



RBC Capital Markets®

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Via Email

February 11, 2013

Alberta Securities Commission
British Columbia Securities Commission
Manitoba Securities Commission
Autorité des marchés financiers
New Brunswick Securities Commission
Superintendent of Securities, Newfoundland and Labrador
Registrar of Securities, Department of Justice, Northwest Territories
Nova Scotia Securities Commission
Registrar of Securities, Legal Registries Division, Department of Justice, Nunavut
Ontario Securities Commission
Registrar of Securities, Prince Edward Island
Saskatchewan Securities Commission
Registrar of Securities, Government of Yukon Territories

The Secretary
Ontario Securities Commission
20 Queen Street West
19th Floor, Box 55
Toronto, ON M5H 3S8
email: comments@osc.gov.on.ca

and

M^e Anne-Marie Beaudoin
Corporate Secretary
Autorité des marchés financiers
800, square Victoria, 22^e étage
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Email: consultation-en-cours@lautorite.qc.ca

Dear Sir and Madame:

Re: CSA Staff Consultation Paper 21-401 – *Real Time Market Data Fees*

This comment letter is being submitted on behalf of RBC Dominion Securities Inc. (“RBC DS” or “we”). We are writing in response to the Canadian Securities Administrators’ (“CSA”) request for comment on CSA Consultation Paper 22-401 – *Real Time Market Data Fees* (the “CSA Consultation Paper”) published on November 8, 2012. We welcome the opportunity to provide comments to the CSA related to the costs of real time market data fees in Canada.

General Comments

Real-time market data is a critical factor in making trading decisions and plays a key role in the health of Canada’s equity markets. In recent years, RBC DS has become increasingly concerned

with the escalating cost of market data fees in Canada compared to the costs in other jurisdictions, specifically the United States. We further believe that marketplaces with smaller market share are charging fees that are too high in relation to their share of trading activity and/or contribution to overall market quality. While we applaud the CSA's initiative to review market data fees, we believe the CSA should extend its consultation to consider other issues that influence access to fair and equitable market data.

We encourage the CSA to consider, that while the purview of this consultation paper may well be restricted to real-time market data fees, the scope of the implication on both market data product offerings and their pricing is much wider. Stratification of various specialized proprietary data feeds bestow an informational benefit that is leveraged largely by HFTs *in combination* with other benefits.

By way of example, it seems clear to us that investment in premium co-location and telecom services is of little use to participants without also investing in the fastest market data products. Meanwhile, investment in these services enables preferential access to other information such as that contained in FIX messages (e.g. FIX messages with trade information can be processed by systems co-located at marketplaces faster than market data feeds). But all of this is still only one dimension of the problem: the ability to re-aggregate a picture across fragmented venues introduces the next layer of complexity whereby high frequency traders can stitch together a more "real time" view of the marketplace than others.

For inter-listed securities, the benefits to high frequency players scale across the additional dimensions of regulation (and the concomitantly fragmented regulatory oversight), wider geography, foreign exchange and settlement regimes. We would of course note that this fact of life for Canadian equities does favour larger U.S. HFT players which are able to scale technology investments and leverage benefits (e.g. preferential access to U.S. dark pools) south of the border in other ways.

Our overarching point here is that the aforementioned informational benefits accrue in aggregate and are not just additive. The ability to "mosaic" information together into a clearer picture of the market leads to a situation whereby the benefits are far greater than the sum of the parts. Combined with the explicit cash subsidy of the maker-taker model, all of this constitutes a suite of subsidies that is very difficult to quantify but is clearly substantial. So while we appreciate the objective of the CSA is to keep the scope of this consultation on real time market data fees, we feel it is important to highlight that these fees fit into a complex picture with profound implications for the health of our capital markets.

Prominent among our concerns, as outlined above, are the multiple benefits to high frequency traders that represent additional costs burdens to the network of businesses which facilitate natural investor activity in our marketplace. Participants who act in the best interest of long-term retail and institutional investors may be required to invest in the same market data solutions as high frequency traders, which includes among other things, fibre-optics, low-latency data, substantial staffing oversight needs in order to monitor these new complexities and cope with market data outages when they occur.

Another important factor to consider is that we believe the incentives we described above also indiscriminately subsidizes predatory high frequency behavior which we would argue is entirely inconsistent of the trading by investors. To this end, we believe that the CSA's review of market data fees is both timely and an important step towards ensuring fair and robust equity markets.

Finally, we believe that some marketplaces have become de facto "information services providers" with diversified business models. Some of their products such as network infrastructure, server hosting/co-location, and market data terminals compete with other established market data providers. We believe a natural separation in both price and production

costs is required to maintain market data fees at a reasonable level and not to unfairly subsidize the cost of non-core ancillary products marketplaces may wish to sell.

Specific Comments

Many of the options outlined in the CSA Consultation Paper contemplate establishing a cap for market data fees. In considering a cap, we believe the CSA should also address the practice of marketplaces charging multiple times for receiving the same data at a single workstation. An example of such a cap is the New York Stock Exchange's (NYSE) Multiple Installation for Single Users (MISU) policy, which outlines certain "terms and conditions where a single "device fee" applies in respect of individual professional users receiving multiple services entitled for NYSE real-time data."¹ We believe that a MISU policy is an effective measure to curb the escalating cost of market data fees.

We have outlined below our comments based on the effectiveness and feasibility of the options identified in the CSA Consultation Paper.

Option 1: Cap fees for core data

In our view, "core data" should be defined as any data required to support best execution requirements. In Canada, the provisions of the Universal Market Integrity Rules (UMIR) and National Instrument 23-101 require that market participants have access to real-time market data feeds in order to comply with best execution and order protection obligations. Since Participants are required to comply with both best execution and order protection requirements, we believe that both top and depth-of-book data should be included as "core data". Marketplaces should also be required to offer other services used directly in conjunction with the acquisition of the core data (e.g. co-location space, low latency connections, etc.) at a consistent price to all consumers. Furthermore, we do not believe that "core data" should be unbundled from other services offered by marketplaces.

Option 2: Cap data fees charged by a marketplace until it meets a *de minimis* threshold:

We believe this is a viable option in that it would deter new marketplaces from entering the marketplace and charging fees, which may not be representative of their contribution to market quality. That said, this option does not address the fees currently charged by existing marketplaces. In our view, a threshold should be established for existing marketplaces. We do not believe that a marketplace should be charging a fee for market data until it has reached at least 1% of total market share in Canada.

Option 3: Cap all data fees for all marketplaces starting at a *de minimis* threshold and gradually increasing the threshold and the applicable caps.

This option adds a level of complexity that would require market participants to monitor the level of market share for each marketplace. If this option were adopted by the CSA, we would recommend that the level of market share be reviewed on an annual basis in order to establish some predictability to the market data fees charged by each marketplace.

Option 4: Cap fees for data sold through the IP:

We support the notion of an affordable consolidated feed of all Canadian marketplaces. The CSA Consultation Paper refers to the cost of consolidated top-of-book data in the US at \$173.99². In our view, the cost of Canadian consolidated data is misleading. As outlined in the CSA

¹ Source: [http://www.nyse.com/pdfs/5\(f\)MISU.pdf](http://www.nyse.com/pdfs/5(f)MISU.pdf)

² Reference to pages 10108 and 10109 of the Consultation Paper

Consultation Paper, the CSA used the CTA Network A's³ most expensive rate for one device. Insofar as the majority of professional users are typically employed by brokerage firms - these firms generally subscribe to multiple accesses of data from various marketplaces. We feel the cost of consolidated US data is unfairly overstated by using the single-device price tier. According to the CTA "Network A" rate schedule, a firm with as little as 10 accesses would pay \$31.75 USD instead of the \$127.25 used in the analysis for a single device. Using \$31.75 as an input, along with non-member "Network B" professional rates (\$30.20 for Last Sale and Bid/Ask) and Nasdaq UTP (\$20), the cost of consolidated US data adds up to \$81.95 USD, not \$173.99 CAD as suggested in the CSA Consultation Paper. This leads to a different conclusion, namely that the cost of Canadian top-of-book consolidated data is actually higher than the US by a significant margin.

Nasdaq and NYSE have both released new products (such as Nasdaq Basic), providing indicative consolidated US top-of-book data across all the major markets for as little as \$20 per device⁴. In Canada, we have seen the emergence of competitors to the IP, primarily to address performance and cost concerns. As an example, Thomson Reuters offers the ability to customize a consolidated feed to include only those markets relevant to the consumer for specific applications – a direct response to the high cost of subscribing to all marketplaces in the IP.

Fees charged to end users for consolidated market data (display fees) obtained via the IP or other distribution mechanisms should be the same. Where competitive forces exist, service providers may be in a position to charge modest access or delivery fees to process and transmit the consolidated data; however, end-user charges (display fees) should be the same regardless of the distribution channel. Marketplaces may also continue to offer (non-consolidated) data feeds directly to participants. End user access charges (display fees) should remain the same. Marketplaces may elect to charge modest access or delivery fees for access to data feeds; however, these should be transparent, subject to regulatory review and consistent across all consumers.

We support the concept of a cap on consolidated data; however, the model becomes complex due to the revenue sharing formulas and arrangements required with the contributors (marketplaces). In our view, a reasonably-priced consolidated data feed option would likely: (i) reduce the need for market data vendors to create offerings that compete with the IP; (ii) promote market transparency by quoting and providing volume across all marketplaces; (iii) reduce investor confusion as to trading venues; (iv) encourage foreign adoption of Canadian data; and (v) reduce administrative burdens and complexity both for marketplaces and consumer firms. We believe that to determine the appropriate level for the cap, the CSA will be required to undertake an analysis of other global offerings and cost structures required to support the processing and dissemination of market data.

Option 5: Regulate consolidated market data fees charged by the IP:

As mentioned above, we support the idea of an affordable consolidated feed of all Canadian marketplaces. We believe that regulatory oversight into the setting of market data fees should ultimately reduce the overall cost of market data. The complexity of this model ultimately lies with the formula for revenue sharing with the marketplaces. We recognize that the Securities Information Processor (SIP) model in the US has been quite successful, despite ongoing discussions around the appropriate metrics to allocate revenues.

We note that the CTA publish quarterly metrics around volumes, number of subscribers and costs incurred by the CTA to disseminate data to market participants are made available to CTA members. These metrics may be valuable to the CSA to understand costs and revenues, in an effort to determine a reasonable cost of consolidated data.

³ Reference to footnote 37 and page 10124 of the Consultation Paper

⁴ Source: <http://www.nasdaqtrader.com/trader.aspx?id=NASDAQBasic>

Option 6 – Cap consolidated data fees sold by marketplaces to all data vendors, not just to the IP:

Data vendors should also be permitted to charge access fees for this data; however, given that healthy competition already exists, we do not believe these fees should be subject to regulatory oversight. That said, we believe end user access fees should remain the same.

Option 7: Mandate a data utility to operate on a cost-recovery basis:

We believe there are a number of factors that should be considered prior to the creation of a “public utility”. These factors include: (i) ensuring that there is a process in place to allocate the necessary resources to the development and management of the public utility; (ii) establishing a governance framework will be critical to the operations of the public utility; (iii) transparency of the revenue sharing model and how revenues are distributed; (v) the technology needed to maintain the efficiency of the public utility (e.g. timely delivery of market information to the public utility); and (vi) the cost of maintaining the infrastructure of the public utility. We further believe that the creation of a public utility should not compromise the robustness of market data and that processes should be in place to minimize data deficiencies.

Option 8: Publish amendments to market data fees and fee models for comments

The publication of amendments to market data fees and fee models is consistent with how we have seen this operate in other jurisdictions, most notably in the United States. However, we do not believe that the publication of amendments to market data fees alone will curtail the escalating cost of market data fees in Canada.

In the view of RBC DS, the publication of amendments to data fees will result in increased transparency insofar as it would require marketplaces to publish the rationale for amending fees and providing related impact. If this option were pursued, we believe that the CSA should ensure that all market data fee changes proposed by marketplaces are based on terms that are “fair and reasonable” for all market participants.

To this end, we recommend that any ancillary products for fees levied in conjunction with the acquisition of “core” market data (examples include co-location services, low latency data feeds, delivery or application use fees) should also be subject to publication and regulatory review. In this respect, we encourage the CSA to work with industry participants to ensure that the regulation of market data is based on the principles of fair and equitable access for all participants and not geared to preference high frequency trading.

Concluding Remarks

Thank you for providing us with the opportunity to provide comments to the CSA Consultation Paper. We would welcome the opportunity to discuss the foregoing with you in further detail.

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