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May 1, 2017

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
U.S. House of Representatives
4340 Thomas P. O'Neill, Jr. Federal Office Building
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters,

The Security Traders Association ("STA")[1] appreciates the opportunity to comment on the "Financial CHOICE Act of 2017" (H.R. 10).

STA's comments will focus on the following: (1) Section 416, which would require the Securities and Exchange Commission ("Commission" or "SEC") to credit overpayments made by securities exchanges; (2) Section 496, relating to national securities exchange regulatory parity; (3) Section 499, which would expand the testing the waters and confidential submissions to all issuers; (4) Section 804, relating to section 31 transaction fees and the fee structure funding the SEC; (5) Section 813, which would require the SEC and the operator of the Consolidated Audit Trail ("CAT") to develop internal risk controls to safeguard market data; (6) Section 815 relating to expiration of pilot programs; and (7) Section 816 requiring the SEC to obtain a subpoena in order to compel production of source code.

Section 31 Transaction Fee Overpayments

STA believes the payment and reconciliation processes of Section 31 fees between firms and SROs, and SROs and the SEC is adequate but also done in a way that may result in an over-collection of fees. Providing legal authority for the SEC, along with the proper mechanism, to facilitate the reimbursement or crediting of overpayments would provide efficiencies not available today and improve the market structure.

STA supports Section 416 which directs the SEC to credit overpayments made by national securities exchanges and associations against future fees and assessments.

[1] STA is comprised of 24 affiliate organizations in the U.S. and Canada, and STA members include individuals representing exchanges, ATSs, and buy- and sell-side firms involved in the trading of securities.

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Securities Exchange Regulatory Parity

The National Securities Markets Improvement Act of 1996 amended Section 18(b) of the Securities Act of 1933 to define a "covered security" exempt from state registration (aka, "blue sky" law preemption) as securities listed or authorized for listing on the New York Stock Exchange (NYSE), the American Stock Exchange, or the Nasdaq stock market[2].

STA agrees with remarks made July 12, 2016 by US Representative Edward Royce on H.R. 5421,

> *"The SEC's interpretation of the law (National Securities Market Improvement Act of 1996) has in fact created a two-tiered legal structure by giving this 'blue sky' exemption to the original three named exchanges."*[3]

STA believes Section 496 of the Financial CHOICE Act gives all national exchanges registered with, and whose listing standards have been approved by the SEC, equal treatment, thus creating a more competitive regime that should yield benefits for issuers and investors.

STA supports Section 496, which amends the Securities Act of 1933 by striking references to specific exchanges in defining "covered securities" exempt from regulation of securities offerings.

Expanding testing-the-waters and confidential submission

Prior to the JOBS Act, companies conducting public offerings could only meet with potential investors in time constrained meetings in the ten (10) days leading up to their IPO. This process, which is known as a roadshow, failed to serve potential investors or issuers well because it did not allow sufficient time for issuers to provide a full description of their business model or for investors to properly research the company prior to investing. The JOBS Act, among other things, allows for emerging growth companies ("EGCs"), upon drafting registration statements to the SEC, to conduct testing-the-waters meetings with investors prior to their roadshow. These meetings enable EGCs to provide fuller descriptions on their products to potential investors. Since the April 5, 2012 enactment of the JOBS Act, the testing-the-waters provision has proven to be beneficial for issuers in particular industry sectors and for their investors. According to a 2017 report by the law firm Proskauer & Rose, LLP[4], ninety percent (90%) of issuers between 2013 to 2016 who disclosed test-the-waters communications were in the biotech, biopharm or technology, media, telecom (TMT) sectors. This data point does not surprise STA given that products found in the business models of these types of companies are complex and the time needed for investors to make informed decisions is longer. Section 499, which expands testing-the-waters to all issuers, levels the playing field for issuers trying to compete for capital. Additionally, Section 499 provides benefits to investors in these types of issues by providing more time for them to make an investment decision.

[2] P.L 104-290, National Securities Markets Improvement Act of 1996
[3] June 16, 2016 Press Release National Securities Exchange Regulatory Parity Act (H.R. 5421)
[4] Proskauer Capital Markets 2017 IPO Study

STA supports Section 499 which amends the Securities Act of 1933 to allow issuers to submit draft registration statements to the SEC for confidential, nonpublic review before an initial public offering.

Section 31 Transaction Fees and SEC Funding Structure

Section 991 of the Dodd-Frank Act modified the funding sources of the SEC to one that relies exclusively on fees on equity securities and security futures transactions. This was a departure from the Investor and Capital Markets Fee Relief Act enacted in 2002, which established a funding mechanism for the Commission through adjusted transaction fees (Section 31 fees), fees on registration of securities (Section 6(b)), fees on the purchase of securities by the issuer (Section 13(e)), and fees for certain proxy solicitations in corporate control transactions (Section 14(g)).

The Dodd-Frank Act gave the Commission significant new responsibilities over areas such as over-the-counter derivatives, credit rating agencies, municipal advisors, private funds, asset-backed securities and other matters. However, rather than broadening the mechanism funding the Commission to reflect its increased responsibilities, the Dodd-Frank Act narrowed the funding source to only transaction fees on equity securities and security futures. This puts the entire burden of funding the Commission on Section 31 transaction fees, while the other fees that previously contributed to funding the Commission are directed to the general Treasury.

STA supports provisions in Section 804 which allow other fees, beyond Section 31 transaction fees, to also contribute to funding the Commission.

SEC and CAT Internal Risk Controls

The development of the Consolidated Audit Trail, ("CAT") will represent an unprecedented opportunity to improve the Commission's ability to surveil the market. However, its development will result in the centralization of substantial amounts of quantitative and qualitative data that if not safeguarded, could cause irreparable harm to financial markets or market participants. This is acutely the case for information made up by the trading activity of asset managers.[5] Therefore, STA believes it is critical for the operator of the CAT to develop internal risk controls to safeguard the data it collects before the SEC approves a national market system plan governing the implementation of the CAT.

STA supports Section 813 which requires the operator of the Consolidated Audit Trail, in consultation with the SEC's chief economist, to develop internal risk controls to safeguard market data before the SEC approves a national market system plan governing the implementation of the CAT.

Expiration of Pilot Programs

STA has long believed that changes to market structure should be based on empirical data. In the absence of data, well constructed pilot programs can provide effective vehicles to collect data to be used in making an informed decision. Pilot programs should balance simplicity and costs with creating the conditions which allow the specific variables to be tested efficiently. Determining the pilot's termination date contributes favorably to simplicity and costs and therefore should be a mandatory requirement in the

[5] STA Letter to Ms. Elizabeth M. Murphy, Secretary US Securities & Exchange Commission, March 7, 2012

design of any pilot plan. In the current Reg NMS Tick-Size Pilot Plan, STA felt strongly that the Pilot Plan should have a defined end date. In our letter to the Commission dated December 19, 2014[6] we made the following recommendations on the Plan's assessment period and termination date.

> *STA believes the Commission needs to strike a balance between flexibility and certainty in a termination process for the Pilot. Achieving such a balance will lower the possibilities of technological risks and costs to the industry for operating in the Pilot regime.*
>
> *STA views it is equally critical that the Pilot have a defined end date as well. We recommend that absent any decision by the Commission the Pilot end three months after the assessment period.*

STA supports Section 815 which provides that pilot programs established by self-regulatory organizations expire five years after they are approved by the SEC, unless the SEC issues a rule to permanently continue the pilot program or approves the program on a permanent basis.

Access to Source Code

Protecting the intellectual and property rights of individuals and corporations is critical to a nation's economic stability and growth. Without such protections many of the incentives for innovation would not exist. Equally as critical to our nation's economic stability is the ability for regulators and law enforcement agencies to obtain information critical in the discharge of their duties providing oversight and enforcement. Our nation's legal code respects both of these realities and balances the frictions between them by including the necessity for the government and its regulatory agencies to obtain a subpoena before taking private property. STA agrees with remarks made by then, CFTC Commissioner, J. Christopher Giancarlo in a September 21, 2016 speech.[7]

> *If the U.S. and its financial markets are to remain the world's most attractive for technological innovation and modern capital investment, then property rights, including rights in intellectual property, must be well protected under law. Since America's founding, those rights include the necessity for the government and its regulatory agencies to obtain a subpoena before taking private property…*
>
> *Regulators must ensure that whenever market participants provide data or intellectual property to regulators pursuant to a subpoena or otherwise, it is protected from theft, breaches and misappropriation.*

STA supports Section 816 which requires the SEC to obtain a subpoena in order to compel the production of source code.

[6] STA Letter to Mr. Brent Fields, Secretary, US Securities & Exchange Commission, December 19, 2014

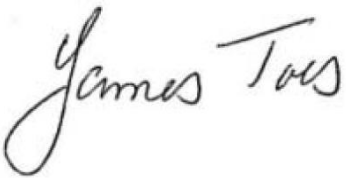
[7] September 21, 2016 Speech by CFTC Commissioner J. Christopher Giancarlo; "21st Century Markets need 21st Century Regulation"

Conclusion

STA looks forward to working with you on these and related issues. Thank you for your leadership and for considering our views.

Sincerely,

Jon Schneider
Chairman of the Board



James Toes
President & CEO