

CAT NMS Plan Amendment: Funding Model



The Securities and Exchange Commission approved an amendment to the National Market System Plan for the Consolidated Audit Trail (“CAT NMS Plan”) that implements a revised funding model (“Executed Share Model”) for the Consolidated Audit Trail (“CAT”) and establishes a fee schedule for CAT fees for the self-regulatory organizations that are participants to the CAT NMS Plan (the “Participants”) in accordance with the Executed Share Model. The amendment also sets forth a framework for the recovery of the costs incurred by the Participants in developing and maintaining the CAT system.

Why This Matters

The CAT NMS Plan requires both Participants and Industry Members to fund the CAT. The purpose of the funding model is to provide a framework for the recovery of the Participants’ costs to create, develop, and maintain the CAT. The amendment sets forth the method for allocating the costs to fund CAT among Participants and the members of a national securities exchange or a members of a national securities association (“Industry Members”).

How the Funding Amendment Works

The amendment sets forth a new Executed Share Model that will:

- Charge fees to Participants and Industry Members based on executed equivalent share volume:
 - Fees will be charged to each Industry Member that is a CAT Executing Broker for the buyer in a transaction (“CEBB”) and each Industry Member that is the CAT Executing Broker for the seller in a transaction (“CEBS”);
 - The CAT fee for each Participant, CEBB, and CEBS in a transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by one-third and by a Fee Rate.
- Calculate executed equivalent share volume based on whether securities being traded are NMS Stocks, Listed Options, and/or OTC Equity Securities, to account for differences in the trading characteristics of each of those securities.
 - NMS Stocks will be counted as one executed equivalent share;

- Each executed contract for a transaction in Listed Options will be counted using the contract multiplier applicable to the specific Listed Option in the relevant transaction (typically 100 shares);
- Each executed share for a transaction in OTC Equity Securities would be counted as 0.01 executed equivalent shares.

The amendment establishes two categories of fees:

- CAT fees for CAT costs not previously paid by the Participants (“Prospective CAT Costs”).
- CAT fees (“Historical CAT Assessments”) to be payable by Industry Members that are CAT Executing Brokers for the Buyer and for the Seller with regard to CAT costs previously paid by the Participants (“Past CAT Costs”).

The Fee Rate for CAT fees related to Prospective CAT Costs would be determined by dividing the reasonably budgeted CAT costs for the upcoming year by the reasonably projected total executed equivalent share volume of all transactions for that year.

To calculate the Fee Rate for the Historical CAT Assessment related to Past CAT Costs, the CAT Operating Committee would divide such costs (less any excluded amount) by the reasonably projected total executed equivalent share volume of all transactions during a projected recovery period. The projected recovery period would be determined by the CAT Operating Committee and must be no less than two years and no more than five years.

The amendment further provides:

- For every new Fee Rate and adjustment to the Fee Rate, the Participants would be required to file a Section 19(b) filing with the Commission to implement the Fee Rate on Industry Members. As with other Section 19(b) filings, these filings would be published for public comment and could likely take effect upon filing. Such a filing for a Fee Rate change would provide notice to Industry Members and the public of the Fee Rate change and permit such entities to provide comment on the change and on the effectiveness of the budget reconciliation.
- The CAT LLC’s Operating Committee is required to set a “reasonable” operating budget for CAT LLC, as well as to make sure that fees, costs, and expenses are reasonable and that they are reasonably budgeted to be incurred by or for the Company in connection with the development, implementation, and operation of the CAT as set forth in the annual operating budget approved by the Operating Committee.

What’s Next

The amendment became effective upon Commission approval.