-export) any computer hardware, software, technical data or any other item, or any derivative of the same, or permit the shipment of the same: (a) into (or to a national or resident of) Cuba, North Korea, Iran, Sudan, Syria or any other country to which the U.S. has embargoed goods; (b) to anyone on the U.S. Treasury Department's List of Specially Designated Nationals, List of Specially Designated Terrorists or List of Specially Designated Narcotics Traffickers, or the U.S. Commerce Department's Denied Persons List; or (c) to any Person, country or destination for which the U.S. government or a U.S. governmental agency requires an export license or other authorization for export, without first having obtained any such license or other authorization required.

7.4. Relationship. The relationship between the Parties created by this Agreement is that of independent contractors and not partners, joint venturers or agents.

7.5. Force Majeure. Neither Party shall be liable for, nor shall either Party be considered in breach of this Agreement due to, any failure to perform its obligations under this Agreement (other than its payment obligations)

as a result of a cause beyond its control, including any act of God or a public enemy or terrorist, act of any military, civil or regulatory authority, change in any Law, fire, flood, earthquake, storm or other like event, labor problem, unavailability of supplies, or any other cause, whether similar or dissimilar to any of the foregoing, which could not have been prevented by the non-performing Party with reasonable care. CAT Reporting Agent acknowledges that availability of the CAT System is subject to normal system downtime and that none of CATLLC or its Representatives are responsible for delays or inability to access or use services caused by communications problems.

7.6. Entire Understanding. This Agreement states the entire understanding between the Parties with respect to its subject matter, and supersedes all prior proposals, marketing materials, negotiations, representations, agreements and other written or oral communications between the Parties with respect to the subject matter of this Agreement. Any written, printed or other materials that CATLLC provides to CAT Reporting Agent are provided on an "as is" basis, without warranty, and solely as an accommodation to CAT Reporting Agent. In entering into this Agreement, each Party acknowledges and agrees that, except as expressly stated in Section 5, it has not relied on any representations made by the other. Any such representations are excluded.

7.7. Modification and Waiver; Severability. Except as set forth in this Section 7.7, no modification of this Agreement, and no waiver of any breach or obligation of this Agreement, shall be effective unless in writing and signed by an authorized representative of the Party against whom enforcement is sought. This Agreement may not be modified or amended except: (a) with written agreement of the Parties or (b) by CATLLC from time to time upon no less than sixty (60) days' notice to CAT Reporting Agent. No waiver of any breach or obligation of this Agreement, and no course of dealing between the Parties, shall be construed as a waiver of any subsequent breach or obligation of this Agreement. A determination that any provision of this Agreement is invalid or unenforceable shall not affect the other provisions of this Agreement.

7.8. Headings; Interpretation; Negotiated Terms. Section headings are for convenience of reference only and shall not affect the interpretation of this Agreement. Unless the context otherwise requires, "or" shall be construed in the inclusive sense. The words "including", "include" or "includes" whether capitalized or not, means "including but not limited to". This Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or its professional advisors participated in the preparation of this Agreement. Unless stated

otherwise, all references to a date or time of day in this Agreement are references to that date or time of day in New York, New York. If any date specified in this Agreement as the only day, or the last day, for taking action falls on a day that is not a business day, then that action may be taken on the next business day.

7.9. Arbitration. ANY DISPUTE, CONTROVERSY OR CLAIM ARISING FROM OR RELATING TO THIS AGREEMENT SHALL BE FULLY AND EXCLUSIVELY FINALLY SETTLED BY AN ARBITRATION HELD IN THE CITY OF NEW YORK, STATE OF NEW YORK, U.S., UNDER THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION IN EFFECT FROM TIME TO TIME. The arbitrator may grant any remedy that the arbitrator deems just and equitable within the scope of this Agreement, except that the arbitrator may not, under any circumstance, grant a remedy inconsistent with or in violation of the limitations of liability in Section 5. The award of the arbitrator shall be final and binding, and judgment thereon may be entered in any court having jurisdiction. The prevailing Party in any proceeding commenced in connection with the subject matter of this Agreement shall be entitled to recover its reasonable attorneys' fees (including, if applicable, charges for in-house counsel), arbitration costs and other legal expenses from the other Party, as the arbitrator shall determine.

7.10. Third Party Beneficiaries. Except as explicitly set forth herein, nothing in this Agreement is intended to or shall confer upon any other Person any legal or equitable rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement, and except as explicitly set forth herein, no person or entity is intended to be or is a third party beneficiary of any of the provisions of this Agreement.

7.11. Governing Law. THIS AGREEMENT, AND ALL MATTERS BETWEEN CATLLC AND CAT REPORTING AGENT ARISING OUT OF OR RELATING TO THIS AGREEMENT, SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO ANY LAWS, RULES OR PROVISIONS THAT WOULD CAUSE THE APPLICATION OF LAWS OF ANY JURISDICTION OTHER THAN THOSE OF THE STATE OF NEW YORK.

7.12. Electronic Signature. [•]

Remainder of page intentionally blank.

The Parties have caused this Consolidated Audit Trail Reporting Agent Agreement to be executed by their respective duly authorized representatives.

Consolidated Audit Trail, LLC

By: _____

Name: _____

Title: _____

CAT Reporting Agent:

_____

OrgID: _____

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT D

[redacted]

[redacted]

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EXHIBIT E

CONSOLIDATED AUDIT TRAIL REPORTER AGREEMENT

This Consolidated Audit Trail Reporter Agreement (this "Agreement") by and between CAT Reporter (as defined below) and Consolidated Audit Trail, LLC ("CATLLC", and, together with CAT Reporter, the "Parties") is entered into as of the date and time this Agreement is executed by CAT Reporter ("Effective Time").

WHEREAS, CAT Reporter desires to access and use the CAT System to comply with its obligations under the CAT NMS Plan, SEC Rule 613 and self-regulatory organization ("SRO") rules, as applicable, and CATLLC is making the CAT System available to CAT Reporter pursuant to the terms and conditions of this Agreement.

WHEREAS, the CAT System is operated by the Plan Processor on behalf of CATLLC.

NOW, THEREFORE, in consideration of the mutual terms contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS

1.1. Capitalized terms used in this Agreement but not otherwise defined herein have the meanings ascribed to such terms in the CAT NMS Plan, a copy of which is available on the Website.

1.2. For the avoidance of doubt, the definitions set forth in this Agreement shall prevail in the event of any conflict with the definitions set forth in the CAT NMS Plan:

"Authorized User" means an individual user who (a) is authorized to access the Central Repository by CAT Reporter and (b) satisfies (i) the applicable security obligations set forth from time to time on the Website and (ii) any other requirements CATLLC determines, in its sole discretion, to be necessary or appropriate from time to time and communicates to CAT Reporter via electronic notification.

"CAT Reporter" means the Industry Member or Participant that enters into this Agreement.

"CAT Reporting Agent" means a third party entity (including an Affiliate of the CAT Reporter) engaged by CAT Reporter to report CAT Data to the Central Repository on behalf of CAT Reporter. For purposes of this Agreement, employees and contractors of a CAT Reporting Agent reporting CAT Data to the Central Repository on behalf of CAT Reporter shall be considered Authorized Users of CAT Reporter under this Agreement.

"Copy" means any paper, disk, tape, film, memory device, or other material or object on or in which any words, object code, source code or other symbols are written, recorded or encoded, whether permanent or transitory.

"Governmental Entity" means any (a) federal, state, local or foreign government or any court, arbitrational tribunal, administrative agency or commission or governmental or regulatory authority acting under the authority of the federal or any state, local or foreign government of competent jurisdiction or (b) any SRO with regulatory authority over CAT Reporter pursuant to the Exchange Act.

"Law" means any law, declaration, decree, directive, common law, legislative enactment, regulation, order, ordinance, rule, guidance, guideline or other binding restriction or requirement of or by any Governmental Entity, as may be amended, changed or updated from time to time.

"Person" means any individual, sole proprietorship, joint venture, partnership, corporation, company, firm, bank, association, cooperative, trust, estate, government, Governmental Entity or other entity of any nature.

"Technical Specifications" means the technical specifications for the CAT System that have been adopted and published by Plan Processor following approval by CATLLC.

"Website" means the website maintained by CATLLC for the CAT NMS Plan, currently available at https://catnmsplan.com, including any successor website.

2. PROVISION OF CAT SYSTEM

2.1. CAT System. Subject to the terms of this Agreement, CATLLC hereby grants CAT Reporter access to the CAT System and the ability to use the CAT System. CAT Reporter may access and use the CAT System only for the purpose of submitting CAT Data related to its business operations and correcting

such CAT Data as provided in Section 3.3 and, in the event that CAT Reporter is a Participant, for such other uses as set forth in the CAT NMS Plan. CAT Reporter expressly consents to CATLLC's use of the submitted CAT Data for any purpose authorized by the CAT NMS Plan.

2.2. Authorized Users. CAT Reporter shall designate a "Super Account Administrator" who shall be responsible for establishing user names and initial passwords (each, "Access Credentials") for each account administrator account and each user account required by CAT Reporter. CAT Reporter is solely responsible for ensuring the security of Access Credentials and ensuring that each Authorized User accesses the CAT System using only the Access Credentials assigned to such Authorized User. Upon the request of CATLLC or the Plan Processor, CAT Reporter shall provide to CATLLC or the Plan Processor (as applicable) a complete list of its current Authorized Users. CAT Reporter shall be solely responsible for any action or inaction of any of its Authorized Users. CAT Reporter shall ensure that the Super Account Administrator disables user access for any Authorized User no longer authorized to access the CAT System. CAT Reporter shall notify CATLLC and Plan Processor promptly (but in any event within two (2) business days) after becoming aware that any Access Credentials are, or are suspected of being, lost, stolen or compromised. CAT Reporter shall remain responsible for any actions taken using Access Credentials until such Access Credentials are disabled. CAT Reporter shall also notify CATLLC and Plan Processor of the termination and/or replacement of CAT Reporter's Super Account Administrator.

2.3. CAT Reporter Contact Information. As part of the registration process for access to and use of the CAT System, CAT Reporter shall provide accurate contact information, including a notice address that CATLLC may use for any notice to CAT Reporter in accordance with Section 7.1, and shall promptly update such contact information and notice address upon any change to such contact information or notice address.

2.4. CAT Reporting Agents. In the event CAT Reporter elects to engage a CAT Reporting Agent to report CAT Data to the Central Repository on behalf of CAT Reporter, CAT Reporting Agent must enter into a written agreement with CATLLC pursuant to which CAT Reporting Agent agrees to fulfill the obligations of CAT Reporter under the applicable Participant's Compliance Rules. CAT Reporter acknowledges that CAT Reporting Agent will not be provided the ability to act on behalf of CAT Reporter absent such a written agreement. CAT Reporter remains responsible for compliance with the requirements of the applicable Participant's Compliance Rules, notwithstanding the existence of an agreement described in this Section 2.4.

2.5. Limitations on Use of the CAT System. CAT Reporter shall not do, attempt to do, nor authorize or permit any other Person to do, any of the following (directly or indirectly) (provided that nothing in this Section 2.5 is intended to limit any regulatory access and use permitted under the Plan):

(a) use the CAT System for any purpose, at any location or in any manner not specifically authorized by this Agreement;

(b) use the CAT System in any manner that would violate any applicable Law;

(c) disclose any Access Credentials to any Person other than to the Authorized User to which such Access Credentials apply;

(d) make or retain any Copy of any portion of the CAT System or any CAT Data except as specifically authorized by this Agreement;

(e) create or recreate any source code for the CAT System, or re-engineer, reverse engineer, decompile or disassemble or otherwise attempt to discover any source code, trade secret, algorithm, design or architecture or interface that comprises any portion of the CAT System;

(f) modify, adapt, translate or create derivative works based upon any portion of the CAT System (other than the APIs provided by the Plan Processor that are designed for integration into software systems of the CAT Reporters and the use of which is required to meet to the obligations of the Plan) or its documentation, or combine or merge any portion of the CAT System (other than such Plan Processor APIs) or its documentation with or into any other software or documentation;

(g) refer to or otherwise use any portion of the CAT System as part of any effort to develop a program having any functional attribute, visual interface or other feature similar to those of the CAT System;

(h) remove, erase or tamper with any copyright or other proprietary notice printed or stamped on, affixed to, or encoded or recorded in the

CAT System, or fail to preserve all copyright and other proprietary notices in any Copy of any materials from, or relating to, the CAT System made by CAT Reporter;

(i) disclose any result of testing or benchmarking of the CAT System;

(j) sell, market, license, sublicense, distribute or otherwise grant to any Person, including any outsourcer, vendor, consultant or partner, other than an Authorized User or a CAT Reporting Agent, any right to use the CAT System or allow such other Person, other than an Authorized User or a CAT Reporting Agent, to use or have access to the CAT System, whether on CAT Reporter's behalf or otherwise;

(k) use the CAT System to conduct any type of service bureau or time-sharing operation or to provide remote processing, network processing, network telecommunications or similar services to any Person, whether on a fee basis or otherwise; or

(l) take or authorize any action or omission that could detrimentally interfere with the proper workings of the CAT System.

2.6. Notice of Breaches. CAT Reporter shall promptly give written notice to CATLLC and Plan Processor of any actual or suspected breach of any of the provisions of Section 2.5, whether or not intentional.

2.7. Regulatory Access. From and after the Effective Time, the records regarding CAT Reporter, if any, that are maintained or produced by the CAT System under this Agreement will be made available for examination, analysis and audit by Governmental Entities that have jurisdiction over CAT Reporter, and CAT Reporter expressly consents to such disclosure and use.

2.8. Disclosure Restrictions. To the extent CAT Reporter receives nonpublic, proprietary or confidential information from CATLLC, CAT Reporter shall not disclose or use such nonpublic, proprietary or confidential information unless such disclosure or use is required to meet its reporting obligations.

2.9. Plan Processor and Other Subcontractors. Services to be provided by CATLLC to CAT Reporter under this Agreement may be performed by the Plan Processor or any other subcontractor of CATLLC or the Plan Processor. In furtherance of the performance of such services, the Plan Processor or such other subcontractor may require access to CAT Reporter's information or data. CAT Reporter hereby authorizes CATLLC to release CAT Reporter's information or data to the Plan Processor or any such other subcontractor in furtherance of the performance of services under this Agreement and agrees that CATLLC shall have no liability arising from such release or use of CAT Reporter's information or data.

2.10. Modifications. CATLLC reserves the right to modify, revise or update the CAT System, including to accommodate technology advances or changes in Law and will notify CAT Reporter of any such change that impacts CAT Reporters. Modifications, revisions or updates to the CAT System may result in changes in the Technical Specifications of the CAT System.

2.11. No Interference with Operation of the CAT System. No right or remedy granted to CAT Reporter by any provision of this Agreement shall be deemed or permitted to allow any relief that would in any way interfere with the operation of the CAT System.

3. CAT REPORTER'S OBLIGATIONS

3.1. Procurement of Access. CAT Reporter shall be responsible, at its expense, for procuring and maintaining the computer hardware, access to communications systems (such as private-line transport), software or other items necessary for CAT Reporter to submit data to the CAT System as set forth in the Technical Specifications.

3.2. CAT Data. CAT Reporter shall submit all CAT Data that CAT Reporter is required by the Plan to submit to the CAT System. CAT Reporter shall transmit such CAT Data to the CAT System electronically in the format prescribed by the Plan Processor from time to time in the Technical Specifications. CAT Reporter is solely responsible for ensuring that any information or data that CAT Reporter submits to the CAT System is accurate and complete. CAT Reporter shall maintain copies of all source data and current backup copies of all information and data submitted to the CAT System as required by the Plan. None of CATLLC or its Representatives shall have any liability for any loss or damage caused by CAT Reporter's failure to maintain any copy thereof.

3.3. Correction of Data. CAT Reporter shall correct all errors in CAT Data, or inaccurate CAT Data submitted to the CAT System as provided in the Plan and Technical Specifications. In the event that CAT Reporter is an Industry Member, CAT Reporter may

access CAT Data submitted by or on behalf of such Industry Member solely for the purpose of making such corrections.

3.4. CAT Reporter Compliance. CAT Reporter shall ensure that it and each of its Authorized Users: (a) use appropriate safeguards to ensure the confidentiality of CAT Data and (b) do not use CAT Data stored in the Central Repository for any purpose other than a purpose expressly authorized by the CAT NMS Plan. Without limiting the foregoing, CAT Reporter shall comply with the applicable security obligations set forth from time to time on the Website. CAT Reporter shall comply with all applicable Laws and obtain all necessary consents from any Person, including any of its employees, customers or other third parties from whom CAT Reporter collects information or data, if any, regarding the collection, use and distribution of such information or data to the CAT System. The information or data may include personal or other information about CAT Reporter, or any of its employees, customers or other third parties. CAT Reporter agrees that CATLLC may use this information or data to carry out its obligations with respect to the operation of the CAT System, including the provision of such information or data to the Plan Processor, the Participants, other subcontractors or any Governmental Entity.

4. PAYMENTS

4.1. Fees. CAT Reporter understands that CATLLC intends to charge fees once it receives SEC approval for such fees. Such fees may be changed from time to time pursuant to fee filings made with the SEC. Information on any fee filings and SEC-approved fees will provided on the Website.

4.2. Taxes. The fees and other amounts payable by CAT Reporter to CATLLC under this Agreement do not include any taxes of any jurisdiction that may be assessed or imposed upon the services provided under this Agreement, or otherwise assessed or imposed in connection with the transactions contemplated by this Agreement, including sales, use, excise, personal property, export, import or withholding taxes, or customs duties, excluding only taxes based upon CATLLC's net income. CAT Reporter shall directly pay any such taxes assessed against it, and CAT Reporter shall promptly reimburse CATLLC for any such taxes payable or collectable by CATLLC.

4.3. Payment Terms. CATLLC shall notify CAT Reporter on a regular basis of any fees due for access to or use of the CAT System. CAT Reporter shall pay the amount due to CATLLC within thirty (30) days after receipt of such notice (unless CATLLC otherwise specifies a longer payment period). Interest at the rate equal to the lesser of: (a) the Prime Rate plus 300 basis points or (b) the maximum rate permitted by applicable Law shall accrue on any amount not paid by CAT Reporter to CATLLC when due under this Agreement, and shall be payable by CAT Reporter to CATLLC on demand. Any fees or other amounts paid by CAT Reporter under this Agreement are non-refundable.

5. REPRESENTATIONS, WARRANTIES, INDEMNIFICATION AND LIMITATIONS

5.1. Authority. Each Party represents and warrants to the other that such Party has (a) all requisite legal and company power to execute and deliver this Agreement; (b) taken all company or other action necessary for the authorization, execution and delivery of this Agreement; and (c) taken all action required to make this Agreement a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms. The individual executing this Agreement on behalf of CAT Reporter represents and warrants that he/she has the right to execute this Agreement and bind CAT Reporter to the terms and conditions of this Agreement.

5.2. CAT Data. CAT Reporter represents and warrants to CATLLC that CAT Reporter has the full legal right to submit to the CAT System the CAT Data submitted by or on behalf of CAT Reporter to the CAT System. CAT Reporter shall defend, indemnify and hold harmless CATLLC, each of the Participants, the Plan Processor and any other subcontractors of the Plan Processor or CATLLC providing software or services in connection with the CAT System, and any of their respective Affiliates and all of their directors, managers, officers, employees, contractors, subcontractors, advisors and agents ("Representatives") against any third party claim arising out of (a) a breach of the foregoing representation and warranty, (b) a failure by CAT Reporter or any of its CAT Reporting Agents to protect and secure CAT Data under its control, including any PII that is part of the CAT Data, (c) a failure by CAT Reporter or any of its CAT Reporting Agents to protect its own systems from misuse (including from unauthorized use and malware infections) or unauthorized access to the CAT System by or through CAT Reporter's systems, or (d) a failure by CAT Reporter or any of its CAT Reporting Agents to comply with its obligations under this Agreement. Each of CATLLC, the Participants and the Plan Processor and each of their subcontractors shall be considered an intended third-party beneficiary of this

Section 5.2, and each such Person may enforce this Section 5.2 against CAT Reporter.

5.3. Exclusion for Unauthorized Actions. None of CATLLC or its Representatives shall have any liability under any provision of this Agreement with respect to any performance problem, claim of infringement or other matter attributable to any unauthorized or improper access, use or modification of the CAT System by or on behalf of CAT Reporter, any unauthorized combination of the CAT System by CAT Reporter with other software, or any breach of this Agreement by CAT Reporter.

5.4. Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 5.1 OF THIS AGREEMENT, CATLLC MAKES NO REPRESENTATIONS OR WARRANTIES, ORAL OR WRITTEN, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, QUALITY, FITNESS FOR A PARTICULAR PURPOSE, COMPLIANCE WITH APPLICABLE LAWS, NON-INFRINGEMENT OR TITLE, SEQUENCING, TIMELINESS, ACCURACY OR COMPLETENESS OF INFORMATION, OR THOSE ARISING BY STATUTE OR OTHERWISE IN LAW, OR FROM A COURSE OF DEALING OR USAGE OF TRADE, REGARDING THE CAT SYSTEM OR ANY OTHER MATTER PERTAINING TO THIS AGREEMENT. CAT REPORTER ACCEPTS SOLE RESPONSIBILITY FOR ITS ACCESS TO AND USE OF THE CAT SYSTEM.

5.5. Limitation of Liability. TO THE EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES SHALL THE TOTAL LIABILITY OF CATLLC OR ANY OF ITS REPRESENTATIVES TO CAT REPORTER UNDER THIS AGREEMENT FOR ANY CALENDAR YEAR EXCEED THE LESSER OF THE TOTAL OF THE FEES ACTUALLY PAID BY CAT REPORTER TO CATLLC FOR THE CALENDAR YEAR IN WHICH THE CLAIM AROSE OR FIVE HUNDRED DOLLARS ($500.00).

5.6. Damage Exclusion. TO THE EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES SHALL CATLLC OR ANY OF ITS REPRESENTATIVES BE LIABLE TO CAT REPORTER OR ANY OTHER PERSON FOR LOST REVENUES, LOST PROFITS, LOSS OF BUSINESS, OR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE OR OTHER DIRECT OR INDIRECT DAMAGES OF ANY KIND OR NATURE, INCLUDING, SUCH DAMAGES ARISING FROM ANY BREACH OF THIS AGREEMENT, OR ANY TERMINATION OF THIS AGREEMENT, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT OR OTHERWISE, WHETHER OR NOT FORESEEABLE, EVEN IF CAT REPORTER OR ANY OTHER PERSON HAS BEEN ADVISED OR WAS AWARE OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.

5.7. Data Exclusion. TO THE EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES SHALL CATLLC OR ANY OF ITS REPRESENTATIVES BE LIABLE FOR ANY INCONVENIENCE CAUSED BY THE LOSS OF ANY DATA, FOR THE LOSS OR CORRUPTION OF ANY CAT REPORTER DATA OR FOR ANY DELAYS OR INTERRUPTIONS IN THE OPERATION OF THE CAT SYSTEM FROM ANY CAUSE.

5.8. Other Limitations. The representations and warranties made by CATLLC in this Agreement, and the obligations of CATLLC under this Agreement, apply only to CAT Reporter and not to any of its Affiliates, any CAT Reporting Agent, any of CAT Reporter's customers or any other third parties. Under no circumstances shall any Affiliate of CAT Reporter, CAT Reporting Agent or any CAT Reporter customer or other third party engaged by CAT Reporter, be considered a third party beneficiary of this Agreement or otherwise entitled to any rights or remedies under this Agreement, even if such Affiliates, customers, or other third parties are provided access to the CAT System or contribute or transmit data to or maintained in the CAT System. CATLLC shall not be deemed CAT Reporter's official record keeper for regulatory or other purposes and shall have no obligation to retain any records or data on CAT Reporter's behalf during the Term or after termination or expiration of this Agreement. No action or claim of any type relating to this Agreement may be brought or made by CAT Reporter more than one (1) year after the date of the event forming the basis for the action or claim. CAT Reporter agrees that the one (1) year period in the preceding sentence may not be tolled for any reason, whether sounding in law or equity.

6. TERM AND TERMINATION

6.1. Term. This Agreement commences at the Effective Time and remains in effect until terminated as provided under this Section 6 ("Term").

6.2. Termination by CAT Reporter. CAT Reporter may immediately terminate this Agreement, by giving notice of termination to CATLLC and to the Plan Processor.

6.3. Termination by CATLLC. CATLLC may immediately terminate this Agreement, by giving notice of termination to CAT Reporter, upon the occurrence of any of the following events: (a) CAT Reporter materially breaches any of its obligations under this Agreement and does not cure the breach within thirty (30) days (provided that the breach is susceptible to cure) after CATLLC gives notice to CAT Reporter describing the breach, except that CATLLC may terminate this Agreement at any time without providing an opportunity to cure the breach by providing notice of termination to CAT Reporter if CAT Reporter commits a breach of Section 2.5 or 3.4, (b) CAT Reporter dissolves or liquidates or otherwise discontinues all or a significant part of its business, (c) any Governmental Entity requires CATLLC to terminate this Agreement or suspend performance hereunder with respect to CAT Reporter, (d) CAT Reporter ceases to be a Participant or Industry Member.

6.4. Effect of Termination. Upon a termination of this Agreement, whether under this Section 6 or otherwise, CAT Reporter shall immediately cease all access and use of the CAT System, disable all Authorized Users and request the Plan Processor to disable all Access Credentials that have not been disabled by CAT Reporter, and shall immediately notify CATLLC in writing that CAT Reporter has taken all such actions. CAT Reporter shall remain liable for all payments due to CATLLC with respect to the period ending on the date of termination. The provisions of Sections 1, 2.5, 2.6, 2.9, 2.11, 4, 5 and 7 and this Section 6.4 shall survive any termination of this Agreement, whether under this Section 6 or otherwise.

6.5. Enforcement. CAT Reporter acknowledges that the restrictions in this Agreement are reasonable and necessary to protect CATLLC's legitimate business interests. CAT Reporter acknowledges that any breach of any of the provisions of this Agreement shall result in irreparable injury to CATLLC for which money damages could not adequately compensate. If there is a breach, then CATLLC shall be entitled, in addition to all other rights and remedies which it may have at law or in equity, to a decree of specific performance or an injunction issued by any competent court, requiring the breach to be cured or enjoining all persons involved from continuing the breach, on use of affidavit evidence or otherwise, and without furnishing proof of actual damages or posting a bond or other surety.

6.6. Certain Other Remedies. CATLLC may, in its sole discretion and upon written notice to CAT Reporter, suspend performance of any or all of its services under this Agreement (including access to the CAT System) until and unless CATLLC determines, in its sole discretion and upon whatever conditions CATLLC chooses to impose on CAT Reporter, to resume performance of some or all of the suspended services or allow CAT Reporter access to the CAT System.

7. OTHER PROVISIONS

7.1. Notice. Any notice, consent or other communication under or regarding this Agreement shall be in writing and shall be deemed to have been received on the date of actual receipt (a) to CAT Reporter, at the address provided by CAT Reporter in accordance with Section 2.3; (b) to CATLLC, at the address for notices made available by CATLLC on the CAT System from time to time; or (c) to Plan Processor, at the address for notices made available on the CAT System from time to time.

7.2. Parties in Interest. This Agreement shall bind, benefit and be enforceable by and against CATLLC and CAT Reporter and, to the extent permitted hereby, their respective successors and assigns. CAT Reporter shall not assign this Agreement or any of its rights hereunder, nor delegate any of its obligations hereunder, without the prior consent of CATLLC. Any assignment in breach of this Section 7.2 shall be void.

7.3. Export Regulations. This Agreement is expressly made subject to any U.S. government and other applicable Laws regarding export from the U.S. or another country, and import into any country, of computer hardware, software, technical data or other items, or derivatives of such hardware, software, technical data or other items. Notwithstanding anything to the contrary in this Agreement, neither Party will directly or indirectly export (or re-export) any computer hardware, software, technical data or any other item, or any derivative of the same, or permit the shipment of the same: (a) into (or to a national or resident of) Cuba, North Korea, Iran, Sudan, Syria or any other country to which the U.S. has embargoed goods; (b) to anyone on the U.S. Treasury Department's List of Specially Designated Nationals, List of Specially Designated Terrorists or List of Specially Designated Narcotics Traffickers, or the U.S. Commerce Department's Denied Persons List; or

(c) to any Person, country or destination for which the U.S. government or a U.S. governmental agency requires an export license or other authorization for export, without first having obtained any such license or other authorization required.

7.4. Relationship. The relationship between the Parties created by this Agreement is that of independent contractors and not partners, joint venturers or agents.

7.5. Force Majeure. Neither Party shall be liable for, nor shall either Party be considered in breach of this Agreement due to, any failure to perform its obligations under this Agreement (other than its payment obligations) as a result of a cause beyond its control, including any act of God or a public enemy or terrorist, act of any military, civil or regulatory authority, change in any Law, fire, flood, earthquake, storm or other like event, labor problem, unavailability of supplies, or any other cause, whether similar or dissimilar to any of the foregoing, which could not have been prevented by the non-performing Party with reasonable care. CAT Reporter acknowledges that availability of the CAT System is subject to normal system downtime and that none of CATLLC or its Representatives are responsible for delays or inability to access or use services caused by communications problems.

7.6. Entire Understanding. This Agreement states the entire understanding between the Parties with respect to its subject matter, and supersedes all prior proposals, marketing materials, negotiations, representations, agreements and other written or oral communications between the Parties with respect to the subject matter of this Agreement. Any written, printed or other materials that CATLLC provides to CAT Reporter are provided on an "as is" basis, without warranty, and solely as an accommodation to CAT Reporter. In entering into this Agreement, each Party acknowledges and agrees that, except as expressly stated in Section 5, it has not relied on any representations made by the other. Any such representations are excluded.

7.7. Modification and Waiver; Severability. Except as set forth in this Section 7.7, no modification of this Agreement, and no waiver of any breach or obligation of this Agreement, shall be effective unless in writing and signed by an authorized representative of the Party against whom enforcement is sought. This Agreement may not be modified or amended except: (a) with written agreement of the Parties or (b) by CATLLC from time to time upon no less than sixty (60) days' notice to CAT Reporter. No waiver of any breach or obligation of this Agreement, and no course of dealing between the Parties, shall be construed as a waiver of any subsequent breach or obligation of this Agreement. A determination that any provision of this Agreement is invalid or unenforceable shall not affect the other provisions of this Agreement.

7.8. Headings; Interpretation; Negotiated Terms. Section headings are for convenience of reference only and shall not affect the interpretation of this Agreement. Unless the context otherwise requires, "or" shall be construed in the inclusive sense. The words "including", "include" or "includes" whether capitalized or not, means "including but not limited to". This Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or its professional advisors participated in the preparation of this Agreement. Unless stated otherwise, all references to a date or time of day in this Agreement are references to that date or time of day in New York, New York. If any date specified in this Agreement as the only day, or the last day, for taking action falls on a day that is not a business day, then that action may be taken on the next business day.

7.9. Arbitration. ANY DISPUTE, CONTROVERSY OR CLAIM ARISING FROM OR RELATING TO THIS AGREEMENT SHALL BE FULLY AND EXCLUSIVELY FINALLY SETTLED BY AN ARBITRATION HELD IN THE CITY OF NEW YORK, STATE OF NEW YORK, U.S., UNDER THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION IN EFFECT FROM TIME TO TIME. The arbitrator may grant any remedy that the arbitrator deems just and equitable within the scope of this Agreement, except that the arbitrator may not, under any circumstance, grant a remedy inconsistent with or in violation of the limitations of liability in Section 5. The award of the arbitrator shall be final and binding, and judgment thereon may be entered in any court having jurisdiction. The prevailing Party in any proceeding commenced in connection with the subject matter of this Agreement shall be entitled to recover its reasonable attorneys' fees (including, if applicable, charges for in-house counsel), arbitration costs and other legal expenses from the other Party, as the arbitrator shall determine.

7.10. Third Party Beneficiaries. Except as explicitly set forth herein, nothing in this Agreement is intended to or shall confer upon any other Person any legal or equitable rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement, and except as explicitly set forth herein, no person or entity

is intended to be or is a third party beneficiary of any of the provisions of this Agreement.

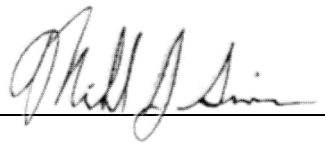
7.11. Governing Law. THIS AGREEMENT, AND ALL MATTERS BETWEEN CATLLC AND CAT REPORTER ARISING OUT OF OR RELATING TO THIS AGREEMENT, SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO ANY LAWS, RULES OR PROVISIONS THAT WOULD CAUSE THE APPLICATION OF LAWS OF ANY JURISDICTION OTHER THAN THOSE OF THE STATE OF NEW YORK.

7.12. Counterparts; Electronic Signatures. The Parties may execute this Agreement in multiple counterparts, each of which when executed by a Party's authorized representative is an original counterpart and all of which together constitute one agreement. The Parties agree that this Agreement may be signed using an electronic signature (as defined in 15 U.S.C. § 7006).

Remainder of page intentionally blank.

The Parties have caused this Consolidated Audit Trail Reporter Agreement to be executed by their respective duly authorized representatives.

Consolidated Audit Trail, LLC

By: 

Name: Michael J. Simon

Title: Chair, Consolidated Audit Trail, LLC Operating Committee

CAT Reporter:

_____
(*Legal name*)

By: _____

Name: _____

Title: _____

Date: _____

OrgID: _____

Address: _____

_____

_____

_____

EXHIBIT F

FINRA Entitlement Program

FINRA Privacy Statement

This Privacy Statement relates to the online information collection and use practices of this FINRA Entitlement Program and embedded forms and applications (this "**Web Site**"). This Privacy Statement complements the full FINRA Privacy Policy and may be updated from time to time. Updates to FINRA's privacy policies will be posted here and/or in the full FINRA Privacy Policy, as appropriate.

To enable you to be employed in certain positions or participate in certain matters or opportunities in the securities industry in the United States, FINRA collects certain personal data from you for identity verification and regulatory purposes. Personal information may include your name, address, phone number, social security number, date of birth, fingerprints, employment history and any other information that identifies or can be used to identify the person to whom such information pertains. FINRA may use your personal information submitted via this Web Site for ***any*** regulatory purpose.

This Web Site is operated in the United States. If you are located outside of the United States, please be aware that any information you provide to us will be transferred to the U.S. and subject to U.S. laws. By using our Web Site, participating in any of our services and/or providing us with your information, you consent to this transfer of data. Additionally, by using our Web Site, participating in any of our services and/or providing us with your information you also consent to the collection, transfer, manipulation, storage, disclosure and other uses of your information as described in this Privacy Statement and the FINRA Privacy Policy. If you do not consent to this Privacy Statement or our FINRA Privacy Policy, please do not use this Web Site.

Terms of Use

1. Agreement and Terms of Use

These FINRA Entitlement Program Terms of Use ("**Terms of Use**") are an agreement between Financial Industry Regulatory Authority, Inc. ("**FINRA**") and each person or entity that establishes a FINRA Entitlement Program account or accesses the applications, materials or services available on or through the FINRA Entitlement Program Web Site (together with such applications, materials and services, the "**Web Site**") (referred to herein as a "**Subscriber**," "**You**" or "**Your**"). The Web Site offers various on-line applications, materials and services provided by FINRA, affiliates of FINRA and various third parties.[1] A Subscriber may obtain a username and password

[1] The FINRA Entitlement Program also supports certain administrative functions of the entitlement system for the Consolidated Audit Trail ("CAT"), which is operated by FINRA CAT, LLC, a subsidiary of FINRA, on behalf of Consolidated Audit Trail, LLC ("CATLLC") as the plan processor for CAT under the CAT NMS Plan. Any use of FINRA Entitlement Program accounts and/or the Web Site for administering CAT entitlements is governed only by, as applicable, (1) the CAT Reporter Agreement or CAT Reporting Agent Agreement entered into between your organization and CATLLC, (2) the CAT System Terms of Use (available at catnmsplan.com/registration), and such

via the Logon Service on the Web Site. Prior to accessing the Web Site, You must establish an account and identify account administrators or contact person as set forth in the applicable entitlement forms.

2. General

A. These Terms of Use govern Subscriber's and Subscriber's Account's use of the Web Site and, unless specifically set forth otherwise, all other applications, materials or services accessible via the Web Site. Supplemental terms and conditions pertaining to the various applications and services accessible via the FINRA Entitlement Program are set forth in Section 15 hereof ("**Supplemental Terms**"). Such Supplemental Terms (unless they specifically state otherwise) are in addition to and not in lieu of the terms and conditions contained in these Terms of Use and by accessing any other such applications or services, Subscriber hereby agrees to be bound by these Terms of Use, including such Supplemental Terms. Your use of the Web Site is conditioned upon Your acceptance, without modification, of all provisions of these Terms of Use. Any information accessed, requested or provided through, and the services, materials and applications accessible via the Web Site must be accessed, requested and used in accordance with the provisions of these Terms of Use. FINRA reserves any rights not expressly granted under these Terms of Use. YOU AGREE THAT THESE TERMS OF USE ARE ENFORCEABLE LIKE ANY WRITTEN AND FULLY NEGOTIATED AGREEMENT SIGNED BY YOU. IF YOU DO NOT AGREE, DO NOT CLICK "ACCEPT" AND DO NOT USE THE WEB SITE OR ANY OF THE APPLICATIONS, MATERIALS OR SERVICES ACCESSIBLE VIA THE WEB SITE.

The right to use the Web Site is personal to Subscriber and is not transferable to any other person or entity. Subscriber is responsible for all use of Subscriber's Account (under any screen name or password) and for ensuring that all use of Subscriber's Account complies fully with these Terms of Use. Subscriber shall be responsible for protecting the confidentiality of Subscriber's password(s). You agree to notify FINRA immediately if you become aware of the loss, theft, or unauthorized use of your password or unauthorized access to the Web Site or any of the materials, applications or services available thereunder. Unless otherwise provided in the Supplemental Terms, the information provided through the Web Site and the services, materials and applications accessible via the Web Site shall be used ONLY in conformance with the following specifically identified uses and ONLY in accordance with all other terms of these Terms of Use:

1. Evaluating regulatory compliance.
2. Performing regulatory compliance activities - e.g., filing forms, providing pre-exam information, reviewing filed information.
3. Communicating with FINRA.
4. Performing regulatory or self-regulatory activities.

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other agreements or terms required by CATLLC for access to and use of CAT, and such use is not governed by these Terms of Use. Please see catnmsplan.com for more information on CAT.

B. Due to the nature of the World Wide Web, the Web Site can be accessed from countries around the world and may contain references to products, services, and programs that are not available in Your country. These references do not imply that FINRA intends to announce or offer such products, services, or programs in Your country.

The Web Site is controlled, operated, and administered by FINRA from its offices within the United States of America. FINRA makes no representation that the Web Site or the services, applications, and materials accessible via the Web Site are appropriate or available for use at other locations outside the United States. Access to or use of the Web Site from territories where the FINRA Entitlement Program, the Web Site, or any of the services, applications or materials accessible through the Web Site are illegal is prohibited. If You access or use the Web Site from a location outside the United States, You are responsible for compliance with all local laws.

C. FINRA shall have the right at any time without notice or obligation to Subscriber to change or discontinue any aspect or feature of the Web Site, including, but not limited to, functionality, content, hours of availability, and equipment needed for access or use.

D. In the event a Subscriber acting in his or her official capacity for a governmental agency ("**Agency**") is unable to accept these Terms of Use on behalf of the Agency due to a conflict with state or federal law, FINRA will work with that Agency and use commercially reasonable efforts to resolve the conflict.

3. Change of Terms

FINRA reserves the right to change these Terms of Use, the Supplemental Terms and any guidelines or rules posted on the Web Site or any part of any of the applications, materials or services accessible through the Web Site from time to time at its sole discretion, and will provide notice of material changes to these Terms of Use at the login or home page of the Web Site. Your use of the Web Site or any of the applications, materials or services accessible through the Web Site after such notice has been posted constitutes Your acknowledgement and acceptance of the changes to these Terms of Use. Your use of the Web Site will be subject to the most current version of these Terms of Use posted on the home or login page of the Web Site at the time of such use. You should periodically check the "FINRA Entitlement Program Terms of Use" link on the home or login page to view the then-current Terms of Use. If You breach any of the Terms of Use, Your authorization to access or use the Web Site automatically terminates and any materials downloaded or printed from the Web Site in violation of the Terms of Use must be immediately destroyed. Upon request by FINRA You shall provide FINRA with a certification of an officer acknowledging that You have complied with this requirement.

These Terms of Use may not be altered or amended orally. Only FINRA has the right to alter or amend these Terms of Use and such alteration or amendment shall only be in writing.

4. Equipment

Subscriber shall be responsible for obtaining and maintaining all telephone, computer hardware and other equipment needed for access to and use of the Web Site, and all charges and costs related thereto. FINRA very strongly recommends that You use Web browser programs that support the Secure Sockets Layer communications standard or other programs that provide security to information sent and received.

5. Subscriber Conduct

A. Subscriber shall not use the Web Site for any unlawful purpose. Subscriber shall not post or transmit through the Web Site any material which violates or infringes in any way upon the rights of others, which is unlawful, threatening, abusive, defamatory, invasive of privacy or publicity rights, vulgar, obscene, profane or otherwise objectionable, which encourages conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any law, or which, without FINRA's express prior written approval, contains advertising or any solicitation with respect to products or services. Any conduct by a Subscriber that in FINRA's sole determination restricts or inhibits any other Subscriber from using or enjoying the Web Site will not be permitted. Unless otherwise specifically set forth herein, Subscriber shall not use the Web Site or any of the applications accessible through the Web Site, or the content contained therein or obtained there from, to advertise or perform any commercial solicitation. In no event may You offer to others any content of any kind retrieved from the Web Site for commercial purposes, or as part of a subscription service or similar arrangement. You agree that You will not use content of any kind retrieved from the Web Site to develop or create a database to be sold, leased, furnished, licensed or made otherwise available (either commercially or free of charge). You agree that You will not use, or allow others to use, any data mining, robots, or similar data gathering and extraction methods to monitor or copy the Web Site in bulk, or to make voluminous, excessive or repetitive requests for information. You further agree that You will not use any device, software or routine to bypass any software or hardware that prohibits volume requests for information, You will not interfere with or attempt to interfere with the proper working of the Web Site, and You will not take any action that imposes an unreasonable or disproportionately large load on the Web Site.

B. The Web Site contains copyrighted material, trademarks and other proprietary information, including, but not limited to, text, software, compilations, photos, video, graphics, and music and sound. FINRA owns a copyright in the selection, coordination, arrangement and enhancement of such information and data, as well as in some or all of the original content. The Web Site contains links to and access proprietary databases of FINRA and other third parties as well as employing proprietary software of FINRA and other third parties. The applications, materials or services accessible through the Web Site are created by or on behalf of FINRA. You are neither restricted nor prohibited by FINRA from obtaining a copy of any original filing or information from a non-FINRA source. You may not modify, publish, transmit, participate in the transfer or sale, create derivative works, or in any way exploit, any of the applications, materials or services hosted on or obtained from or through the Web Site, in whole or in part. You may

download content from the Web Site for use only in accordance with these Terms of Use. Except as otherwise expressly permitted by law, no copying, redistribution, retransmission, publication or commercial exploitation of downloaded material will be permitted without the express written permission of FINRA and, if applicable, the owner of any exclusive proprietary rights in such material. In the event of any permitted copying, redistribution or publication of content obtained from the Web Site, no changes in or deletion of author attribution, trademark legend or copyright notice shall be made. Subscriber acknowledges that it does not acquire any ownership rights by downloading material from the Web Site.

C. Subscriber shall not upload, post or otherwise make available on the Web Site, any material protected by copyright, trademark or other proprietary right without the express written permission of the owner of the copyright, trademark or other proprietary right and the burden of determining that any material is not protected by law rests with Subscriber. Subscriber shall be solely liable for any damage resulting from any infringement of copyrights, proprietary rights, or any other harm resulting from such a submission. By submitting material to the Web Site, Subscriber automatically grants or warrants that the owner of such material has expressly granted FINRA a royalty-free, perpetual, irrevocable, non-exclusive, unlimited right and license to use, reproduce, modify, adapt, publish, translate and distribute such material (in whole or in part) worldwide and/or to incorporate it in other works in any form, media or technology now known or hereafter developed for the full term of any copyright or other right that may exist in such material. Subscriber also permits any other Subscriber to access, view, store or reproduce the material accessible to such Subscriber via the Web Site for that Subscriber's use only as specified in these Terms of Use. Subscriber hereby grants FINRA the rights to edit, copy, publish and distribute any material made available on or through the Web Site by Subscriber.

D. As long as You comply with these Terms of Use, FINRA grants to You a non-exclusive, revocable-at-will license to access and use the Web Site for the purposes described herein.

E. The foregoing provisions of Section 5 are for the benefit of FINRA, its subsidiaries, affiliates and its third party content providers and licensors and each shall have the right to assert and enforce such provisions directly or on its own behalf.

6. Disclaimer of Warranty; Limitation of Liability

A. SUBSCRIBER EXPRESSLY AGREES THAT ACCESS TO AND USE OF THE WEB SITE AND THE APPLICATIONS, MATERIALS AND SERVICES ACCESSIBLE THROUGH THE WEB SITE ARE AT SUBSCRIBER'S SOLE RISK. NEITHER FINRA, ITS AFFILIATES NOR ANY OF THEIR RESPECTIVE EMPLOYEES, AGENTS, THIRD PARTY CONTENT PROVIDERS OR LICENSORS WARRANT THAT THE WEB SITE OR THE APPLICATIONS, MATERIALS OR SERVICES ACCESSIBLE THROUGH THE WEB SITE WILL BE UNINTERRUPTED OR ERROR FREE; NOR DO THEY MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE WEB SITE OR THE APPLICATIONS, MATERIALS OR SERVICES ACCESSIBLE THROUGH THE WEB SITE, OR AS TO THE ACCURACY, RELIABILITY OR CONTENT OF ANY INFORMATION, SERVICE, OR MERCHANDISE PROVIDED

THROUGH THE WEB SITE OR THE APPLICATIONS, MATERIALS OR SERVICES ACCESSIBLE THROUGH THE WEB SITE.

B. THE WEB SITE AND THE APPLICATIONS, MATERIALS AND SERVICES ACCESSIBLE THROUGH THE WEB SITE ARE PROVIDED ON AN "AS IS" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OTHER THAN THOSE WARRANTIES WHICH ARE IMPLIED BY AND INCAPABLE OF EXCLUSION, RESTRICTION OR MODIFICATION UNDER THE LAWS APPLICABLE TO THESE TERMS OF USE.

C. THIS DISCLAIMER OF LIABILITY APPLIES TO ANY DAMAGES OR INJURY CAUSED BY ANY FAILURE OF PERFORMANCE, ERROR, OMISSION, INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMPUTER VIRUS, COMMUNICATION LINE FAILURE, THEFT OR DESTRUCTION OR UNAUTHORIZED ACCESS TO, ALTERATION OF, OR USE OF RECORD, WHETHER FOR BREACH OF CONTRACT, TORTIOUS BEHAVIOR, NEGLIGENCE, OR UNDER ANY OTHER CAUSE OF ACTION. SUBSCRIBER SPECIFICALLY ACKNOWLEDGES THAT FINRA AND ITS AFFILIATES ARE NOT LIABLE FOR THE DEFAMATORY, OFFENSIVE OR ILLEGAL CONDUCT OF OTHER SUBSCRIBERS OR THIRD PARTIES AND THAT THE RISK OF INJURY FROM THE FOREGOING RESTS ENTIRELY WITH SUBSCRIBER.

D. IN NO EVENT WILL FINRA, ITS AFFILIATES OR LICENSORS, OR ANY PERSON OR ENTITY INVOLVED IN CREATING, PRODUCING OR DISTRIBUTING THE WEB SITE, THE APPLICATIONS, MATERIALS OR SERVICES ACCESSIBLE THROUGH THE WEB SITE OR SOFTWARE UNDERLYING THE FOREGOING, FOR OR ON BEHALF OF FINRA, BE LIABLE FOR ANY DAMAGES, INCLUDING, WITHOUT LIMITATION, DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING OUT OF THE USE OF OR INABILITY TO USE THE WEB SITE OR THE APPLICATIONS, MATERIALS OR SERVICES ACCESSIBLE THROUGH THE WEB SITE. SUBSCRIBER HEREBY ACKNOWLEDGES THAT THE PROVISIONS OF THIS SECTION SHALL APPLY TO ALL CONTENT AVAILABLE ON OR THROUGH THE WEB SITE OR THE APPLICATIONS, MATERIALS OR SERVICES ACCESSIBLE THROUGH THE WEB SITE.

E. IN ADDITION TO THE TERMS SET FORTH ABOVE, NEITHER FINRA, NOR ITS AFFILIATES, LICENSORS, INFORMATION PROVIDERS OR CONTENT PARTNERS SHALL BE LIABLE REGARDLESS OF THE CAUSE OR DURATION, FOR ANY ERRORS, INACCURACIES, OMISSIONS, OR OTHER DEFECTS IN, OR UNTIMELINESS OR UNAUTHENTICITY OF, THE INFORMATION CONTAINED WITHIN THE WEB SITE OR THE APPLICATIONS, MATERIALS OR SERVICES ACCESSIBLE THROUGH THE WEB SITE, OR FOR ANY DELAY OR INTERRUPTION IN THE TRANSMISSION THEREOF TO THE SUBSCRIBER, OR FOR ANY CLAIMS OR LOSSES ARISING THEREFROM OR OCCASIONED THEREBY OR FOR ANY DISCIPLINARY OR REGULATORY ACTION TAKEN THEREUPON. NEITHER, FINRA, NOR ITS AFFILIATES, LICENSORS, INFORMATION PROVIDERS OR CONTENT PARTNERS SHALL BE LIABLE FOR ANY THIRD-PARTY CLAIMS OR LOSSES OF ANY NATURE, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, PUNITIVE OR CONSEQUENTIAL DAMAGES. PRIOR TO THE EXECUTION OF A SECURITIES TRADE OR DISCIPLINARY OR REGULATORY ACTION, SUBSCRIBERS ARE ADVISED TO CONSULT WITH YOUR LEGAL ADVISOR OR OTHER FINANCIAL ADVISOR TO VERIFY DISCIPLINARY,

REGULATORY, PRICING OR OTHER INFORMATION. FINRA, ITS AFFILIATES, INFORMATION PROVIDERS OR CONTENT PARTNERS SHALL HAVE NO LIABILITY FOR DISCIPLINARY, REGULATORY OR INVESTMENT DECISIONS BASED ON THE INFORMATION PROVIDED. NEITHER, FINRA, NOR ITS AFFILIATES, LICENSORS, INFORMATION PROVIDERS OR CONTENT PARTNERS WARRANT OR GUARANTEE THE TIMELINESS, SEQUENCE, ACCURACY OR COMPLETENESS OF THIS INFORMATION. ADDITIONALLY, THERE ARE NO WARRANTIES AS TO THE RESULTS OBTAINED FROM THE USE OF THE INFORMATION.

7. Monitoring

FINRA shall have the right, but not the obligation, to monitor the Web Site and the applications, materials or services accessible through the Web Site, including chat rooms and forums, to determine compliance with these Terms of Use and any other rules established by FINRA or any FINRA Rules and to satisfy any law, regulation or authorized government request. "**FINRA Rules**" means all applicable laws (including intellectual property, communications, and securities laws), statutes and regulations, the rules and regulations of the U.S. Securities and Exchange Commission ("**SEC**"), the rules and regulations of FINRA, including those requirements established by FINRA's rule filings (with such SEC approval as may be required), FINRA's decisions and interpretations, or other guidelines (including but not limited to, Market Data Policy and policies on the use and display of data), or successors of the components of the FINRA Rules, as they may exist at the time. FINRA shall have the right in its sole discretion to edit, refuse to post or remove any material submitted to or posted on the Web Site or the applications, materials or services accessible through the Web Site. Without limiting the foregoing, FINRA shall have the right to remove any material that FINRA, in its sole discretion, finds to be in violation of the provisions hereof or the FINRA Rules.

8. Privacy Policy

FINRA may collect and use personal information and other data about You and Your use of the Web Site in accordance with the Privacy Statement and the FINRA Website Privacy Policy (found at http://www.finra.org/finra-website-privacy-policy).

FINRA may use IP addresses to analyze trends, administer and protect the Web Site, track users' movement, and gather demographic information for aggregate use.

Information collected by FINRA may also be used for product development, dissemination of improvements and enhancements to the Web Site and other FINRA offerings to Subscriber and communications with Subscriber.

In addition, if Your organization is a member of both FINRA and the Securities Investor Protection Corporation ("**SIPC**") and Your organization has designated You in the chief compliance officer role or the regulatory inquiry role in the Firm Contact System, FINRA may provide Your full name, organizational title and organizational email address (as provided to FINRA) to SIPC to facilitate communications between SIPC and Your organization (as a member of SIPC).

9. Indemnification

Subscriber agrees to defend, indemnify and hold harmless FINRA, its affiliates, licensors, information providers or content partners and their respective directors, officers, employees and agents from and against all claims and expenses, including attorneys' fees, arising out of the use of the Web Site or the applications, materials or services accessible through the Web Site by Subscriber or Subscriber's Account(s).

10. Termination

Either FINRA or Subscriber may terminate these Terms of Use at any time. Without limiting the foregoing, FINRA shall have the right to immediately terminate Subscriber's Account in the event of any conduct by Subscriber which FINRA, in its sole discretion, considers to be unacceptable, or in the event of any breach by Subscriber of these Terms of Use. The provisions of Sections 2, 5, 6, 8, 9 and this Section 10 shall survive termination of these Terms of Use.

11. Trademarks and Copyrights

Information regarding the use of FINRA's trademarks and copyrighted information can be found at: http://www.finra.org/legal-notices/

12. Third Party Content

Use of some third party materials included on the Web Site or the applications, content or services accessible through the Web Site may be subject to other terms and conditions typically found in a separate license agreement or "Read Me" file located near such materials. FINRA is a distributor (and not a publisher) of content supplied by third parties and Subscribers. Any opinions, advice, statements, services, offers, or other information or content expressed or made available by third parties, including information providers, Subscribers or any other user of the Web Site or the applications, materials or services accessible through the Web Site, are those of the respective author(s) or distributor(s) and not of FINRA. Neither FINRA nor any third-party provider of information guarantees the accuracy, completeness, or usefulness of any content, nor its merchantability or fitness for any particular purpose.

In many instances, the information available through the Web Site or the applications, content or services accessible through the Web Site represents the opinions and judgments of the respective information provider, Subscriber, or other user not under contract with FINRA. FINRA neither endorses nor is responsible for the accuracy or reliability of any opinion, advice or statement made on the Web Site or the applications, content or services accessible through the Web Site by anyone other than authorized FINRA employee spokespersons while acting in their official capacities. Under no circumstances will FINRA be liable for any loss or damage caused by a Subscriber's reliance on information obtained through the Web Site or the applications, materials or services accessible through the Web Site. It is the responsibility of Subscriber to evaluate the accuracy, completeness or usefulness of any information, opinion, advice or other content available through the Web Site or the applications, content or services accessible

through the Web Site. Please seek the advice of professionals, as appropriate, regarding the evaluation of any specific information, opinion, advice or other content.

13. Miscellaneous

A. The export and re-export of FINRA software products available on or accessible through the Web Site are controlled by the United States Export Administration Regulations, and such software may not be exported or re-exported to Cuba, Iran, Iraq, Libya, North Korea, Sudan, Syria, or any country to which the United States embargoes goods. In addition, FINRA software may not be distributed to persons on the Table of Denial Orders, the Entity List, or the List of Specially Designated Nationals.

By downloading, accessing or using a FINRA software product, You are certifying that You are not a national of Cuba, Iran, Iraq, Libya, North Korea, Sudan, Syria, or any country to which the United States embargoes goods, and that You are not a person on the Table of Denial Orders, the Entity List, or the List of Specially Designated Nationals.

All FINRA products and publications are commercial in nature. The software and documentation available on the Web Site are "Commercial Items," as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation," as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §§227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are licensed to U.S. Government end users (A) only as Commercial Items and (B) with only those rights as are granted to all other end users pursuant to the terms and conditions herein.

B. These Terms of Use, any entitlement forms and any operating rules for the Web Site or the applications, materials or services accessible through the Web Site established by FINRA constitute the entire agreement of the parties with respect to the subject matter hereof, and supersede all previous written or oral agreements between the parties with respect to such subject matter. These Terms of Use shall be construed in accordance with the laws of the State of New York, without regard to its conflict of laws rules. The parties hereto agree that the jurisdiction for any claim brought under these Terms of Use shall be the City of New York, State of New York. **The parties hereto expressly waive any right to a jury trial.** No waiver by either party of any breach or default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default. If any of the provisions of these Terms of Use, or the application thereof to any individual, entity or circumstance, shall to any extent be invalid or unenforceable, the remainder of these Terms of Use, or the application of such terms or provisions to persons or circumstances other than those as to which they are invalid or unenforceable, shall not be affected thereby, and each term and provision of these Terms of Use shall be valid and enforceable to the fullest extent permitted by law.

C. In the event of a conflict between these Terms of Use and the terms and conditions for the FINRA web site (see http://www.finra.org/legal-terms), these Terms of Use

would prevail with regard to an issue arising from the use of a specific system accessed through the Web Site; otherwise, the terms and conditions of the FINRA web site prevail.

D. The section headings used herein are for convenience only and shall not be given any legal import.

E. Payment Processing.

(i) FINRA will not store or maintain any information provided by Subscriber solely for the purposes of payment facilitated through the Web Site. All payment transactions are processed by a third party provider and are subject to the terms and conditions set by the third party provider, in addition to the terms and conditions set forth in these Terms of Use.

(ii) Disclaimer and Limitation of Liability. All payment services available through the Web Site are subject to the Disclaimer of Warranty and Limitation of Liability set forth in Section 6 of these Terms of Use. ADDITIONALLY, FINRA SPECIFICALLY DISCLAIMS ANY LIABILITY FOR ANY DAMAGES OR INJURY OF ANY KIND RELATED TO PAYMENT TRANSACTIONS FACILITATED THROUGH THIS WEB SITE AND CAUSED BY ANY FAILURE OF PERFORMANCE, ERROR, OMISSION, INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMPUTER VIRUS, COMMUNICATION LINE FAILURE, THEFT OR DESTRUCTION OR UNAUTHORIZED ACCESS TO, ALTERATION OF, OR USE OF SUBSCRIBER'S PERSONAL FINANCIAL INFORMATION, WHETHER UNDER A THEORY OF BREACH OF CONTRACT, TORTIOUS BEHAVIOR, NEGLIGENCE OR ANY OTHER CAUSE OF ACTION.

14. DMCA Policy

Information regarding FINRA's DMCA Policy can be found at:

http://www.finra.org/dmca-policy

15. Supplemental Terms for Specific Applications

The following terms apply to the specific applications identified and shall be in addition to the preceding terms and not in lieu of those terms (unless expressly stated otherwise).

A. Report Center

Use of Data. The Report Center is licensed only for the Subscriber's internal business purposes. Subscriber will promptly give written notice to FINRA of any change in the name of a business at which service is accessed. Subscriber may not sell, lease, furnish or otherwise permit or provide access to the Report Center to any third parties. Subscribers may not use industry information or firm to industry comparisons when communicating to customers, prospective customers, or the general public in any manner whatsoever, including but not limited to, written advertisements, correspondence, or other literature; or during a voice telephonic conversation. Subscriber will not engage in the operation of any illegal business; use or permit anyone else to use the Report Center,

or any part thereof, for any illegal purpose; or violate any FINRA Rules. In the event You are granted permission to use any content, information or data from the Web Site You must include the following attributions, "Underlying regulatory information and data provided with permission by FINRA's FINRA Entitlement Program Web Site." Subscriber may not present the information and data from the Report Center in an unfair, misleading or discriminatory manner.

B. Central Registration Depository

(i) The following language applies in lieu of Section 5.C.:

C. Subscriber shall not upload, post or otherwise make available on the Web Site or the applications, content or services accessible through the FINRA Entitlement Program, any material protected by copyright, trademark or other proprietary right without the express written permission of the owner of the copyright, trademark or other proprietary right and the burden of determining that any material is not protected by law rests with Subscriber. Subscriber shall be solely liable for any damage resulting from any infringement of copyrights, proprietary rights, or any other harm resulting from such a submission. By submitting material to the FINRA Entitlement Program or the applications, materials or services accessible through the FINRA Entitlement Program, Subscriber automatically grants or warrants that the owner of such material has expressly granted FINRA a royalty-free, perpetual, irrevocable, non-exclusive, unlimited right and license to use, reproduce, adapt, publish, translate and distribute such materials (in whole or in part) worldwide and/or to incorporate it in other works in any form, media or technology now known or hereafter developed for the full term of any copyright or other right that may exist in such material.

(ii) A new Section 8.G. is added as follows:

G. FINRA, the SEC and, as applicable, State and other regulators, collect broker-dealer information for regulatory purposes. The collection of such data by the SEC is subject to the Privacy Act, 5 U.S.C. §522a (1994 & Supp. IV 1998), and the Freedom of Information Act, 5 U.S.C. §522 (1994 & Supp. IV 1998). The collection of such data by State regulators may be subject to State privacy laws. These regulators (including FINRA) may release some or all of the collected data to the public in accordance with applicable federal and state laws and regulations. In addition, the SEC and, as applicable, State and other regulators, may compile and make available on a fee basis, some or all of the collected data. The collection and dissemination of such data by FINRA in its regulatory capacity is subject to the terms and conditions as stated in these Terms of Use.

(iii) The following sentences are added to the last paragraph of Section 13.A.:

With respect to the North American Securities Administrators Association ("**NASAA**") and State securities administrator Subscribers (collectively, "**State Subscribers"**) to the Web CRD System through the FINRA Entitlement Program, State Subscribers' use and access to the CRD System is also governed by the NASAA/FINRA contract ("**NASAA Contract**"), as amended, and the written policy statements and resolutions of the NASAA/FINRA Steering Committee (collectively, "**CRD Policy Statement(s)**"). To the extent the terms and conditions of the NASAA Contract or a CRD Policy Statement, applicable to a State Subscriber, conflict with the terms and conditions of these Terms of Use and Terms of Use, the terms and conditions of the NASAA Contract or CRD Policy Statement, as applicable, shall prevail.

(iv) A new Section 13.F. is added as follows:

D. Federal Filings.

(i) Form BD (Form BD):

FEDERAL INFORMATION LAW AND REQUIREMENTS - An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. Section 15, 15c, 17(a) and 23(a) of the Securities Exchange Act of 1934 (Exchange Act) authorize the SEC to collect the information on this Form BD from registrants. See 15 U.S.C. 78o, 78o-5, 78-q and 78w. Filing of Form BD is mandatory; however the social security number information, which aids in identifying the applicant, is voluntary. The principal purpose of Form BD is to permit the SEC to determine whether the applicant meets the statutory requirement to engage in the securities business. Form BD also is used by applicants to register as broker-dealers with certain self-regulatory organizations and all of the States. The SEC and FINRA maintain the files of the information on Form BD and will make the information publicly available. Any member of the public may direct to the SEC any comments concerning the accuracy of the burden estimate on Form BD, and any suggestions for reducing this burden. The Office of Management and Budget have reviewed this collection of information in accordance with the clearance requirements of 44 U.S.C. 3507. The information contained in this form is part of a system of records subject to the Privacy Act of 1974, as amended. The SEC has published in the Federal Register the Privacy Act Systems of Records Notice for these records.

(ii) Form BDW (Form BDW):

FEDERAL INFORMATION LAW AND REQUIREMENTS - SEC's Collection of Information: An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. Sections 15, 15C, 17(a) and 23(a) of the Exchange Act authorize the SEC to collect the information on Form BDW from registrants. See 15 U.S.C. 78o, 78o-5, 78-q, and 78w. Filing of Form BDW is mandatory. The principal purpose of Form BDW is to permit the SEC to determine whether it is in the public interest to permit a broker-dealer to withdraw its registration. Form BDW is also used by broker-dealers to advise certain self-regulatory organizations and all of the states that they want to withdraw from registration. The SEC and FINRA maintain files of the information on Form BDW and will make the information publicly available. Any member of the public may direct to the Commission any comments concerning the accuracy of the burden estimate on Form BDW, and any suggestions for clearance requirements of 44 U.S.C. § 3507. The information contained in Form BDW is part of a system of records subject to the Privacy Act of 1974, as amended. The SEC has published in the Federal Register the Privacy Act Systems of Records Notice for these records.

C. Investment Adviser Registration Depository (IARD or IARD System)

(i) A new Section 2.E. is added as follows:

E. At all times, in order to use the IARD System, Subscriber must have one or more designated individuals ("**Account Administrator(s)**" or "**AAs**") who will be responsible for designating IARD System users (AAs and IARD System users are collectively referred to as "**Users**") on Subscriber's or Subscriber's firm's behalf and for setting entitlement rights for those other Users. Participating Investment Advisory firms ("**IA Firms**") are responsible for all of its Users' activity within the IARD System including, but not limited to, filings or data entered or for any transactions initiated on the IARD System. Each IA Firm shall make reasonable efforts to ensure that (1) its Users and other persons will not gain unauthorized access to the IARD System; and (2) its Users will not cause any damage to the IARD System by intentionally altering, corrupting or deleting data or by delaying or interrupting the operation of the IARD System.

(ii) A new Section 2.F. is added as follows:

F. Each IA Firm is responsible for payment of any fees assessed in connection with filings through the IARD System, including IARD filing fees and any state registration or notice filing fees.

(iii) The following language applies in lieu of Section 5.C.:

C. Subscriber shall not upload, post or otherwise make available on the Web Site or the applications, content or services accessible through the Web Site, any material protected by copyright, trademark or other proprietary right without the express written permission of the owner of the copyright, trademark or other proprietary right and the burden of determining that any material is not protected by law rests with Subscriber. Subscriber shall be solely liable for any damage resulting from any infringement of copyrights, proprietary rights, or any other harm resulting from such a submission. By submitting material to the FINRA Entitlement Program or the applications, materials or services accessible through the FINRA Entitlement Program, Subscriber automatically grants or warrants that the owner of such material has expressly granted FINRA a royalty-free, perpetual, irrevocable, non-exclusive, unlimited right and license to use, reproduce, adapt, publish, translate and distribute such materials (in whole or in part) world-wide and/or to incorporate it in other works in any form, media or technology now known or hereafter developed for the full term of any copyright or other right that may exist in such material, as required by the SEC or by a State regulator(s).

(iv) The following language is added to the end of Section 6.D.:

FINRA'S SOLE LIABILITY FOR DAMAGES CLAIMED BY SUBSCRIBER ARISING FROM THE USE OF THE IARD SYSTEM IS LIMITED TO THE REFUND OF PROCESSING FEES PAID BY SUBSCRIBER.

(v) A new Section 8.G. is added as follows:

G. The SEC and, as applicable, State and other regulators, collect investment adviser information for regulatory purposes. The collection of such data by the SEC is subject to the Privacy Act, 5 U.S.C. §522a (1994 & Supp. IV 1998), and the Freedom of Information Act, 5 U.S.C. §522 (1994 & Supp. IV 1998). The collection of such data by State regulators may be subject to State privacy laws. These regulators may release some or all of the collected data to the public in accordance with applicable federal and state laws and regulations. In addition, the SEC and, as applicable, State and other regulators and FINRA, in accordance with the SEC IARD Contract (defined below) may compile and make available, some or all of the collected data to the public or on a fee basis. FINRA does not independently release investment adviser registration information to the public or on a fee basis. FINRA will only release such information when directed by the SEC or, as applicable, State and other regulators.

(vi) The following sentences are added to the last paragraph of Section 13.A.:

With regards to SEC Subscribers to the IARD System through the FINRA Entitlement Program, SEC use and access to the IARD System is also governed by

federal contract SECHQ1-09-C-0114 ("**SEC IARD Contract**"). To the extent the terms and conditions of the SEC IARD Contract conflict with the terms and conditions of these Terms of Use, the terms and conditions of the SEC IARD Contract shall prevail.

With respect to the North American Securities Administrators Association ("**NASAA**") and State securities administrator Subscribers (collectively, "**State Subscribers**") to the IARD System through the FINRA Entitlement Program, State Subscribers' use and access to the IARD System is also governed by any written agreement or written policy statement relating to the IARD program agreed to by NASAA and FINRA ("**IARD Policy Statement(s)**"). To the extent the terms and conditions of any such agreement or IARD Policy Statement, applicable to a State Subscriber, conflicts with the terms and conditions of these Terms of Use, the terms and conditions of such agreement or IARD Policy Statement shall prevail.

(ix) A new Section 13.F. is added as follows:

D. Federal Filings

(i) Form ADV (Form ADV):

Federal Information, Law and Requirements:

Investment Advisers Act of 1940 (Advisers Act) Sections 203(c), 204, 206 and 211 (a) authorize the SEC to collect the information required by Form ADV. The SEC uses the information for regulatory purposes, including deciding whether to grant registration. The SEC keeps files of the information submitted on Form ADV and makes the information publicly available. The SEC may reject Form ADVs that do not include required information. By accepting a Form ADV, however, the SEC does not make a finding that it has been completed or submitted correctly. Intentional misstatements or omissions constitute federal criminal violations under 18 U.S.C. § 1001 and 15 U.S.C. § 80b-17.

(ii) Form ADV: SEC's Collection of Information:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. The Advisers Act authorizes the SEC to collect the information on Form ADV from applicants. See 15 U.S.C. §§ 80b-3(c)(1) and 80-b-4. Filing form ADV is mandatory. The main purpose of Form ADV is to enable the SEC to register Investment Advisers. Every applicant for registration with the SEC as an Investment Adviser must file the form. See 17 C.F.R. § 275.203-1. Every Investment Adviser files the form annually, no later than 90 days after the end of its fiscal year, to amend its registration.

It also is filed promptly during the year to reflect material changes. See 17 C.F.R. § 275.204-1. The SEC maintains the information on Form ADV and makes it publicly available through IARD. Anyone may send the SEC comments on the accuracy of the burden estimate on page 1 of Form ADV, as well as suggestions for reducing the burden. The Office of Management and Budget has reviewed this collection of information under 44 U.S.C. § 3507. The information contained in Form ADV is part of a system of records subject to the Privacy Act of 1974, as amended. The SEC has published in the Federal Register the Privacy Act System of Records Notice for these records.

D. Issuer Actions

Issuer Company-Related Action Form

FINRA Rule 6490 (Processing of Company-Related Actions) codifies the requirements in SEA Rule 10b-17 for issuers of a certain class of publicly trading securities to provide timely notice to FINRA of certain corporate actions (*e.g.,* dividend or other distribution of cash or securities, stock split or reverse split, rights or subscription offering). Additionally, issuers must notify FINRA of other corporate actions (*e.g.,* the issuance of or change of trading symbols, mergers, and bankruptcy) no later than 10 days prior to the effective date of the company action. Issuers, or their representatives, must complete the Issuer Company-Related Action Form and pay the applicable non-refundable fees within the designated time periods or be subject to late fees and risk delayed processing of documents announcing corporate actions.

Rule 6490 permits FINRA to request other documents that may be necessary to verify information provided by issuers on the forms. FINRA may, in its discretion, conduct detailed reviews of submissions, on a case-by-case basis. Moreover, the Rule 6490 authorizes FINRA to decline to process a request to announce a corporate action if FINRA determines that the request is deficient and not processing the request is necessary to protect investors and the public interest and to maintain fair and orderly markets.

FINRA Operations will send all notifications regarding your Issuer Company-Related Action Form to the email address as it appears in the Contact section of the form. FINRA will not process any requests to process a symbol change unless accompanied by the required payment.

E. Other Federal Government Use

Unless otherwise provided in this Section 15, the non-public information on the Web Site and all applications, materials or services accessible via the Web Site, is confidential and entitled to confidential treatment in accordance with the enumerated exemptions established under the Freedom of Information Act ("**FOIA**"), including, but not limited to, Exemptions 4, 7 and 8. FINRA expressly requests FOIA confidential treatment of any non-public information accessed or downloaded by federal government Subscribers.

In the event that a federal government Subscriber receives any FOIA request for access to the non-public information on the Web Site and all applications, materials or services accessible via the Web Site, the federal government Subscriber shall assert all appropriate legal exemptions and privileges and ensure that access to the non-public information on the Web Site and all applications, materials or services accessible via the Web Site by any third party will be denied. The federal government Subscriber shall also promptly notify FINRA of any of such request — or any intended public use of these documents — in such a manner as to ensure that FINRA will have reasonable opportunity to object to such disclosure, provide written substantiation of the request for confidential treatment and pursue any remedies that may be available.

In the event a federal government Subscriber is authorized, pursuant to Rule 24c-1 under the Exchange Act, to make materials produced to it available to another governmental or regulatory authorities for uses set forth in Form 1661, a memoranda of understanding ("**MOU**") or other such agreement or understanding entered into between the SEC and the requesting authority providing for confidential treatment of the information, the federal government Subscriber shall ensure that such information will continue to receive confidential treatment under FOIA, the applicable state information disclosure law, and/or the confidentiality provisions agreed to under the MOU, as well as protection under the Privacy Act of 1974, if applicable.

F. SEC Bluesheet System

The SEC collects certain securities trading information ("**SEC Bluesheet Data**") from clearing firms pursuant to Section 17(a) of the Exchange Act and Rule 17a-25 thereunder. Pursuant to federal contract SECHQ1-15-C-0126 (the "**SEC Bluesheet Contract**"), FINRA operates a system ("**SEC Bluesheet System**") for processing the SEC's requests for SEC Bluesheet Data ("**SEC Bluesheet Requests**") and the submission of SEC Bluesheet Data in response to such SEC Bluesheet Requests. The following modifications to these Terms of Use apply to the SEC Bluesheet System, SEC Bluesheet Requests and SEC Bluesheet Data:

(i) The following sentence is added to the end of Section 5.C.:

Notwithstanding anything to the contrary herein, (a) FINRA asserts no ownership rights to SEC Bluesheet Data submitted by Subscriber via the Web Site in response to an SEC Bluesheet Request, and (b) by submitting SEC Bluesheet Data, Subscriber automatically grants FINRA a worldwide license to use, host, store, reproduce, modify, create derivative works of, and distribute such SEC Bluesheet Data for the purpose of operating the SEC Bluesheet System and transmitting the SEC Bluesheet Data to the SEC.

(ii) A new Section 8.G. is added as follows:

G. The SEC collects SEC Bluesheet Data for regulatory purposes. The collection of SEC Bluesheet Data by the SEC is subject to applicable federal laws and regulations, including without limitation the Privacy Act, 5 U.S.C. § 522a (1994

& Supp. IV 1998) and the Freedom of Information Act, 5 U.S.C. § 522 (1994 & Supp. IV 1998). The SEC may release some or all of the collected data to the public in accordance with applicable federal laws and regulations. FINRA will only process SEC Bluesheet Requests and SEC Bluesheet Data in accordance with the SEC Bluesheet Contract. FINRA will only release SEC Bluesheet Data when directed by the SEC or as otherwise required by applicable law. FINRA does not independently release SEC Bluesheet Data to the public or on a fee basis.

(iii) The following sentences are added to the last paragraph of Section 13.A.:

Use of the SEC Bluesheet System by SEC-affiliated Subscribers is also governed by the SEC Bluesheet Contract. To the extent the terms and conditions of the SEC Bluesheet Contract conflict with the terms and conditions of these Terms of Use with respect to such use, the terms and conditions of the SEC Bluesheet Contract shall prevail.

G. FINRA Automated Data Delivery System (ADDS)

Subscribers who have executed a Non-Real-Time TRACE Data Agreement with FINRA are eligible, subject to payment of the applicable fees, to access the FINRA Automated Data Delivery System (ADDS) in order to access and download TRACE Security Activity Reports (TSARs) and the End-of-Day TRACE Transaction Files via web or SFTP access. Subscriber's access to and use of ADDS is subject to these Terms of Use. Subscriber's access to and use of TRACE Security Activity Reports and End-of-Day TRACE Transaction Files is governed by the terms of the Non-Real-Time TRACE Data Agreement. In the event of a conflict between the Non-Real-Time TRACE Data Agreement and these Terms of Use, the provisions of the Non-Real-Time TRACE Data Agreement shall prevail to the extent of the conflict.

EXHIBIT G

February 18, 2020

Via Email

Ms. Ellen Greene
Managing Director
Securities Industry and Financial Markets Association

Re: Consolidated Audit Trail Reporter Agreement

Dear Ms. Greene:

On behalf of the Participants[1] of the CAT NMS Plan (the "Participants"), I write in response to the Securities Industry and Financial Markets Association's ("SIFMA") February 14, 2020 email (the "Feb. 14 SIFMA Email") and February 12, 2020 letter (the "Feb. 12 SIFMA Letter"), and to follow up on our February 13 in-person meeting. As an initial matter, the Participants wish to thank SIFMA for meeting with us to discuss the CAT reporter agreement (the "Reporter Agreement").

The Participants note that we have made considerable progress to implement the CAT NMS Plan, including with respect to testing of data. During the first two weeks of February, the CAT received approximately 5.6 billion records of order and trade data. The CAT testing facility opened on December 16, 2019, and, as of the date of this correspondence, approximately 26% of Industry Members that have a reporting obligation in Phase 2a or 2b have successfully uploaded data to the CAT, either pursuant to a testing acknowledgement agreement, or, as in the case of over 1,093 Industry Members (988 of which have a Phase 2 or 2b reporting obligation), pursuant to an executed Reporter Agreement. These figures will increase as new firms continue to execute the Reporter Agreement, including the 137 Industry Members that have signed the agreement since the Participants' February 5, 2020 letter to SIFMA (the "Feb. 5 SRO Letter"). FINRA CAT also continues to meet all applicable performance milestones and is prepared to begin receiving Industry Member data on April 20, 2020.

SIFMA correctly points out that the Participants' recent correspondence has focused on liability issues regarding personally identifiable information ("PII"), but this was an attempt to be responsive to the concerns raised in the November 11, 2019 letter from SIFMA to Michael Simon (discussing liability in connection with CAT Reporting and focusing on concerns regarding the inclusion of PII in the CAT) and the January 8, 2020 letter from SIFMA to Michael Simon at n.1 (expressing concerns about bulk downloading of data and PII, and not referencing concerns regarding proprietary trading strategies). Recently, in the Feb. 12 SIFMA Letter and during our

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[1] The twenty-four Participants of the CAT NMS Plan are: BOX Exchange LLC; Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe C2 Exchange, Inc. and Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors Exchange LLC, Long-Term Stock Exchange, Inc., Miami International Securities Exchange LLC, MIAX Emerald, LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, Nasdaq PHLX LLC, The NASDAQ Stock Market LLC; and New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc. and NYSE National, Inc. Each Participant is a self-regulatory organization ("SRO") under the Securities Exchange Act of 1934.

February 13 meeting, SIFMA clarified that, in addition to PII concerns, a minority of Industry Members have refused to sign the Reporter Agreement due to concerns "regarding the ability [of third parties] to reverse engineer [their] proprietary trading [strategies]." Feb 12. SIFMA Letter at n.1; *see also* Feb. 14 SIFMA Email (discussing concerns regarding Industry Members' "proprietary trading strategies" and "intellectual property."). The Participants appreciate these concerns and look forward to continuing to discuss them with SIFMA.

The Participants also appreciate SIFMA's concern, as expressed during our February 13 meeting and in the Feb. 14 SIFMA Email, that the minority of Industry Members who have refused to execute the Reporter Agreement have been testing CAT connectivity with obfuscated data, but have not yet begun testing with production data. The Feb. 12 SIFMA Letter proposed, among other things, that the Participants create a mechanism through which Industry Members that have not yet signed the Reporter Agreement can upload actual production data (i.e., rather than test data) to the CAT for testing. *See* Feb. 12 SIFMA Letter at 3. To accommodate SIFMA's request to provide those Industry Members who have not yet tested production data with the opportunity to do so before the April 6, 2020 certification date, the Participants propose: (1) during the testing phase, as proposed by SIFMA, "although the Plan Processor would need access to the data, no other SRO [will] download or access production data provided to the CAT IM testing environment" – except as necessary to prepare for CAT reporting on April 20 or otherwise satisfy their regulatory responsibilities (Feb. 12 SIFMA Letter at 3); and (2) amending the Reporter Agreement currently in effect to provide that Industry Members will have the unilateral option to terminate the agreement and authorized access to the system on or before a date reasonably in advance of April 20, 2020 (i.e., before Industry Members are required to begin reporting live data). This proposal enables the remaining Industry Members to begin reporting transaction data to the CAT immediately, while the parties continue to negotiate in good faith regarding liability concerns. If this proposal is acceptable, the Participants are prepared to circulate a revised Reporter Agreement in short order.

In response to concerns expressed by SIFMA and certain Industry Members, during the February 13 meeting the Participants raised for discussion the possibility that Industry Members and the Participants might collectively fund CAT LLC (e.g., pursuant to the Participants' previously proposed funding model) to enable CAT LLC to contribute to cover for certain damages in the event of a data breach. Based on the Feb. 14 SIFMA Email, we are encouraged that SIFMA is willing to consider this path forward. We look forward to continuing our discussions with SIFMA on funding mechanisms mutually acceptable to the Participants and to Industry Members.[2]

Finally, we are reviewing SIFMA's additional requested edits to the Reporter Agreement and will respond to those suggestions in due course. The Participants remain committed to

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[2] The Participants feel compelled to point out that the Feb. 14 SIFMA Email contains several factual inaccuracies including its assertion that "the SROs were clear that FINRA CAT is not designed to hold significant cash reserves." Feb. 14 SIFMA Email. While SIFMA is correct that CAT NMS, LLC – an entity composed of all of the Participants to implement the CAT NMS Plan – will only hold sufficient cash to finance its operations, FINRA CAT is not a Participant, and the Participants take no position on FINRA CAT's cash reserves.

working with SIFMA to address Industry Members' concerns. We look forward to continuing to make progress together as we approach the April 20 deadline.[3]

Thank you for your attention to this matter.

Regards,

Michael Simon
CAT NMS Plan Operating Committee Chair

cc: The Hon. Jay Clayton, Chairman
The Hon. Allison Herren Lee, Commissioner
The Hon. Hester M. Peirce, Commissioner
The Hon. Elad L. Roisman, Commissioner
Mr. Brett Redfearn, Director, Division of Trading and Markets
Mr. David S. Shillman, Associate Director, Division of Trading and Markets
Mr. David Hsu, Assistant Director, Division of Trading and Markets
Mr. Mark Donohue, Senior Policy Advisor, Division of Trading and Markets
Ms. Manisha Kimmel, Senior Policy Advisor, Regulatory Reporting to Chairman Clayton
CAT NMS Plan Participants
Mr. Kenneth E. Bentsen, Jr., President and CEO, SIFMA

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[3] The proposals in this correspondence are preliminary and are made on behalf of a working group comprised of representatives from each Participant. Any formal proposal is subject to approval of the Operating Committee of Consolidated Audit Trail, LLC.

EXHIBIT H

Rand, David A.

From: Simon, Michael <michsimon@deloitte.com>
Sent: Friday, March 27, 2020 1:57 PM
To: Greene, Ellen
Subject: CAT Reporter Agreement
Attachments: 2020.03.27 Term Sheet for Data Breach (Funding Version).pdf; 2020.03.27 Term Sheet for Data Breach (Customer Agreement with Increased Cap Version).pdf

Ellen: I hope all is well with you and your family during these difficult times. After taking a brief pause to focus on COVID-19 relief with respect to CAT, the Participants have renewed their consideration of possible amendments to the CAT Reporter Agreement provision on limitation of liability and damages. Attached please find term sheets proposing two alternate approaches for moving forward. We would be happy to schedule a call with you and your group to continue discussions on the matter. Regards,

Mike Simon

CONFIDENTIAL
FOR DISCUSSION PURPOSES ONLY

CONFIDENTIAL
FOR DISCUSSION PURPOSES ONLY

[redacted]

EXHIBIT I

March 3, 2020

Via Email

The Honorable Jay Clayton
Chairman
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 10549

Re: Consolidated Audit Trail Reporter Agreement

Dear Chairman Clayton:

On behalf of the Participants[1] of the CAT NMS Plan (the "Participants"), I write in response to the Securities Industry and Financial Markets Association's ("SIFMA") February 28, 2020 Letter (the "Feb. 28 SIFMA Letter") and to follow up on our February 20 meeting with you, Commissioner Peirce, and senior Securities and Exchange Commission ("SEC") staff regarding the CAT reporter agreement (the "Reporter Agreement"). The Participants appreciate your ongoing engagement with this matter as the Participants continue to attempt to work with SIFMA regarding our disagreement with certain industry members ("Industry Members") concerning potential liability issues in the event of a CAT data breach.

As an initial matter, and notwithstanding our disagreement with a minority of Industry Members, the Participants continue to make considerable progress to implement the CAT NMS Plan. During the final two weeks of February, the CAT received approximately 2.4 trillion records of order and trade data from Participants with a peak of 415 billion records on February 28 alone. To date, approximately 27% of Industry Members that have a reporting obligation in Phase 2a or 2b have successfully uploaded data to the CAT, either pursuant to a testing acknowledgement agreement, or, as in the case of over 1,067 Industry Members (1,289 of which have a Phase 2 or 2b reporting obligation), pursuant to an executed Reporter Agreement. These figures will increase as new firms continue to execute the Reporter Agreement, including the 128 Industry Members that have signed the agreement since the Participants' February 18, 2020 correspondence.[2] FINRA CAT also continues to meet all applicable performance milestones and is prepared to begin receiving Industry Member data on April 20, 2020.

To help SIFMA and Industry Members better understand the strong security protections we and FINRA CAT have developed for the CAT system, during our February 20 meeting, you suggested that the Participants facilitate a meeting with security officials from the SROs and the

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[1] The twenty-four Participants of the CAT NMS Plan are: BOX Exchange LLC; Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe C2 Exchange, Inc. and Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors Exchange LLC, Long-Term Stock Exchange, Inc., Miami International Securities Exchange LLC, MIAX Emerald, LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, Nasdaq PHLX LLC, The NASDAQ Stock Market LLC; and New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc. and NYSE National, Inc. Each Participant is a self-regulatory organization ("SRO") under the Securities Exchange Act of 1934.

[2] *See* Letter from Mike Simon to Ellen Greene (the "Feb. 18 SRO Letter").

Industry Members to discuss CAT's security. At our meeting with SIFMA and Industry Members on February 27, we attempted to offer such a cybersecurity-focused meeting, where we would share additional information and respond to questions that might constructively advance our discussions. Unfortunately, at that meeting, SIFMA would not even entertain the thought that such a meeting would help resolve our differing issues, essentially admitting that, regardless of CAT's security, SIFMA would not alter its all-or-nothing position regarding liability. The Participants nonetheless plan to move forward with both an industry-wide webinar on CAT security and a more in-depth review of CAT security, subject to the signing of appropriate non-disclosure agreements, for those security information professionals in the industry so that we can foster an open dialogue on security.

With respect to our underlying disagreement with SIFMA, the Participants continue to believe that the liability and damages provisions in the Reporter Agreement are appropriate in light of, among other considerations, the SRO framework and the fact that the Participants are implementing Rule 613 solely in their regulatory capacity. Nevertheless, the Participants have made clear – in numerous letters and in-person meetings with SIFMA, and during our February 20 meeting with the SEC – that we are willing to consider any reasonable proposal by SIFMA. To that end, the Participants have advanced creative proposals including, for example, the possibility that Industry Members and the Participants might collectively fund CAT LLC (e.g., pursuant to Section 11 of the CAT NMS Plan, which was approved by the SEC, and grants the Operating Committee authority to require collective funding of CAT LLC) to enable CAT LLC to contribute to certain damages in the event of a data breach.[3] In contrast to the Participants' continued flexibility and willingness to compromise, SIFMA's position remains unchanged: during approximately four months of discussions, the only proposal SIFMA made with respect to the limitation of liability issue has been the wholesale deletion of the limitation of liability provision, both for the period during which Industry Members are testing and for when they submit data into the production system.[4]

The Participants also remain willing to continue discussing potential short-term solutions with SIFMA that will enable the minority of Industry Members who have refused to execute the Reporter Agreement to begin testing with production data (although we believe that it would be productive simultaneously to focus on the long-term resolution of this same issue). For example, we have explained the limited manner in which the SROs (other than FINRA) would access the testing data so as to address any data breach risks associated with such access, and to give Industry Members the ability to terminate the Reporter Agreement immediately after the testing period if the parties have not yet resolved the liability issues. SIFMA, however, has remained inflexible,

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[3] *See, e.g.*, February 18, 2020 Letter from Mike Simon to Ellen Greene (the "Feb. 18 SRO Letter") at 2.

[4] The Participants are puzzled by SIFMA's assertion that it has engaged "with the Participants to craft a reasonable agreement … ." Feb. 28 SIFMA Letter at 4. The Participants repeatedly have invited SIFMA to provide specific edits to the limitation of liability provisions of the Reporter Agreement – other than simply deleting the provisions – and SIFMA consistently has declined those invitations.

insisting on permitting Industry Members to test with production data without any contractual limitation on the Participants' liability.[5]

From the Participants' perspective, the challenge is that SIFMA appears unwilling to discuss any compromise at all. At our February 27 meeting, for example, SIFMA largely read from prepared remarks and refused to move from its concretized position of deleting the limitation of liability in its entirety. During that meeting, SIFMA also appeared to backtrack from its previous willingness, as expressed in correspondence,[6] to consider funding mechanisms mutually acceptable to the Participants and to Industry Members to address losses due to a potential breach.[7]

At the conclusion of our February 27 meeting, Ms. Greene, reading from a prepared script, stated that certain Industry Members are contemplating bringing a denial of access proceeding pursuant to Section 19(d) of the Securities Exchange Act of 1934. SIFMA reiterated this threat in the Feb. 28 SIFMA letter.[8] The Participants are confident that any such proceeding would be without merit and we regret that SIFMA is focused on preparing for administrative proceedings, rather than continuing to engage with the Participants regarding the substance of our disagreement.

Although the Participants continue to work diligently to meet the April 20 CAT launch deadline, the Participants are concerned that SIFMA may be taking steps to undermine our substantial progress. In its most recent correspondence with the SEC, SIFMA noted that it "understands that some of its members are considering whether to provide notice to the Participants that they are rescinding their execution of the Limited Testing Acknowledgment Form."[9] Unfortunately, it appears that SIFMA is taking an active role in such actions. Indeed, the Participants have been informed by a large clearing broker-dealer that at least one Industry Member was told on a call with SIFMA to rescind its executed testing agreement.[10] Such guidance is a threat to Industry Members' compliance with the requirements of CAT's April 20 launch and

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5 Moreover, as a factual matter, SIFMA's assertion that Industry Members "must begin testing with production data in the first week of March" is incorrect. *See* Feb. 28 SIFMA Letter at 1. FINRA CAT has made clear that Industry Members should be able to comply with the April 20, 2020 deadline so long as they begin testing with production data on or before March 23. Moreover, testing has been available since December 16, 2019.

6 *See* February 14, 2020 Email from Ellen Greene to Mike Simon ("There is a critical open question about what kind of reserve fund could be created to fund liabilities associated with a breach, how large it would be, and who pays for it.").

7 Indeed, the Feb. 28 SIFMA Letter – which purported to summarize the February 27 meeting between the Participants and SIFMA – contains a parenthetical reference to the date of the meeting, suggesting it was drafted in significant measure *before* the parties met on February 27 and that SIFMA has already made up its mind not to compromise on this point. *See* Feb 28. SIFMA Letter at 3 ("Despite months of negotiations among SIFMA, multiple broker-dealer firms, and the Participants, the most recent meeting of which occurred **[yesterday]**… .").

8 Feb. 28 SIFMA Letter at 2-7.

9 Feb. 28 SIFMA Letter at 6.

10 It is worth noting that the Limited Testing Acknowledgement Form that SIFMA appears to be encouraging Industry Members to rescind was actually offered to SIFMA as a compromise to address Industry Members' purported concerns about testing while the parties attempted to resolve the long-term liability issues. *See* January 8, 2020 Letter from Ellen Greene to Mike Simon at 1 ("[W]e appreciate … the SROs' subsequent decision to provide firms with the opportunity to perform limited testing without requiring that they first execute the CAT Reporter Agreement.").

the full realization of the benefits of CAT, as contemplated by Rule 613 and the CAT NMS Plan. The Participants urge SIFMA to desist from interfering with the agreements already executed by the Participants and Industry Members – such behavior is counterproductive and will undermine the ability of Industry Members to comply with their regulatory reporting requirements.

At bottom, and as we expressed during our February 20 meeting with the Chairman, Commissioner Peirce, and the SEC's senior staff (and as expressed in our meetings with Commissioners Roisman and Lee), we remain committed to working with SIFMA in good faith to resolve our disagreement – if SIFMA is willing to do so – and we remain open to considering any substantive proposal that SIFMA offers. The Participants' sole focus – pursuant to their regulatory obligations under Rule 613 – is to prepare for the beginning of CAT reporting on April 20, regardless of any attempts by SIFMA or a minority of Industry Members to undermine those efforts.

The Participants are available at your convenience to answer any questions that you may have regarding the CAT or the issues raised in this correspondence. We thank you for your time and consideration.

Respectfully submitted,

Michael Simon
CAT NMS Plan Operating Committee Chair

cc: The Hon. Allison Herren Lee, Commissioner
The Hon. Hester M. Peirce, Commissioner
The Hon. Elad L. Roisman, Commissioner
Mr. Brett Redfearn, Director, Division of Trading and Markets
Mr. David S. Shillman, Associate Director, Division of Trading and Markets
Mr. David Hsu, Assistant Director, Division of Trading and Markets
Mr. Mark Donohue, Senior Policy Advisor, Division of Trading and Markets
Ms. Manisha Kimmel, Senior Policy Advisor, Regulatory Reporting to Chairman Clayton
CAT NMS Plan Participants
Mr. Kenneth E. Bentsen, Jr., President and CEO, SIFMA
Ms. Ellen Greene, Managing Director, SIFMA

EXHIBIT J

Consolidated Audit Trail
Industry Member Limited Testing
Acknowledgement Form

This Acknowledgement Form is for Industry Members that desire to access and use the CAT System to perform testing for file submission and data integrity validations in order to comply with obligations under the CAT NMS Plan, SEC Rule 613 and self-regulatory organization rules before executing a CAT Reporter Agreement[1] with Consolidated Audit Trail, LLC ("CATLLC"). Prior to being entitled to the CAT System production environment, each Industry Member must enter into a CAT Reporter Agreement with CATLLC and complete a production readiness test using a full day of live production data.

Capitalized terms used but not defined herein have the meanings given in the CAT NMS Plan, a copy of which is available on https://catnmsplan.com.

The CAT Reporter identified below hereby certifies and acknowledges that it will not submit production data and will only submit fabricated test data and/or obfuscated production data ("Test Data") (as described in the Industry Member Testing Update dated December 17, 2019) to the CAT System test environment. CAT Reporter also acknowledges that it is CAT Reporter's responsibility to ensure only Test Data is submitted to the CAT System test environment.

CAT Reporter:

_____
(*Organization's legal name*)

By: _____ OrgID: _____

Name: _____ Address: _____

Title: _____ _____

Date: _____ _____

_____

[1] A copy of the CAT Reporter Agreement is available on https://catnmsplan.com.

EXHIBIT K

BOX EXCHANGE LLC Rules

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(b) Such action shall be taken as soon as possible, and in any event not later than 10:00 a.m. Eastern Standard Time on the business day following the day the BOX Transaction that was rejected by the Clearing Corporation.

Effective April 27, 2012.

7230 Limitation of Liability

(a) The Exchange, BOX and any of their respective affiliates, and their respective directors, officers, committee members, employees, contractors, and agents or other persons acting on their behalf ("Exchange Related Persons and/or Entities") will not be liable to Options Participants or users for any loss, damages, claim or expense:

(1) growing out of the use or enjoyment of BOX or the Trading Host; or

(2) arising from or occasioned by any inaccuracy, error or delay in, or omission of or from the collection, calculation, compilation, maintenance, reporting or dissemination of any information derived from BOX, resulting either from any act or omission by any Exchange Related Persons and/or Entities, or from any act, condition or cause beyond the reasonable control of any Exchange Related Persons and/or Entities, including but not limited to flood, extraordinary weather conditions, earthquakes or other acts of God, fire, war, terrorism, insurrection, riot, labor dispute, accident, action of government, communications or power failure, or equipment or software malfunction.

(3) Generally, in the event of a BOX market outage, or interruption of service, a loss pertaining to an order that is entered into BOX will be absorbed by the order entering Options Participant organization. Without limiting the generality of the foregoing, Exchange Related Persons and/or Entities shall not have any liability to any person for any loss, expense, damages or claims that result from any error, omission or delay in calculating or disseminating any current or closing index value or any reports of transactions in or quotations for options or other securities, including underlying securities.

(b) Exchange Related Persons and/or Entities shall not be liable to Options Participants nor any persons associated with Options Participants for any loss, expense, damages or claims arising out of the use of the facilities, systems or equipment afforded by BOX in relation to the BOX market, or any interruption in or failure or unavailability of any such facilities, systems or equipment, whether or not such loss, expense, damages or claims result or are alleged to result from negligence or other unintentional errors or omissions on the part of any Exchange Related Persons and/or Entities or from systems failure, or from any other cause within or outside the control of BOX. Without limiting the generality of the foregoing, Exchange Related Persons and/or Entities shall not have any liability to any person for any loss, expense, damages or claims that result from any error, omission or delay in calculating or disseminating any current or closing index value or any reports of transactions in or quotations for options or other securities, including underlying securities.

(c) Exchange Related Persons and/or Entities make no warranty, express or implied, as to results to be obtained by any person or entity from the use of any data transmitted or disseminated by or on behalf of BOX or any reporting authority designated by BOX, including but not limited to, reports of transactions in or quotations for securities traded on BOX or underlying securities, or reports of interest rate measures or index values or related data, and Exchange Related Persons and/or Entities make no express or implied warranties of merchantability or fitness for a particular purpose or use with respect to any such data.

(d) No Options Participant or person associated with an Options Participant shall institute a lawsuit or other legal proceeding against any Exchange Related Persons and/or Entities for actions taken or omitted to be taken in connection with the official business of BOX or any subsidiary, except to the extent such actions or omissions constitute violations of the federal securities laws for which a private right of action exists. This provision shall not apply to appeals of disciplinary actions or other actions by the Exchange as provided for in the Rules.

(e) Notwithstanding paragraphs (a), (b), and (d) above, and subject to the express limits set forth below, BOX may compensate Options Participants for losses resulting directly from the malfunction of the physical equipment, devices, or programming of Exchange Related Persons and/or Entities, or from the negligent acts or omissions of employees of the Exchange or BOX.

(1) As to the aggregate of all claims made by all Options Participants under this Rule during a single calendar month, BOX shall not be liable in excess of the larger of $500,000, or the amount of any recovery obtained by BOX under any applicable insurance maintained by BOX.

(2) In the event that all of the claims made under this Rule cannot be fully satisfied because in the aggregate they exceed the applicable maximum limitations provided in this Rule, then the maximum permitted amount will be proportionally allocated among all such claims arising during a single calendar month based on the proportion that each such claim bears to the sum of all such claims.

(3) All claims for compensation pursuant to this Rule shall be in writing and must be submitted no later than 12:00 p.m. ET on the next business day following the day on which the use of BOX gave rise to such claims. Once in receipt of a claim, BOX will verify that: (i) a valid order was accepted into BOX; and (ii) any loss claimed resulted directly from the malfunction of the physical equipment, devices, or programming of Exchange Related Persons and/or Entities, or from the negligent acts or omissions of employees of the Exchange or BOX during the execution or handling of that order.

(f) Each Options Participant that physically conducts business on the Exchange's Trading Floor is required, at its sole cost, to procure and maintain liability insurance that provides defense and indemnity coverage for itself, any person associated with it, and the Exchange for any action or proceeding brought, or claim made, to impose liability upon such Options Participant, associated person, or the Exchange resulting from, relating to, or arising out of the conduct of the Options Participant or associated person (hereinafter, "Insurance"). The Insurance shall further provide defense and indemnity coverage to the Exchange for the Exchange's sole, concurrent, or contributory negligence, or other wrongdoing, relating to or in connection with such claim. The Exchange shall be expressly named by endorsement as an Additional Insured under the Insurance. The Exchange's status and rights to coverage under the Insurance shall be the same rights of the named insured of the Insurance, including, without limitation, rights to the full policy limits. In addition:

(1) The limits for the Insurance shall be not less than $1,000,000 without erosion by defense costs, but under no circumstance shall the Exchange be entitled to less than the full policy limits of such Insurance.

(2) The Insurance shall state that it is primary to any insurance maintained by the Exchange.

(3) Each Options Participant annually shall cause a certificate of insurance to be issued directly to the Exchange demonstrating that insurance compliant with this Rule has been procured and is maintained. Each Options Participant also shall furnish a copy of the Insurance to the Exchange for review upon the Exchange's request at any time.

(4) This section (f) is the only section of Rule 7230 specifically limited to Options Participants physically located on the Exchange's Trading Floor.

Effective April 27, 2012; amended May 9, 2012 (SR-BOX-2012-001); amended February 26, 2014 (SR-BOX-2014-09), operative March 28, 2014; amended August 2, 2017 (SR-BOX-2016-48).

7240 Complex Orders

(a) Definitions. The following terms shall have the meanings specified in this Rule 7240.

(1) The term "cBBO" means the best net bid and offer price for a Complex Order Strategy based on the BBO on the BOX Book for the individual options components of such Strategy.

(2) The term "cNBB" means the best net bid price for a Complex Order Strategy based on the NBBO for the individual options components of such Strategy.

(3) The term "cNBBO" means the best net bid and offer price for a Complex Order Strategy based on the NBBO for the individual options components of such Strategy.

Cboe Exchange, Inc.

Rules of Cboe Exchange, Inc.

(Updated as of April 29, 2020)

SECTION C. EXCHANGE LIABILITY AND DISCLAIMERS

Rule 1.10. Exchange Liability Disclaimers and Limitations

(a) Neither the Exchange nor any of its directors, officers, committee members, other officials, employees, contractors, or agents, nor any subsidiaries or affiliates of the Exchange or any of their directors, officers, committee members, other officials, employees, contractors, or agents ("Covered Persons") shall be liable to the Trading Permit Holders or to persons associated therewith for any loss, expense, damages or claims that arise out of the use or enjoyment of the facilities afforded by the Exchange, any interruption in or failure or unavailability of any such facilities, or any action taken or omitted to be taken in respect to the business of the Exchange except to the extent such loss, expense, damages or claims are attributable to the willful misconduct, gross negligence, bad faith or fraudulent or criminal acts of the Exchange or its officers, employees or agents acting within the scope of their authority. Without limiting the generality of the foregoing, and subject to the same exception, no Covered Person shall have any liability to any person or entity for any loss, expense, damages or claims that result from any error, omission or delay in calculating or disseminating any current or closing index value, any current or closing value of interest rate options, or any reports of transactions in or quotations for options or other securities, including underlying securities. The Exchange makes no warranty, express or implied, as to results to be obtained by any person or entity from the use or enjoyment of the facilities afforded by the Exchange, including without limitation, of any data transmitted or disseminated by or on behalf of the Exchange or any Reporting Authority designated by the Exchange, including but not limited to any data described in the preceding sentence, and the Exchange makes no express or implied warranties of merchantability or fitness for a particular purpose or use with respect to any such data. The foregoing limitations of liability and disclaimers shall be in addition to, and not in limitation of, the provisions of Article Eighth of the Exchange's Certificate of Incorporation or any limitations otherwise available under law.

(b) Whenever custody of an unexecuted order or quote is transmitted by a Trading Permit Holder to or through the Exchange's Hybrid System, or to any other facility of the Exchange whereby the Exchange assumes responsibility for the transmission or execution of the order or quote, provided that the Exchange has acknowledged receipt of such order or quote, the Exchange may, in its sole discretion, compensate one or more Trading Permit Holders for their losses alleged to have resulted from the failure to process an order or quote correctly due to the acts or omissions of the Exchange or due to the failure of its systems or facilities (each, a "Loss Event"), subject to the following limits:

(1) As to any one or more requests for compensation made by a single Trading Permit Holder that arose out of one or more Loss Events occurring on a single trading day, the Exchange may compensate the Trading Permit Holder up to but not exceeding the larger of $100,000 or the amount of any recovery obtained by the Exchange under any applicable insurance maintained by the Exchange;

(2) As to the aggregate of all requests for compensation made by all Trading Permit Holders that arose out of one or more Loss Events occurring on a single trading day, the Exchange may compensate the Trading Permit Holders, in the aggregate, up to but not exceeding the larger of $250,000 or the amount of the recovery obtained by the Exchange under any applicable insurance maintained by the Exchange; and

(3) As to the aggregate of all requests for compensation made by all Trading Permit Holders that arose out of one or more Loss Events occurring during a single calendar month, the Exchange may compensate the Trading Permit Holders, in the aggregate, up to but not exceeding the larger of $500,000 or the amount of the recovery obtained by the Exchange under any applicable insurance maintained by the Exchange.

A Trading Permit Holder may not make a request for compensation under this Rule for less than $100. Losses incurred on the same trading day and arising out of the same underlying act or omission of the Exchange or failure of the Exchange's systems or facilities may be aggregated to meet the $100 minimum. Nothing in this Rule shall obligate the Exchange to seek recovery under any applicable insurance policy.

(c) Notice of all requests for compensation pursuant to this Rule shall be in writing and must be submitted no later than 1:00 p.m. Eastern Time on the next business day following the Loss Event giving rise to such requests. All requests shall be in writing and must be submitted along with supporting documentation by 6:00 p.m. Eastern Time on the third business day following the Loss Event giving rise to each such request. Additional information related to the request as demanded by the Exchange is also required to be provided. The Exchange shall not consider requests for which timely notice and submission have not been provided as required under this paragraph (c).

(d) If all of the timely requests submitted pursuant to paragraph (c) above that are granted cannot be fully satisfied because in the aggregate they exceed the applicable maximum amount of payments authorized in paragraph (b) above, then such maximum amount shall be allocated among all such requests arising on a single trading day or during a single calendar month, as applicable, based upon the proportion that each such request bears to the sum of all such requests.

(e) In determining whether to make payment of a request pursuant to paragraph (b) above, the Exchange may determine whether the amount requested should be reduced based on the actions or inactions of the requesting Trading Permit Holder, including, without limitation, whether the actions or inactions of the Trading Permit Holder contributed to the Loss Event; whether the Trading Permit Holder made appropriate efforts to mitigate its loss; whether the Trading Permit Holder realized any gains as a result of a Loss Event; whether the losses of the Trading Permit Holder, if any, were offset by hedges of positions either on the Exchange or on another affiliated or unaffiliated market; and whether the Trading Permit Holder provided sufficient information to document the request and as demanded by the Exchange.

(f) All determinations made pursuant to this Rule by the Exchange shall be final and not subject to appeal under Chapter XIX of the Rules or otherwise. Nothing in this Rule, nor any payment pursuant to this Rule, shall in any way limit, waive or proscribe any defenses a Covered Person may have to any claim, demand, liability, action or cause of action, whether such defense arises in law or equity, or whether such defense is asserted in a judicial, administrative, or other proceeding.

(g) This Rule shall be effective as of July 1, 2015 (the "Effective Date"). No claim for liability under any previous version of this Rule shall be valid if brought with respect to any acts, omissions or transactions occurring more than one year prior to the Effective Date of this Rule, or if brought more than one month after the Effective Date of this Rule.

[Effective October 7, 2019 (SR-CBOE-2019-027); amended December 19, 2019 (SR-CBOE-2019-118)]

Rule 1.11. Limitation on Liability of Index Licensors for Options on Units

(a) The term "index licensor" as used in this rule refers to any entity that grants the Exchange a license to use one or more indexes or portfolios in connection with the trading of options on Units.

(b) No index licensor with respect to any index pertaining to Units underlying an option traded on the Exchange makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of such index, any opening, intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any option contract on Units based thereon or for any other purpose. The index licensor shall obtain information for inclusion in, or for use in the calculation of, such index from sources it believes to be reliable, but the index licensor does not guarantee the accuracy or completeness of such index, any opening, intraday or closing value therefor, or any data included therein or related thereto. The index licensor hereby disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to any such index, any opening, intraday or closing value therefor, any data included therein or relating thereto, or any option contract on Units based thereon. The index licensor shall have no liability for any damages, claims, losses (including any indirect or consequential losses), expenses or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person arising out of any circumstance or occurrence relating to the person's use of such index, any opening, intraday or closing value therefor, any data included therein or relating thereto, or any option contract on Units based thereon, or arising out of any errors or delays in calculating or disseminating such index.

[Effective October 7, 2019 (SR-CBOE-2019-027)]

Rule 1.12. Limitation on Liability of Reporting Authorities for Indexes Underlying Options

No Reporting Authority, and no other entity identified in this Rule makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of such index, any opening, intraday or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any option contract based thereon or for any other purpose. The Reporting Authority or any other entity identified in this Rule shall obtain information for inclusion in, or for use in the calculation of, such index from sources it believes to be reliable, but the Reporting Authority or any other entity identified in this Rule does not guarantee the accuracy or completeness of such index, any opening, intra-day or closing value therefor, or any date included therein or related thereto. The Reporting Authority and any other entity identified in this Rule hereby disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to such index, any opening, intra-day, or closing value therefor, any data included therein or relating thereto, or any option contract based thereon. The Reporting Authority and any other entity identified in this Rule shall have no liability for any damages, claims, losses (including any indirect or consequential losses), expenses, or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person arising out of any circumstance or occurrence relating to the person's use of such index, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract

based thereon, or arising out of any errors or delays in calculating or disseminating such index. The foregoing disclaimers shall apply to Standard & Poor's, a division of The McGraw-Hill Companies, Inc. ("S&P") in respect to the S&P Indexes, Frank Russell Company in respect to the Russell Indexes, The NASDAQ Stock Market, Inc. in respect to the Nasdaq Indexes, Morgan Stanley Dean Witter & Co. Incorporated in respect of the Morgan Stanley Indexes, Dow Jones and Company, Inc. in respect to the Dow Jones Averages and any other Dow Jones Indexes, Goldman, Sachs & Co. in respect to the Goldman Sachs Indexes; to the foregoing Reporting Authorities in respect to any other indexes for which they act as the designated Reporting Authority; to the Exchange in respect to the indexes for which it is the designated Reporting Authority; and to any other Reporting Authority in respect to any index for which it acts as such.

[Effective October 7, 2019 (SR-CBOE-2019-027)]

Rule 1.13. Limitation of Liability of Reporting Authority for Interest Rate Options

(a) No Reporting Authority in respect of an interest rate measure shall have any liability for damages, claims, losses or expenses caused by any errors, omissions or delays in collecting or disseminating the current or closing value of interest rate option contracts resulting from an act, condition or cause beyond their reasonable control, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; communications or power failure; equipment or software malfunction; any error; omission or delay in the reports of transactions in one or more underlying securities; or any error, omission or delay in the reports of the current value.

(b) No Reporting Authority makes any warranty, express or implied, as to results to be obtained by any person or any entity from the use of the interest rate measures or any data included therein in connection with trading or any other use; the Reporting Authority makes no express or implied warranties of merchantability or fitness for a particular purpose for use with respect to the interest rate measures or any data included therein.

[Effective October 7, 2019 (SR-CBOE-2019-027); amended December 19, 2019 (SR-CBOE-2019-118)]

Rule 1.14. Limitation of Liability of Reporting Authority for Credit Options

The term "Reporting Authority" as used in this rule refers to the Exchange or any other entity identified by the Exchange as the "reporting authority" in respect of a class of Credit Options for purposes of the By-Laws and Rules of the Clearing Corporation and any affiliate of the Exchange or any such other entity. No Reporting Authority makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of any Credit Option. Any Reporting Authority hereby disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to any Credit Option. Any Reporting Authority shall have no liability for any damages, claims, losses (including any indirect or consequential losses), expenses or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person relating to any Credit Option, including without limitation as a result of any error, omission or delay in confirming, or disseminating notice of, any Credit Event, any determination to adjust or not to adjust the terms of

outstanding Credit Options, or any other determination with respect to Credit Options for which it has responsibility under the By-Laws and Rules of the Clearing Corporation.

[Effective October 7, 2019 (SR-CBOE-2019-027); amended December 19, 2019 (SR-CBOE-2019-118)]

Rule 1.15. Legal Proceedings Against the Exchange

No Trading Permit Holder or person associated with a Trading Permit Holder shall institute a lawsuit or other legal proceeding against the Exchange or any of its directors, officers, committee members, other officials, employees, contractors, or agents, or any subsidiaries or affiliates of the Exchange or any of their directors, officers, committee members, other officials, employees, contractors, or agents, for actions taken or omitted to be taken in connection with the official business of the Exchange or any subsidiary or affiliate, except to the extent such actions or omissions constitute violations of the federal securities laws for which a private right of action exists. This provision shall not apply to appeals of disciplinary actions or other actions by the Exchange as provided for in the Rules.

[Effective October 7, 2019 (SR-CBOE-2019-027)]

INVESTORS EXCHANGE RULE BOOK

Updated through March 18, 2020*

* Investors Exchange rules were adopted by Securities Exchange Act Release No. 34-78101; File No. 10-222 (June 17, 2016). Dates of subsequent changes to the Investors Exchange Rule Book are indicated herein.

Exchange will maintain connectivity and access, pursuant to IEX Rule 11.510, to the SIPs for dissemination of last sale (i.e. execution) information.

Rule 11.250. Clearance and Settlement; Anonymity

(a) Each User must either (1) be a member of a registered clearing agency that uses a continuous net settlement ("CNS") system, or (2) clear transactions executed on the Exchange through another User that is a member of such a registered clearing agency. The Exchange will maintain connectivity and access, pursuant to IEX Rule 11.510, to the Universal Trade Capture ("UTC") of the National Securities Clearing Corporation ("NSCC"), a subsidiary of the Depository Trust & Clearing Corporation ("DTCC"), for transmission of executed transactions. If a Member clears transactions through another Member that is a member of a registered clearing agency ("clearing member"), such clearing member shall affirm to the Exchange in writing, through letter of authorization, letter of guarantee or other agreement acceptable to the Exchange, its agreement to assume responsibility for clearing and settling any and all trades executed by the Member designating it as its clearing firm. The rules of any such clearing agency shall govern with respect to the clearance and settlement of any transactions executed by the Member on the Exchange.

(1) Solely at the discretion of the Exchange, a Member may clear transactions executed on the Exchange through a non-Member that is a Member of a foreign clearing agency with which a registered clearing agency has an agreement of mutual recognition, and is permitted to clear transactions of the Member in the registered clearing agency's CNS system.

(b) Each transaction executed within the System is executed on a locked-in basis and shall be automatically processed for clearance and settlement.

(c) The transaction reports produced by the System will indicate the details of transactions executed in the System but shall not reveal contra party identities. Except as set forth in paragraph (d) below, transactions executed in the System will also be cleared and settled anonymously.

(d) Except as required by any registered clearing agency, the Exchange will reveal the identity of a Member or Member's clearing firm in the following circumstances:

(1) For regulatory purposes or to comply with an order of a court or arbitrator; or

(2) When a registered clearing agency ceases to act for a Member or the Member's clearing firm, and determines not to guarantee the settlement of the Member's trades.

Rule 11.260. LIMITATION OF LIABILITY

(a) NEITHER THE EXCHANGE, IEX SERVICES, NOR ANY OF ITS AGENTS, EMPLOYEES, CONTRACTORS, OFFICERS, DIRECTORS, SHAREHOLDERS, COMMITTEE MEMBERS OR AFFILIATES ("EXCHANGE RELATED PERSONS") SHALL BE LIABLE TO ANY USER, OR SUCCESSORS, REPRESENTATIVES OR CUSTOMERS THEREOF, OR ANY PERSONS ASSOCIATED THEREWITH, FOR ANY LOSS, DAMAGES, CLAIM OR EXPENSE:

(1) GROWING OUT OF THE USE OR ENJOYMENT OF ANY FACILITY OF THE EXCHANGE, INCLUDING, WITHOUT LIMITATION, THE SYSTEM; OR

(2) ARISING FROM OR OCCASIONED BY ANY INACCURACY, ERROR OR DELAY IN, OR OMISSION OF OR FROM THE COLLECTION, CALCULATION, COMPILATION, MAINTENANCE, REPORTING OR DISSEMINATION OF ANY INFORMATION DERIVED FROM THE SYSTEM OR ANY OTHER FACILITY OF THE EXCHANGE, RESULTING EITHER FROM ANY ACT OR OMISSION BY THE EXCHANGE OR ANY EXCHANGE RELATED PERSON, OR FROM ANY ACT CONDITION OR CAUSE BEYOND THE REASONABLE CONTROL OF THE EXCHANGE OR ANY EXCHANGE RELATED PERSON, INCLUDING, BUT NOT LIMITED TO, FLOOD, EXTRAORDINARY WEATHER CONDITIONS, EARTHQUAKE OR OTHER ACTS OF GOD, FIRE, WAR, TERRORISM, INSURRECTION, RIOT, LABOR DISPUTE, ACCIDENT, ACTION OF GOVERNMENT, COMMUNICATIONS OR POWER FAILURE, OR EQUIPMENT OR SOFTWARE MALFUNCTION.

(b) EACH MEMBER EXPRESSLY AGREES, IN CONSIDERATION OF THE ISSUANCE OF ITS MEMBERSHIP IN THE EXCHANGE, TO RELEASE AND DISCHARGE THE EXCHANGE, IEX SERVICES, AND ALL EXCHANGE OR IEX SERVICES RELATED PERSONS OF AND FROM ALL CLAIMS AND DAMAGES ARISING FROM THEIR ACCEPTANCE AND USE OF THE FACILITIES OF THE EXCHANGE (INCLUDING, WITHOUT LIMITATION, THE SYSTEM).

(c) NEITHER THE EXCHANGE, IEX SERVICES, NOR ANY EXCHANGE OR IEX SERVICES RELATED PERSON MAKES ANY EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS TO USERS AS TO RESULTS THAT ANY PERSON OR PARTY MAY OBTAIN FROM THE SYSTEM FOR TRADING OR FOR ANY OTHER PURPOSE, AND ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE, TITLE, AND NON-INFRINGEMENT WITH RESPECT TO THE SYSTEM ARE HEREBY DISCLAIMED.

(d) NOTWITHSTANDING PARAGRAPH (a) ABOVE, AND SUBJECT TO THE EXPRESS LIMITS SET FORTH BELOW, THE EXCHANGE MAY COMPENSATE MEMBERS FOR LOSSES DIRECTLY RESULTING FROM THE SYSTEMS' ACTUAL FAILURE TO CORRECTLY PROCESS AN ORDER, MESSAGE, OR OTHER DATA, PROVIDED THE EXCHANGE HAS ACKNOWLEGED RECEIPT OF THE ORDER, MESSAGE OR DATA.

(1) AS TO ANY ONE OR MORE CLAIMS MADE BY A SINGLE MEMBER UNDER THIS IEX RULE ON A SINGLE TRADING DAY, THE EXCHANGE SHALL NOT BE LIABLE IN EXCESS OF THE LARGER OF $100,000, OR THE AMOUNT OF ANY RECOVERY OBTAINED BY THE EXCHANGE UNDER ANY APPLICABLE INSURANCE MAINTAINED BY THE EXCHANGE.

(2) AS TO THE AGGREGATE OF ALL CLAIMS MADE BY ALL MEMBERS UNDER THIS IEX RULE ON A SINGLE TRADING DAY, THE EXCHANGE SHALL NOT BE LIABLE IN EXCESS OF THE LARGER OF $250,000 OR THE AMOUNT OF ANY RECOVERY OBTAINED BY THE EXCHANGE UNDER ANY APPLICABLE INSURANCE MAINTAINED BY THE EXCHANGE.

(3) AS TO THE AGGREGATE OF ALL CLAIMS MADE BY ALL MEMBERS UNDER THIS IEX RULE DURING A SINGLE CALENDAR MONTH, THE EXCHANGE SHALL NOT BE LIABLE IN EXCESS OF THE LARGER OF $500,000, OR THE AMOUNT OF ANY RECOVERY OBTAINED BY THE EXCHANGE UNDER ANY APPLICABLE INSURANCE MAINTAINED BY THE EXCHANGE.

(e) IN THE EVENT THAT ALL OF THE CLAIMS MADE UNDER THIS IEX RULE CANNOT BE FULLY SATISFIED BECAUSE IN THE AGGREGATE THEY EXCEED THE APPLICABLE MAXIMUM LIMITATIONS PROVIDED IN THIS IEX RULE 11.260, THEN THE MAXIMUM PERMITTED AMOUNT WILL BE PROPORTIONALLY ALLOCATED AMONG ALL SUCH CLAIMS ARISING ON A SINGLE TRADING DAY OR DURING A SINGLE CALENDAR MONTH, AS APPLICABLE, BASED ON THE PROPORTION THAT EACH SUCH CLAIM BEARS TO THE SUM OF ALL SUCH CLAIMS.

(f) ALL CLAIMS FOR COMPENSATION PURSUANT TO THIS IEX RULE SHALL BE IN WRITING AND MUST BE SUBMITTED NO LATER THAN THE OPENING OF TRADING ON THE NEXT BUSINESS DAY FOLLOWING THE DAY ON WHICH THE USE OF THE EXCHANGE GAVE RISE TO SUCH CLAIMS. ONCE IN RECEIPT OF A CLAIM, THE EXCHANGE WILL VERIFY THAT: (i) A VALID ORDER WAS ACCEPTED INTO THE EXCHANGE'S SYSTEMS; AND (ii) AN EXCHANGE SYSTEM FAILURE OR A NEGLIGENT ACT OR OMISSION OF AN EXCHANGE EMPLOYEE OCCURRED DURING THE EXECUTION OR HANDLING OF THAT ORDER.

Rule 11.270. Clearly Erroneous Executions

(a) Definition. For purposes of this IEX Rule 11.270, the terms of a transaction executed on the Exchange are "clearly erroneous" when there is an obvious error in any term, such as price, number of shares or other unit of trading, or identification of the security. A transaction made in clearly erroneous error and canceled by both parties or determined by the Exchange to be clearly erroneous will be removed from the Consolidated Tape. Executions as a result of a Volatility Auction under Rule 11.350(f) are not eligible for a request to review as clearly erroneous under paragraph (b) of this Rule.

(b) Request and Timing of Review. A Member that receives an execution on an order that was submitted erroneously to the Exchange for its own or customer account may request that the Exchange review the transaction under this IEX Rule 11.270. An Officer of the Exchange or such other employee designee of the Exchange ("Official") shall review the transaction under dispute and determine whether it is clearly erroneous, with a view toward maintaining a fair and orderly market and the protection of investors and the public interest. Such request for review shall be made in writing via e-mail or other electronic means specified from time to time by the Exchange in a circular distributed to Members.

(1) Requests for Review. Requests for review must be received by the Exchange within thirty (30) minutes of execution time and shall include information concerning the time of the transaction(s), security symbol(s), number of shares, price(s), side (bought or sold), and factual basis for believing that the trade is clearly erroneous. Upon receipt of a timely filed request that satisfies the numerical guidelines set forth in paragraph (c)(1) of this IEX Rule 11.270, the counterparty to the trade, if any, shall be notified by the Exchange as soon as practicable, but generally within thirty (30) minutes. An Official may request additional supporting written information to aid in the resolution of the matter. If requested, each party to the transaction shall provide any supporting written information as may be reasonably requested by the Official to aid resolution of the matter within thirty (30) minutes of the Official's request. Either party to the disputed trade may request the supporting written information provided by the other party on the matter.

(2) Routed Executions. Away trading centers will generally have an additional thirty (30) minutes from receipt of their participant's timely filing, but no longer than sixty (60) minutes from the time of the execution at issue, to file with the Exchange for review of transactions routed to the Exchange from that away trading center and executed on the Exchange.

(c) Thresholds. Determinations of whether an execution is clearly erroneous will be made as follows:

(1) Numerical Guidelines. Subject to the provisions of paragraph (c)(3) below, a transaction executed during the Regular Market Session or during the Pre-Market or Post-Market Session shall be found to be clearly erroneous if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price by an amount that equals or exceeds the Numerical Guidelines set forth below. The execution

LONG-TERM STOCK EXCHANGE RULE BOOK

Through Rule Filing SR-LTSE-2020-07

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(d) Except as required by any registered clearing agency, the Exchange will reveal the identity of a User or User's clearing firm in the following circumstances:

(1) For regulatory purposes or to comply with an order of a court or arbitrator; or

(2) When a registered clearing agency ceases to be the User's clearing firm, and determines not to guarantee the settlement of the User's trades.

Rule 11.260. Limitation of Liability

(a) NEITHER THE EXCHANGE, NOR ANY OF ITS AGENTS, EMPLOYEES, CONTRACTORS, OFFICERS, DIRECTORS, SHAREHOLDERS, COMMITTEE MEMBERS OR AFFILIATES ("EXCHANGE-RELATED PERSONS"), WILL BE LIABLE TO ANY USER, OR SUCCESSORS, REPRESENTATIVES, OR CUSTOMERS THEREOF, OR ANY PERSONS ASSOCIATED THEREWITH, FOR ANY LOSS, DAMAGES, CLAIMS, OR EXPENSES:

(1) GROWING OUT OF THE USE OR ENJOYMENT OF ANY FACILITY OF THE EXCHANGE, INCLUDING, WITHOUT LIMITATION, THE SYSTEM; OR

(2) ARISING FROM OR OCCASIONED BY ANY INACCURACY, ERROR OR DELAY IN, OR OMISSION OF OR FROM THE COLLECTION, CALCULATION, COMPILATION, MAINTENANCE, REPORTING, OR DISSEMINATION OF ANY INFORMATION DERIVED FROM THE SYSTEM OR ANY OTHER FACILITY OF THE EXCHANGE, RESULTING EITHER FROM ANY ACT OR OMISSION BY THE EXCHANGE OR ANY EXCHANGE-RELATED PERSON, OR FROM ANY ACT, CONDITION, OR CAUSE BEYOND THE REASONABLE CONTROL OF THE EXCHANGE OR ANY EXCHANGE-RELATED PERSON, INCLUDING, BUT NOT LIMITED TO, FLOOD, EXTRAORDINARY WEATHER CONDITIONS, EARTHQUAKE OR OTHER ACTS OF GOD, FIRE, WAR, TERRORISM, INSURRECTION, RIOT, LABOR DISPUTE, ACCIDENT, ACTION OF GOVERNMENT, COMMUNICATIONS OR POWER FAILURE, OR EQUIPMENT OR SOFTWARE MALFUNCTION.

(b) EACH MEMBER EXPRESSLY AGREES, IN CONSIDERATION OF THE ISSUANCE OF ITS MEMBERSHIP IN THE EXCHANGE, TO RELEASE AND DISCHARGE THE EXCHANGE AND ALL EXCHANGE-RELATED PERSONS OF AND FROM ALL CLAIMS AND DAMAGES ARISING FROM THEIR ACCEPTANCE AND USE OF THE FACILITIES OF THE EXCHANGE (INCLUDING, WITHOUT LIMITATION, THE SYSTEM).

(c) NEITHER THE EXCHANGE NOR ANY EXCHANGE-RELATED PERSON MAKES ANY EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS TO USERS AS TO

RESULTS THAT ANY PERSON OR PARTY MAY OBTAIN FROM THE SYSTEM FOR TRADING OR FOR ANY OTHER PURPOSE, AND ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE, TITLE, AND NON-INFRINGEMENT WITH RESPECT TO THE SYSTEM ARE HEREBY DISCLAIMED.

(d) NOTWITHSTANDING PARAGRAPH (a) ABOVE, AND SUBJECT TO THE EXPRESS LIMITS SET FORTH BELOW, THE EXCHANGE MAY COMPENSATE USERS FOR LOSSES DIRECTLY RESULTING FROM THE SYSTEMS' ACTUAL FAILURE TO CORRECTLY PROCESS AN ORDER, MESSAGE, OR OTHER DATA, PROVIDED THE EXCHANGE HAS ACKNOWLEDGED RECEIPT OF THE ORDER, MESSAGE OR DATA.

(1) AS TO ANY ONE OR MORE CLAIMS MADE BY A SINGLE USER UNDER THIS LTSE RULE 11.260 ON A SINGLE TRADING DAY, THE EXCHANGE SHALL NOT BE LIABLE IN EXCESS OF THE LARGER OF $100,000, OR THE AMOUNT OF ANY RECOVERY OBTAINED BY THE EXCHANGE UNDER ANY APPLICABLE INSURANCE MAINTAINED BY THE EXCHANGE.

(2) AS TO THE AGGREGATE OF ALL CLAIMS MADE BY ALL USERS UNDER THIS LTSE RULE ON A SINGLE TRADING DAY, THE EXCHANGE SHALL NOT BE LIABLE IN EXCESS OF THE LARGER OF $250,000 OR THE AMOUNT OF ANY RECOVERY OBTAINED BY THE EXCHANGE UNDER ANY APPLICABLE INSURANCE MAINTAINED BY THE EXCHANGE.

(3) AS TO THE AGGREGATE OF ALL CLAIMS MADE BY ALL USERS UNDER THIS LTSE RULE 11.260 DURING A SINGLE CALENDAR MONTH, THE EXCHANGE SHALL NOT BE LIABLE IN EXCESS OF THE LARGER OF $500,000, OR THE AMOUNT OF ANY RECOVERY OBTAINED BY THE EXCHANGE UNDER ANY APPLICABLE INSURANCE MAINTAINED BY THE EXCHANGE.

(e) IN THE EVENT THAT ALL OF THE CLAIMS MADE UNDER THIS LTSE RULE 11.260 CANNOT BE FULLY SATISFIED BECAUSE IN THE AGGREGATE THEY EXCEED THE APPLICABLE MAXIMUM LIMITATIONS PROVIDED IN THIS LTSE RULE 11.260, THEN THE MAXIMUM PERMITTED AMOUNT WILL BE PROPORTIONALLY ALLOCATED AMONG ALL SUCH CLAIMS ARISING ON A SINGLE TRADING DAY OR DURING A SINGLE CALENDAR MONTH, AS APPLICABLE, BASED ON THE PROPORTION THAT EACH SUCH CLAIM BEARS TO THE SUM OF ALL SUCH CLAIMS.

(f) ALL CLAIMS FOR COMPENSATION PURSUANT TO THIS LTSE RULE 11.260 SHALL BE IN WRITING AND MUST BE SUBMITTED NO LATER THAN 4:00 P.M.

EASTERN TIME ON THE SECOND BUSINESS DAY FOLLOWING THE DAY ON WHICH THE USE OF THE EXCHANGE GAVE RISE TO SUCH CLAIMS, OR NO LATER THAN 1:00 P.M. EASTERN TIME IN THE EVENT OF AN EARLY MARKET CLOSE ON THE SECOND BUSINESS DAY FOLLOWING THE DAY ON WHICH THE USE OF THE EXCHANGE GAVE RISE TO SUCH CLAIMS.

(g) ONCE IN RECEIPT OF A CLAIM, THE EXCHANGE WILL VERIFY THAT: (i) A VALID ORDER WAS ACCEPTED INTO THE EXCHANGE'S SYSTEMS; AND (II) AN EXCHANGE SYSTEM FAILURE OR A NEGLIGENT ACT OR OMISSION OF AN EXCHANGE EMPLOYEE OCCURRED DURING THE EXECUTION OR HANDLING OF THAT ORDER.

Rule 11.270. Clearly Erroneous Executions

(a) Definition. For the purposes of this LTSE Rule 11.270, the terms of a transaction executed on the Exchange are "clearly erroneous" when there is an obvious error in any term, such as price, number of shares or other unit of trading, or identification of the security. A transaction made in clearly erroneous error and cancelled by both parties or determined by the Exchange to be clearly erroneous will be removed from the Consolidated Tape.

(b) Request and Timing of Review. A Member that receives an execution on an order that was submitted erroneously to the Exchange for its own or customer account may request that the Exchange review the transaction under this LTSE Rule 11.270. An Officer of the Exchange or such other employee designee of the Exchange ("Official") shall review the transaction under dispute and determine whether it is clearly erroneous, with a view toward maintaining a fair and orderly market and the protection of investors and the public interest. Such request for review shall be made in writing via e-mail or other electronic means specified from time to time by the Exchange in a circular distributed to Users.

(1) Requests for Review. Requests for review must be received by the Exchange within thirty (30) minutes of execution time and shall include information concerning the time of the transaction(s), security symbol(s), number of shares, price(s), side (bought or sold), and factual basis for believing that the trade is clearly erroneous. Upon receipt of a timely filed request that satisfies the numerical guidelines set forth in paragraph (c) of this LTSE Rule 11.270, the counterparty to the trade, if any, shall be notified by the Exchange as soon as practicable, but generally within thirty (30) minutes. An Official may request additional supporting written information to aid in the resolution of the matter. If requested, each party to the transaction shall provide any supporting written information as may be reasonably requested by the Official to aid resolution of

Miami International Securities Exchange, LLC

Rules

As of April 29, 2020

Interpretations and Policies:

.01 Post-trade adjustments that do not affect the contractual terms of a trade are to be performed by the Member via an Exchange approved electronic interface communicated to Members via Regulatory Circular.

[Adopted: December 3, 2012; amended July 28, 2017 (SR-MIAX-2017-32)]

Rule 525. Limitation on Dealings

No Member shall bid, offer, purchase or write (sell) on the Exchange any security other than an option contract that is currently open for trading in accordance with the provisions of Chapter IV.

[Adopted: December 3, 2012]

Rule 526. Limitation on the Liability of Index Licensors for Options on Exchange-Traded Fund Shares

(a) The term "index licensor" as used in this Rule refers to any entity that grants the Exchange a license to use one or more indexes or portfolios in connection with the trading of options on Exchange-Traded Fund Shares (as defined in Rule 402(i)).

(b) No index licensor with respect to any index or portfolio underlying an option on Exchange-Traded Fund Shares traded on the Exchange makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any option contract on Exchange-Traded Fund Shares based thereon or for any other purpose. The index licensor shall obtain information for inclusion in, or for use in the calculation of, such index or portfolio from sources it believes to be reliable, but the index licensor does not guarantee the accuracy or completeness of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or related thereto. The index licensor hereby disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to any such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract on Exchange-Traded Fund Shares based thereon. The index licensor shall have no liability for any damages, claims, losses (including any indirect or consequential losses), expenses or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person arising out of any circumstance or occurrence relating to the person's use of such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract on Exchange-Traded Fund Shares based thereon, or arising out of any errors or delays in calculating or disseminating such index or portfolio.

[Adopted: December 3, 2012]

Rule 527. Exchange Liability

(a) Except to the extent provided in paragraph (b) of this Rule, and except as otherwise expressly provided in the Rules, neither the Exchange nor its directors, officers, committee members, limited liability company members, employees or agents shall be liable to Members or to persons associated therewith for any loss, expense, damages or claims that arise out of the use or enjoyment of the facilities or services afforded by the Exchange, any interruption in or failure or unavailability of any such facilities or services, or any action taken or omitted to be taken in respect to the business of the Exchange except to the extent such loss, expense, damages or claims are attributable to the willful misconduct, gross negligence, bad faith or fraudulent or criminal acts of the Exchange or its officers, employees or agents acting within the scope of their authority. Without limiting the generality of the foregoing and subject to the same exception, the Exchange shall have no liability to any person for any loss, expense, damages or claims that result from any error, omission or delay in calculating or disseminating any current or closing index value, any current or closing value of interest rate options, or any reports of transactions in or quotations for options or other securities, including underlying securities. The Exchange makes no warranty, express or implied, as to results to be obtained by any person or entity from the use of any data transmitted or disseminated by or on behalf of the Exchange

or any reporting authority designated by the Exchange, including but not limited to reports of transactions in or quotations for securities traded on the Exchange or underlying securities, or reports of interest rate measures or index values or related data, and the Exchange makes no express or implied warranties of merchantability or fitness for a particular purpose or use with respect to any such data. The foregoing limitations of liability and disclaimers shall be in addition to, and not in limitation of, the provisions of the Exchange's By-Laws. Without limiting the generality of the foregoing, the Exchange shall have no liability to any person for any loss, expense, damages or claims that result from any error, omission or delay in calculating or disseminating any current or closing index value or any reports of transactions in or quotations for options or other securities, including underlying securities.

(b) Whenever custody of an unexecuted order or quote is transmitted by a Member to or through the Exchange's System or to any other automated facility of the Exchange whereby the Exchange assumes responsibility for the transmission or execution of the order or quote, provided that the Exchange has acknowledged receipt of such order or quote, the Exchange's liability for the negligent acts or omissions of its employees or for the failure of its systems or facilities shall not exceed the limits provided in this paragraph (b), and no assets of the Exchange shall be applied or shall be subject to such liability in excess of the following limits:

(1) As to any one or more claims made by a single Member growing out of the use or enjoyment of the facilities afforded by the Exchange on a single trading day, the Exchange shall not be liable in excess of the larger of $100,000 or the amount of any recovery obtained by the Exchange under any applicable insurance maintained by the Exchange;

(2) As to the aggregate of all claims made by all Members growing out of the use or enjoyment of the facilities afforded by the Exchange on a single trading day, the Exchange shall not be liable in excess of the larger of $250,000 or the amount of the recovery obtained by the Exchange under any applicable insurance maintained by the Exchange;

(3) As to the aggregate of all claims made by all Members growing out of the use or enjoyment of the facilities afforded by the Exchange during a single calendar month, the Exchange shall not be liable in excess of the larger of $500,000 or the amount of the recovery obtained by the Exchange under any applicable insurance maintained by the Exchange.

(c) If all of the claims arising out of the use or enjoyment of the facilities afforded by the Exchange cannot be fully satisfied because in the aggregate they exceed the applicable maximum amount of liability provided for in paragraph (b) above, then such maximum amount shall be allocated among all such claims arising on a single trading day or during a single calendar month, as applicable, written notice of which has been given to the Exchange no later than the opening of trading on the next business day following the day on which the use or enjoyment of Exchange facilities giving rise to the claim occurred, based upon the proportion that each such claim bears to the sum of all such claims.

[Adopted: December 3, 2012; amended September 27, 2017 (SR-MIAX-2017-39)]

Rule 528. Legal Proceedings Against the Exchange and its Directors, Officers, Employees, Contractors or Agents

No Member or person associated with a Member shall institute a lawsuit or other legal proceeding against the Exchange or any director, officer, limited liability company member, employee, contractor, agent or other official of the Exchange or any subsidiary of the Exchange, for actions taken or omitted to be taken in connection with the official business of the Exchange or any subsidiary, except to the extent such actions or omissions constitute violations of the federal securities laws for which a private right of action exists. This provision shall not apply to appeals of disciplinary actions or other actions by the Exchange as provided for in the Rules.

[Adopted: December 3, 2012]

Section 27. Limitation of Liability

(a) The Exchange, its Directors, officers, committee members, employees, contractors or agents shall not be liable to Members nor any persons associated with Members for any loss, expense, damages or claims arising out of the use of the facilities, systems or equipment afforded by the Exchange, nor any interruption in or failure or unavailability of any such facilities, systems or equipment, whether or not such loss, expense, damages or claims result or are alleged to result from negligence or other unintentional errors or omissions on the part of the Exchange, its Directors, officers, committee members, employees, contractors, agents or other persons acting on its behalf, or from systems failure, or from any other cause within or outside the control of the Exchange. Without limiting the generality of the foregoing, the Exchange shall have no liability to any person for any loss, expense, damages or claims which result from any error, omission or delay in calculating or disseminating any current or closing index value or any reports of transactions in or quotations for options or other securities, including underlying securities.

(b) The Exchange makes no warranty, express or implied, as to results to be obtained by any person or entity from the use of any data transmitted or disseminated by or on behalf of the Exchange or any reporting authority designated by the Exchange, including but not limited to, reports of transactions in or quotations for securities traded on the Exchange or underlying securities, or reports of interest rate measures or index values or related data, and the Exchange makes no express or implied warranties of merchantability or fitness for a particular purpose or use with respect to any such data.

(c) No Member or person associated with a Member shall institute a lawsuit or other legal proceeding against the Exchange or any Director, officer, employee, contractor, agent or other official of the Exchange or any subsidiary of the Exchange, for actions taken or omitted to be taken in connection with the official business of the Exchange or any subsidiary, except to the extent such actions or omissions constitution violations of the federal securities laws for which a private right of action exists. This provision shall not apply to appeals of disciplinary actions or other actions by the Exchange as provided for in the Rules.

(d) Notwithstanding paragraph (a) above, the Exchange, subject to the express limits set forth below, may compensate users of the Exchange for losses directly resulting from the actual failure of the System, or any other Exchange quotation, transaction reporting, execution, order routing or other systems or facility to correctly process an order, quote, message, or other data, provided that the Exchange has acknowledged receipt of the order, quote, message, or data.

(1) For the aggregate of all claims made by all market participants related to the use of the Exchange during a single calendar month, the Exchange's payments shall not exceed the larger of $500,000, or the amount of the recovery obtained by the Exchange under any applicable insurance policy.

(2) In the event that all of the claims arising out of the use of the Exchange cannot be fully satisfied because in the aggregate they exceed the limitations provided for in this Rule, then the maximum permitted amount will be proportionally allocated among all such claims arising during a single calendar month.

(3) All claims for compensation pursuant to this Rule shall be in writing and must be submitted no later than 12:00 P.M. ET on the next business day following the day on which the use of the Exchange gave rise to such claims. Nothing in this Rule shall obligate the Exchange to seek recovery under any applicable insurance policy.

[Adopted June 27, 2019 (SR-GEMX-2019-08).]

New York Stock Exchange (NYSE)
NYSE Rules
Rules
Rules

NYSE Rule 17

Rule 17. Use of Exchange Facilities and Vendor Services

Effective: November 6, 2019

(a) Exchange Liability

The Exchange shall not be liable for any damages sustained by a member, allied member or member organization growing out of the use or enjoyment by such member, allied member or member organization of the facilities afforded by the Exchange, except as provided in NYSE Rule 18.

(b) Vendor Liability

In connection with member or member organization use of any third-party electronic system, service, or facility ("third-party vendor") provided by the Exchange to members for the conduct of their business on the Exchange, the Exchange shall not be liable for any damages sustained by a member, allied member or member organization growing out of the use or enjoyment by such member, allied member or member organization of the third-party electronic system, service, or facility provided by the Exchange, except as provided in NYSE Rule 18.

(c) Operation of Routing Broker The term "Routing Broker" shall mean the brokerdealer affiliate of the Exchange and/or any other non-affiliated third-party broker-dealer that acts as a facility of the Exchange for routing orders entered into Exchange systems to other market centers for execution whenever such routing is required by Exchange Rules and federal securities laws.

1. Outbound Routing Function

(A)

(i) The Routing Broker(s) will receive routing instructions from the Exchange, to route orders to other market centers and report such executions back to the Exchange. Except as provided in paragraph (c)(1)(A)(ii) below, the Routing Broker(s) cannot change the terms of an order or the routing instructions, nor does the Routing Broker(s) have any discretion about where to route an order.

(ii) In the sole discretion of the Routing Broker(s), pursuant to risk management controls and supervisory procedures maintained by the Routing Broker(s) pursuant to SEC Rule 15c3-5, the Routing Broker(s) may reject any order or series of orders as necessary to manage the financial, regulatory, and other risks of the Routing Brokers(s) providing "market access," as that term is defined in SEC Rule 15c3-5(a)(1).

(B) The broker-dealer affiliate of the Exchange that acts as a Routing Broker will not engage in any business other than (a) the functions set forth in Rule 17(c); and (b) any other activities it may engage in as approved by the Commission.

(C) The use of the Routing Broker(s) to route orders to another market center will be optional. Any member organization that does not want to use the Routing Broker(s) must enter an immediate-or-cancel order or any such other order type available on the Exchange that is not eligible for routing.

(D) All bids and offers entered on the Exchange routed to other market centers via the Routing Broker(s) that result in an execution shall be binding on the member organization that entered such bid and offer.

(E) The Exchange will regulate the Routing Broker(s) as a facility (as defined in Section 3(a)(2) of the Securities Exchange Act of 1934 (the "Exchange Act")), subject to Section 6 of the Act. In particular, and without limitation, under the Exchange Act, the Exchange will be responsible for filing with the Commission rule changes and fees relating to the functions performed by the Routing Broker(s) for the Exchange and will be subject to exchange non-discrimination requirements.

(F) The books, records, premises, officers, agents, directors and employees of the Routing Broker(s), as a facility of the Exchange, shall be deemed to be the books, records, premises, officers, agents, directors and employees of the Exchange for purposes of, and subject to oversight pursuant to, the Exchange Act. The books and records of the Routing Broker(s) as a facility of the Exchange shall be subject at all times to inspection and copying by the Exchange and the Commission.

(G) A self-regulatory organization ("SRO") unaffiliated with the Exchange or any of its affiliates will carry out the oversight and enforcement responsibilities as the designated examining authority designated by the Commission pursuant to Rule 17d-1 of the Exchange Act with the responsibility for examining the Routing Broker(s) for compliance with the applicable financial responsibility rules.

(H) The Exchange shall establish and maintain procedures and internal controls reasonably designed to adequately restrict the flow of confidential and proprietary information between the Exchange and its facilities (including the non-affiliate third-party broker-dealer acting as a facility of the Exchange ("third-party Routing Facility"), and any other entity, including any affiliate of the third-party Routing Facility, and, if the third-party Routing Facility or any of its affiliates engage in any other business activities other than providing routing services to the Exchange, between the segment of the third-party Routing Facility or affiliate that provides the other business activities and the routing services.

2. Inbound Routing Function

(A) For so long as the Exchange is affiliated with NYSE Arca, Inc. ("NYSE Arca"), NYSE National, Inc. ("NYSE National"), NYSE Chicago, Inc. ("NYSE Chicago") and NYSE American LLC ("NYSE American"), and Archipelago Securities LLC ("Arca Securities") in its capacity as a facility of NYSE Arca, NYSE National, NYSE Chicago and NYSE American is utilized for the routing of any approved types of orders from those exchanges to the Exchange (such function of Arca Securities is referred to as the "Inbound Router"), each of the Exchange and Arca Securities shall undertake as follows:

(i) The Exchange shall (1) maintain an agreement pursuant to Rule 17d-2 under the Exchange Act with a non-affiliated SRO to relieve the Exchange of regulatory responsibilities for Arca Securities with respect to rules that are common rules between the Exchange and the non-affiliated SRO, and (2) maintain a regulatory services agreement with a non-affiliated SRO to perform regulatory responsibilities for Arca Securities for unique Exchange rules.

(ii) The regulatory services agreement described in Rule 17(c)(2)(A)(i) shall require the Exchange and the non-affiliated SRO to monitor Arca Securities for compliance with the Exchange's trading rules, and collect and maintain all alerts, complaints, investigations and enforcement actions (collectively "Exceptions") in which Arca Securities (in routing orders to the Exchange) is identified as a participant that has potentially violated applicable Exchange or SEC rules. The Exchange and the non-affiliated SRO shall retain these records in an easily accessible manner. The regulatory services agreement described in Rule 17(c)(2)(A)(i) shall require that the non-affiliated SRO provide a report, at least quarterly, to the Chief Regulatory Officer of the Exchange quantifying all Exceptions (of which the Exchange and the non-affiliated SRO become aware) in which Arca Securities is identified as a participant that has potentially violated Exchange or SEC Rules.

(iii) The Exchange, on behalf of the holding company owning both the Exchange and Arca Securities, shall establish and maintain procedures and internal controls reasonably designed to prevent Arca Securities from receiving any benefit, taking any action or engaging in any activity based on non-public information regarding planned changes to Exchange systems, obtained as a result of its affiliation with the Exchange, until such information is available generally to similarly situated member organizations of the Exchange in connection with the provision of inbound order routing to the Exchange.

(iv) The Exchange may furnish to Arca Securities the same information on the same terms that the Exchange makes available in the normal course of business to any other member organization.

(B) Provided the above conditions are complied with, and provided further that Arca Securities operates as an outbound router on behalf of NYSE Arca, NYSE National, NYSE Chicago and NYSE American on the same terms and conditions as it does for the Exchange, and in accordance with the Rules of NYSE Arca, NYSE National, NYSE Chicago and NYSE American, Arca Securities may provide inbound routing services to the Exchange from NYSE Arca, NYSE National, NYSE Chicago and NYSE American.

3. Cancellation of Orders and Error Account

(A) The Exchange or Arca Securities may cancel orders as either deems to be necessary to maintain fair and orderly markets if a technical or systems issue occurs at the Exchange, Arca Securities, or a routing destination. The Exchange or Arca Securities shall provide notice of the cancellation to affected member organizations as soon as practicable.

(B) Arca Securities shall maintain an error account for the purpose of addressing positions that result from a technical or systems issue at Arca Securities, the Exchange, a routing destination, or a non-affiliate third-party Routing Broker that affects one or more orders ("error positions").

(i) For purposes of this Rule 17(c)(3), an error position shall not include any position that results from an order submitted by a member organization to the Exchange that is executed on the Exchange and processed pursuant to NYSE Rule 132.

(ii) Arca Securities shall not (1) accept any positions in its error account from an account of a member organization, or (2) permit any member organization to transfer any positions from the member organization's account to Arca Securities' error account.

(iii) For purposes of this Rule 17(c)(3), uncompared transactions that may be processed pursuant to Rule 134(e) are not error positions.

(C) In connection with a particular technical or systems issue, Arca Securities or the Exchange shall either (1) assign all resulting error positions to member organizations in accordance with subparagraph (i) below, or (2) have all resulting error positions liquidated in accordance with subparagraph (ii) below. Any determination to assign or liquidate error positions, as well as any resulting assignments, shall be made in a nondiscriminatory fashion.

(i) Arca Securities or the Exchange shall assign all error positions resulting from a particular technical or systems issue to the member organizations affected by that technical or systems issue if Arca Securities or the Exchange:

(a) determines that it has accurate and sufficient information (including valid clearing information) to assign the positions to all of the member organizations affected by that technical or systems issue;

(b) determines that it has sufficient time pursuant to normal clearance and settlement deadlines to evaluate the information necessary to assign the positions to all of the member organizations affected by that technical or systems issue; and

(c) has not determined to cancel all orders affected by that technical or systems issue in accordance with subparagraph (c)(3)(A) above.

(ii) If Arca Securities or the Exchange is unable to assign all error positions resulting from a particular technical or systems issue to all of the affected member organizations in accordance with subparagraph (i) above, or if Arca Securities or the Exchange determines to cancel all orders affected by the technical or systems issue in accordance with subparagraph (c)(3)(A) above, then Arca Securities shall liquidate the error positions as soon as practicable. Arca Securities shall:

(a) provide complete time and price discretion for the trading to liquidate the error positions to a third-party broker-dealer and shall not attempt to exercise any influence or control over the timing or methods of such trading; and

(b) establish and enforce policies and procedures that are reasonably designed to restrict the flow of confidential and proprietary information between the third-party broker-dealer and Arca Securities/the Exchange associated with the liquidation of the error positions.

(D) Arca Securities and the Exchange shall make and keep records to document all determinations to treat positions as error positions and all determinations for the assignment of error positions to member organizations or the liquidation of error positions, as well as records associated with the liquidation of error positions through the third-party broker-dealer.

Credits

Amended: November 6, 2019 (SR-NYSE-2019-57) May 31, 2018 (SR-NYSE-2018-25) August 17, 2017 (SR-NYSE-2017-41) July 13, 2015 (SR-NYSE-2015-15) October 18, 2012 (SR-NYSE-2012-53) September 7, 2012 (SR-NYSE-2012-40) September 30, 2011 (SR-NYSE-2011-45) July 19, 2011 (SR-NYSE-2011-34) June 23, 2011 (SR-NYSE-2011-24) March 2, 2009 (SR-NYSE-2009-16) October 24, 2008 (SR-NYSE-2008-107) July 10, 2008 (SR-NYSE-2008-55) May 27, 2008 (SR-NYSE-2008-37) April 5, 2007 (SR-NYSE-2007-29)

Adopted: February 27, 2006 (SR-NYSE-2005-77); Effective March 8, 2006

Rule 17, NYSE Rule 17

End of Document

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May 6, 2020

Via Email

The Honorable Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

Re: **In the Matter of the Application of Securities Industry and Financial Markets Association, For Review of Action Taken by CAT LLC and Certain Self-Regulatory Organizations Pursuant to Exchange Act Sections 19(d) and 19(f), AP File No. 3-19766**

Dear Ms. Countryman:

On behalf of Consolidated Audit Trail, LLC[1] ("CAT LLC"), enclosed please find the following documents:

- CAT LLC's and the Participants' Memorandum of Law in Opposition to Securities Industry and Financial Markets Association's ("SIFMA") Motion to Stay, dated May 6, 2020;
- May 6, 2020 Declaration of Michael Simon with respect to CAT LLC's and the Participants' Opposition to SIFMA's Motion to Stay;
- May 6, 2020 Declaration of David Oliwenstein in Support of CAT LLC's and the Participants' Opposition to SIFMA's Motion to Stay, with accompanying exhibits; and
- May 6, 2020 Certification of the Record in the Matter of the Application of SIFMA for Review of Action Taken by CAT LLC and Certain Self-Regulatory Organizations.

[1] SIFMA's application in this matter is ambiguous as to whether CAT LLC has been named as a respondent in these proceedings. In light of that ambiguity, CAT LLC is listed as a signatory to this correspondence and the enclosed documents. Counsel for CAT LLC is authorized to represent that the enclosed documents are submitted on behalf of CAT LLC and the individual Participants named in SIFMA's application.

In response to the Commission's April 27, 2020 email request, the parties have conferred and agree to accept service of all filings and the Commission's orders by email.

Respectfully submitted,

David Oliwenstein

Eric Fishman
Ari M. Berman
David Oliwenstein

Counsel for Consolidated Audit Trail, LLC

cc: **Via Email**

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