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March 13, 2023

Vanessa Countryman  
Secretary  
U.S. Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549-0609

**Via email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov)**

**Re: File No. SR-FINRA-2022-032 – Proposed Rule Change Relating to  
Alternative Display Facility Entrant**

Dear Ms. Countryman:

This letter is being submitted by the Financial Industry Regulatory Authority, Inc. (“FINRA”) in response to comments received by the Securities and Exchange Commission (“SEC” or “Commission”) regarding the above-referenced rule filing. The proposed rule change would add IntelligentCross ATS (“IntelligentCross”) as a new entrant to the Alternative Display Facility (“ADF”). The Commission published the proposed rule change for public comment in the Federal Register on December 27, 2022.<sup>1</sup> The Commission received seven comment letters on the Proposal.<sup>2</sup> The following are FINRA’s responses to the material aspects of the comments received.

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<sup>1</sup> See Securities Exchange Act Release No. 96550 (December 20, 2022), 87 FR 79401 (Notice of Filing of File No. SR-FINRA-2022-032) (“Proposal”).

<sup>2</sup> See Letter from Tyler Gellasch, President and CEO, Healthy Markets Association, to Vanessa A. Countryman, Secretary, SEC, dated January 13, 2023 (“Healthy Markets”); Letter from Nataliya Bershova, MD, Head of Execution Research, Sanford C. Bernstein & Co., LLC, to Vanessa A. Countryman, Secretary, SEC, dated January 17, 2023 (“Bernstein”); Letter from Joanna Mallers, Secretary, FIA Principal Traders Group, to Vanessa A. Countryman, Secretary, SEC, dated January 17, 2023 (“FIA PTG”); Letter from Brett Kitt, Associate Vice President & Principal Associate General Counsel, Nasdaq, Inc., to Vanessa A. Countryman, Secretary, SEC, dated January 17, 2023 (“Nasdaq”); Letter from Stephen John Berger, Global Head of Government & Regulatory Policy, Citadel Securities, to Vanessa A. Countryman, Secretary, SEC, dated January 23, 2023 (“Citadel”);

Bernstein supported the Proposal. Other commenters raised concerns regarding various aspects of the operation of IntelligentCross' alternative trading system ("ATS") and other issues relating to IntelligentCross' quotations being permitted as protected quotes under Regulation NMS.<sup>3</sup> For example, commenters raised concerns that IntelligentCross' displayed quotations should not be considered "automated quotations" under Regulation NMS due to the intentional delay built into Intelligent Cross' matching process.<sup>4</sup> Commenters also expressed concerns regarding the ability of an Intelligent Cross subscriber to cancel or modify a resting order at any time, even after an incoming order has been received.<sup>5</sup> FINRA notes that IntelligentCross has submitted a comment letter to the Commission responding to the comments received by the Commission regarding the operation of IntelligentCross' ATS and whether IntelligentCross' quotes should be "protected quotes" under Regulation NMS.<sup>6</sup>

Healthy Markets raised concerns regarding the technological infrastructure of the ADF, questioning whether the ADF's "intake, processing, and dissemination systems [are] up to 2023 speed and capacity standards."<sup>7</sup> Specifically, Healthy Markets stated that FINRA's 2014 ADF quoting technical specifications seemed to indicate that time granularity standards for quoting on the ADF were in whole second increments, stating that such "would be wholly unacceptable in a modern trading environment that is often measured in nanoseconds, much less microseconds, much less milliseconds." FINRA notes that the 2014 ADF quoting technical specifications are no longer in effect. As set forth in FINRA's most recent ADF quoting and trade reporting technical specifications—

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Letter from Ellen Greene, Managing Director, Equities & Options Market Structure, Securities Industry and Financial Markets Association, to Vanessa A. Countryman, Secretary, SEC, dated February 8, 2023 ("SIFMA"); and Letter from Ari Burstein, General Counsel, Imperative Execution, to Vanessa A. Countryman, Secretary, SEC, dated February 16, 2023 ("Imperative Execution").

<sup>3</sup> See Citadel, FIA PTG, Healthy Markets, Nasdaq, and SIFMA.

<sup>4</sup> See *id.*

<sup>5</sup> See Citadel, Healthy Markets, and SIFMA.

<sup>6</sup> See Imperative Execution.

<sup>7</sup> See Healthy Markets at 14.

published on January 30, 2023—the ADF supports increments of nanoseconds for both its quoting and reporting functions.<sup>8</sup>

Healthy Markets also expressed concern regarding the speed at which the ADF disseminates quotation data compared to the speed at which IntelligentCross' proprietary quotation feed is disseminated to market participants. Healthy Markets stated that, when last operational, quote latency arbitrage on the ADF led to information leakage and poor execution quality and that “it is unclear to what extent [ADF technology] has materially improved.”<sup>9</sup> FINRA is confident that the technological infrastructure upon which the ADF now operates is well-equipped to support use of the ADF by multiple market participants for quoting and trading purposes. In 2021, FINRA began a multi-year effort to update the technological infrastructure for several of its facilities, relevant data vendor feeds, and related reference data. The ADF's trade reporting functionality was successfully migrated onto a new technology platform in November 2021, with the ADF quoting functionality migrated soon thereafter in March 2022.

As a result of these recent technological updates, the ADF's processing latency times are significantly reduced as compared to when the ADF was last operational in 2015. FINRA continues to test with IntelligentCross based on projected capacity requirements and will aim to address any potential areas identified for further improvement prior to IntelligentCross becoming an ADF Participant and sending quotes to the ADF (subject to SEC approval). As such, FINRA believes that any processing latency for the ADF generally will be in line with exchange processing latencies once IntelligentCross begins quoting on the platform.<sup>10</sup> Thus, FINRA believes that this commenter's concerns regarding ADF latencies are unwarranted.

Finally, some commenters questioned the appropriateness of the FINRA ADF in today's market structure, including the need for the ADF given the number of exchanges

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<sup>8</sup> See FINRA's ADF Documentation webpage ([www.finra.org/filing-reporting/adf/adf-documentation](http://www.finra.org/filing-reporting/adf/adf-documentation)).

<sup>9</sup> See Healthy Markets at 8.

<sup>10</sup> Each of the SIPs publish realized latency metrics for Plan Participants on their websites based on the measure of time from the point of inception of the Participant matching engine event (*e.g.*, order execution, top of book update) to the point of dissemination from the SIP. See CTA Plan website ([www.ctaplan.com/latency-charts](http://www.ctaplan.com/latency-charts)) and UTP Plan website ([www.utpplan.com/latency\\_charts](http://www.utpplan.com/latency_charts)). FINRA expects that the SIPs will generate similar statistics for the ADF once the platform is operational.

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and active non-display ATS' in the marketplace.<sup>11</sup> However, FINRA notes that the continued appropriateness of a self-regulatory organization display facility under Regulation NMS pursuant to SEC-approved rules is not the subject of the instant filing and these issues are not relevant to a consideration of whether the proposed rule change is consistent with the Exchange Act. FINRA is therefore not responding to these comments as they are not germane to the instant filing.

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FINRA believes that the foregoing responds to the material issues raised by the comments on the rule filing. If you have any questions, please contact me at (202) 728-8379.

Sincerely,

/s/ Faisal Sheikh

Faisal Sheikh  
Assistant General Counsel  
FINRA Office of General Counsel  
Capital Markets

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<sup>11</sup> See Healthy Markets and Nasdaq.