

Dated: August 31, 2017.

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81499; File Nos. SR-BatsBZX-2017-37; SR-BatsEDGX-2017-23; SR-BOX-2017-17; SR-C2-2017-018; SR-CBOE-2017-041; SR-FINRA-2017-013; SR-ISE-2017-46; SR-IEX-2017-18; SR-MIAX-2017-20; SR-PEARL-2017-23; SR-NASDAQ-2017-055; SR-BX-2017-027; SR-Phlx-2017-43; SR-NYSE-2017-23; SR-NYSEArca-2017-57; SR-NYSEArca-2017-59; SR-NYSEMKT-2017-29; SR-NYSEMKT-2017-30]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Bats EDGX Exchange, Inc.; BOX Options Exchange LLC; C2 Options Exchange, Incorporated; Chicago Board Options Exchange, Incorporated; Financial Industry Regulatory Authority, Inc.; International Securities Exchange, LLC; Investors Exchange LLC; Miami International Securities Exchange LLC; MIAX PEARL, LLC; The NASDAQ Stock Market LLC; NASDAQ BX, Inc.; NASDAQ PHLX LLC; New York Stock Exchange LLC; NYSE Arca, Inc.; NYSE MKT LLC; Notice of Filing of Amendment No. 1 by Bats BZX Exchange, Inc.; Bats EDGX Exchange, Inc.; BOX Options Exchange LLC; C2 Options Exchange, Incorporated; Chicago Board Options Exchange, Incorporated; Financial Industry Regulatory Authority, Inc.; Investors Exchange LLC; New York Stock Exchange LLC; NYSE Arca, Inc.; NYSE MKT LLC, of Amendment Nos. 1 and 2 by International Securities Exchange, LLC; The NASDAQ Stock Market LLC; NASDAQ BX, Inc.; and NASDAQ PHLX LLC, of Amendment No. 2 by MIAX PEARL, LLC, and of Amendment No. 3 by Miami International Securities Exchange LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Changes, as Modified by Amendments Thereto, To Eliminate Requirements That Will Be Duplicative of CAT

August 30, 2017.

I. Introduction

On May 15, 2017, Bats BZX Exchange, Inc. (“Bats BZX”); Bats EDGX Exchange, Inc. (“Bats EDGX”); BOX Options Exchange LLC (“BOX”); C2 Options Exchange, Incorporated (“C2”); Chicago Board Options Exchange, Incorporated (“CBOE”); Financial Industry

Regulatory Authority, Inc. (“FINRA”); International Securities Exchange, LLC (“ISE”); Investors Exchange LLC (“IEX”); Miami International Securities Exchange LLC (“MIAX”); MIAX PEARL, LLC (“PEARL”); NYSE Arca, Inc. (“NYSE Arca”); and NYSE MKT LLC (“NYSE MKT”) (n/k/a NYSE American LLC)¹ filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)² and Rule 19b-4 thereunder,³ proposed rule changes to eliminate or modify certain rules that require the collection or reporting of information that is duplicative of the information that will be collected by the Consolidated Audit Trail (“CAT”) established pursuant to the National Market System Plan contemplated by Rule 613 of Regulation NMS.⁴ On May 22, 2017, the New York Stock Exchange LLC (“NYSE”) filed with the Commission a proposed rule change for the same purpose, and each of NYSE Arca⁵ and NYSE MKT filed an additional proposed rule change for the same purpose. On May 26, 2017, the NASDAQ Stock Market LLC (“NASDAQ”) and NASDAQ PHLX LLC (“Phlx”) filed with the Commission proposed rule changes for the same purpose.⁶ On May 30, 2017, NASDAQ BX, Inc. (“BX”) filed with the Commission a proposed rule change for the same purpose.⁷ In this notice and order, all of these proposed rule changes are referred to collectively as the “Systems Retirement Proposals.” Bats BZX, Bats EDGX, BOX, BX, C2, CBOE, ISE, IEX, MIAX, PEARL, NASDAQ, NYSE, NYSE Arca, NYSE MKT, and Phlx are collectively referred to as the

¹ See Securities Exchange Act Release No. 80283 (March 21, 2017), 82 FR 15244 (March 27, 2017) (SR-NYSEMKT-2017-14). The name change was not yet effective when NYSE MKT filed SR-NYSEMKT-2017-29 and SR-NYSEMKT-2017-30.

² 15 U.S.C. 78s(b)(1).

³ 17 CFR 240.19b-4.

⁴ 17 CFR 242.613.

⁵ Effective August 17, 2017, NYSE Arca amended, among other things, certain rules of the Exchange to create a single rulebook. See Securities Exchange Act Release No. 81419 (August 17, 2017) (SR-NYSEArca-2017-40) (the “Arca Merger Filing”). NYSE Arca rule text references in this notice and order reflect rule numbering changes as a result of the Arca Merger Filing.

⁶ Nasdaq and Phlx initially filed proposed rule changes on May 15, 2017 (SR-NASDAQ-2017-050 and SR-PHLX-2017-38). On May 26, 2017, Nasdaq and Phlx withdrew these filings and submitted new proposed rule changes (SR-NASDAQ-2017-055 and SR-PHLX-2017-43).

⁷ BX initially filed a proposed rule change on May 15, 2017 (SR-BX-2017-025). On May 30, 2017, BX withdrew that initial filing and submitted a new proposed rule change (SR-BX-2017-027).

“Exchanges,” and, together with FINRA, are referred to as the “SROs.”

On June 1, 2017, the proposed rule changes submitted by Bats BZX, Bats EDGX, BOX, C2, CBOE, FINRA, IEX, ISE, MIAX, and PEARL; both proposed rule changes submitted by NYSE MKT; and one of the proposed rule changes submitted by NYSE Arca were published for comment in the **Federal Register**.⁸ On June 2, 2017, the proposed rule change submitted by NYSE and the other proposed rule change submitted by NYSE Arca were published for comment in the **Federal Register**.⁹ On June 5, 2017, the proposed rule changes submitted by NASDAQ, BX, and Phlx were published for comment in the **Federal Register**.¹⁰

Four comments were submitted to File Number SR-FINRA-2017-013.¹¹

On June 22, 2017, each of NASDAQ, BX, ISE, and Phlx filed an amendment

⁸ See Securities Exchange Act Release No. 80796 (May 26, 2017), 82 FR 25374 (SR-BatsBZX-2017-37) (“Bats BZX Notice”); Securities Exchange Act Release No. 80795 (May 26, 2017), 82 FR 25358 (SR-BatsEDGX-2017-23) (“Bats EDGX Notice”); Securities Exchange Act Release No. 80789 (May 26, 2017), 82 FR 25492 (SR-BOX-2017-17) (“BOX Notice”); Securities Exchange Act Release No. 80798 (May 26, 2017), 82 FR 25385 (SR-C2-2017-018) (“C2 Notice”); Securities Exchange Act Release No. 80797 (May 26, 2017), 82 FR 25429 (SR-CBOE-2017-041) (“CBOE Notice”); Securities Exchange Act Release No. 80783 (May 26, 2017), 82 FR 25423 (SR-FINRA-2017-013) (“FINRA Notice”); Securities Exchange Act Release No. 80788 (May 26, 2017), 82 FR 25400 (SR-IEX-2017-18) (“IEX Notice”); Securities Exchange Act Release No. 80787 (May 26, 2017), 82 FR 25469 (SR-ISE-2017-46) (“ISE Notice”); Securities Exchange Act Release No. 80790 (May 26, 2017), 82 FR 25366 (SR-MIAX-2017-20) (“MIAX Notice”); Securities Exchange Act Release No. 80792 (May 26, 2017), 82 FR 25436 (SR-PEARL-2017-23) (“PEARL Notice”); Securities Exchange Act Release No. 80791 (May 26, 2017), 82 FR 25362 (SR-NYSEArca-2017-59) (“NYSE Arca Notice 1”); Securities Exchange Act Release No. 80793 (May 26, 2017), 82 FR 25443 (SR-NYSEMKT-2017-29) (“NYSE MKT Notice 1”); Securities Exchange Act Release No. 80794 (May 26, 2017), 82 FR 25439 (SR-NYSEMKT-2017-30) (“NYSE MKT Notice 2”).

⁹ See Securities Exchange Act Release No. 80799 (May 26, 2017), 82 FR 25635 (SR-NYSE-2017-23) (“NYSE Notice”); Securities Exchange Act Release No. 80800 (May 26, 2017), 82 FR 25639 (SR-NYSEArca-2017-57) (“NYSE Arca Notice 2”).

¹⁰ See Securities Exchange Act Release No. 80813 (May 30, 2017), 82 FR 25820 (SR-NASDAQ-2017-055) (“NASDAQ Notice”); Securities Exchange Act Release No. 80814 (May 30, 2017), 82 FR 25872 (SR-BX-2017-027) (“BX Notice”); Securities Exchange Act Release No. 80811 (May 30, 2017), 82 FR 25863 (SR-Phlx-2017-43) (“Phlx Notice”).

¹¹ See letters from William H. Herbert, Managing Director, Financial Information Forum, dated June 22, 2017 (“FIF Letter”); Manisha Kimmel, Chief Regulatory Officer, Wealth Management, Thomson Reuters, dated June 22, 2017 (“Thomson Reuters Letter”); Marc R. Bryant, Senior Vice President, Deputy General Counsel, Fidelity Investments, dated June 22, 2017 (“Fidelity Letter”); and Ellen Greene, Managing Director and Theodore R. Lazo, Managing Director and Associate General Counsel, SIFMA, dated June 23, 2017 (“SIFMA Letter”).

to its proposed rule change.¹² On July 14, 2017, the Commission extended the time period for Commission action on all of the Systems Retirement Proposals to August 30, 2017.¹³

On August 24, 2017, BOX submitted Amendment No. 1 to its proposed rule filing,¹⁴ IEX submitted Amendment No. 1 to its proposed rule filing,¹⁵ PEARL submitted Amendment No. 2 to its proposed rule filing,¹⁶ and MIAX submitted Amendment No. 3 to its

proposed rule filing.¹⁷ On August 25, 2017, Bats BZX submitted Amendment No. 1 to its proposed rule filing,¹⁸ Bats EDGX submitted Amendment No. 1 to its proposed rule filing,¹⁹ BX submitted Amendment No. 1 to its proposed rule filing,²⁰ C2 submitted Amendment No.

1 to its proposed rule filing,²¹ CBOE submitted Amendment No. 1 to its proposed rule filing,²² FINRA submitted Amendment No. 1 to its proposed rule filing,²³ ISE submitted Amendment No. 2 to its proposed rule filing,²⁴ NASDAQ submitted Amendment No. 2 to its proposed rule filing,²⁵ NYSE submitted

¹² These amendments modified Section 2 of the Form 19b-4 submitted by each of NASDAQ, BX, ISE, and Phlx to state that on June 1, 2017, the exchange obtained the necessary approval from its Board of Directors for the proposed rule change. When NASDAQ, BX, ISE, and Phlx each filed Amendment No. 1 to their respective proposals with the Commission, they also submitted the Amendment No. 1 to the public comment file for each of their respective proposals.

¹³ See Securities Exchange Act Release No. 81145, 82 FR 33533 (July 20, 2017).

¹⁴ This amendment: (1) Added introductory language to BOX's COATS-related rules to clarify that the rules will be amended upon announcement by BOX that the CAT has achieved a sufficient level of accuracy and reliability; (2) modified rule text language for BOX's EBS rule and the rule regarding securities accounts and orders of market makers to clarify that BOX will not request trade data or information, and members will not be required to provide trade data or information, pursuant to the rule for trades reported to the CAT after BOX announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to these rules; and (3) clarified that the accuracy and reliability standards discussed in its Systems Retirement Proposal apply to all of the rules discussed therein. When BOX filed Amendment No. 1 to its proposal with the Commission, it also submitted Amendment No. 1 to the public comment file for its proposal.

¹⁵ This amendment: (1) Added introductory language to IEX's OATS rule series to clarify that the rules will be deleted upon announcement by IEX that the CAT has achieved a level of accuracy and reliability sufficient to replace OATS; (2) modified IEX's EBS rule text language to clarify that IEX (or FINRA on behalf of IEX) will not request trade data or information, and members will not be required to provide trade data or information, pursuant to the EBS rule for trades reported to the CAT after IEX announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to the EBS rule; and (3) made two clarifying revisions to the Purpose section of its proposal. When IEX filed Amendment No. 1 to its proposal with the Commission, it also submitted Amendment No. 1 to the public comment file for its proposal.

¹⁶ PEARL filed Amendment No. 1 to its proposed rule change on August 22, 2017. On August 24, 2017, PEARL withdrew Amendment No. 1 and replaced it with Amendment No. 2. Amendment No. 2 modified the rule text for PEARL's EBS rule (which is incorporated by reference from the MIAX rulebook) and its rule regarding market maker order and account information to clarify that PEARL will not request trade data or information, and members will not be required to provide trade data or information, pursuant to such rule for trades reported to the CAT after PEARL announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to these rules. When PEARL filed Amendment No. 2 to its proposal with the Commission, it also submitted Amendment No. 2 to the public comment file for its proposal.

¹⁷ MIAX filed Amendment No. 1 to its proposed rule change on August 22, 2017 and withdrew and replaced it with Amendment No. 2 on the same day. On August 24, 2017, MIAX withdrew Amendment No. 2 and replaced it with Amendment No. 3. Amendment No. 3 modified the rule text for MIAX's EBS rule and its rule regarding market maker order and account information to clarify that MIAX will not request trade data or information, and members will not be required to provide trade data or information, pursuant to such rule for trades reported to the CAT after MIAX announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to these rules. When MIAX filed Amendment No. 3 to its proposal with the Commission, it also submitted Amendment No. 3 to the public comment file for its proposal.

¹⁸ This amendment: (1) Added introductory language to BZX's rule regarding securities accounts and orders of market makers to clarify that the rules will be amended upon announcement by BZX that the CAT has achieved a sufficient level of accuracy and reliability; and (2) modified rule text language for BZX's EBS rule and the rule regarding furnishing of records to clarify that BZX will not request trade data or information, and members will not be required to provide trade data or information, pursuant to the rule for trades reported to the CAT after BZX announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to these rules. When BZX filed Amendment No. 1 to its proposal with the Commission, it also submitted Amendment No. 1 to the public comment file for its proposal.

¹⁹ This amendment: (1) Added introductory language to Bats EDGX's rule regarding securities accounts and orders of market makers to clarify that the rule will be amended upon announcement by Bats EDGX that the CAT has achieved a sufficient level of accuracy and reliability; and (2) modified rule text language for Bats EDGX's EBS rule and the rule regarding furnishing of records to clarify that Bats EDGX will not request trade data or information, and members will not be required to provide trade data or information, pursuant to the rule for trades reported to the CAT after Bats EDGX announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to these rules. When Bats EDGX filed Amendment No. 1 to its proposal with the Commission, it also submitted Amendment No. 1 to the public comment file for its proposal.

²⁰ This amendment: (1) Added introductory language to BX's OATS rule series to clarify that the rules will be deleted upon announcement by BX that the CAT has achieved a level of accuracy and reliability sufficient to replace OATS; (2) added introductory language to BX's COATS-related rules to clarify that the rules will be amended upon announcement by BX that the CAT has achieved a level of accuracy and reliability sufficient to replace COATS; and (3) modified BX's EBS rule text and the language of Chapter VII, Section 7, to clarify that BX will not request trade data or information, and members will not be required to provide trade data or information, pursuant to EBS Rules or Chapter VII, Section 7, for trades reported to the CAT after BX announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to these rules. When BX filed Amendment No. 2 to its proposal with the Commission, it also submitted Amendment No. 2 to the public comment file for its proposal.

²¹ This amendment added introductory language to C2's rule regarding securities accounts and orders of market makers to clarify that the rule will be amended upon announcement by C2 that the CAT has achieved a sufficient level of accuracy and reliability. When C2 filed Amendment No. 1 to its proposal with the Commission, it also submitted Amendment No. 1 to the public comment file for its proposal.

²² This amendment: (1) Added introductory language to CBOE's COATS-related rules and rule regarding securities accounts and orders of market makers to clarify that the rules will be amended upon announcement by CBOE that the CAT has achieved a sufficient level of accuracy and reliability; and (2) modified rule text language for CBOE's EBS rule and the rule regarding complaints and investigations to clarify that CBOE will not request trade data or information, and members will not be required to provide trade data or information, pursuant to the rule for trades reported to the CAT after CBOE announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to these rules. When CBOE filed Amendment No. 1 to its proposal with the Commission, it also submitted Amendment No. 1 to the public comment file for its proposal.

²³ This amendment: (1) Added introductory language to FINRA's OATS rule series to clarify that the rules will be deleted upon announcement by FINRA that the CAT has achieved a level of accuracy and reliability sufficient to replace OATS; and (2) modified FINRA's EBS rule text to clarify that FINRA will not request trade data or information, and members will not be required to provide trade data or information, pursuant to its EBS rules for trades reported to the CAT after FINRA announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to these rules. When FINRA filed Amendment No. 1 to its proposal with the Commission, it also submitted Amendment No. 1 to the public comment file for its proposal.

²⁴ This amendment modified ISE's EBS rule text language to clarify that ISE will not request trade data or information, and members will not be required to provide trade data or information, pursuant to ISE's Rule 1404 for trades reported to the CAT after ISE announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to the rule. When ISE filed Amendment No. 2 to its proposal with the Commission, it also submitted Amendment No. 2 to the public comment file for its proposal.

²⁵ This amendment: (1) Added introductory language to NASDAQ's OATS rule series to clarify that the rules will be deleted upon announcement by NASDAQ that the CAT has achieved a level of accuracy and reliability sufficient to replace OATS; (2) added introductory language to NASDAQ's COATS-related rules to clarify that these rules will be amended upon announcement by NASDAQ that the CAT has achieved a level of accuracy and reliability sufficient to replace COATS; and (3) modified NASDAQ's EBS rule text and the language of Chapter VII, Section 7, to clarify that NASDAQ will not request trade data or information, and members will not be required to provide trade data or information, pursuant to the EBS Rules or Chapter VII, Section 7, for trades reported to the CAT after NASDAQ announces that it has

Amendment No. 1 to its proposed rule filing,²⁶ NYSE Arca submitted Amendment No. 1 to each of its proposed rule filings,²⁷ NYSE MKT submitted Amendment No. 1 to each of its proposed rule filings,²⁸ and Phlx

determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to these rules. When NASDAQ filed Amendment No. 2 to its proposal with the Commission, it also submitted Amendment No. 2 to the public comment file for its proposal.

²⁶ This amendment: (1) Added introductory language to NYSE's OATS rules to clarify that they will be deleted upon announcement by FINRA that the CAT has achieved a level of accuracy and reliability sufficient to replace OATS; and (2) modified NYSE's EBS rule text to clarify that NYSE will not request trade data or information, and member organizations will not be required to provide trade data or information, pursuant to the rule for trades reported to the CAT after FINRA announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to FINRA's EBS rules. When NYSE filed Amendment No. 1 to its proposal with the Commission, it also submitted Amendment No. 1 to the public comment file for its proposal.

²⁷ Amendment No. 1 to SR-NYSEArca-2017-59: (1) Added introductory language to NYSE Arca's OATS rules to clarify that the OATS rules will be deleted upon announcement by FINRA that the CAT has achieved a level of accuracy and reliability sufficient to replace OATS; and (2) modified NYSE Arca's EBS rule text to clarify that NYSE Arca will not request trade data or information, and ETP Holders, OTP Holders, OTP Firms, and associated persons of ETP Holders and OTP Firms (as defined in NYSE Arca's rulebook) will not be required to provide trade data or information, pursuant to the rule for trades reported to the CAT after FINRA announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to FINRA's EBS rules. Amendment No. 1 to SR-NYSEArca-2017-57 added introductory language to NYSE Arca's COATS-related rules to clarify that these rules will be amended upon announcement by NYSE Arca, in conjunction with the other options exchanges, that CAT has achieved a level of accuracy and reliability sufficient to replace COATS. When NYSE Arca filed Amendment No. 1 to each of its proposed rule changes with the Commission, it also submitted Amendment No. 1 to the public comment file for each respective proposed rule change.

²⁸ Amendment No. 1 to SR-NYSEMKT-2017-30: (1) Added introductory language to NYSE MKT's OATS rules to clarify that they will be deleted upon announcement by FINRA that the CAT has achieved a level of accuracy and reliability sufficient to replace OATS; and (2) modified NYSE MKT's EBS rule text to clarify that NYSE MKT will not request trade data or information, and member organizations and ATP Holders (as defined in NYSE MKT's rulebook) will not be required to provide trade data or information, pursuant to the rule for trades reported to the CAT after FINRA announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to FINRA's EBS rules. Amendment No. 1 to SR-NYSEMKT-2017-29 added introductory language to NYSE MKT's COATS-related rules to clarify that the COATS-related rules will be amended upon announcement by NYSE MKT, in conjunction with the other options exchanges, that CAT has achieved a level of accuracy and reliability sufficient to replace COATS. When NYSE MKT filed Amendment No. 1 to each of its proposed rule changes with the Commission, it also submitted Amendment No. 1 to the public comment file for each respective proposed rule change.

submitted Amendment No. 2 to its proposed rule filing.²⁹

The Commission is publishing this notice and order to solicit comments on the proposed rule changes, as modified by the respective amendments thereto, from interested persons and to institute proceedings pursuant to Section 19(b)(2)(B) of the Act³⁰ to determine whether to approve or disapprove the proposed rule changes, as modified by the respective amendments thereto.³¹

II. Description of the Proposals, as Modified by Amendments Thereto

As required by the CAT NMS Plan, the Systems Retirement Proposals discuss: (1) The specific standards that will govern when SRO rules and related systems that are duplicative of CAT—including the Order Audit Trail System ("OATS"), the Consolidated Options Audit Trail System ("COATS"), and the Electronic Blue Sheets system ("EBS")—will be modified or eliminated; (2) whether the availability of data from Small Industry Members in November of 2018 would facilitate duplicative systems retirement; and (3) the feasibility of granting exemptions from reporting to duplicative systems to individual Industry Members whose CAT reporting meets certain accuracy and reliability thresholds.

A. Specific Accuracy and Reliability Standards

1. OATS

FINRA's OATS rules require certain FINRA members to report a variety of data regarding transactions in OTC equity securities and NMS stocks to the

²⁹ This amendment: (1) Added introductory language to Phlx OATS rule series to clarify that the rules will be deleted upon announcement by Phlx that the CAT has achieved a level of accuracy and reliability sufficient to replace OATS; (2) added introductory language to Phlx's COATS-related rules to clarify that the rules will be amended upon announcement by Phlx that the CAT has achieved a level of accuracy and reliability sufficient to replace COATS; (3) modified Phlx's EBS rule text and language in Phlx Rule 1022 to clarify that Phlx will not request trade data or information, and members will not be required to provide trade data or information, pursuant to the EBS Rule or Rule 1022 for trades reported to the CAT after Phlx announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to these rules; and (4) made a conforming change to Phlx Option Floor Procedure Advices and Order and Decorum Regulations C-2 to delete rule text that corresponds to rule text that Phlx previously proposed to delete in Rule 1063. When Phlx filed Amendment No. 2 to its proposal with the Commission, it also submitted Amendment No. 2 to the public comment file for its proposal.

³⁰ 15 U.S.C. 78s(b)(2)(B).

³¹ For purposes of this notice and order, capitalized terms are defined as set forth in the Notices or in the CAT NMS Plan unless otherwise specified.

system on a daily basis.³² Several other SROs have their own OATS rules that mirror FINRA's rule or incorporate it by reference.³³ FINRA and the other SROs with OATS rules (the "OATS SROs") have proposed to delete their OATS rules from their respective rulebooks. As described in more detail below, these deletions will be implemented once CAT Data achieves certain pre- and post-correction error rates and certain qualitative criteria have been met.

In its Systems Retirement Proposal, FINRA stated that it believes that relevant error rates are the primary, but not the sole, metric by which to determine the CAT's accuracy and reliability and will serve as the baseline requirement needed before OATS can be retired to account for information being available in the CAT.³⁴

FINRA noted that the Participants established an initial Error Rate, as defined in the Plan, of 5% on initially submitted data (*i.e.*, data as submitted by a CAT Reporter before any required corrections are performed).³⁵ The Participants noted in the Plan their expectation that "error rates after reprocessing of error corrections will be de minimis."³⁶ The Participants based this Error Rate on their consideration of "current and historical OATS Error Rates, the magnitude of new reporting requirements on the CAT Reporters and the fact that many CAT Reporters may have never been obligated to report data to an audit trail."³⁷

In its Systems Retirement Proposal, FINRA expressed agreement with the Participants' conclusion that a 5% pre-correction threshold "strikes the balance of adapting to a new reporting regime, while ensuring that the data provided to regulators will be capable of being used to conduct surveillance and market reconstruction, as well as having a sufficient level of accuracy to facilitate the retirement of existing regulatory reports and systems where possible."³⁸ However, FINRA believed that, when assessing the accuracy and reliability of the data for the purposes of retiring OATS, the error thresholds should be measured in more granular ways and should also include minimum error rates of post-correction data, which

³² See FINRA Rule 7400.

³³ See BX Rule 6950, IEX Rule 11.420, NASDAQ Rule 7000A Series, NYSE Rule 7400 Series, NYSE Arca Rule 6-E, and NYSE MKT Rule 7400—Equities Series, Phlx Rule 3400 series.

³⁴ See FINRA Notice, 82 FR at 25424.

³⁵ See CAT NMS Plan, Appendix B, Section A.3(b).

³⁶ CAT NMS Plan, Appendix C, Section A.3(b), at n. 102.

³⁷ CAT NMS Plan, Appendix C, Section A.3(b).

³⁸ *Id.* See also FINRA Notice, 82 FR at 25424.

represents the data most likely to be used by FINRA to conduct surveillance. Although FINRA is proposing to measure the appropriate error rates in the aggregate rather than firm-by-firm, FINRA expressed the belief that the error rates for equity securities should be measured separately from options since options orders are not currently reported regularly or included in OATS.³⁹

FINRA has proposed that, before OATS could be retired, the CAT would generally need to achieve a sustained error rate for Industry Member reporting in each of the categories below:

- **Rejection Rates and Data**

Validations. Data validations for the CAT, while not expected to be designed the same as OATS, must be functionally equivalent to OATS in accordance with the CAT NMS Plan (*i.e.*, the same types of basic data validations must be performed by the Plan Processor to comply with the CAT NMS Plan requirements). Appendix D of the Plan, for example, requires that certain file validations⁴⁰ and syntax and context checks be performed on all submitted records.⁴¹ If a record does not pass these basic data validations, it must be rejected and returned to the CAT Reporter to be corrected and resubmitted.⁴² The specific validations can be determined only after the Plan Processor has finalized the Industry Member Technical Specifications; however, the Plan also requires the Plan Processor to provide daily statistics on rejection rates after the data has been processed, including the number of files rejected and accepted, the number of order events accepted and rejected, and the number of each type of report rejected.⁴³ FINRA is proposing that, over the 180-day period, aggregate

rejection rates (measured separately for equities and options) must be no more than 5% pre-correction or 2% post-correction across all CAT Reporters.

- **Intra-Firm Linkages.** The Plan requires that “the Plan Processor must be able to link all related order events from all CAT Reporters involved in the lifecycle of an order.”⁴⁴ At a minimum, this requirement includes the creation of an order lifecycle between “[a]ll order events handled within an individual CAT Reporter, including orders routed to internal desks or departments with different functions (*e.g.*, an internal ATS).”⁴⁵ FINRA is proposing that aggregate intra-firm linkage rates across all Industry Member Reporters must be at least 95% pre-correction and 98% post-correction.

- **Inter-Firm Linkages.** The order linkage requirements in the Plan also require that the Plan Processor be able to create the lifecycle between orders routed between broker-dealers.⁴⁶ FINRA is proposing that at least a 95% pre-correction and 98% post-correction aggregate match rate be achieved for orders routed between two Industry Member Reporters.

- **Order Linkage Rates.** In addition to creating linkages within and between broker-dealers, the Plan also includes requirements that the Plan Processor be able to create lifecycles to link various pieces of related orders.⁴⁷ For example, the Plan requires linkages between customer orders and “representative” orders created in firm accounts for the purpose of facilitating a customer order, various legs of option/equity complex orders, riskless principal orders, and orders worked through average price accounts.⁴⁸ FINRA is proposing that there be at least a 95% pre-correction and 98% post-correction linkage rate for multi-legged orders (*e.g.*, related equity/options orders, VWAP orders, riskless principal transactions).

- **Exchange and TRF/ORF Match Rates.** The Plan requires that an order lifecycle be created to link “[o]rders routed from broker-dealers to exchanges” and “[e]xecuted orders and trade reports.”⁴⁹ FINRA is proposing at least a 95% pre-correction and 98% post-correction aggregate match rate to each equity exchange for orders routed from Industry Members to an exchange and, for over-the-counter executions, the

same match rate for orders linked to trade reports.

FINRA believes that an error rate of 5% or lower, measured on a pre-correction or as-submitted basis, and 2% or lower on a post-correction basis (measured at T+5),⁵⁰ should be attained across a 180-day period before retiring OATS. FINRA believes that this time period is necessary to reveal any errors that could manifest themselves only after surveillance patterns and other queries have been run and to confirm that the Plan Processor is meeting its obligations and performing its functions adequately. FINRA would not require a maximum 5% pre-correction error rate and 2% post-correction error rate each day for 180 consecutive days. FINRA’s Systems Retirement Proposal also provides that, during the 180-day period over which the thresholds are calculated, FINRA’s use of the data in the CAT must confirm that (i) usage over that time period has not revealed material issues that have not been corrected, (ii) the CAT includes all data necessary to allow FINRA to continue to meet its surveillance obligations, and (iii) the Plan Processor is sufficiently meeting all of its obligations under the Plan.

Finally, FINRA notes that it will implement the deletion of its OATS rules on a date to be announced in a *Regulatory Notice* once FINRA concludes the thresholds for accuracy and reliability described above have been met.⁵¹ In addition, FINRA added proposed introductory language to its OATS rules in its Amendment No. 1 that clarified that, if approved, the OATS rules will be deleted from its rulebook upon announcement by FINRA that the CAT has achieved a level of accuracy and reliability sufficient to replace OATS.

In their Systems Retirement Proposals, some of the OATS SROs⁵² proposed to assess when to eliminate their respective OATS rules based on the same accuracy and reliability standards as proposed by FINRA, and to announce the implementation date of the elimination of their OATS rules via regulatory notice once each has concluded that these standards have

³⁹ See FINRA Notice, 82 FR at 25424.

⁴⁰ See CAT NMS Plan, Appendix D, Section 7.2. The Plan requires the Plan Processor to confirm that file transmission and receipt are in the correct formats, including validation of header and trailers on the submitted report, confirmation of a valid SRO-Assigned Market Participant Identifier, and verification of the number of records in the file. See *id.*

⁴¹ See *id.* The Plan notes that syntax and context checks would include format checks (*i.e.*, that data is entered in the specified format); data type checks (*i.e.*, that the data type of each attribute conforms to the specifications); consistency checks (*i.e.*, that all attributes for a record of a specified type are consistent); range/logic checks (*i.e.*, that each attribute for every record has a value within specified limits and the values provided are associated with the event type they represent); data validity checks (*i.e.*, that each attribute for every record has an acceptable value); completeness checks (*i.e.*, that each mandatory attribute for every record is not null); and timeliness checks (*i.e.*, that the records were submitted within the submission timelines). See *id.*

⁴² See *id.*

⁴³ See *id.*

⁴⁴ CAT NMS Plan, Appendix D, Section 3.

⁴⁵ *Id.*

⁴⁶ See *id.*

⁴⁷ See *id.*

⁴⁸ See *id.*

⁴⁹ *Id.*

⁵⁰ The Plan requires the Plan Processor to ensure that regulators have access to corrected and linked order and Customer data by 8:00 a.m. Eastern Time on T+5. See CAT NMS Plan, Appendix C, Section A.2(a).

⁵¹ See FINRA Notice, 82 FR at 25426.

⁵² BX, IEX, NASDAQ, and Phlx.

been met.⁵³ Other OATS SROs⁵⁴ proposed to implement the elimination of their OATS rules via regulatory notice once FINRA has determined that the accuracy and reliability standards proposed by FINRA had been met, and FINRA publishes a notice announcing the date it will retire its OATS rules.⁵⁵

2. COATS

Bats BZX, Bats EDGX, BX, BOX, CBOE, C2, NASDAQ, NYSE Arca, NYSE MKT, and Phlx (collectively, the “COATS SROs”) utilize COATS to collect and review data regarding orders, quotes, and transactions in listed options.⁵⁶ In their Systems Retirement Proposals, the COATS SROs noted that the Participants have provided COATS technical specifications to the CAT Plan Processor for use in developing the Technical Specifications for the CAT, and that the Participants are working with the Plan Processor to include the necessary COATS data elements in the CAT Technical Specifications.⁵⁷ Accordingly, the COATS SROs have proposed to eliminate COATS once CAT is operational and CAT Data is sufficiently accurate and reliable for the COATS SROs to perform the regulatory functions that they now perform via

COATS. The COATS SROs also have proposed to eliminate certain provisions of their rules that reference COATS or implement COATS requirements⁵⁸ and/or to replace certain provisions that implement COATS requirements with others that provide for compliance with CAT requirements.⁵⁹

Similar to the standards described in the Systems Retirement Proposals that discuss eliminating OATS-related rules, the COATS SROs believe that, before COATS can be retired and the proposed modifications to COATS-related rules can be implemented, the CAT would need to achieve an aggregate average error rate of 5% or lower measured on a pre-correction or as-submitted basis, and 2% or lower on a post-correction basis (measured at T+5).⁶⁰ The 5% and

2% error rates would be measured across a 180-day period. For purposes of COATS retirement, the COATS SROs have proposed to measure the error rates for CAT records relating only to listed options and not to equities, as only options orders and transactions are currently subject to COATS reporting. As with the proposals to retire OATS, the COATS SROs believe that, during the minimum 180-day period during which the error thresholds are calculated, their use of CAT Data must confirm that (1) there are no material issues that have not been corrected, (2) the CAT includes all data necessary to allow the COATS SROs to continue to meet their surveillance obligations, and (3) the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan. Each COATS SRO also noted that, if the Commission approves its proposed rule change, it would announce the date for modification or elimination, as applicable, of reporting requirements and the implementation date of the proposed rule changes via regulatory notices or circulars that would be published once the thresholds for accuracy and reliability described above have been met and the Plan Processor is sufficiently meeting all of its obligations under the Plan.⁶¹ In amendments to their respective filings, each COATS SRO also added introductory language to each of the rules that it has proposed to modify in connection with the retirement of COATS specifying that the rule will be amended upon announcement by the SRO that the CAT has achieved a sufficient level of accuracy and reliability.⁶²

⁵³ See BX Notice, 82 FR at 25873–74; IEX Notice, 82 FR at 25401–02; NASDAQ Notice, 82 FR at 25821–22; Phlx Notice, 82 FR at 25864. Similar to FINRA, each of these Exchanges also added proposed introductory language to its OATS rules to clarify that, if approved, the OATS rules will be deleted from its rulebook upon announcement by the Exchange that CAT has achieved a level of accuracy and reliability sufficient to replace OATS. See Amendment No. 1 to IEX Notice and Amendment No. 2 to BX Notice, NASDAQ Notice, and Phlx Notice.

⁵⁴ NYSE, NYSE Arca, and NYSE MKT.

⁵⁵ See NYSE Notice, 82 FR at 25636–37; NYSE Arca Notice 1, 82 FR at 25363–64; NYSE MKT Notice 2, 82 FR at 25440. Similar to FINRA, each of NYSE, NYSE Arca, and NYSE MKT also added proposed introductory language to its OATS rules to clarify that, if approved, the OATS rules will be deleted from its rulebook upon announcement by FINRA that the CAT has achieved a level of accuracy and reliability sufficient to replace OATS. See Amendment No. 1 to NYSE Notice, NYSE Arca Notice 1, and NYSE MKT Notice 2.

⁵⁶ COATS was developed to comply with an order of the Commission requiring CBOE, in coordination with other exchanges, to design and implement a consolidated audit trail to “enable the options exchanges to reconstruct markets promptly, effectively surveil them and enforce order handling, firm quote, trade reporting and other rules.” Securities Exchange Act Release No. 43268, Section IV.B.e.(v) (September 11, 2000) (Administrative Proceeding File No. 3–10282) (Order Instituting Public Administrative Proceedings Pursuant to Sections 19(h)(1) of the Act, Making Findings and Imposing Remedial Sanctions).

⁵⁷ See Bats BZX Notice, 82 FR at 25375; Bats EDGX Notice, 82 FR at 25359; BOX Notice, 82 FR at 25492; BX Notice, 82 FR at 25876; C2 Notice, 82 FR at 25386; CBOE Notice, 82 FR at 25430; NYSE Arca Notice 2, 82 FR at 25640; NYSE MKT Notice 1, 82 FR at 25444; NASDAQ Notice, 82 FR at 25824; Phlx Notice, 82 FR at 25868.

⁵⁸ See CBOE Notice, 82 FR at 25430 (proposing to eliminate, from CBOE Rule 6.24, references to and background on COATS as well as COATS requirements regarding the reporting of the time of receipt of an execution report); NYSE Arca Notice 2, 82 FR at 25640 (proposing to eliminate the COATS-related clock synchronization requirements of NYSE Arca Rule 6.20–O).

⁵⁹ See BX Notice, 82 FR at 25876 (proposing to eliminate the COATS-based information reporting requirements of BX Chapter V, Section 7, and to replace them with a requirement that BX members maintain order records consisting of the elements required by BX’s CAT Compliance Rule); Amendment No. 1 to BOX Notice (proposing to eliminate the COATS-based data requirements of BOX Rule 7120(b) and to replace them with a requirement that order tickets consist of the elements required by BOX’s CAT Compliance Rule); CBOE Notice, 82 FR at 25430 (proposing to amend various interpretations and policies of CBOE Rule 6.24 to require that certain systems and data reports comply with the functionality and format requirements of CAT rather than COATS); Nasdaq Notice, 82 FR at 25824 (proposing to eliminate the COATS-based information reporting requirements of Nasdaq Chapter V, Section 7, and to replace them with a requirement that Nasdaq members maintain order records consisting of the elements required by Nasdaq’s CAT Compliance Rule); NYSE Arca Notice 2, 82 FR at 25640 (proposing to amend NYSE Arca Rule 6.68–O to require order records to include the elements required by NYSE Arca’s CAT Compliance Rule rather than the elements required under COATS); NYSE MKT Notice 1, 82 FR at 25444 (proposing to amend NYSE MKT Rule 956NY to require order records to include the elements required by NYSE MKT’s CAT Compliance Rule rather than the elements required under COATS); Phlx Notice, 82 FR at 25868 and Amendment No. 2 to Phlx Notice (proposing to amend Phlx Rule 1063, which implements certain reporting requirements related to COATS, and Option Floor Procedure Advices and Order and Decorum Regulation C–2, which repeats these requirements and imposes a schedule of fines for violating them, by replacing the COATS requirements with provisions stating that order records must include the elements enumerated in Phlx’s CAT Compliance Rule). See also Bats EDGX Notice, 82 FR at 25359; BZX Notice, 82 FR at 25375; C2 Notice, 82 FR at 25386 (noting that BZX, EDGX, and C2 do not have any specific rules or requirements related to COATS but refer to the retirement of COATS in their filings to be consistent with the other options exchanges).

⁶⁰ See Bats BZX Notice, 82 FR at 25376; Bats EDGX Notice, 82 FR at 25360–61; BOX Notice, 82 FR at 25493–94; BX Notice, 82 FR at 25877; C2

Notice, 82 FR at 25387–88; CBOE Notice, 82 FR at 25432; NYSE Arca Notice 2, 82 FR at 25641; NYSE MKT Notice 1, 82 FR at 25445; NASDAQ Notice, 82 FR at 25825; Phlx Notice, 82 FR at 25869.

⁶¹ See Bats BZX Notice, 82 FR at 25376; Bats EDGX Notice, 82 FR at 25361; CBOE Notice, 82 FR at 25432; C2 Notice, 82 FR at 25388 (all stating that the proposed modifications will be implemented “once the Exchange (and other options exchanges with respect to COATS and EBS) determines that the thresholds for accuracy and reliability described above have been met and that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan”); BX Notice, 82 FR at 25877; NASDAQ Notice, 82 FR at 25826, and Phlx Notice, 82 FR at 25869 (all stating that the proposed modifications will be implemented “once [the Exchange] concludes the thresholds for accuracy and reliability described above have been met and that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan”); BOX Notice, 82 FR at 25494, NYSE Arca Notice 2, 82 FR at 25640, and NYSE MKT Notice 1, 82 FR at 25444 (all stating that the proposed modifications will be implemented “once the options exchanges determine that the thresholds for accuracy and reliability described . . . have been met and that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan”).

⁶² See Amendment No. 1 to Bats BZX Notice, Bats EDGX Notice, BOX Notice, C2 Notice, CBOE Notice,

3. EBS

Each of Bats BZX, Bats EDGX, BX, BOX, CBOE, C2, FINRA, IEX, ISE, MIAx, PEARL, Phlx, NASDAQ, NYSE, NYSE Arca, and NYSE MKT (each an “EBS SRO”) has a rule requiring a member, upon request by the SRO, to provide trading information using the electronic blue sheets (“EBS”) system in such format as may be prescribed by the SRO.⁶³

According to the EBS SROs, after broker-dealer reporting to the CAT begins, CAT will contain much of the data with respect to transactions in CAT-Eligible Securities that an SRO could otherwise have requested via the EBS system.⁶⁴ Consequently, the EBS SROs would no longer need to request information pursuant to the EBS Rules for transactions in CAT-Eligible Securities after such time as appropriate thresholds for accuracy and reliability, including for customer and account information, are achieved. However, the EBS SROs do not believe that the EBS rules can be completely removed from their rulebooks and the EBS system completely retired, because EBS requests might have to be made to obtain information about transactions occurring before CAT has attained an appropriate threshold for accuracy and reliability. Some of the EBS SROs⁶⁵ also noted that their EBS rules apply to transactions in non-CAT-Eligible Securities, such as fixed-income securities. Thus, the rules would have to

remain in effect with respect to those transactions.

Each of the EBS SROs proposed to add new language to its EBS rule to clarify how it will request data under these rules after members are reporting to the CAT.⁶⁶ Specifically, the proposed new language notes that the SRO will not request trade data or information under the rule, and members will not be required to provide trade data or information under the rule, for trades reported to the CAT after the SRO (or, in some cases, FINRA) announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to the EBS rule.⁶⁷

As noted above, the EBS SROs believe (or reiterate FINRA’s belief) that the CAT must meet certain minimum accuracy and reliability standards before it, or FINRA, could rely on the CAT Data to replace existing regulatory tools, including EBS. Therefore, the EBS SROs propose to implement the new rule text related to their EBS rules only after CAT achieves certain accuracy thresholds. The EBS SROs proposed similar standards to those for eliminating OATS-related rules set forth above, as well as specific accuracy standards for customer and account information.⁶⁸ In

addition, each of the EBS SROs states that it (or, in some cases, FINRA) can rely on CAT Data to replace EBS requests only after it has determined that its usage of the CAT Data over a 180-day period has not revealed material issues that have not been corrected, confirmed that the CAT includes all data necessary to allow it or FINRA to continue to meet its surveillance obligations, and confirmed that the Plan Processor is fulfilling its obligations under the Plan.⁶⁹

4. Other Rules

Certain Exchanges proposed to amend other reporting rules that they have determined are duplicative of CAT requirements. BatsBZX, BatsEDGX, BOX, BX, C2, CBOE, MIAx, PEARL, Phlx, and NASDAQ currently have rules requiring certain market participants (e.g., specialists and market makers) to report certain account or order information for accounts over which the market participant engages in trading activities or exercises investment discretion.⁷⁰ These Exchanges stated

at 25359; BOX Notice, 82 FR at 25493; C2 Notice, 82 FR at 25386; CBOE Notice, 82 FR at 25431; IEX Notice, 82 FR at 25403; ISE Notice, 82 FR at 25470–71; MIAx Notice, 82 FR at 25367–68; NASDAQ Notice, 82 FR at 25823–24; PEARL Notice, 82 FR at 25437–38; and Phlx Notice, 82 FR at 25866–68, respectively (stating that each SRO will assess whether “an acceptable accuracy rate for customer and account information” has been reached); FINRA Notice, 82 FR at 25426; NYSE Notice, 82 FR at 25638; NYSE Arca Notice 1, 82 FR at 25365; and NYSE MKT Notice 2, 82 FR at 25442, respectively (stating that FINRA will assess whether “an accuracy rate for customer and account information of 95% for pre-corrected data and 98% for post-correction data” has been reached).

⁶⁹ See Bats BZX Notice, 82 FR at 25376; Bats EDGX Notice, 82 FR at 25360–61; BOX Notice, 82 FR at 25494; BX Notice, 82 FR at 25876; C2 Notice, 82 FR at 25387; CBOE Notice, 82 FR at 25432; FINRA Notice, 82 FR at 25426; IEX Notice, 82 FR at 25403; ISE Notice, 82 FR at 25471; MIAx Notice, 82 FR at 25368; NYSE Notice, 82 FR at 25636; NYSE Arca Notice 1, 82 FR at 25365; NYSE MKT Notice 2, 82 FR at 25442; NASDAQ Notice, 82 FR at 25824; PEARL Notice, 82 FR at 25438; Phlx Notice, 82 FR at 25868. NYSE, NYSE Arca, and NYSE MKT will implement this change by regulatory notice once FINRA publishes a notice announcing a date that it will retire its EBS Rules and thus will rely on FINRA’s conclusion that the described accuracy and reliability thresholds have been met and the CAT Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan. See NYSE Notice, 82 FR at 25636; NYSE Arca Notice 1, 82 FR at 25365; NYSE MKT Notice 2, 82 FR at 25442.

⁷⁰ See Bats BZX Rule 22.7 and Interpretation and Policy .01 to Bats BZX Rule 22.7 (requiring market makers to identify accounts and report orders, and specifying requirements for joint accounts); Bats EDGX Rule 22.7 and Interpretation and Policy .01 to Bats EDGX Rule 22.7 (requiring market makers to identify accounts and report orders, and specifying requirements for joint accounts); BOX Rule 8060 (requiring market makers to identify accounts and report orders, and specifying requirements for joint accounts); BX Options Rule

NYSE Arca Notice 2, NYSE MKT Notice 1; and Amendment No. 2 to BX Notice, NASDAQ Notice, and Phlx Notice.

⁶³ See Bats BZX Rule 24.4; Bats EDGX Rule 24.4; BOX Rule 10040; BX Equity Rule 8211; BX Options Rule Chapter IX, Section 4; C2 Chapter 15 (incorporating CBOE Rule 15.7 by reference); CBOE Rule 15.7; IEX Rule 8.220; ISE Rule 1404; FINRA Rules 8211 and 8213; MIAx Rule 804; Nasdaq Equity Rule 8211; Nasdaq Options Rule Chapter IX, Section 4; NYSE Rule 8211; NYSE Arca Rule 10.2(e); NYSE MKT Rule 8211; Phlx Rule 785; PEARL Rule 804. PEARL notes that PEARL Rule 804 is incorporated by reference from the rules in MIAx rulebook Chapter VIII. See PEARL Notice, 82 FR at 25437, n. 14.

⁶⁴ See Bats BZX Notice, 82 FR at 25375; Bats EDGX Notice, 82 FR at 25359; BOX Notice, 82 FR at 25493; BX Notice, 82 FR at 25875; C2 Notice, 82 FR at 25386; CBOE Notice, 82 FR at 25431; FINRA Notice, 82 FR at 25426; IEX Notice, 82 FR at 25403; ISE Notice, 82 FR at 25470; MIAx Notice, 82 FR at 25367; NYSE Notice, 82 FR at 25637; NYSE Arca Notice 1, 82 FR at 25364; NYSE MKT Notice 2, 82 FR at 25442; NASDAQ Notice, 82 FR at 25823; PEARL Notice, 82 FR at 25437; Phlx Notice, 82 FR at 25866.

⁶⁵ See Bats BZX Notice, 82 FR at 25375; Bats EDGX Notice, 82 FR at 25359–60; BX Notice, 82 FR at 25875; CBOE Notice, 82 FR at 25431; C2 Notice, 82 FR at 25386–87; FINRA Notice, 82 FR at 25426; Phlx Notice, 82 FR at 25867; NASDAQ Notice, 82 FR at 25823; NYSE Notice, 82 FR at 25637; NYSE Arca Notice 1, 82 FR at 25365; and NYSE MKT Notice 2, 82 FR at 25442.

⁶⁶ See Amendment No. 1 to Bats BZX Notice, Bats EDGX Notice, BOX Notice; C2 Notice, CBOE Notice, FINRA Notice, IEX Notice, NYSE Notice, NYSE Arca Notice 1, and NYSE MKT Notice 2; Amendment No. 2 to BX Notice, ISE Notice, NASDAQ Notice, PEARL Notice, and Phlx Notice; and Amendment No. 3 to MIAx Notice.

⁶⁷ See proposed revisions to Bats BZX Rule 24.4, as modified by Amendment No. 1; proposed revisions to Bats EDGX Rule 24.4, as modified by Amendment No. 1; proposed Supplementary Material to BX Equity Rule 8211, as modified by Amendment No. 2; proposed Supplementary Material to BX Options Rule Chapter IX, Section 4, as modified by Amendment No. 2; proposed Interpretive Material to BOX Rule 10040, as modified by Amendment No. 1; C2 Chapter 15 (incorporating by reference the proposed revisions to CBOE Rule 15.7); proposed revisions to CBOE Rule 15.7, as modified by Amendment No. 1; proposed Supplementary Material to FINRA Rules 8211 and 8213, as modified by Amendment No. 1; proposed Supplementary Material .01 to IEX Rule 8.220, as modified by Amendment No. 1; proposed Supplementary Material to ISE Rule 1404, as modified by Amendment No. 2; proposed Interpretation and Policy .01 to MIAx Rule 804, as modified by Amendment No. 3; proposed Supplementary Material to Phlx Rule 785, as modified by Amendment No. 2; proposed Supplementary Material to Nasdaq Equity Rule 8211, as modified by Amendment No. 2; proposed Supplementary Material to Nasdaq Options Rule Chapter IX Section 4, as modified by Amendment No. 2; proposed Supplementary Material .01 to NYSE Rule 8211, as modified by Amendment No. 1; proposed Commentary .01(E) to NYSE Arca Rule 10.2, as modified by Amendment No. 1; proposed Supplementary Material .01 to NYSE MKT Rule 8211, as modified by Amendment No. 1; proposed Interpretation and Policy .01 to PEARL Rule 804, as modified by Amendment No. 2.

⁶⁸ See BX Notice, 82 FR at 25876; Bats BZX Notice, 82 FR at 25375; Bats EDGX Notice, 82 FR

Continued

that, once broker-dealers are reporting to CAT, CAT will contain some of the data the Exchanges would otherwise have requested under these rules.⁷¹ Similar to the proposed revisions to the EBS rules, some of the Exchanges have proposed to add new text to these order and account identification rules stating that the Exchange will not request information under the rule, and members will not be required to provide information under the rule, for trades reported to CAT after the Exchange announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to the rule.⁷² Other Exchanges have proposed to revise these rules by deleting specific reporting requirements that are

Chapter VII, Section 7 and Commentary .01 to BX Options Rule Chapter VII, Section 7 (requiring market makers to identify accounts and report orders, and specifying requirements for joint accounts); C2 Rule 8.7 (requiring market makers to identify accounts and report orders, and specifying requirements for joint accounts); CBOE Rule 8.9 and Interpretation and Policy .07 to CBOE Rule 8.9 (requiring market makers to identify accounts and report orders, and specifying requirements for joint accounts); MIAX Rule 607 (requiring market makers to identify accounts and report orders, and specifying requirements for joint accounts); Nasdaq Options Rule Chapter VII, Section 7 and Commentary .01 to Nasdaq Options Rule Chapter VII, Section 7 (requiring market makers to identify accounts and report orders, and specifying requirements for joint accounts); PEARL Rule 606 and Interpretation and Policy .01 to PEARL Rule 606 (requiring market makers to identify accounts and report orders, and specifying requirements for joint accounts); Phlx Options Rule 1022 and Commentary .01 and .02 to Phlx Options Rule 1022 (requiring specialists and market makers to identify accounts and, with respect to options in a foreign currency, make available books and records concerning transactions).

⁷¹ See Bats BZX Notice, 82 FR at 25375; Bats EDGX Notice, 82 FR at 25359; BOX Notice, 82 FR at 25492; BX Notice at 25875; C2 Notice, 82 FR at 25386; CBOE Notice, 82 FR at 25431; MIAX Notice, 82 FR at 25367; NASDAQ Notice, 82 FR at 25823; PEARL Notice, 82 FR at 25437; Phlx Notice, 82 FR at 25866.

⁷² See proposed Interpretive Material 8060–1 to BOX Rule 8060, as modified by Amendment No. 1; proposed Commentary .02 to BX Options Rule Chapter VII, Section 7, as modified by Amendment No. 2; proposed Interpretation and Policy .01 to MIAX Rule 607, as modified by Amendment No. 3; proposed Commentary .02 to Nasdaq Options Rule Chapter VII, Section 7, as modified by Amendment No. 2; proposed Interpretation and Policy .02 to PEARL Rule 606, as modified by Amendment No. 2; proposed Commentary .03 to Phlx Options Rule 1022, as modified by Amendment No. 2. In addition, BZX, CBOE, and EDGX proposed language for other rules that require the furnishing of data similar to the proposed revisions to the EBS rules—that is, that they will not request information for trades reported to the CAT after each has announced that it has determined that CAT is sufficiently accurate and reliable. See Amendment No. 1 to BZX Notice (proposing to add such language to Interpretation and Policy .02 to BZX Rule 4.2); Amendment No. 1 to EDGX Notice (proposing to add such language to Interpretation and Policy .02 to EDGX Rule 4.2); Amendment No. 1 to CBOE Notice (proposing to add such language to Interpretation and Policy .04 to CBOE Rule 17.2).

duplicative of CAT while retaining their position reporting requirements, which are not duplicative of CAT.⁷³ In their respective amendments, these Exchanges proposed to add introductory language to these rules to clarify that the rules will be amended upon announcement by the Exchange that the CAT has achieved a sufficient level of accuracy and reliability.⁷⁴

In addition, CBOE and EDGX currently require members to submit to the Exchange stock transaction information for each Qualified Contingent Cross order executed at the Exchange.⁷⁵ CAT will require exchange members to report stock transaction information. Therefore, CBOE and EDGX intend to eliminate this reporting requirement in accordance with the proposed timeline and standards below.

These Exchanges proposed standards for when the proposed modifications to these reporting rules will be implemented that are similar to those for eliminating OATS-related rules set forth above. Accordingly, these Exchanges proposed that CAT would need to achieve a sustained error rate for a period of at least 180 days of 5% or lower measured on a pre-correction or as-submitted basis, and 2% or lower on a post-correction basis (measured at T+5).⁷⁶ These Exchanges have proposed to measure the 5% pre-correction and 2% post-correction thresholds by averaging the error rate across the period, not requiring a 5% pre-correction and 2% post-correction maximum each day for 180 consecutive days. In addition, each of these Exchanges stated that it can rely on CAT

⁷³ See proposed revisions to Bats BZX Rule 22.7(b) and Interpretation and Policy .01 to Bats BZX Rule 22.7 (proposing to replace requirement that market makers report orders with requirement that market makers report positions and eliminate required elements of report pertaining to orders); proposed revisions to Bats EDGX Rule 22.7(b) and Interpretation and Policy .01 to Bats EDGX Rule 22.7 (proposing to replace requirement that market makers report orders with requirement that market makers report positions and eliminate required elements of report pertaining to orders); proposed revisions to CBOE Rule 8.9(b) and Interpretation and Policy .07 to CBOE Rule 8.9 (proposing to replace requirement that market makers report orders with requirement that market makers report positions and eliminate required elements of report pertaining to orders).

⁷⁴ See Amendment No. 1 to each of Bats BZX Notice, Bats EDGX Notice, C2 Notice, and CBOE Notice.

⁷⁵ See CBOE Notice, 82 FR at 25431; EDGX Notice, 82 FR at 25360.

⁷⁶ The Plan requires the Plan Processor to ensure that regulators have access to corrected and linked order and Customer data by 8:00 a.m. Eastern Time on T+5. See CAT NMS Plan, at C–15.

Data to replace information required to be reported under duplicative rules only after it has determined that its usage of the CAT Data over a 180-day period has not revealed material issues that have not been corrected, confirmed that the CAT includes all data necessary to allow it to continue to meet its surveillance obligations, and confirmed that the CAT Plan Processor is fulfilling its obligations under the CAT NMS Plan.⁷⁷

B. Small Industry Member Data Availability

As noted above, the CAT NMS Plan requires the SROs, in their Systems Retirement Proposals, to address “whether the availability of certain data from Small Industry Members two years after the Effective Date would facilitate a more expeditious retirement of duplicative systems.”⁷⁸

In its Systems Retirement Proposal, FINRA stated its view that there is no effective way to retire OATS until all current OATS reporters are reporting to the CAT and that having data from Small Industry Members currently reporting to OATS available two years after the Effective Date rather than three would “substantially facilitate a more expeditious retirement of OATS.”⁷⁹ Therefore, FINRA supports an amendment to the Plan that would require current OATS reporters that are Small Industry Members to report to CAT two years after the Effective Date (instead of three) and stated that it intends to work with the other SROs to propose such an amendment to the Plan.⁸⁰

FINRA has identified approximately 300 member firms that currently report to OATS and meet the definition of “Small Industry Member.” According to FINRA, only ten of these firms submit information to OATS on their own behalf, and eight of those ten firms report very few records to OATS.⁸¹ The

⁷⁷ See Bats BZX Notice, 82 FR at 25376; Bats EDGX Notice, 82 FR at 25360–61; BX Notice, 82 FR at 25876; BOX Notice, 82 FR at 25494; C2 Notice, 82 FR at 25387; CBOE Notice, 82 FR at 25432; MIAX Notice, 82 FR at 25368; NASDAQ Notice, 82 FR at 25824; PEARL Notice, 82 FR at 25438; Phlx Notice, 82 FR at 25867–68.

⁷⁸ CAT NMS Plan, Appendix C, Section C.9.

⁷⁹ FINRA Notice, 82 FR at 25425.

⁸⁰ FINRA notes that the 180-day timeframes discussed above with respect to usage of the data and calculation of error rates would apply to data reported to the CAT by Small Industry Members that are reporting to OATS. If an amendment to the Plan to accelerate the reporting requirement for those firms is not approved, the retirement of OATS could not be accomplished until at least 180 days after Small Industry Members begin reporting, which is currently scheduled to begin in November 2019. See FINRA Notice, 82 FR at 25425.

⁸¹ See FINRA Notice, 82 FR at 25425 (noting that in one recent month eight of the ten firms submitted

vast majority of these 300 firms use third parties to fulfill their reporting obligations, and many of these third parties will begin reporting to CAT in November 2018. Consequently, FINRA believes that the burden on current OATS reporters that are Small Industry Members would not be significant if those firms are required to report to CAT beginning in November 2018 rather than November 2019. FINRA does not believe that it is necessary or appropriate to accelerate CAT reporting for Small Industry Members that are not currently reporting to OATS.⁸²

The Systems Retirement Proposals of BX, IEX, NYSE, NYSE Arca, NYSE MKT, NASDAQ, and Phlx contain the same analysis as FINRA (or summarize FINRA's analysis) in connection with whether the earlier availability of data from Small Industry Members would facilitate the retirement of their own respective OATS rules, and these Exchanges expressed support for the Plan amendment described by FINRA.⁸³

Some of the Systems Retirement Filings also discussed how earlier availability of data from Small Industry Members might affect the retirement of systems other than OATS. The COATS SROs expressed the view that COATS should not be retired until all Participants and Industry Members that report data to COATS are reporting comparable data to the CAT.⁸⁴ They noted that, while the early submission of options data to the CAT by Small Industry Members could expedite the retirement of COATS, they believe it premature to consider such a change, and that additional analysis would be necessary to determine whether such early reporting by Small Industry Members would be feasible. Some of the EBS SROs made statements similar to the COATS SROs with respect to whether earlier availability of data from Small Industry Members would facilitate EBS retirement,⁸⁵ while other

EBS SROs stated that the submission of data to the CAT by Small Industry Members a year earlier than is required in the CAT NMS Plan, at the same time as the other Industry Members, would expedite the replacement of EBS data with CAT Data because CAT would then have all necessary data from Industry Members to enable these SROs to perform the regulatory surveillance that currently is performed via EBS.⁸⁶

C. Individual Industry Member Exemptions

As noted above, the CAT NMS Plan also requires the SROs, in their Systems Retirement Proposals, to address "whether individual Industry Members can be exempted from reporting to duplicative systems once their CAT reporting meets specified accuracy and reliability standards, including, but not limited to, ways in which establishing cross-system regulatory functionality or integrating data from existing systems and the CAT would facilitate such Individual Industry Member exemptions."⁸⁷

All of the SROs stated (or reiterated FINRA's statement) that a single "cut-over" from existing systems to CAT is preferable to elimination of OATS reporting requirements on a firm-by-firm basis.⁸⁸ Some of the SROs stated that providing individual exemptions to Industry Members would be inefficient, more costly, and less reliable than the single cut-over.⁸⁹ These SROs further stated that providing individual exemptions would require the temporary creation of a cross-system regulatory function and the integration of data from existing systems and the CAT to avoid creating any regulatory

gaps as a result of such exemptions. These SROs believed that such a function would be costly to create and would give rise to a greater likelihood of data errors or other issues. These SROs stated that, given the limited time in which such exemptions would be necessary, they did not believe that such exemptions would be an appropriate use of limited resources. Some of the SROs also noted that, if an amendment to require Small Industry Members who currently report to OATS to begin reporting to CAT in November of 2018 were approved by the Commission, there would be no need to exempt members from OATS requirements on a firm-by-firm basis.⁹⁰

FINRA argued that the primary beneficiary of its proposed approach would be the investing public.⁹¹ FINRA noted that firm-by-firm retirement of OATS would require merging OATS and CAT data, and that such an approach would be "technologically costly and difficult and could introduce errors into the data being surveilled that did not exist prior to integration."⁹² FINRA further stated that conducting its surveillance using a single source "increases the efficiency and effectiveness of the process and improves the integrity of the markets."⁹³ FINRA noted that the potential costs of this approach would be borne by those firms that would have met an individual threshold sooner and that the approach could disincentivize individual firms from meeting the minimum error rate thresholds, which could, at the margin, extend the period of duplicative reporting for all firms.⁹⁴ However, FINRA noted this disincentive would be small for firms with significant reporting burdens, as they would want to end duplicative reporting quickly, and that firms that otherwise delay in meeting their error rates could incur higher costs through enforcement actions.⁹⁵

III. Summary of Comments

The Commission received four comments that were submitted to File Number SR-FINRA-2017-13.⁹⁶ Two of the commenters noted that their comments applied to the similar

fewer than 100 reports during the month, with four firms submitting fewer than 50).

⁸² See *id.*

⁸³ See BX Notice, 82 FR at 25874-75; IEX Notice, 82 FR at 25402; NYSE Notice, 82 FR at 25636; NYSE Arca Notice 1, 82 FR at 25364; NYSE MKT Notice 2, 82 FR at 25441; NASDAQ Notice, 82 FR at 25822-23; Phlx Notice, 82 FR at 25866. See also FINRA Notice, 82 FR at 25427-28.

⁸⁴ See Bats BZX Notice, 82 FR at 25375-76; Bats EDGX Notice, 82 FR at 25360; BOX Notice, 82 FR at 25493; BX Notice, 82 FR at 25877; C2 Notice at, 82 FR at 25387; CBOE Notice, 82 FR at 25431; NYSE Arca Notice 2, 82 FR at 25640; NYSE MKT Notice 1, 82 FR at 25444; NASDAQ Notice, 82 FR at 25825; Phlx Notice, 82 FR at 25868.

⁸⁵ See MIAx Notice, 82 FR at 25368; PEARL Notice at 25437-38. MIAx and PEARL also make similar statements with respect to whether earlier availability of data from Small Industry Members would facilitate the retirement of MIAx Rule 607

and PEARL Rule 606, which require certain account and order information to be reported. See MIAx Notice, 82 FR at 25368; PEARL Notice at 25437-38.

⁸⁶ See BX Notice, 82 FR at 25876; ISE Notice, 82 FR at 25470; NASDAQ Notice, 82 FR at 25824; Phlx Notice, 82 FR at 25867.

⁸⁷ CAT NMS Plan, Appendix C, Section C.9.

⁸⁸ See Bats BZX Notice, 82 FR at 25376; Bats EDGX Notice, 82 FR at 25360; BOX Notice, 82 FR at 25493; BX Notice, 82 FR at 25875-77; C2 Notice, 82 FR at 25387; CBOE Notice, 82 FR at 25431-32; FINRA Notice, 82 FR at 25425; IEX Notice, 82 FR at 25402; ISE Notice, 82 FR at 25470; MIAx Notice, 82 FR at 25368; NYSE Notice, 82 FR at 25637; NYSE Arca Notice 1, 82 FR at 25364; NYSE Arca Notice 2, 82 FR at 25640; NYSE MKT Notice 1, 82 FR at 25445; NYSE MKT Notice 2, 82 FR at 25441; NASDAQ Notice, 82 FR at 25823-25; PEARL Notice, 82 FR at 25438; Phlx Notice, 82 FR at 25866-68.

⁸⁹ See Bats BZX Notice, 82 FR at 25376; Bats EDGX Notice, 82 FR at 25360; BOX Notice, 82 FR at 25493; BX Notice, 82 FR at 25876-77; C2 Notice, 82 FR at 25387; CBOE Notice, 82 FR at 25431-32; ISE Notice, 82 FR at 25470; MIAx Notice, 82 FR at 25368; NYSE Arca Notice 2, 82 FR at 25640; NYSE MKT Notice 1, 82 FR at 25445; NASDAQ Notice, 82 FR at 25824-25; PEARL Notice, 82 FR at 25438; Phlx Notice, 82 FR at 25867-68.

⁹⁰ See BX Notice, 82 FR at 25875; FINRA Notice, 82 FR at 25426; NYSE Notice, 82 FR at 25637; NYSE Arca Notice 1, 82 FR at 25364; NYSE MKT Notice 2, 82 FR at 25441; NASDAQ Notice, 82 FR at 25823; Phlx Notice, 82 FR at 25866.

⁹¹ See FINRA Notice, 82 FR at 25427.

⁹² *Id.*

⁹³ *Id.*

⁹⁴ See *id.*

⁹⁵ See *id.*

⁹⁶ See *supra* note 11.

proposals made by the other SROs.⁹⁷ While the commenters supported certain aspects of the Systems Retirement Proposals, there were others—noted below—where the commenters did not agree and believed that the SROs had not provided adequate justification.

A. Possibility of Firm-by-Firm Retirement

All four of the commenters disagreed with the SROs' proposed approach of applying a single cut-over from existing systems to CAT. Two of the commenters argued that individual firms that achieve the quality criteria—even if the industry as a whole has not—should be granted exemptions from reporting to existing systems until those systems can be retired. In the commenters' view, the SROs' proposed approach would penalize firms that quickly and consistently meet or exceed quality standards for CAT reporting.⁹⁸ A third commenter argued that the single cut-over approach provides little incentive for an individual firm to reduce its error rate, because the retirement of OATS will be based on an industry-wide error rate that is beyond its control.⁹⁹

Two commenters took the view that FINRA had not provided sufficient cost/benefit analysis to justify its position and emphasized the significant costs of duplicative reporting to broker-dealers.¹⁰⁰ One of these commenters noted that broker-dealers who do not outsource their regulatory reporting (approximately 126 firms) spend on average \$725,615 per month on their regulatory reporting obligations (which include OATS, EBS, large trader reporting, and other reporting).¹⁰¹ This commenter estimated that duplicative OATS and EBS reporting for these 126 broker-dealer firms would cost more than \$20 million per month and stated that this approach would severely penalize broker-dealer firms that rapidly and consistently met reporting standards.¹⁰² Another commenter cited the same average monthly cost of

\$725,615 and argued that the benefits of individual Industry Member exemptions outweigh the “generalized and unsubstantiated justifications against such an approach” outlined by the SROs.¹⁰³

One commenter stated that FINRA has not provided sufficient technological rationale to explain its opposition to individual firm exemptions, and disagreed with FINRA's conclusion that the technology to merge OATS and CAT would be costly and could introduce errors.¹⁰⁴ The commenter argued that there are “multiple possible approaches that could be used to integrate CAT and OATS data allowing FINRA to effectively surveil the market, especially if FINRA and the Plan Processor work jointly on a cooperative solution.”¹⁰⁵ In addition, the commenter noted that, because the EBS retirement plan proposes to extract any data available in CAT before requesting historical data or data for asset classes not covered by CAT, the SROs can effectively merge CAT data and existing EBS data to meet their surveillance obligations.¹⁰⁶ Similarly, another commenter noted that the Participants have committed to include the relevant fields required for the decommissioning of OATS in the initial phase of CAT and recommended that FINRA utilize data from CAT to obtain what it would otherwise receive from OATS.¹⁰⁷

Another commenter recommended that the SROs include a cost-benefit analysis of a “CAT-to-OATS converter” that would allow firms that meet the error rates to cease sending data to OATS directly.¹⁰⁸ Instead, the Plan Processor would convert the CAT reports of the firm into an OATS-eligible format and report that firm's audit trail information to OATS. The commenter believed that this approach is technically possible based on comments made by the Plan Processor, and “that CAT Industry Member Specifications could incorporate this concept.”¹⁰⁹

B. Assessment Criteria

All four of the commenters generally maintained that only data required by OATS or EBS rules today should be included in the accuracy and reliability metrics for system retirement, and that CAT data elements or other aspects of CAT that are not required by existing systems should be outside the scope for assessment.¹¹⁰ One commenter argued, for example, that CAT error rates related to customer information and options activity should not have any bearing on the retirement of OATS, as FINRA does not rely on OATS for that information.¹¹¹ Another commenter posed a number of clarifying questions regarding the standards, including whether the proposed accuracy and reliability metrics apply to Participants as well as Industry Members, whether the proposed accuracy and reliability metrics for the OATS retirement plan apply only to equities data, whether customer and account information accuracy standards are excluded from the OATS retirement plan, whether the inter-firm linkage quality metric is calculated as an aggregate measurement across all Industry Members, and whether the 2% post-correction error rate is an average error rate over the period calculated as the number of erroneous records, as measured on T+5 divided by the total number of records received.¹¹² This commenter also recommended that FINRA consider that the average pre-correction error rate across the five categories (*i.e.*, rejection rates, intra-firm linkages, inter-firm linkages, order linkage rates, exchange and TRF/ORF match rates) must achieve 5%, but no single category could exceed 7% for the pre-correction error rate.¹¹³ This commenter further recommended that corrections should be calculated under CAT in the same timeframes as under existing audit trail systems (*i.e.*, T+6 for OATS and T+10 for EBS rather than T+5, as proposed).¹¹⁴

Three commenters raised concerns about the broader, qualitative factors proposed by the SROs—that during the 180-day evaluation period material issues are not revealed, that the CAT includes all data necessary to allow FINRA to continue to meet its surveillance obligations, and that the

⁹⁷ See FIF Letter at 1; Thomson Reuters Letter at 1.

⁹⁸ See FIF Letter at 3; SIFMA Letter at 3–4 (noting that the inaccurate reporting of the “slowest” broker-dealers, in the absence of individual firm exemptions, could force the whole industry to engage in duplicative reporting for an extended period).

⁹⁹ See Fidelity Letter at 4. This commenter also suggested that FINRA could “consider migrating firms in tranches, or phases, based on priority of those firms that first met the proposed error rates” if FINRA does not agree that a firm-by-firm transition is appropriate. *Id.*

¹⁰⁰ See FIF Letter at 3; Thomson Reuters Letter at 3.

¹⁰¹ See FIF Letter at 3.

¹⁰² See *id.*

¹⁰³ SIFMA Letter at 3–4.

¹⁰⁴ See FIF Letter at 3.

¹⁰⁵ *Id.* (also stating that the Plan Processor could, for example, route all CAT reports and errors corrections from exempted firms to FINRA for conversion and input into OATS, and that more sophisticated data merge solutions are possible with a reasonable investment by FINRA and the Plan Processor).

¹⁰⁶ See *id.* at 4.

¹⁰⁷ See SIFMA Letter at 3–4 (“once a broker-dealer meets accuracy thresholds in CAT, and the surveillance logic is recreated with the Central Repository, FINRA should utilize a subset of data from the CAT, and format it so that it effectively mimics what it would have received from OATS”).

¹⁰⁸ See Thomson Reuters Letter at 3.

¹⁰⁹ *Id.*

¹¹⁰ See FIF Letter at 4; SIFMA Letter at 2; Thomson Reuters Letter at 2–3; Fidelity Letter at 3.

¹¹¹ See SIFMA Letter at 2. See also Fidelity Letter at 3.

¹¹² See FIF Letter at 4–5.

¹¹³ See *id.* Similarly, the commenter recommended that “the average post-correction error rate across the five categories must achieve 2% but no single category could exceed a 3% post-correction error rate.” *Id.* at 5.

¹¹⁴ See *id.*

Plan Processor is sufficiently meeting all of its obligations under the Plan.¹¹⁵ Two commenters suggested that the Systems Retirement Proposals should require these conditions to be met before CAT goes live and acknowledge that evaluation of all of these issues will begin with CAT Participant reporting.¹¹⁶ Another commenter opined that these additional standards do not provide enough clarity regarding when FINRA will retire OATS and provide too much discretion to FINRA.¹¹⁷

C. Assessment Length and Other Considerations Relating to the Assessment Period

One commenter recommended that the SROs should consider shortening the trial period if all criteria have been met before the 180th day.¹¹⁸ This commenter also recommended that the 180-day trial period be a “rolling metric”—i.e., if the industry does not meet the quality criteria by the end of the first 180 days, the most recent 180 days should be recalculated each day thereafter.¹¹⁹ The same commenter urged FINRA to “take a daily accounting of the measurements” and to “communicate both the aggregate measurements and the individual Industry Member measurements so that all parties are regularly updated” regarding the status of the various error rates and can make necessary corrections.¹²⁰

Two commenters argued that the early phases of CAT compliance should be viewed as a “trial period” and that there should be no CAT penalties or regulatory inquiries associated with CAT reporting before the end of the trial period.¹²¹ One of these commenters suggested “that CAT not go-live until the 95% uncorrected and 98% post-correction thresholds have been met for two weeks during the testing period.”¹²² Similarly, another commenter stated that the SROs “should establish a test period to gather information prior to production reporting” to “enable CAT to go into production at a confidence level that

allows its reporting systems to serve as many existing regulatory requirements and accompanying surveillance programs as possible.”¹²³

D. Additional Plan Amendments

All of the commenters supported requiring reporting for current OATS reporters 24 months after the CAT effective date. Of those, two commenters supported the proposal to amend the CAT NMS Plan to accelerate CAT reporting for Small Industry Members who currently report to OATS from 36 to 24 months after the CAT Effective Date.¹²⁴ Two other commenters instead recommended that all current OATS reporters—regardless of size—should begin reporting to CAT in November of 2018 and all non-OATS reporters should be allowed to begin reporting to CAT in November of 2019.¹²⁵ One of these commenters noted that many large broker-dealers do not report to OATS and argued that “requiring such firms to implement the systems and reporting mechanisms for the CAT on a shortened timeframe simply due to their designation as a ‘Large Industry Member’ may result in significant technological and operational challenges.”¹²⁶ Accordingly, the commenter urged some mechanism to allow such Large Industry Members to begin reporting 36 rather than 24 months after the CAT Effective Date.¹²⁷ The other commenter noted that, if the first phase of Industry Member reporting were limited to current OATS reporting firms, FINRA would still have all of the data that it currently has from OATS today.¹²⁸

E. Other Comments

Three commenters requested that the CAT NMS Plan be clarified to specify that prime broker transactions are included in the CAT reporting

requirements.¹²⁹ One commenter stated that “this will enable a more complete set of transactions in the CAT audit trail and allow CAT to replace EBS as a more complete reporting source for this data.”¹³⁰ Similarly, another commenter noted that prime broker transactions are missing from the CAT NMS Plan, which “may prevent the regulators from utilizing CAT data as envisioned.”¹³¹

IV. Proceedings To Determine Whether To Approve or Disapprove the Systems Retirement Proposals, as Modified by Amendments Thereto

The Commission hereby institutes proceedings pursuant to Section 19(b)(2) of the Act¹³² to determine whether the Systems Retirement Proposals of Bats BZX, Bats EDGX, BOX, BX, C2, CBOE, FINRA, IEX, ISE, MIAX, NASDAQ, PEARL, NYSE, NYSE Arca, NYSE MKT, and Phlx, as modified by their respective amendments, should be approved or disapproved. Further, pursuant to Section 19(b)(2)(B) of the Act,¹³³ the Commission is hereby providing notice of the grounds for disapproval under consideration. The Commission believes that it is appropriate to institute proceedings at this time in view of the legal and policy issues raised by the proposals. Institution of proceedings does not indicate, however, that the Commission has reached any conclusions with respect to any of the issues involved.

In particular, the Commission is instituting proceedings to allow for additional analysis for consistency with: (1) Section 6(b)(5) of the Act,¹³⁴ with respect to the Exchanges’ Systems Retirement Proposals, and Section 15A(b)(6) of the Act,¹³⁵ with respect to FINRA’s Systems Retirement Proposal, both of which sections require, among other things, that the rules of a national securities exchange or registered securities association be designed “to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, . . . to remove impediments to and perfect the

¹²³ SIFMA Letter at 2.

¹²⁴ See FIF Letter at 2; Thomson Reuters Letter at 2 (commending the SROs for “their willingness to move all OATS reporters to the same timeline”). One of these commenters noted that accelerating the compliance date might “place additional burden on the Small Industry Members who are OATS reporters, even for those members that will likely use third party providers for their CAT reporting obligations, because these reporters ultimately bear supervisory responsibility for the OATS and CAT regulatory reporting.” FIF Letter at 2. The commenter concluded, however, that “the economic trade-off of a significantly earlier date for OATS retirement for the entire industry” justifies the proposal. *Id.*

¹²⁵ See SIFMA Letter at 2–3; Fidelity Letter at 3.

¹²⁶ SIFMA Letter at 2. See also Fidelity Letter at 3 (arguing that phasing in CAT reporting based on current OATS-reporting status would give non-OATS reporting firms additional time to comply with CAT requirements).

¹²⁷ See SIFMA Letter at 2–3.

¹²⁸ See Fidelity Letter at 3.

¹²⁹ See FIF Letter at 5; SIFMA Letter at 4; Thomson Reuters Letter at 4.

¹³⁰ FIF Letter at 5.

¹³¹ SIFMA Letter at 4.

¹³² 15 U.S.C. 78s(b)(2).

¹³³ 15 U.S.C. 78s(b)(2)(B). Section 19(b)(2)(B) of the Act also provides that proceedings to determine whether to disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. See *id.* The time for conclusion of the proceedings may be extended for up to 60 days if the Commission finds good cause for such extension and publishes its reasons for so finding, or if the exchange consents to the longer period. See *id.*

¹³⁴ 15 U.S.C. 78f(b)(5).

¹³⁵ 15 U.S.C. 78o–3(b)(6).

¹¹⁵ See Fidelity Letter at 2–3; FIF Letter at 5; Thomson Reuters Letter at 4–5.

¹¹⁶ See FIF Letter at 5; Thomson Reuters Letter at 4–5.

¹¹⁷ See Fidelity Letter at 2–3.

¹¹⁸ See FIF Letter at 2.

¹¹⁹ See *id.*

¹²⁰ *Id.* at 2. See also Thomson Reuters Letter at 2 (noting that these daily metrics should be issued during the planned testing phase that begins no later than three months before CAT reporting and that the actual date of OATS and EBS retirement will remain uncertain without access to these metrics).

¹²¹ See FIF Letter at 2; Thomson Reuters at 2.

¹²² Thomson Reuters Letter at 2–3.

mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest;" and (2) Section 6(b)(8) of the Act,¹³⁶ with respect to the Exchanges' Systems Retirement Proposals, and Section 15A(b)(9) of the Act,¹³⁷ with respect to FINRA's Systems Retirement Proposal, both of which sections require that the rules of a national securities exchange or registered securities association "not impose any burden on competition not necessary or appropriate in furtherance of the purposes of [the Act]."

In addition, the Commission is instituting proceedings to allow for additional analysis of whether the Systems Retirement Proposals are consistent with Section 11A of the Act¹³⁸ and Rules 608(c) and 613 of Regulation NMS thereunder.¹³⁹ Section 11A of the Act directs the Commission, with due regard for the public interest, the protection of investors, and the maintenance of fair and orderly markets, to use its authority to facilitate the establishment of a national market system for securities, including by authorizing or requiring SROs to act jointly to plan, develop, operate, or regulate a national market system. Rule 608(c) requires each SRO to comply with the terms of any effective NMS plan of which it is a sponsor or participant. Rule 613 requires the CAT NMS Plan to include a "plan to eliminate existing rules and systems . . . that will be rendered duplicative by the consolidated audit trail."¹⁴⁰ The Plan, in turn, required the SROs to file proposed rule changes, within six months of the Commission's approval of the Plan, to eliminate or modify their duplicative rules.¹⁴¹ The Plan further stated that the rule change proposals to eliminate or modify duplicative rules and systems should be "effective at such time as CAT Data meets minimum standards of accuracy and reliability."¹⁴² As discussed above, the Plan also requires these proposals to discuss the specific accuracy and reliability standards that would determine when duplicative systems would be retired, whether the availability of certain data from Small Industry Members in November 2018 would facilitate a more expeditious retirement of duplicative systems, and whether individual Industry Members

could be exempted from reporting to duplicative systems once their CAT reporting meets specified accuracy and reliability standards.¹⁴³ Accordingly, the SROs filed the Systems Retirement Proposals to indicate which duplicative rules and systems would be eliminated once CAT is sufficiently accurate and reliable and to explain how they intend to assess CAT's accuracy and reliability. The Commission is therefore considering whether the Systems Retirement Proposals are consistent with the SROs' regulatory obligations under Rule 608(c), Rule 613, and the Plan, and are otherwise consistent Section 11A of the Act and the rules and regulations thereunder.

As noted above, the CAT NMS Plan required the SROs' proposals to retire duplicative audit trail systems to consider whether "individual Industry Members can be exempted from reporting to duplicative systems once their CAT reporting meets specified accuracy and reliability standards, including, but not limited to, ways in which establishing cross-system regulatory functionality or integrating data from existing systems and the CAT would facilitate such Individual Industry Member exemptions."¹⁴⁴ In addition, in the CAT Approval Order, the Commission noted "that FINRA is considering whether it can integrate CAT Data with OATS data in such a way that 'ensures no interruption in FINRA's surveillance capabilities,' and that FINRA will consider 'exempting firms from the OATS Rules provided they report data to the Central Repository pursuant to the CAT NMS Plan and any implementing rules.'"¹⁴⁵ The Commission also "encourage[d] the other Participants to consider similar measures to exempt firms from reporting to existing systems once they are accurately reporting comparable data to the CAT and to enable the usage of CAT Data to conduct their regulatory activities."¹⁴⁶ As described above, the SROs considered individual firm exemptions but believe that a single cut-over from existing systems to CAT is preferable to a firm-by-firm approach. Several of the SROs assert that providing firm-by-firm exemptions would be inefficient, more costly, and less reliable than the single cut-over.¹⁴⁷

However, commenters disagreed with this aspect of the SROs' proposals, and questioned whether FINRA had adequately analyzed the costs and benefits of allowing firms to discontinue OATS reporting on an individual basis. Commenters also noted the high costs of duplicative reporting. Accordingly, the Commission is considering whether the Systems Retirement Proposals impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, including the potential competitive burdens that may be created by an extended period of duplicative reporting for certain firms.

As discussed in more detail above, the SROs also proposed certain accuracy and reliability standards that CAT Data must meet before existing systems can be retired. These standards include both quantitative and qualitative metrics. Commenters raised questions about the scope of these metrics, in particular data elements and functionalities that were not included in current audit trail systems, and asked for clarification regarding a number of metrics. In addition, several commenters raised concerns about the broader, qualitative factors proposed by the SROs. Accordingly, the Commission is considering the accuracy and reliability standards set forth in the Systems Retirement Proposals.

In addition, the Commission is considering whether the Systems Retirement Proposals are designed to prevent fraudulent and manipulative acts and practices and, in particular, whether the Systems Retirement Proposals would help to ensure that the SROs can effectively conduct their surveillance and oversight functions. The Commission is also considering whether the Systems Retirement Proposals remove impediments to and perfect the mechanism of a free and open market and a national market system and whether they adequately balance the duplicative reporting costs incurred by broker-dealers and the risks to effective surveillance and oversight, which may impact investor protection.

V. Commission's Solicitation of Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns that they may have with any of the Systems Retirement Proposals. In particular, the Commission invites the

¹³⁶ 15 U.S.C. 78f(b)(8).

¹³⁷ 15 U.S.C. 78o-3(b)(9).

¹³⁸ 15 U.S.C. 78k-1.

¹³⁹ 17 CFR 242.608(c) and 242.613.

¹⁴⁰ 17 CFR 242.613(a)(9).

¹⁴¹ See CAT NMS Plan, Appendix C, Section C.9.

¹⁴² *Id.*

¹⁴³ See *id.*

¹⁴⁴ See CAT NMS Plan, Appendix C, Section C.9.

¹⁴⁵ CAT Approval Order, 81 FR at 84771.

¹⁴⁶ *Id.*

¹⁴⁷ See Bats BZX Notice, 82 FR at 25376; Bats EDGX Notice, 82 FR at 25360; BOX Notice, 82 FR at 25493; BX Notice, 82 FR at 25876-77; C2 Notice, 82 FR at 25387; CBOE Notice, 82 FR at 25431-32; ISE Notice, 82 FR at 25470; MIAX Notice, 82 FR at 25368; NYSE Arca Notice 2, 82 FR at 25640; NYSE

MKT Notice 1, 82 FR at 25445; NASDAQ Notice, 82 FR at 25824-25; PEARL Notice, 82 FR at 25438; Phlx Notice, 82 FR at 25867-68.

written views of interested persons concerning whether the Systems Retirement Proposals, as modified by the amendments thereto, are consistent with Sections 6(b)(5), 6(b)(8), 15A(b)(6), 15A(b)(9), or any other provision of the Act, and the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation.¹⁴⁸

Such comments should be submitted by September 27, 2017. Rebuttal comments should be submitted by October 11, 2017. The Commission asks that commenters address the sufficiency and merit of the SROs' statements in support of their respective Systems Retirement Proposals, in addition to any other comments that commenters may wish to submit about any of the proposed rule changes. The Commission also asks the SROs to respond to the issues raised in the four comment letters received to date, including the commenters' cost estimates. In addition, the Commission seeks comment, including, where relevant, any specific data, statistics, or studies, on the following:

1. What would be the monetary costs of constructing a CAT-to-OATS "converter" or developing an alternative mechanism for linking CAT Data to OATS that would provide continuity of the OATS SROs' surveillance capabilities? To the extent possible, please provide specific data, analyses, or studies for support for your answer.

2. What technological challenges would have to be addressed to make a converter or other mechanism feasible? When could work begin on a converter or alternative mechanism? For example, could work begin before technical specifications for Industry Member reporting to CAT have been finalized? Could work begin before the Plan Processor had begun accepting CAT reports from Industry Members and making those reports available to regulators? How long would it take to construct a converter or other mechanism? To the extent possible,

please provide specific data, analyses, or studies for support for your answer.

3. Are there any entities that would be capable of constructing a converter? Please explain who they are and why you believe they have the ability to construct a converter. To the extent possible, please provide specific data, analyses, or studies for support for your answer.

4. If the costs of the converter would be passed on to Industry Members, would the benefits of a converter be undermined? To the extent possible please provide specific data, analyses, or studies for support for your answer.

5. Please estimate, to the extent possible, the percentage of Industry Members' CAT reports that would qualify for an individual exemption from OATS reporting for each month after Industry Members begin reporting in November 2018. Do you believe that the costs and/or benefits of a converter would be affected by the number of Industry Members that can be expected to meet the threshold error rates for CAT reporting (weighted by their percentage of total CAT reports submitted by OATS-reporting Industry Members) before full OATS retirement, thus qualifying for an individual exemption from OATS and to have their CAT reports converted to OATS? To the extent possible, please provide specific data, analyses, or studies for support for your answer.

6. Do you believe that the Systems Retirement Proposals would result in any burden on competition and, if so, please analyze whether any such burden would be necessary or appropriate in furtherance of the purposes of the Act. If there are burdens, how would they compare to the burdens that would be imposed by the converter approach? To the extent possible, please provide specific data, analyses, or studies for support of your answer.

7. What impact would a converter have on the SROs' ability to conduct their surveillance and oversight? Specifically, do you believe that there are risks that a converter might not be able to successfully integrate CAT reports into OATS? If so, what is the likelihood of failures and what would be the magnitude of the costs resulting from any such failures? What costs might be incurred by SROs to detect and address any regulatory gaps created by a converter? For example, would an OATS SRO have to design additional surveillances to address that possibility? If so, what sort of additional surveillances might be necessary and how would you estimate the cost for an SRO to develop them? To the extent

possible, please provide specific data, analyses, or studies for support.

8. How long do you believe it will take before CAT reaches the accuracy and reliability thresholds proposed by the SROs before retiring OATS and other systems for all firms? Also, how long do you think it would take to make an effective converter available and how long would the converter be used for those firms who individually have met the thresholds while CAT overall has not? Does the length of this period affect your cost/benefit analysis for the converter approach? If so, how?

9. Regarding the converter approach and firm-by-firm exemptions from OATS reporting, what criteria should the OATS SROs consider for releasing a firm from its OATS requirements? To the extent possible please provide specific data, analyses, or studies for support. Would you still support a firm-by-firm approach if it also incorporated an assessment of whether the Plan Processor is sufficiently meeting all of its obligations under the Plan?

10. Please describe any opportunity costs associated with the converter approach. For example, would the development of the converter and any new processes and procedures at the SRO level to accommodate the converter divert resources that otherwise would be devoted to CAT implementation? If so, please describe the nature and extent of such effects.

11. Do you agree with the estimated costs of duplicative reporting described by two of the commenters?¹⁴⁹ Are there any additional opportunity costs faced by Industry Members that would result from duplicative reporting? How would the length of the duplicative reporting period affect the opportunity costs? To the extent possible, please provide specific data, analyses, or studies for support.

12. Do you agree with the proposed quantitative metrics for the pre- and post-correction error rates that would have to be attained by CAT before the SROs would retire duplicative systems? Do you agree with the proposed categories for the assessment? Why or why not? Are these categories sufficiently clear? If you believe that different thresholds or alternative areas for consideration would be more appropriate, please describe. What are the costs and benefits of the proposed approach versus any alternative approach that you would recommend?

13. Do you agree with the SROs' proposed qualitative standards for retirement of duplicative systems, *i.e.*,

¹⁴⁸ Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Pub. L. 94-29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

¹⁴⁹ See *supra* notes 101-103 and accompanying text.

that retirement could not be permitted to occur until it is confirmed that (1) there are no material issues in CAT that have not been corrected, (2) the CAT includes all data necessary to allow the SROs to continue to meet their surveillance obligations, and (3) the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan? Why or why not? What are the costs and benefits of the proposed approach versus an alternative approach, which may include not having any additional qualitative considerations?

14. To what extent should the SROs consider CAT performance regarding functions and data elements not present within existing audit trail systems when determining when to allow retirement of those existing systems? What are the costs and benefits of the proposed approach versus any alternative approach that you would recommend? Do you believe that the Systems Retirement Proposals will promote efficiency, competition, and capital formation? Please submit any data or information that would assist the Commission in considering these issues.

15. Do you agree with the length of the assessment period proposed by the SROs? Why or why not? If not, what alternative do you believe would be more appropriate and why? What are the costs and benefits of the proposed approach versus any alternative approach that you would recommend? To the extent possible, please provide specific data, analyses, or studies for support.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include any of File Numbers SR-BatsBZX-2017-37, SR-BatsEDGX-2017-23, SR-BOX-2017-17, SR-BX-2017-027, SR-C2-2017-018, SR-CBOE-2017-041, SR-FINRA-2017-013, SR-IEX-2017-18, SR-ISE-2017-46, SR-MIAX-2017-20, SR-NASDAQ-2017-055, SR-PEARL-2017-23, SR-NYSE-2017-23, SR-NYSEArca-2017-57, SR-NYSEArca-2017-59, SR-NYSEMKT-2017-29, SR-NYSEMKT-2017-30, or SR-Phlx-2017-43, as appropriate, on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to any of: File Numbers SR-BatsBZX-2017-37, SR-BatsEDGX-2017-23, SR-BOX-2017-17, SR-BX-2017-027, SR-C2-2017-018, SR-CBOE-2017-041, SR-FINRA-2017-013, SR-IEX-2017-18, SR-ISE-2017-46, SR-MIAX-2017-20, SR-NASDAQ-2017-055, SR-PEARL-2017-23, SR-NYSE-2017-23, SR-NYSEArca-2017-57, SR-NYSEArca-2017-59, SR-NYSEMKT-2017-29, SR-NYSEMKT-2017-30, or SR-Phlx-2017-43, as appropriate. The file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the SRO. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to any of File Numbers SR-BatsBZX-2017-37, SR-BatsEDGX-2017-23, SR-BOX-2017-17, SR-BX-2017-027, SR-C2-2017-018, SR-CBOE-2017-041, SR-FINRA-2017-013, SR-IEX-2017-18, SR-ISE-2017-46, SR-MIAX-2017-20, SR-NASDAQ-2017-055, SR-PEARL-2017-23, SR-NYSE-2017-23, SR-NYSEArca-2017-57, SR-NYSEArca-2017-59, SR-NYSEMKT-2017-29, SR-NYSEMKT-2017-30, or SR-Phlx-2017-43, as appropriate, and should be submitted by September 27, 2017. Rebuttal comments should be submitted by October 11, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵⁰

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549-2736.

Extension:

Form N-54C, SEC File No. 270-184, OMB Control No. 3235-0236.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Certain investment companies can elect to be regulated as business development companies, as defined in section 2(a)(48) of the Investment Company Act of 1940 ("Investment Company Act"), under sections 55 through 65 of the Investment Company Act. Under section 54(a) of the Investment Company Act,¹ any company defined in section 2(a)(48)(A) and (B) of the Investment Company Act may, if it meets certain enumerated eligibility requirements, elect to be subject to the provisions of Sections 55 through 65 of the Investment Company Act by filing with the Commission a notification of election. Under section 54(c) of the Investment Company Act,² any business development company may voluntarily withdraw its election under section 54(a) of the Investment Company Act by filing a notice of withdrawal of election with the Commission. The Commission has adopted Form N-54C as the form for the notification of withdrawal of election to be subject to Sections 55 through 65 of the Investment Company Act. The purpose of Form N-54C is to notify the Commission that the business development company withdraws its election to be subject to Sections 55

¹⁵⁰ 17 CFR 200.30-3(a)(12); 17 CFR 200.30-3(a)(57).

¹ 15 U.S.C. 80a-53(a).

² 15 U.S.C. 80a-53(c).