

February 10th, 2023

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British Columbia Securities Commission

Alberta Securities Commission

Financial and Consumer Affairs Authority of Saskatchewan

Manitoba Securities Commission

Ontario Securities Commission

Autorité des marchés financiers

Financial and Consumer Services Commission, New Brunswick

Superintendent of Securities, Government of Prince Edward Island

Nova Scotia Securities Commission

Superintendent of Securities, Department of Service NL, Provincial Government of Newfoundland and Labrador

Superintendent of Securities, Northwest Territories

Superintendent of Securities, Yukon

Superintendent of Securities, Department of Justice, Government of Nunavut

In care of

Ontario Securities Commission

20 Queen Street West

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Toronto, Ontario M5H 3S8

Fax: 416-593-2318

comments@osc.gov.on.ca

Dear Sirs/Mesdames:

Re: CSA Consultation Paper 21-403 – Access to Real-Time Market Data

Background

BMO Capital Markets¹ (“BMO”) is seeking to respond to the Canadian Securities Administrators (CSA) request for input of November 10th, 2022 on improving access to real-time market data (“RTMD”) for equity securities, including several proposed regulatory options to improve its availability and provide feedback on some of the proposed actions.

Historically market participants raised concerns regarding cost, accessibility and other challenges associated with RTMD in Canada. The consultation paper outlines the current RTMD landscape and the need for equitable access and distribution to RTMD for Canadian equity markets.

The issues raised in this consultation paper are not unique to the Canadian market. Similar issues raised and proposals have been made in the United States in recent years, where our firm has also provided responses to industry consultations.

The value and the need for equitable distribution of RTMD

Real time market data is to trading as oxygen is to life, it’s a must have. From the retail trader to the worlds most sophisticated investors, from academics to financial planners, all need access to timely, accurate, and reliable data. Strangely as trading has become more efficient, competitive, and cheaper the costs for market data have steadily risen over time.

Real time market data is an essential input for most market participants, however not all market participants require the same levels of content and speed; and currently the “one size fits all” solution could benefit from a viable alternative.

We acknowledge that exchanges add value to market data. Over time market data went from slow, sometimes unreliable data that lacked precision and richness of content to tsunamis of information and value. Exchanges have solved a hard technological problem, added value to the product, figured out how to distribute it to all who want it in a manner that doesn’t favor one market participant over another. However, exchanges also know they have a monopoly on data origination. It is a closed system and only the operator of a venue can sell information on its best prices to buy or sell a security, its most

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recent trade, or data on an upcoming auction. It is this monopoly power that allows venue operators to increase prices steadily over time without losing customers, simply put exchanges are selling oxygen.

Predictably exchanges left unchecked by the government would rationally increase prices over time to monetize one of their most valuable assets. Industry and regulators are aware of the problem and are in search of an elegant solution.

Asking for stock exchanges and more broadly marketplace operators to have their pricing regulated as utilities risks stifling innovation, reliability, and future competition. In our view the answer is not to regulate price but to enable a viable alternative to the single source of data that exists today. Generally, if exchanges were forced to offer their fastest market data feeds for free to an information processor that could in turn normalize and aggregate the data for resale at reasonable prices, then exchanges would be forced to compete with themselves.

Direct exchange market data would retain a slight speed advantage and information content advantage that comes with order-by-order market data, and market participants who value it could pay for it at a rate set by the exchange. However, for the multitude of use cases where a few hundred microseconds of latency does not detract from the value of the data, there could be viable substitute and competitor to native exchange provided market data.

The industry could debate on how to set the price for such a utility feed, but a simple starting point could be cost plus. Revenues in excess of costs should be allocated back to the exchanges in a way that is proportional to their contribution of value to the data feeds. A simple model based on market share, or a more elaborate model following the US SIP allocation model should suffice. For example, if a new venue wanted to charge exorbitant fees for native market data, the industry could turn to the alternative feed that wouldn't enrich a small venue with little contribution to price discovery. Even for market leading venues such as the TMX one could see where retail investors, financial advisors, even certain broker dealer functions could thrive with the utility form of data while not inhibiting the exchanges from competing on and investing in their proprietary real time market data solutions.

How the industry would determine pricing, revenue allocation, and adaption to change over time are complex issues that require thoughtful governance and oversight. Representation across the industry, diversity in views, and the wisdom of the collective stakeholders are needed to prevent self-interested parties from manipulating outcomes or stifling progress.

Clearly exchanges add value to and have improved market data quality and content over time. Understandably if left unchecked by competition or regulation a monopolist in any industry will extract rents that would otherwise not exist in a competitive market. Faced with the choice of regulating price or forcing competition, we favor competition so that the incentives to innovate are preserved while at the same time supporting a viable alternative so market participants can have a choice in which data products best meets their needs.

Conclusion

BMO believes that there is opportunity to implement a new RTMD regime that will include a viable alternative to the proprietary direct feeds from various exchanges and trading platforms. The new TIP should include several levels of data on best prices, last sales, administrative messages and auctions so that market participants have a reasonably priced alternative to the lowest latency and highest fidelity content available directly from exchanges. With this alternative in place exchanges should remain

unincumbered to innovate and price their proprietary feeds they see fit, leaving market participants with a choice in product and price that restores some competitive balance in market data.

Sincerely,

“Joe Wald”

Joe Wald
Managing Director, Co-Head of
Electronic Trading
BMO Capital Markets

“Eric Stockland”

Eric Stockland
Managing Director, Global Markets
BMO Capital Markets