

MEMORANDUM

To: Members of the Committee on Financial Services

From: FSC Majority Staff

Date: November 27, 2017

Subject: November 30, 2017 Subcommittee on Capital Markets, Securities, and Investment Hearing Entitled “Implementation and Cybersecurity Protocols of the Consolidated Audit Trail”

The Subcommittee on Capital Markets, Securities, and Investment will hold a hearing entitled “Implementation and Cybersecurity Protocols of the Consolidated Audit Trail” on Thursday, November 30 at 10:00 a.m. in Room 2128 of the Rayburn House Office Building. The hearing is one panel with the following witnesses:

- Mike Beller, CEO, Thesys Technologies, LLC
- Chris Concannon, President and COO, Chicago Board of Options Exchange
- Tyler Gellasch, Executive Director, Healthy Markets Association
- T.R. Lazo, Managing Director & Associate General Counsel, Securities Industry and Financial Markets Association

Following the “flash crash” of 2010, the U.S. Securities and Exchange Commission (SEC) adopted a rule to require Self-Regulatory Organizations (SROs), including national securities exchanges and the Financial Industry Regulatory Authority (FINRA), to develop and implement the Consolidated Audit Trail (CAT) as a data repository to collect and accurately identify every order from origination through its entire life cycle, including any cancellation, modification, and trade execution, for all exchange-listed equities and options across the U.S. markets. In January 2017, the SROs selected Thesys Technologies LLC to build the CAT as the Plan Processor. Pursuant to SEC Release No. 34-79318, on November 15, 2017, the SROs were to begin reporting trade and order data to the CAT. Starting on November 15, 2018, the SEC’s order currently will require broker-dealers currently to submit data, including certain sensitive customer information, to Thesys, the CAT Plan Processor.

The hearing will examine the status of the CAT’s implementation and the current adequacy of existing data security protections regarding the storage and use of CAT data by entities that are part of the CAT operating committee, the CAT plan processor, and the SEC. It also will examine whether additional cybersecurity protocols are necessary to properly safeguard

collected data, including personally identifiable information (PII). Further, the hearing will examine the following discussion draft legislative proposal:

- ***H.R. _____, the American Customer and Market Information Protection Act***

The discussion draft of legislation contemplates that the SEC, each SRO that is a participant of the CAT National Market System Plan, and the CAT Plan Processor must develop comprehensive internal risk control mechanisms to safeguard and govern the security of information reported to, stored by, or accessed from the CAT. The legislation would prohibit the CAT Plan Processor from accepting data until it develops such risk controls and the SEC certifies the controls. The legislation would prohibit the SROs from accessing CAT data until each entity develops risk controls and the SEC certifies them. Additionally, the discussion draft would require the SEC to conduct a cost-benefit analysis on the CAT's use of PII and then report to Congress on whether such information is a necessary input for the CAT, the cyber risk to investors to include such information, and alternatives that the SEC considered to include PII.