FINANCIAL INFORMATION FORUM

July 2, 2024

By electronic mail

U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549–1090
Attn: Vanessa A. Countryman, Secretary

Re: Request for exemption from the requirements that an Industry Member report linkage between (A) (i) a representative order or IDQS quote and (ii) a customer order, and (B) (i) an order fulfillment for a customer and (ii) a representative or principal order or IDQS quote, for specified scenarios

Dear Ms. Countryman,

On behalf of our member firms that are defined as "Industry Members" under the national market system plan governing the creation, implementation, and maintenance of a consolidated audit trail (the "CAT NMS Plan"),[1] Financial Information Forum ("FIF") requests that the Securities and Exchange Commission (the "Commission") grant such firms and other Industry Members exemptive relief pursuant to the Commission's authority under Section 36 of the Securities Exchange Act of 1934 (the "Exchange Act")[2] and Rule 608(e) of Regulation NMS under the Exchange Act[3] from certain reporting

[1] Limited Liability Company Agreement of Consolidated Audit Trail, LLC (July 24, 2020), available at https://catnmsplan.com/sites/default/files/2020-07/LLC-Agreement-of-Consolidated-Audit-Trail-LLC-as-of-7.24.20.pdf ("CAT NMS Plan").

[2] 15 U.S.C. §78mm(a)(1) provides, in relevant part, that the "Commission, by rule, regulation, or order, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of this title or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors." The reference to the Commission's authority to grant exemptive relief to "any person" makes clear that the Commission is authorized to grant exemptive relief to Industry Members.

[3] 17 CFR §242.608(e) provides that "[t]he Commission may exempt from the provisions of this section, either unconditionally or on specified terms and conditions, any self-regulatory organization, member thereof, or specified security, if the Commission determines that such exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system." The reference to the Commission's authority to grant exemptive relief to "any ... member" of a self-regulatory organization makes clear that the Commission is authorized to grant exemptive relief to Industry Members.

requirements under the CAT NMS Plan. Specifically, FIF members request exemptive relief from the following linkage reporting requirements under the CAT NMS Plan, as discussed in further detail below:

(i) for the position fill scenario for equities (as described below), the requirement that an Industry Member report linkage between (A) an order fulfillment for a customer, and (B) a principal or representative order;
(ii) for the riskless principal scenario for equities where no principal or representative order exists (as described below), the requirement that an Industry Member report linkage between (A) an order fulfillment for a customer and (B) a representative or principal order;
(iii) for the unlinked representative order scenario for equities (as described below), the requirement that an Industry Member report linkage between a representative order and a customer order;
(iv) for the unlinked representative order scenario for options (as described below), the requirement that an Industry Member report linkage between a representative order and a customer order;
(v) for the position fill scenario for options (as described below), the requirement that an Industry Member report linkage between (A) an order fulfillment for a customer, and (B) a principal or representative order;
(vi) for quotes in an inter-dealer quotation system ("IDQS") for OTC equities (as described in the CAT Reporting Technical Specifications for Industry Members[4]), the requirement that an Industry Member report linkage between an IDQS quote and a customer order; and
(vii) for order fulfillments based on executions of orders received from other IDQS dealers in response to the posting of quotes in an IDQS for OTC equities, the requirement that an Industry Member report linkage between the order fulfillment and an IDQS quote.

The scope of requested exemptive relief is discussed in further detail below. For the reasons discussed in this request for exemptive relief, FIF members believe the requested exemptive relief is "necessary or appropriate in the public interest, and is consistent with the protection of investors," and is "consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system."[5]

This request for exemptive relief does not address the question of whether the linkage requirements covered by this exemptive request are encompassed within Commission Rule 613 (Consolidated audit trail)[6] and the CAT NMS Plan.[7]

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[4] CAT Reporting Technical Specifications for Industry Members, Version 4.1.0 r2 (Mar. 28, 2024), available at https://catnmsplan.com/sites/default/files/2024-03/03.28.24_CAT_Reporting_Technical_Specifications_for_Industry_Members_v4.1.0r2_CLEAN.pdf ("CAT Technical Specifications"), at x.
[5] 17 CFR §242.608(e).
[6] 17 CFR §242.613.
[7] The view of FIF members is that Rule 613 only requires the reporting of linkage where such linkage is recorded in an Industry Member's books and records.

A. Scope of requested exemptive relief for enumerated scenarios

Table 1 sets forth the scenarios for which FIF members request exemptive relief, including the requested scope of exemptive relief for each scenario.

Table 1

#	Scenario Title	Association between the events to be linked exists in the real world	Industry Member records linkage in its books and records	Current CAT Technical Specifications provide a method and guidance for reporting this linkage	Scope of requested exemptive relief
1	Position fill scenario for equities	No	No	No	Permanent
2	Riskless principal scenario for equities where no representative or principal order exists	No	No	No	Permanent
3	Unlinked representative order scenario for equities	Yes	No	Yes	Two years
4	Unlinked representative order scenario for options	Yes	No	No	Two years
5	Position fill scenario for options	No	No	No	Permanent
6	Linkage between quote and customer order on IDQS for OTC equities	See discussion below[8]	See discussion below[9]	No	Permanent
7	Fulfillment based on execution of order received in response to the posting of an IDQS quote for OTC equities	No[10]	No[11]	No	Permanent

[8] As discussed in Section H below, an association could exist at the time of initiation of the IDQS quote, but in many cases the association would not reflect subsequent events and, accordingly, would be misleading and incomplete.
[9] See preceding footnote.
[10] As discussed in Section I below, an IDQS quote is not "executed".
[11] See preceding footnote.

B. Exemptive relief previously granted by the Commission

Rule 613(e)(1) of Regulation NMS requires the CAT system to "… store and make available to regulators data in a uniform electronic format, and in a form in which all events pertaining to the same originating order are linked together in a manner that ensures timely and accurate retrieval of the information" for all reportable events for that order.[12] Section 3 of Appendix D to the CAT NMS Plan provides:

> By using the daisy chain approach the Plan Processor must be able to link all related order events from all CAT Reporters involved in the lifecycle of an order. At a minimum, the Central Repository must be able to create the lifecycle between:
>
> …
>
> Customer orders to "representative" orders created in firm accounts for the purpose of facilitating a customer order (e.g., linking a customer order handled on a riskless principal basis to the street-side proprietary order)
>
> …
>
> Order events for all equity and option order handling scenarios that are currently or may potentially be used by CAT Reporters, including:
>
> …
>
> Execution of customer order[s] via allocation of shares from a pre-existing principal order….[13]

On December 16, 2020, the Commission, pursuant to Section 36(a)(1) of the Exchange Act and Rule 608(e) under the Exchange Act, granted the Participants in the CAT NMS Plan (the "CAT Plan Participants") temporary exemptive relief, until July 31, 2023, from "the requirement in Section 3, Appendix D of the CAT NMS Plan that the CAT Plan Participants create the lifecycle between customer orders to representative orders created in firm accounts for the purpose of facilitating a customer order…"[14] On July 8, 2022, the Commission extended this temporary exemptive relief until July 31, 2024.[15] On May 19, 2023, the Commission extended this temporary exemptive relief until January 31, 2025.[16]

[12] 17 CFR §242.613(e)(1).

[13] CAT NMS Plan, Appendix D, Section 3.

[14] Securities Exchange Act Release No. 90688 (Dec. 16, 2020), 85 FR 83634 (Dec. 22, 2020).

[15] Securities Exchange Act Release No. 95234 (July 8, 2022), 87 FR 42247 (July 14, 2022).

[16] Securities Exchange Act Release No. 97530 (May 19, 2023), 88 FR 33655 (May 24, 2023).

C. Position fill scenario for equities

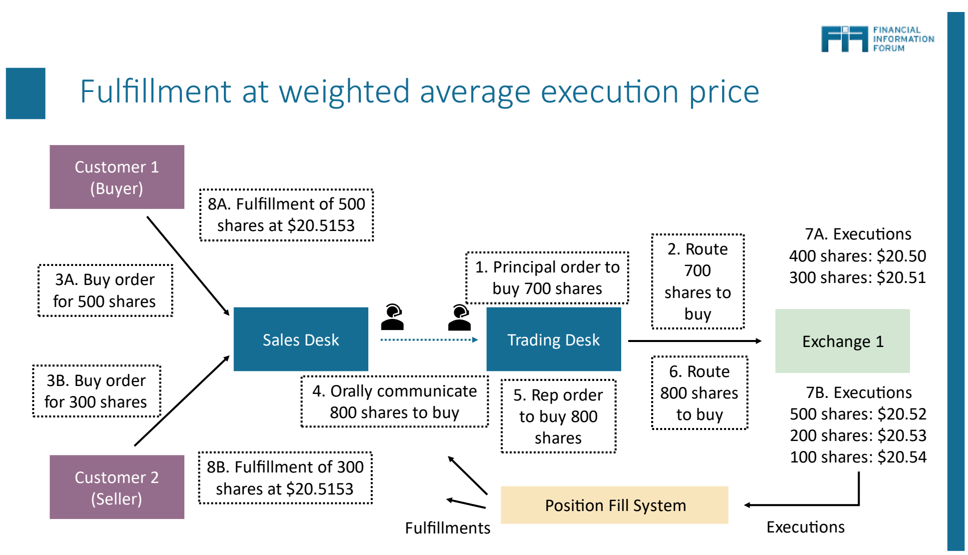
Description of scenario

A "position fill scenario" for equities means a scenario (i.e., workflow) where an Industry Member maintains an aggregated pool of executions and provides order fulfillments from that pool of executions, and there is no association between an order fulfillment and one or more specific principal or representative orders. As one common example of a position fill scenario, many Industry Members maintain a "position management system" that aggregates executions across multiple desks or execution processes prior to fulfillment against customer orders. One function of a position management system is to track in real-time an Industry Member's long or short position in individual securities to enable compliance with the Commission's Regulation SHO.[17]

In a position fill scenario, an Industry Member provides an order fulfillment to a customer order from a position fill system, and there is no association between the order fulfillment and one or more specific firm or customer orders.

Diagram 1 illustrates a position fill scenario (referred to as Scenario 1A):

Diagram 1



Scenario 1A involves the following steps:

- Trading desk at Dealer 1 creates a principal order to buy for 700 shares
- Trading desk routes to Exchange 1 an order to buy for 700 shares

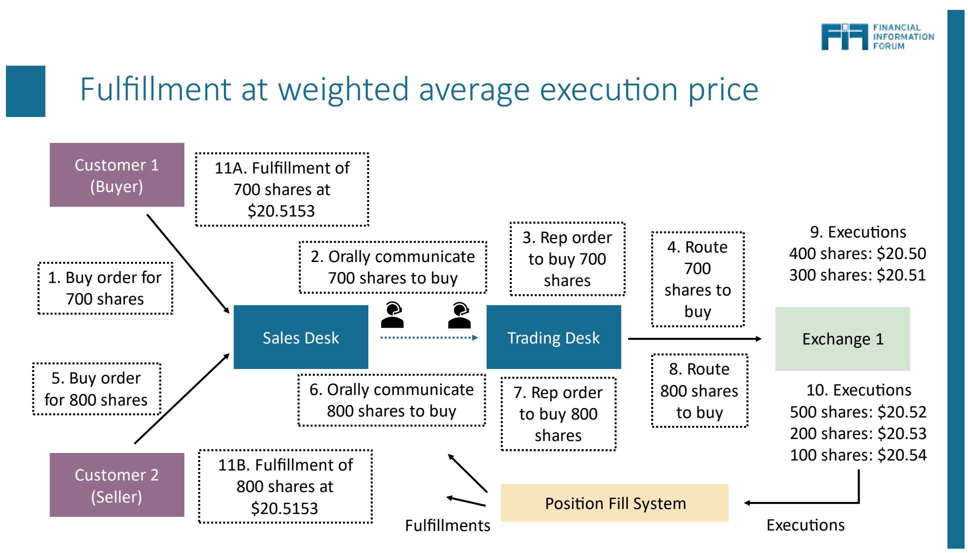
[17] *See*, *for example*, 17 CFR §242.200.

- Sales desk at Dealer 1 receives a buy order for 500 shares from Customer 1 and a buy order for 300 shares from Customer 2; all orders are for the same symbol
- Sales desk employee orally communicates the two customer orders to trading desk employee
- Trading desk employee manually inputs a representative order to buy for 800 shares
- Trading desk routes to Exchange 1 an order to buy for 800 shares
- Exchange 1 executes the orders at the prices indicated in Diagram 1 above
- Exchange 1 confirms the executions to Dealer 1's position fill system
- Trading desk personnel orally communicate the trade executions (shares and price) to sales desk personnel
- Sales desk personnel manually fulfill the customer orders.

There are different ways that the Industry Member could fulfill the customer orders (to avoid additional complexity, we assume that the customer orders are not held orders). In Scenario 1A, the Industry Member fills the customer orders at the weighted average execution price for all trade executions. Specifically, the Industry Member fulfills 500 shares to Customer 1, and 300 shares to Customer 2, at the weighted average execution price of $20.5153.

Diagram 2 illustrates another position fill scenario (referred to as Scenario 1B):

Diagram 2



Scenario 1B involves the following steps:

- Sales desk at Dealer 1 receives a buy order for 700 shares from Customer 1
- Sales desk employee orally communicates the customer order to trading desk employee
- Trading desk employee manually inputs a representative order to buy for 700 shares
- Trading desk routes to Exchange 1 an order to buy for 700 shares
- Sales desk at Dealer 1 receives a buy order for 800 shares from Customer 2
- Sales desk employee orally communicates the customer order to trading desk employee

- Trading desk employee manually inputs a representative order to buy for 800 shares
- Trading desk routes to Exchange 1 an order to buy for 800 shares
- Exchange 1 executes the orders at the prices indicated in Diagram 1 above
- Exchange 1 confirms the executions to Dealer 1's position fill system
- Trading desk personnel orally communicate the trade executions (shares and price) to sales desk personnel
- Sales desk personnel manually fulfill the customer orders.

In the position fill scenario, there is no real-world association between the order fulfillment and one or more specific representative or principal orders

In the position fill scenario, there is no real-world association between the order fulfillment and one or more specific representative or principal orders. Requiring an Industry Member to report a linkage for this scenario would require an Industry Member to fabricate linkages for CAT reporting that are not representative of real-world associations. Because these linkages would be fabricated, it is unclear how they provide any value to surveillance personnel. To the contrary, there could be a negative impact to the CAT audit trail if Industry Members are required to report fabricated data as the data would be misleading to surveillance personnel. Accordingly, permanent exemptive relief is appropriate for the position fill scenario.

It is also important to note that if Dealer 1 in Scenario 1A or 1B were to trade with its customers as principal, Dealer 1 would not report any linkage to a representative or principal order.

The Commission has not provided guidance on how Industry Members should report linkage for the position fill scenario

FIF raised the position fill scenario with the CAT Plan Participants and FINRA CAT in a written communication submitted on May 2, 2022. Commission representatives, through their participation in CAT Operating Committee meetings and discussions, were aware of this submission. On February 29, 2024 FIF again raised the position fill scenario in a letter to the Commission.[18]

The Commission, the CAT Plan Participants and FINRA CAT have not provided Industry Members guidance on how to report for the position fill scenario if linkage is required. FIF members assume that the Commission's decision to refrain from providing guidance is a direct result of the fact that there is no real-world association between the order fulfillment and one or more specific representative or principal orders. In other words, there is no guidance that the Commission could provide for this scenario that would involve reporting linkage based on a real-world association.

[18] Letter from Financial Information Forum to the Securities and Exchange Commission (Feb. 29, 2024), available at https://fif.com/index.php/working-groups/category/271-comment-letters?download=2884:fif-letter-to-the-sec-requesting-further-guidance-on-various-representative-order-scenarios&start=10&view=category ("FIF February 2024 Letter").

The position fill scenario represents a small percentage of order fulfillments

Based on documentation provided by FINRA CAT, FIF members understand that the position fill scenario represents between 2.61% and 3.38% of all order fulfillments.[19] The significant majority of order fulfillments are made on a 1-to-1 basis. The relief requested by FIF members would not apply where an Industry Member provides an order fulfillment on a 1-to-1 basis.

Request for exemptive relief

FIF members request that the Commission provide Industry Members a permanent exemption from the requirement to report linkage between an order fulfillment and a representative or principal order for the position fill scenario for equities based on the fact that such linkage does not exist and would not reflect a real-world association. As a condition for this exemption, Industry Members could be subject to an obligation to report in the order fulfillment that the Industry Member has provided the fulfillment on a position fill basis.

D. Riskless principal scenario for equities where no representative or principal order exists

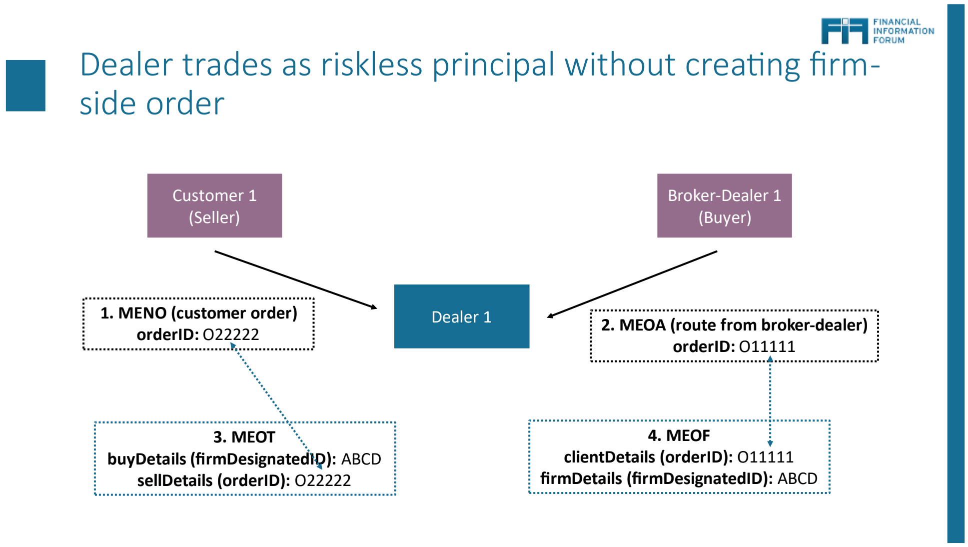
Description of scenario

In certain situations where an Industry Member trades as riskless principal for equities, it is not possible for the Industry Member to link an order fulfillment to a representative or principal order because no representative or principal order exists.

The following Diagram 3 illustrates this scenario (referred to as Scenario 2):

[19] FINRA CAT, Representative Order and Fulfillment Linkages, FIF Framing Call Outline (May 3, 2024) ("FCAT Framing Call Outline"), at Slides 9-10. FINRA CAT has made this document available to FIF and FIF members. FIF members request that the Commission authorize the CAT Plan Participants and FINRA CAT to make this document publicly available.

Diagram 3



The following is the sequence of events for Scenario 2:

- Dealer 1 (D1) receives a not held sell order from Customer 1 (C1)
- While working the order from C1, D1 receives a not held buy order from Broker-Dealer 1 (BD1); BD1 is routing an order it has received from one of its customers
- D1 trades as principal against C1 (form its firm book with firmDesignatedID of ABCD); there is no order created by D1 when it trades against C1 as principal; specifically, a New Order event (MENO) for D1 **does not exist in this scenario**[20]
- D1 trades as riskless principal against BD1 (from the same firm book)
- D1 reports the trades with C1 to the FINRA/NYSE or FINRA/Nasdaq Trade Reporting Facility ("TRF") as a media report (i.e., the trade will be disseminated to the public)
- D1 reports the trade with BD1 to the TRF as a non-media report (i.e., the trade will not be disseminated to the public).[21]

There is no real-world association between the order fulfillment and one or more specific representative or principal orders (because no representative or principal order exists)

As illustrated in Diagram 3, D1 cannot link its Order Fulfillment event (for the fulfillment to BD1 because, as evidenced by the diagram and scenario description above, D1 did not create a principal or representative order (i.e., a New Order event for D1 does not exist in this scenario). In other words,

[20] *See*, *for example*, CAT Industry Member Reporting Scenarios, Version 4.11 (Apr. 12, 2024), available at https://catnmsplan.com/sites/default/files/2024-04/04.12.2024_Industry_Member_Tech_Specs_Reporting_Scenarios_v4.11_CLEAN.pdf, at 23-25.

[21] *See*, *for example*, FINRA, Trade Reporting Frequently Asked Questions, available at https://www.finra.org/filing-reporting/market-transparency-reporting/trade-reporting-faq, Q308.1 (Member BD1 matches a buy order from member BD2 and a sell order for the same quantity of shares at the same price from a customer. How should this transaction be reported?) and Q100.7 (What is a "non-tape" report (also referred to as a "non-media" report)?).

there is no real-world association between the order fulfillment and one or more specific representative or principal orders.

The Commission has not provided guidance on how Industry Members should report linkage for Scenario 2

FIF raised an equivalent scenario with the CAT Plan Participants and FINRA CAT in a written communication submitted on May 2, 2022. Commission representatives, through their participation in CAT Operating Committee meetings and discussions, were aware of this submission. On February 29, 2024 FIF again raised this scenario in a letter to the Commission.[22]

The Commission, the CAT Plan Participants and FINRA CAT have not provided Industry Members guidance on how to report for this scenario if linkage is required. FIF members assume that the Commission's decision to refrain from providing guidance is a direct result of the fact that there is no representative or principal order in this scenario. In other words, there is no real-world association between the order fulfillment to the customer and one or more specific representative or principal orders.

Linkage to opposite-side orders is not contemplated by the CAT NMS Plan

During a discussion with Industry Members, representatives of the CAT Plan Participants and FINRA CAT raised the possibility, for this scenario, of requiring linkage of an order fulfillment to the opposite-side order.[23] FIF members note that this type of linkage is not contemplated by the CAT NMS Plan. With respect to linkage of order fulfillments, the CAT NMS Plan provides that,

> At a minimum, the Central Repository must be able to create the lifecycle between: … Orders worked through an average price account capturing both the individual street side execution(s) and the average price fill to the Customer; … Orders aggregated with other orders for further routing and execution capturing both the street side executions for the aggregated order and the fills to each customer order; … [and] Execution of customer order[s] via allocation of shares from a pre-existing principal order.[24]

Each of these three examples from the CAT NMS Plan refers to either an order created to represent a received customer order, or a pre-existing principal order that is used to fill a customer order (i.e., a Manning fill), and as a result, the expectation is that the principal order represents the same side of a trade as the customer order it is fulfilling (i.e., both are buys or both are sells).

Linking the fulfillment of a customer order to another order that is not one of the cases mentioned above is not contemplated by the CAT NMS Plan and as a result cannot be implemented without a Plan

[22] FIF February 2024 Letter.
[23] No representative from the Commission, the CAT Plan Participants or FINRA CAT has stated that this type of linkage is either authorized under the CAT NMS Plan or otherwise appropriate. Representatives of the CAT Plan Participants and FINRA CAT presented this as a potential approach and for discussion purposes only.
[24] CAT NMS Plan, Appendix D, Section 3.

amendment.[25] Additionally, the idea to link the fulfillment of a customer order to an opposite-side order received from a different customer than the broker-dealer filled principally (without an order) is problematic because that opposite-side order is not the one fulfilling the customer order. For example, if that opposite-side order had been filled by executing against a pre-existing firm order, it would be the firm order that is fulfilling the customer order (and linkage would be available and provided in CAT). However, it is not reasonable to require a completely different linkage approach in CAT simply because an opposite-side order is principally filled in a way that does not generate a firm-side order, which is both allowable under CAT and is common in principal fills. Instead, it should continue to be acceptable to provide linkage in the fulfillment event to the firmDesignatedID of the firm account that executed the trade on the same side of the market as the customer order being fulfilled. This is both already supported in CAT and should meet the requirement for linkage that is described in the CAT NMS Plan.

It is also important for the CAT system to apply the concept of a fulfillment consistently. It is not appropriate to create a framework where, for some scenarios, a firm provides a link to its own same-side order while, for other scenarios, a firm provides a link to an opposite-side order.

Request for exemptive relief

FIF members request that the Commission provide Industry Members a permanent exemption from the requirement to report linkage between an order fulfillment and a representative or principal order for the scenario where an Industry Member trades as riskless principal and no representative or principal order exists. Such linkage is not possible because no representative or principal order exists in this scenario.

E. Unlinked representative order scenario for equities

Description of scenario

An "unlinked representative order scenario" for equities means a scenario (i.e., workflow) where an order for an equity is communicated to a trader through an unstructured communication (for example by voice or chat) and the trader creates a representative order based on that unstructured communication. For this purpose, the term "unstructured communication" has the same meaning as described in the exemptive order granted by the Commission to the CAT Plan Participants on July 28, 2023.[26]

In the discussion below, we refer to the system that records the creation of the customer order as "System 1", the "upstream system" or the "order management system" ("OMS"), and we refer to the system that records the creation of the representative order as "System 2", the "downstream system"

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[25] As an example, the CAT NMS Plan, as cited above, refers to creating lifecycle linkage between "Execution of customer order[s] via allocation of shares from a pre-existing ***principal*** [emphasis added] order." An opposite-side order could be an agency or a principal order. If the CAT NMS Plan contemplated linkage to an opposite-side order, it would make no sense for the CAT NMS Plan to restrict linkage to an opposite-side principal order. This is further evidence that the CAT NMS Plan contemplated linkage to a same-side order rather than an opposite-side order.
[26] Securities Exchange Act Release No. 98023 (July 28, 2023), 88 FR 51369 (Aug. 3, 2023), at 88 FR 51369.

or the "execution management system" ("EMS"). For this purpose, the relevant consideration is the function performed by the system (i.e., System 1 records the creation of the customer order, while System 2 records the creation of the representative order) as opposed to how the system is labeled. For example, Systems 1 and 2 could be separate modules within the same system where System 1 records the creation of the customer order and System 2 records the creation of the representative order.

The orders to which the requested exemption would apply represent a small percentage of CAT New Order events

Based on discussions with FINRA CAT representatives, FIF members understand that CAT New Order events that are "representative orders" represent less than one percent of all New Order events that Industry Members submit to CAT. Based on documentation provided by FINRA CAT, FIF members further understand that the percentage of representative orders for which Industry Members currently do not provide linkage based on unlinked systems is between 2.75% and 3.84% of this less than one percent.[27] The fact that these orders (which equate to the unlinked representative order scenario) represent a small percentage of overall CAT New Order events is an important consideration for the Commission in determining whether to grant the requested exemptive relief with respect to linkage of representative to customer orders for the unlinked representative order scenario.

Justifications for requested exempted relief

The following are the justifications for the exemptive relief requested by Industry Members for the unlinked representative order scenario:

- A manual solution for reporting linkage of representative to customer orders is not realistic for many Industry Members
- Firms that implement an automated solution will need to incur significant costs; because of the required costs and work, many Industry Members will not implement an automated solution
- Given the challenges with implementing a manual or automated solution, many Industry Members will change their trading workflows, to the detriment of investors
- CAT was not intended to change trading workflows
- Linkage of representative and customer orders would require lowering of information barriers between trading desks
- Based on the precedent that CAT does not require (i) linkage for manual routes, or (ii) linkage of allocations to order executions, CAT should not require linkage of representative to customer orders
- As discussed above, the number of orders to which the requested exemption would apply represent a small percentage of CAT New Order events

We discuss these justifications in further detail below in this section.

[27] FCAT Framing Call Outline, at Slides 5-6. FINRA CAT has made this document available to FIF and FIF members. FIF members request that the Commission authorize the CAT Plan Participants and FINRA CAT to make this document publicly available along with data relating to the percentage of CAT New Order events that are representative orders.

A manual solution for reporting linkage of representative to customer orders is not realistic for many Industry Members

One potential solution for Industry Members to link representative orders to customer orders for the unlinked representative order scenario is a manual solution. With this solution, the System 2 trader, when creating an order that is representative of an order previously created in System 1, is required to manually input the System 1 order identifier (and other applicable order-related information) into System 2. An order identifier can be 15 or more characters in length. A representative order also can be associated to multiple customer orders, which would require the trader using System 2 to manually input each associated customer order along with the number of shares of each customer order that are represented by the representative order. For each associated customer order, the trader using System 2 would need to manually input an order identifier of 15 or more characters and an associated quantity.

Requiring this manual input involves the following challenges:

- Delays in routing and execution of customer orders will result in investors being disadvantaged, particularly in fast moving markets
- Risk of a trader input error
- Disruption to the high-touch trading process.

Industry Members that implement an automated solution will need to incur significant costs; because of the required costs and work, many Industry Members will not implement an automated solution

Based on the challenges described above, the manual solution is not a realistic solution for many Industry Members. These Industry Members will need to consider an automated solution.[28] With this solution, System 1 must electronically send a customer order (including an order identifier) to System 2, and System 2 must be able to receive, record and process the customer order (including an order identifier) automatically. This is sometimes referred to as "staging". These Industry Members also will need to upgrade Systems 1 and 2 to support linkage for CAT reporting.

A primary challenge with the automated solution is that certain downstream systems (corresponding to System 2) only provide for manual input of order information. It will be necessary for these systems to be upgraded to accept order messages from upstream systems electronically. For many impacted Industry Members, a significant time period will be required for this upgrade, and there will be significant cost involved. Many vendors have competing priorities and are not regulated entities, which creates an additional challenge for Industry Members. Adding to this complexity is the number of vendor-provided and in-house developed OMSs and EMSs and the large number of updated OMS to EMS integrations that would be required. The work to define, design, build, test, implement and deploy upgrades to all these interfaces is significant. Many EMSs are manual entry. Requiring the transmission

[28] As a clarification, the manual solution described above would involve some level of automation of System 2 because System 2 would need to provide a workflow for the trader to manually input customer order identifiers. System 2 also would need to process and store this new data element.

of an order from an OMS to an EMS means that the EMS must now take on OMS-like qualities to "accept" or "receive" orders. This is changing the behavior and the functionality of these EMSs.

For certain Industry Members, even where an EMS currently allows for staging, integration with multiple OMSs would still be required. Some Industry Members have indicated that they would need to implement system changes that restrict the ability of traders to manually enter order information into an EMS. Given the numerous methods that could be available to create an order directly in an EMS, this could involve significant work, including new validations and hard errors. FIF members expect that, because of the significant costs and work involved, many Industry Members will not implement an automated solution. FIF members also expect that vendors will resist seeking to develop these linkages given the complexity and number of linkages that they would need to develop and then support on an ongoing basis.

Beyond cost, there is another downside to automated linkage. The unstructured communications associated with the unlinked representative order scenario facilitate the efficient handling of customer orders. Impeding these workflows will result in less efficient handling of customer orders, including reduced liquidity for customer orders.

Given the challenges with implementing a manual or automated solution, many Industry Members will change their trading workflows, to the detriment of investors

While cost is a significant concern (as discussed above), the larger concern is the expectation of FIF members that, given the challenges with implementing a manual or automated solution to provide linkage of representative and customer orders, many Industry Members will change their trading workflows.

It is likely that some Industry Members will decide to trade these customer orders (i.e., customer orders that they currently can trade as riskless principal) as agent. This means that upstream (customer-facing) desks will have less ability to seek liquidity from downstream principal trading desks and will have to rely more on agency desks to execute large orders. If market makers reduce the liquidity that they provide for these orders, this will mean reduced customer execution quality. This also will mean a reduction in displayed liquidity in the market because market makers are more likely to display orders as compared to Industry Members routing on an agency basis.

More specifically, upstream desks will be less likely to provide accumulate and print and guaranteed pricing for customer orders. "Accumulate and print" means that an Industry Member creates a representative order to purchase or sell shares in the market based on a discussion with the customer and, after completing the purchase or sale, transacts with the customer. Based on the executions attained by the Industry Member and subsequent communication between the Industry Member and the customer, the Industry Member will trade as either riskless principal, if the customer agrees to the price obtained by the Industry Member in the market, or as principal, if the customer does not agree to the price obtained by the Industry Member in the market. "Guaranteed pricing" (which is a type of accumulate and print) means that an Industry Member agrees to provide the customer either the guaranteed price agreed between the parties or the price achieved by the broker-dealer in the market, based on which price is better for the customer. If Industry Members do not provide the accumulate and print and guaranteed pricing services, this will mean reduced execution quality for customer orders. Firms will trade as agent, and customers will forego the opportunity for a principal fill at a better price.

CAT was not intended to change trading workflows

As discussed above, requiring linkage of representative to customer orders for the unlinked representative order scenario will require significant changes to trading workflows across many Industry Members. CAT was not intended to change trading workflows.

Linkage of representative and customer orders for the unlinked representative order scenario would require lowering of information barriers between trading desks

To maintain information barriers that protect customer trading information, Industry Members often seek to limit the communication of information across different desks. A requirement for Industry Members to provide linkage for the unlinked representative order scenario will mean that, in certain cases, additional information will be communicated to a trader at a downstream desk about customer orders created at an upstream desk. As one example, a downstream desk will now need to know whether an order from an upstream desk represents a customer or firm order. As a second example, a downstream desk will now need to know whether the orders sent from an upstream desk represent one or multiple customer orders. As a third example, a downstream desk would need to know the quantity of each component customer order rather than knowing an aggregate quantity communicated by the upstream desk. As a fourth example, there could be challenges with filtering certain customer order information at the parent order level (such as the full parent order quantity) from the downstream desk.

Based on the precedent that CAT does not require (i) linkage for manual routes, or (ii) linkage of allocations to order executions, CAT should not require linkage of representative to customer orders for the unlinked representative order scenario

There is precedent for the relief that FIF members are requesting. CAT does not require linkage for manual routes. For example, the CAT Reporting Technical Specifications for Industry Members provides that a routing firm is not required to report the routedOrderID (which is used for linkage between an order route and the receipt of the order route) when the manualFlag is "true".[29] An Industry Member receiving a routed order similarly is not required to report the routedOrderID when the manualFlag is "true".[30]

The manual routing scenario is similar to the unlinked representative order scenario. Both scenarios involve the following steps:

- Input of an order into an upstream system
- Manual communication of the order from a natural person using the upstream system to a natural person using a downstream system

[29] CAT Technical Specifications, at 59.
[30] Id. at 73.

- Manual input of the order into the downstream system.

Since the Commission does not require linkage of manual routes, the Commission also should not require linkage of representative to customer orders for the unlinked representative order scenario, given the similarity of the workflows.

The Commission has also granted exemptive relief to the CAT Plan Participants from requiring Industry Members to link allocations to order executions.[31] In their request for exemptive relief, the CAT Plan Participants highlighted as an important consideration the fact that execution and allocation systems typically are unlinked:

> The SROs believe that reporting the account number for any subaccounts to which an execution is allocated raises significant practical problems, and would be burdensome, for CAT Reporters. The SROs explain that generally broker-dealers' front-office systems handle order and execution processes and middle- or back-office systems handle allocation processes and that these systems operate independently of each other. The SROs believe that creating linkages between the execution and allocation processes by means of an order identifier would require extensive re-engineering of broker-dealer front-, middle-, and back-office systems, and that such re-engineering would be very costly and time consuming. The SROs believe that their proposed approach would significantly reduce the burden on CAT Reporters to comply with the Rule 613 reporting requirements.[32]

Request for exemptive relief

Based on the justifications above, FIF members believe that a permanent exemption is appropriate for this scenario. However, at this time, FIF members are requesting that the Commission provide a temporary exemption (through January 31, 2027) from the requirement for Industry Members to report linkage between a representative order and a customer order for the unlinked representative order scenario for equities.

F. Unlinked representative order scenario for options

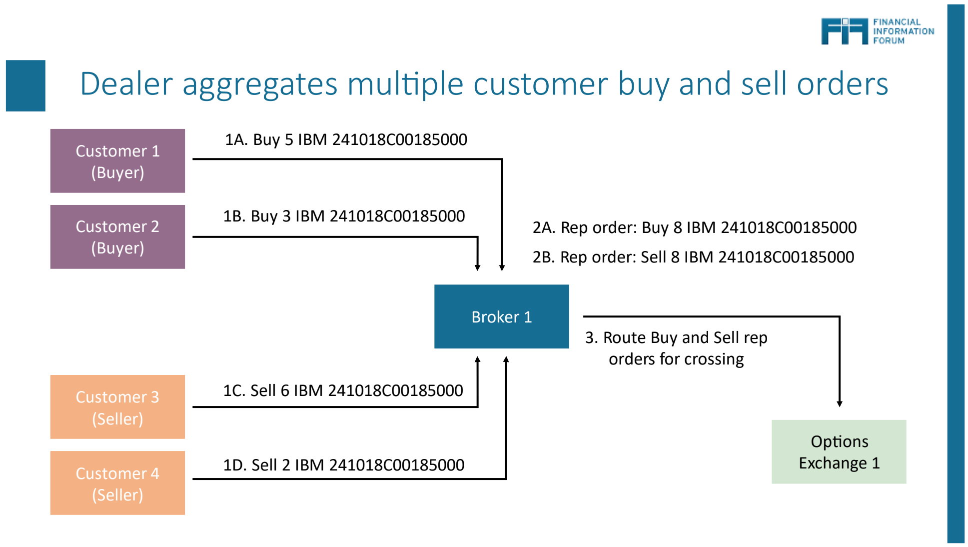
Description of scenario

An "unlinked representative order scenario" for options means a scenario (i.e., workflow) where both of the following occur: (i) a firm receives multiple customer buy orders or multiple customer sell orders (or both) for the same options symbol and creates a representative order (or orders) that aggregates the orders on the applicable side (or both sides, if applicable), and (ii) the system that records the aggregated order (or orders) does not record linkage to the underlying customer orders.

The following diagram illustrates this scenario:

[31] Securities Exchange Act Release No. 77265 (Mar. 1, 2016), 81 FR 11856 (Mar. 7, 2016), at 81 FR 11866-11868.
[32] Id. at 11866.

Diagram 4



This scenario involves the following steps:

- Customer 1 sends Broker 1 a buy order for 5 IBM 241018C00185000 contracts
- Customer 2 sends Broker 1 a buy order for 3 IBM 241018C00185000 contracts
- Customer 3 sends Broker 1 a sell order for 6 IBM 241018C00185000 contracts
- Customer 4 sends Broker 1 a sell order for 2 IBM 241018C00185000 contracts
- A trader at Broker 1 (Trader 1), through her EMS, creates a representative order to buy 8 IBM 241018C00185000 contracts
- Trader 1, through her EMS, creates a representative order to sell 8 IBM 241018C00185000 contracts
- The EMS does not link the representative orders to the underlying customer orders
- Trader 1 routes the buy and sell representative orders as a cross to Options Exchange 1.

This request for exemptive relief applies for both simple and multi-leg options.

Justifications for requested exempted relief

The following are the justifications for the exemptive relief requested by Industry Members for the unlinked representative order scenario for options:

- A manual solution for reporting linkage of representative to customer orders is not realistic for many Industry Members
- Firms that implement an automated solution will need to incur significant costs; because of the required costs and work, many Industry Members will not implement an automated solution
- Given the challenges with implementing a manual or automated solution, many Industry Members will change their trading workflows, to the detriment of investors

- CAT was not intended to change trading workflows
- Linkage of representative and customer orders would require lowering of information barriers between trading desks
- Based on the precedent that CAT does not require (i) linkage for manual routes, or (ii) linkage of allocations to order executions, CAT should not require linkage of representative to customer orders for unlinked scenarios
- FIF members believe that the number of orders to which the requested exemption would apply represent a small percentage of CAT New Order events

These points are discussed in the section above relating to the unlinked representative order scenario for equities. The discussion above relating to the unlinked representative order scenario for equities applies to the unlinked representative order scenario for options.

Request for exemptive relief

Based on the justifications above, FIF members believe that a permanent exemption is appropriate for this scenario. However, at this time, FIF members are requesting that the Commission provide a temporary exemption (through January 31, 2027) from the requirement for Industry Members to report linkage between a representative order and a customer order for the unlinked representative order scenario for options. This request for exemptive relief applies for simple and multi-leg options.

G. Position fill scenario for options

Description of scenario

The "position fill scenario" for options is the same as the position fill scenario for equities except that the orders are option orders (simple or multi-leg) instead of equity orders.

Justifications for exemptive relief

The same justifications for exemptive relief for the position fill scenario for equities (discussed above) apply to the position fill scenario for options.

Request for exemptive relief

FIF members request that the Commission provide Industry Members a permanent exemption from the requirement to report linkage between an order fulfillment and a representative or principal order for the position fill scenario for options based on the fact that such linkage would not reflect a real-world association. As a condition for this exemption, Industry Members could be subject to an obligation to report in the order fulfillment that the Industry Member has provided the fulfillment from a position fill system. This request for exemptive relief applies for simple and multi-leg options.

H. Quotes in an inter-dealer quotation system for OTC equities

Description of scenario

This scenario (Scenario 6) involves all of the following events:

- Dealer 1 is a direct participant in an IDQS for OTC equities
- Dealer 1 creates a quote in the IDQS
- For some time period during the existence of Dealer 1's quote, Dealer 1 is holding at least one customer order for the same symbol and side as its quote.

The customer order could have been received by Dealer 1 prior to or subsequent to Dealer 1 initiating or updating this quote. The scenario described in the next section of this request for exemptive relief (Scenario 7) includes these events and the following additional events:

- Dealer 2 routes an order to Dealer 1 through the IDQS
- Dealer 1 executes the order from Dealer 2
- Dealer 1 provides an order fulfillment to the customer.

The following Diagram 5 illustrates one permutation of Scenarios 6 and 7:

Diagram 5

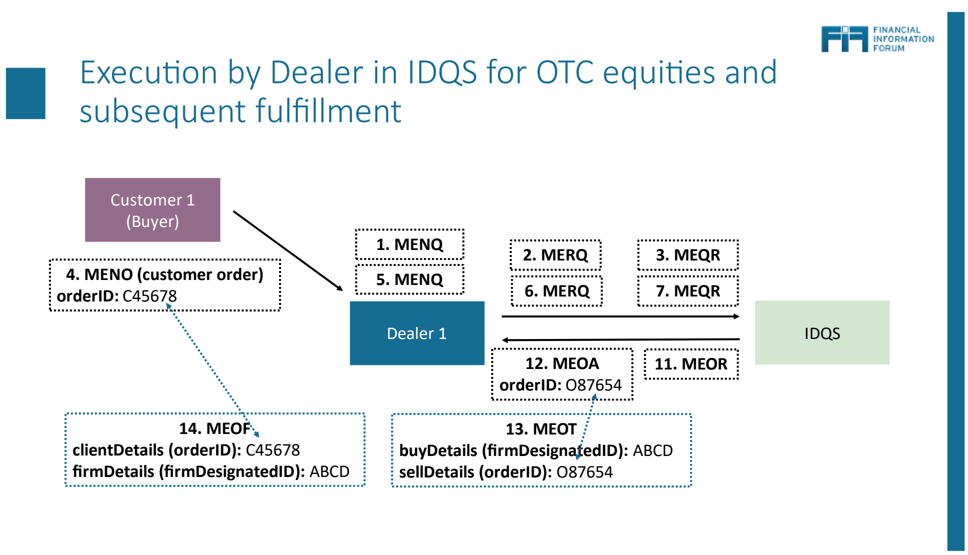


Diagram 5 involve the following steps:

- Dealer 1 (D1) posts a firm buy quote on the IDQS
- The IDQS communicates the quote to other direct participants of the IDQS, including Dealer 2 (D2)
- D1 receives a buy order from Customer 1 (C1) for the same side and symbol as D1's quote

- D1 updates its quote; this update might or might not be based on the customer order (for example, the update might be based on a change in market conditions); the update also could be based on both the customer order and other factors, such as a change in market conditions
- The IDQS communicates the updated quote to other direct participants of the IDQS, including D2
- D2 sends a sell order to D1 via the IDQS
- D1 executes the order from D2
- D1 reports the trade with D2 to the FINRA Over-the-Counter Reporting System (the "ORF") as a media report (i.e., the trade will be disseminated to the public)
- D1 fulfills the order from C1
- D1 reports the fulfillment to C1 to the ORF as a non-media report (i.e., the fulfillment will not be disseminated to the public).

With respect to the trade between D1 and D2, Diagram 5 shows the side of the transaction between D1 and the IDQS, but not the side of the transaction between D2 and the IDQS. In the scenario illustrated in Diagram 5, D1 creates a quote and communicates the quote to the other direct participants of the IDQS, including D2. In response to the quote communicated by D1, D2 routes an order to D1 through the IDQS. D1 accepts the order from D2, resulting in a trade execution. As a result of the events illustrated in Diagram 5:

- D1 reports a New Quote event to CAT (Step 1)
- D1 reports a Routed Quote event to CAT (Step 2)
- The IDQS reports a Quote Received event to CAT (Step 3)
- D1 reports a New Order event to CAT (Step 4)
- D1 reports a New Quote event to CAT (Step 5)
- D1 reports a Routed Quote event to CAT (Step 6)
- The IDQS reports a Quote Received event to CAT (Step 7)
- D2 reports a New Order event to CAT (Step 8)
- D2 reports an Order Route event to CAT (Step 9)
- The IDQS reports an Order Accepted event to CAT (Step 10)
- The IDQS reports an Order Route event to CAT (Step 11)
- D1 reports an Order Accepted event to CAT (Step 12)
- D1 reports an Order Trade event to CAT (Step 13)
- D1 reports an Order Fulfillment event to CAT (Step 14).

Diagram 6 illustrates another permutation of Scenarios 6 and 7:

Diagram 6

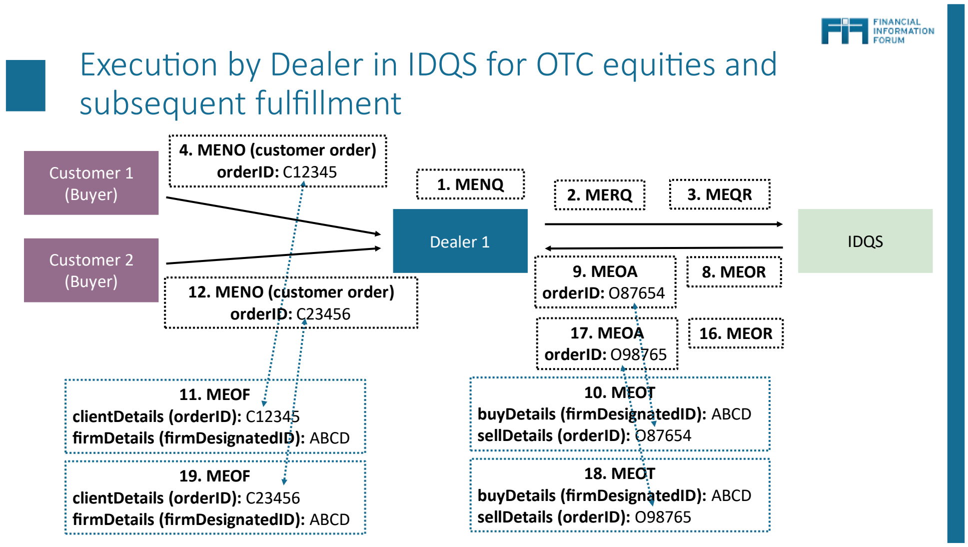


Diagram 6 involve the following steps:

- Dealer 1 (D1) posts a firm buy quote on the IDQS
- The IDQS communicates the quote to other direct participants of the IDQS, including Dealer 2 (D2)
- D1 receives a buy order from Customer 1 (C1) for the same side and symbol as D1's quote
- D2 sends a sell order to D1 via the IDQS
- D1 executes the order from D2
- D1 reports the trade with D2 to the "ORF" as a media report (i.e., the trade will be disseminated to the public)
- D1 fulfills the order from C1
- D1 reports the fulfillment to C1 to the ORF as a non-media report (i.e., the fulfillment will not be disseminated to the public)
- D1 receives a buy order from Customer 2 (C2) for the same side and symbol as D1's quote
- D3 sends a sell order to D1 via the IDQS
- D1 executes the order from D3
- D1 reports the trade with D3 to the ORF as a media report (i.e., the trade will be disseminated to the public)
- D1 fulfills the order from C2
- D1 reports the fulfillment to C2 to the ORF as a non-media report (i.e., the fulfillment will not be disseminated to the public).

With respect to the trades between D1, on the one hand, and D2 and D3, on the other hand, Diagram 6 shows the side of the transactions between D1 and the IDQS, but not the side of the transactions between D2 and D3 and the IDQS. In the scenario illustrated in Diagram 6, D1 creates a quote and communicates the quote to the other direct participants of the IDQS, including D2 and D3. In response to the quote communicated by D1, D2 and D3 route orders to D1 through the IDQS. D1 accepts the orders from D2 and D3, resulting in trade executions. As a result of the events illustrated in Diagram 6:

- D1 reports a New Quote event to CAT (Step 1)
- D1 reports a Routed Quote event to CAT (Step 2)
- The IDQS reports a Quote Received event to CAT (Step 3)
- D1 reports a New Order event to CAT (Step 4)
- D2 reports a New Order event to CAT (Step 5)
- D2 reports an Order Route event to CAT (Step 6)
- The IDQS reports an Order Accepted event to CAT (Step 7)
- The IDQS reports an Order Route event to CAT (Step 8)
- D1 reports an Order Accepted event to CAT (Step 9)
- D1 reports an Order Trade event to CAT (Step 10)
- D1 reports an Order Fulfillment event to CAT (Step 11)
- D1 reports a New Order event to CAT (Step 12)
- D3 reports a New Order event to CAT (Step 13)
- D3 reports an Order Route event to CAT (Step 14)
- The IDQS reports an Order Accepted event to CAT (Step 15)
- The IDQS reports an Order Route event to CAT (Step 16)
- D1 reports an Order Accepted event to CAT (Step 17)
- D1 reports an Order Trade event to CAT (Step 18)
- D1 reports an Order Fulfillment event to CAT (Step 19).

Requiring linkage of representative IDQS quotes to customer orders would provide limited and misleading data to CAT; FIF members are not clear as to how reporting this linkage would provide any surveillance value beyond the data that is already reported to CAT

In contrast to quoting for NMS stocks, in the IDQS operated by OTC Markets a dealer can only maintain one quote at a time in any security. This quote can represent any combination of one or more customer orders and principal interest. The IDQS also does not automatically reduce a dealer's quote size after a trade execution. It is common for a dealer to maintain a quote throughout the trading day as customer orders are received and executed for the same side and symbol as the dealer's quote. In this common scenario, the dealer typically would not associate its quote and quote updates throughout the trading day to any particular customer order or orders. Given the facts that (A) a dealer can only maintain one IDQS quote at a time in any security, and (B) an IDQS quote often represents a hybrid of customer and principal interest, the most that a dealer could typically report is whether it is holding a customer order when it has a posted quote in the IDQS, but this is already known to the CAT system.

Because a dealer can only maintain one IDQS quote at a time in a security, it is not clear when an IDQS quote would be considered "representative" of a customer order. The Commission would need to define this. Commission Rule 613 does not refer to or define the term representative order or representative quote. The CAT NMS Plan refers to, but does not define, the term representative order. The CAT NMS Plan also does not refer to or define the term representative quote, and FIF members are not aware of any CAT documentation that refers to or defines this term. FIF members are only aware of the term "representative order" being defined in CAT FAQ F1. CAT FAQ F1 defines a "representative order" as "… an order originated by an Industry Member for the purpose of working one or more orders."[33] Based on this definition, FIF members assume, for purposes of this exemption request, that -- assuming no exemption were granted -- an Industry Member would be required to provide linkage from a representative quote to a customer order if, at the time of origination of the representative quote, the Industry Member is originating the quote "for the purpose of working one or more orders."[34] The Commission would also need to provide guidance as to whether a quote would be considered a representative quote if only a portion of the quote were originated "for the purpose of working one or more orders."

One problem with requiring linkage of representative quotes to customer orders based on this definition is that this would provide limited and, in many cases, misleading data to CAT. For example, consider the following scenario:

- Dealer A receives an order from Customer A and posts a quote in the IDQS
- Dealer A receives an order from another dealer (through the IDQS) and executes the order
- Dealer A provides a fulfillment to Customer A for the full amount of Customer A's order
- The IDQS (like the IDQS operated by OTC Markets) does not update dealer quotes after an execution
- Dealer A does not update its quote after the execution
- Dealer A receives an order from Customer B (through the IDQS) and does not update its quote
- The same steps for Customer A are repeated for Customer B (except that Dealer A maintains the same quote), with Customer B receiving a fulfillment of its order from Dealer A
- The same steps for Customer B are repeated in succession for Customers C, D, E and F, with these customers receiving fulfillments from Dealer A, and without Dealer A updating its quote.

In this scenario, Dealer A's quote would be linked to Customer A's order throughout this process, which would be misleading and incomplete. This would also provide limited information to CAT because changes in the representative status of the quote are not reported to CAT. Given the misleading and incomplete nature of reporting linkage of representative quotes to customer orders, FIF members do not believe that it is appropriate to require Industry Members to report this linkage.

Further, FIF members are not clear as to how reporting this linkage would provide additional value for surveillance personnel. More specifically, given the fact that the CAT system already knows whether a dealer is holding a customer order when the dealer creates an IDQS quote, FIF members are not clear as to how reporting this linkage would provide any surveillance value beyond the data that is currently being reported to CAT.

[33] CAT FAQ F1, available at https://catnmsplan.com/faq?search_api_fulltext=&field_topics=All&sort_by=field_faq_number.
[34] Ibid.

The CAT system does not currently enable linkage of IDQS quotes to customer orders

The CAT system does not currently enable linkage of IDQS quotes to customer orders.

Other justifications for requested exempted relief

In addition to the justifications for exemptive relief set forth above in this section, the justifications for exemptive relief for the unlinked representative order scenario for equities (see discussion above) also apply to this Scenario 6. In particular, requiring linkage of representative IDQS quotes to customer orders would adversely impact dealers (including many smaller dealers) that manually input quotes into an IDQS.

Request for exemptive relief

Based on the justifications above, FIF members request that the Commission provide a permanent exemption from the requirement for Industry Members to report linkage between a quote in an IDQS and one or more customer orders.

I. Fulfillment based on execution of an order received in response to the posting of a quote in an IDQS for OTC equities

Description of scenario

This scenario (Scenario 7) involves all of the following events:

- Dealer 1 is a direct participant in an IDQS for OTC equities
- Dealer 1 creates a quote in the IDQS
- For some time period during the existence of Dealer 1's quote, Dealer 1 is holding at least one customer order for the same symbol and side as its quote
- Dealer 2 routes an order to Dealer 1 through the IDQS
- Dealer 1 executes the order from Dealer 2
- Dealer 1 provides an order fulfillment to the customer.

Linkage contemplated by Commission

It is unclear whether the Commission believes that the CAT NMS Plan authorizes linkage (A) between an order fulfillment and an IDQS quote or (B) between an order fulfillment and an opposite-side IDQS order. For the reasons discussed below, FIF members have concerns with reporting either type of linkage.

IDQS quotes are not executed; accordingly, linkage from an order fulfillment to an IDQS quote is not appropriate

IDQS quotes are not executed. In Scenario 7, when Dealer 1 executes the order from Dealer 2, Dealer 1's quote is not executed. This is evidenced by the fact that the IDQS does not reduce the size of Dealer 1's quote after the execution. Instead, Dealer 1 has an execution through a firm account. Alternatively, Dealer 1 could create a principal order and execute that principal order against the order routed from Dealer 2.

Since IDQS quotes are not executed, it is not appropriate to require Industry Members to report linkage between an order fulfillment and an IDQS quote.

Because of the IDQS negotiation process, an IDQS execution in many cases does not reflect the terms of an IDQS quote

When a dealer (Dealer 1) posts a quote in an IDQS and another dealer (Dealer 2) sends an order to Dealer 1 through the IDQS and in response to Dealer 1's posted quote, Dealer 1 has the option to transmit a counter-bid (or counter-offer, as applicable) to Dealer 2. As a result of this negotiation process, the resulting execution between Dealers 1 and 2, in many cases, would not reflect the terms of a specific quote posted by Dealer 1. This feature of the negotiation process is another reason that it would be inappropriate to require linkage between a customer fulfillment and an IDQS quote.

FIF members are not clear as the surveillance value of requiring this linkage

Since an Industry Member only maintains one IDQS quote at any time (in a specific security), FIF members are not clear as to the surveillance value of requiring linkage of an order fulfillment to a representative quote. This is different from linking an order fulfillment to a representative order because an Industry Member could have multiple representative and/or principal orders open at any time, in which case linkage to a specific representative and/or principal order could potentially provide incremental surveillance value. This is not the case when a dealer can only maintain one IDQS quote at any time.

It is also important to highlight that some Industry Members maintain and report a single quoteID for all quotes in a security throughout the trading day. This is expressly permitted under the CAT Technical Specifications document, which provides that "Modifications reflected using the onlyOneQuoteFlag method may maintain the same quote ID."[35] This leads Industry Members to further question the surveillance value of requiring this linkage.

The CAT system does not provide a method for Industry Members to report linkage for this scenario

The CAT system does not currently provide a method for Industry Members to report linkage for the scenario where a firm provides a fulfillment to a customer based on IDQS executions.

[35] CAT Technical Specifications, at 114.

Linkage to opposite-side orders is not contemplated by the CAT NMS Plan

The discussion in Section D above (Riskless principal scenario for equities where no representative or principal order exists) also applies for this scenario. Linking the fulfillment of a customer order to an opposite-side order is not one of the cases mentioned in Appendix D, Section 3. Such linkage is not contemplated by the CAT NMS Plan and as a result cannot be implemented without a Plan amendment. Additionally, the idea to link the fulfillment of a customer order to an opposite-side order is problematic because that opposite-side order is not the one fulfilling the customer order. Please see the discussion in Section D above for additional detail.

Request for exemptive relief

Based on the points discussed above in this section, FIF members request that the Commission provide Industry Members a permanent exemption from the requirement to report linkage between an order fulfillment to a customer and an IDQS quote.

* * * * *

Please contact the undersigned at howard.meyerson@fif.com if you would like clarification on any of the points set forth above. Thank you for your attention to this request.

Very truly yours,

/s/ Howard Meyerson

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