

The CAT Nap Continues

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The Director of the SEC's Division of Trading and Markets, Brett Redfearn, recently provided an [update](#) on the status of the consolidated audit trail (the "**CAT**"), which is being developed by the SROs and Thesys Technologies, LLC, the CAT plan processor. The public statement noted that although the SROs were required to begin reporting to the CAT on November 15, 2017 under the CAT NMS Plan approved by the SEC, reporting has not yet begun. As a result of the delay and in response to a request by SEC staff, the SROs submitted an updated proposed "Master Plan" to the SEC on May 25, 2018, which includes, among other things, a revised timeline for the implementation of the CAT.

Under the proposed Master Plan, the SROs have indicated that they expect to begin reporting on **November 15, 2018** and would then expect large broker-dealers to be required to begin reporting equities data on **November 15, 2019** (as opposed to November 15, 2018 under the CAT NMS Plan). The SEC has not determined whether to approve the Master Plan or issue an exemption to permit any party to abide by the Master Plan's timeline, as opposed to the timeline previously established under the CAT NMS Plan. Currently, the SROs are technically in breach of the SEC-approved timeline.

Director Redfearn noted that the Division of Trading and Markets is continuing to review the proposed Master Plan, but also noted (unsurprisingly) that it "does not expect to make enforcement referrals concerning industry members for failure to report data to the CAT if the CAT is not sufficiently developed to receive that data," subject to ongoing good faith efforts of industry members to facilitate the development of the CAT as promptly as practicable. Some broker-dealers have been concerned that they are required to begin reporting under the CAT NMS Plan by November 15, 2018, but reporting would not be technically possible by that date. There was no assurance that there would be no enforcement actions taken against SROs for the delay.

One significant component of that CAT that is not yet complete is the CAT industry member reporting specifications (the "**Technical Specifications**"), which will provide technical guidelines for how industry member data will be reported to the CAT. An updated draft of the [Technical Specifications](#) was published by the SROs on September 5, 2018. The SROs requested feedback on the Technical Specifications by October 1, 2018 and intend to publish the final version on October 30, 2018.

Notably, the SEC has previously delayed the effectiveness of portions of the large trader rule, Rule 13h-1, for certain firms, on the expectation that the CAT would become operational and obviate the need for the information to come in to the SEC through large trader reporting. Director Redfearn indicated that the Commission is considering whether, in light of the continuing CAT delays, to allow the large trader rule to go into effect in full or to again extend the current exemptive order. The most recent large trader [exemptive order](#) expires November 15, 2018.

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