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Ms. Vanessa Countryman  
Secretary  
Securities and Exchange Commission  
100 F Street NE  
Washington, DC 20549-1090

**Re: File No. 4-757; Joint Industry Plan; Notice of Filing of the Second Amendment to the Limited Liability Company Agreement of CT Plan LLC To Adopt a Fee Schedule**

Dear Ms. Countryman:

Fidelity Investments (“Fidelity”)<sup>1</sup> appreciates the opportunity to provide comments to the Securities and Exchange Commission (“SEC”) in connection with the Members in the Limited Liability Agreement of CT Plan LLC’s (“CT Plan”) proposal to amend the CT Plan for the purpose of adopting a fee schedule (the “Proposal” or “Proposed Fee Schedule”) for the public dissemination of real-time consolidated equity market data for NMS stocks (“SIP data”).<sup>2</sup>

For many years, Fidelity has emphasized the critical role of SIP data in promoting market transparency and safeguarding the integrity of the U.S. equity markets. SIP data is uniquely positioned to enable retail investors to evaluate execution quality and make informed trading decisions. Fidelity provides its Non-Professional retail customers widespread access to SIP data at no direct cost to the customer, but at a substantial cost to Fidelity. Fidelity has previously raised concerns that the current SIP data model gives self-regulatory organizations (“SROs”) a *de facto* monopoly, allowing them to collect revenue far beyond what we believe it costs them to produce and disseminate SIP data. Given that SIP data is derived from retail and institutional investor transactions, its dissemination should advance the public interest rather than confer economic benefit upon SROs.

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<sup>1</sup> Fidelity is one of the world’s largest providers of financial services, including investment management, retirement planning, portfolio guidance, brokerage, benefits outsourcing, and many other financial products and services. Fidelity submits this letter on behalf of National Financial Services LLC, a Fidelity Investments company and SEC registered broker-dealer that provides trade execution, clearing, and settlement services to its affiliated SEC registered introducing retail broker-dealers, Fidelity Brokerage Services LLC and Digital Brokerage Services LLC and to unaffiliated introducing broker-dealers (correspondents), custody clients, and direct institutional customers. Derrick Chan, Head of Equities for Fidelity Capital Markets, is a member of the CT Plan’s Advisory Committee.

<sup>2</sup> See Securities Exchange Act Release No.104512 90 FR 61463 (Dec. 31, 2025), available at <https://www.govinfo.gov/content/pkg/FR-2025-12-31/pdf/2025-24058.pdf>. All capitalized terms used herein have the meaning ascribed to them in the Proposal and CT Plan.

## EXECUTIVE SUMMARY

Members of the CT Plan have submitted a thoughtful Proposal. The SEC should nevertheless consider whether more can be done to decrease SIP data costs and administrative burdens. In the context of the SEC's review, we make the following recommendations:

1. Approve designating SIP data subscribers as Non-Professional or Professional based on their use of the data, rather than their employment status, and encourage Members of the CT Plan to consider a platform-based approach to Non-Professional and Professional subscriber designations.
2. Use a cost-based standard to review the Proposed Fee Schedule and require the CT Plan to make its cost and revenue data publicly available.
3. Ensure that the Proposed Fee Schedule, including the enterprise cap, meets Securities Exchange Act of 1934 ("Exchange Act") requirements to be fair, reasonable, and not unreasonably discriminatory.
4. Address the lack of competition for consolidated equity market data.

These recommendations are discussed in further detail below.

1. Approve Non-Professional or Professional subscriber designations for SIP data based on their use of the data and encourage Members of the CT Plan to consider a platform-based approach to Non-Professional and Professional subscriber designations.

### *Definition of a Professional subscriber*

Upon opening a brokerage account, brokerage customers are presented a SIP data subscriber agreement and must self-classify themselves under an SRO provided definition of a Non-Professional subscriber<sup>3</sup> that generally relates to non-securities, non-commodities, and non-banking industry employment. If the customer is not a Non-Professional subscriber, then the customer is considered a Professional subscriber to SIP data across all their accounts, regardless of whether those accounts are for personal or professional use.

The current definition of Non-Professional subscriber is convoluted and confusing. Retail brokerage customers often consider themselves a Professional subscriber when they consider their primary, paid occupation, regardless of how they use SIP data.<sup>4</sup> Moreover, current

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<sup>3</sup> See CTA Nonprofessional subscriber policy available at [https://www.ctaplan.com/publicdocs/ctaplan/Policy\\_Non-Professional\\_Subscribers\\_CTA.pdf](https://www.ctaplan.com/publicdocs/ctaplan/Policy_Non-Professional_Subscribers_CTA.pdf) and UTP Plan data policies and fee schedule available at <https://www.utpplan.com/DOC/Datapolicies.pdf>.

<sup>4</sup> For example, Fidelity customers whose primary occupation is a "professional dog walker," "barista," "emu rescue ranch operator," "dentist," and "architect" have historically indicated Professional subscriber status for market data on their brokerage account applications. This indication of Professional status was likely based on a

definitions do not align with modern use cases. For example, Fidelity offers a Designated Brokerage Service, where we provide personal brokerage account trading supervision to employees of third-party broker-dealers. These Fidelity customers are designated as Professional subscribers to SIP data when using the *Fidelity.com* platform, even though they are using the SIP data we provide them to manage their own personal portfolios.

Broker-dealers commit significant resources to educating customers on Professional versus Non-Professional designations, because the distinction has cost ramifications. Professional subscriber rates are significantly higher than Non-Professional subscriber rates, and firms face steep audit penalties for misclassification of (lower cost) Non-Professional subscribers. This, in turn, leads to time-intensive internal reviews and periodic customer re-certifications to ensure designation accuracy.

The SEC should approve the Proposal's approach to classify SIP data subscribers based on how they use SIP data, rather than their employment status. This approach will reduce customer confusion and firms' administrative burdens. The SEC also should approve the Proposal's safe harbor, which is designed to shield real-time redistributors from audit liability when relying in good faith on user representations.

#### *A platform-based approach to designations*

The SEC also should encourage Members of the CT Plan to consider a platform-based approach to Non-Professional and Professional subscriber designations. Under this approach, if a substantial number of individuals use an application or platform providing SIP data access for personal, non-investment professional use, such as a retail brokerage platform, any individual using the platform would default to Non-Professional subscriber status. Conversely, individuals using platforms designed for securities professionals, such as those supporting registered investment advisers, registered representatives, or institutional portfolio managers, would default to Professional subscriber status for purposes of their SIP data consumption on that platform.

Firms devote substantial resources to SIP data usage tracking and reporting and undergo SRO audits to verify the accuracy of their reporting. A platform-based approach to designation would further reduce administrative burdens for firms and the CT Plan, streamline compliance, lower costs, and maintain the ability of the CT Plan to apply differentiated pricing for distinct user populations.

2. Use a cost-based standard to review the Proposed Fee Schedule and require the CT Plan to make its cost and revenue data publicly available.

The CT Plan is responsible for demonstrating that its Proposed Fee Schedule is fair, reasonable, and not unreasonably discriminatory under Exchange Act standards.<sup>5</sup> The CT Plan

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misinterpretation that the question of Professional or Non-Professional referred to their primary occupation, not financial industry status.

<sup>5</sup> 17 C.F.R. §700(b)(3)(ii).

Operating Committee asserts that comparing the Proposed Fee Schedule to the fees for competing proprietary, top-of-book feeds is an appropriate methodology and that the fees proposed are constrained by significant competitive forces.<sup>6</sup> We disagree. We urge the SEC to use a cost-based standard to review the Proposed Fee Schedule and to require the CT Plan Operating Committee to make CT Plan cost and revenue data publicly available.

Proprietary top-of-book feeds, provided directly by individual exchanges, do not effectively compete with SIP data because they are inherently fragmented, costly, and cater to niche high-speed market data subscribers rather than the broad market. For the proprietary top-of-book feeds, each exchange offers its own feed with varying content, often depth-of-book, order-by-order detail, or auction imbalances, at premium prices. These feeds typically serve latency-sensitive, institutional, or algorithmic traders. Moreover, delayed data and data from alternative feeds are also not competitive products to SIP data, because, among other things, they do not meet the requirements for consolidated equity market data under the SEC's Vendor Display Rule.<sup>7</sup>

A cost-based standard of review will ensure that SIP data fees are reasonably related to the expenses incurred to collect, consolidate, and disseminate SIP data, while simultaneously allowing SROs to compete through proprietary offerings such as top-of-book feeds. To complete its review, the SEC should require the SROs to provide data regarding their costs to collect, consolidate, and distribute SIP data, and make this data publicly available. By requiring that this data be made publicly available, the SEC can provide market participants necessary transparency into this currently opaque pricing process.

3. Ensure that the Proposed Fee Schedule, including the enterprise cap, is set at levels that advance the SEC's stated goal of fair and reasonable access to SIP data.

An "enterprise cap" is a preset maximum monthly fee a broker-dealer or vendor pays for SIP data across its entire organization. This cap offers predictable costs for consolidated trade and quote data, regardless of usage volume. Enterprise caps are a critical tool for enabling broad retail distribution of SIP data. They provide firms with a stable annual spend and reduce exposure to volatile, customer-driven cost spikes. Without such caps, SIP expenses become unpredictable and can rise sharply based on market activity or customer growth. We appreciate that the CT Plan retains an enterprise cap in the Proposed Fee Schedule. However, using a cost-based standard, the SEC should assess whether the proposed fee and enterprise cap levels truly advance the SEC's goal of ensuring fair and reasonable access to SIP data.

The CT Plan has retained the CTA/CQ and UTP Plans' model of charging SIP data fees to retail customers on a per investor basis (based on whether they are acting in a Non-Professional or Professional capacity) and to broker-dealers (via a myriad of additional fees, *e.g.*, display fees, non-display fees, access fees, etc.) for use of this exact same data. The CT Plan has also maintained a complex pricing model that we believe is inconsistent with the SROs' cost to

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<sup>6</sup> Proposal at 61464, footnotes 8 and 9.

<sup>7</sup> SEC Rule 603 of Regulation National Market System.

produce SIP data (which does not scale on a per investor basis) and is highly biased toward the retail investor picking up the tab for data that should be freely available in the marketplace.

At this time, we cannot quantify the full impact of the Proposed Fee Schedule on our SIP data spend. The CT Plan introduces both increases and decreases to certain SIP data fees. Subscriber fees for real-time quotes, our largest SIP cost driver, remain a key uncertainty. It is unclear how many customers currently classified as Professional subscribers will shift to Non-Professional subscriber status under the new usage definitions. If only a small percentage transition, our real-time quote costs will rise, given the proposed removal of Professional subscribers from the enterprise cap. If more transition, we could see greater cost savings. We will also incur costs to update subscriber agreements, including technology work to integrate new language and re-solicit customers. Given the SEC's goal of consolidating three SIP plans into one CT Plan for efficiency purposes, we expected lower fees than what have been proposed.

Fidelity supported the SEC's decision to expand core data to include odd-lots and certain depth-of-book elements, but we also noted that additional data may impose higher costs on SIP data consumers.<sup>8</sup> We are aware that some firms already limit SIP access to only their most profitable customers or pass SIP data fees directly to Non-Professional customers, likely because SIP data costs exceed the revenue generated from those accounts.

The SEC should consider whether the proposed fees and enterprise cap levels can be lowered to a rate that is still profitable to the CT Plan but greatly improves the ability for firms to make SIP data more broadly available. The SEC should recommend that the CT Plan establish SIP data enterprise caps at a level that is at least more competitive and in-line with proprietary market data product enterprise cap levels.<sup>9</sup> Lower SIP data fees and enterprise cap levels would foster greater competition among broker-dealers and ensure that retail investors, who rely on transparent and timely market information, are not disadvantaged by cost-driven limitations.

4. Address the lack of competition for consolidated equity market data.

In 2005, SEC Commissioners Atkins and Glassman's Regulation NMS dissent highlighted the lack of competition in the single equity market data consolidator model, the "relative opaqueness" of its market data pricing model, and lack of accountability for revenues used to cross-subsidize other exchange functions.<sup>10</sup>

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<sup>8</sup> See Exchange Act Release No. 88216, 85 FR 16726 (Mar. 24, 2020) ("Market Data Infrastructure"). Fidelity comments available at <https://www.sec.gov/comments/s7-03-20/s70320-7235188-217092.pdf>, and Exchange Act Release No. 96494, 87 FR 80266 (Dec. 29, 2022) ("Minimum Pricing Increments, Access Fees and Transparency of Better Priced Orders"). Fidelity comments available at <https://www.sec.gov/comments/s7-31-22/s73122-20163078-333043.pdf>.

<sup>9</sup> The Commission also should consider whether the CT plan should offer SIP data at no cost when broker-dealers use SIP data to meet regulatory requirements, such as the Vendor Display Rule (Rule 603 of Regulation NMS), or to populate an order ticket.

<sup>10</sup> See Dissent of Commissioners Cynthia A. Glassman and Paul S. Atkins to the Adoption of Regulation NMS available at <https://www.sec.gov/files/rules/final/34-51808-dissent.pdf>.

The CT Plan does not address the SROs current monopoly on consolidated equity market data. While the Market Data Infrastructure (“MDI”) rules<sup>11</sup> are SEC-approved and have withstood exchange-led litigation,<sup>12</sup> development of a competitive, decentralized model for consolidated market data is halted because the SROs have not taken the requisite step of filing/re-filing with the SEC a proposed fee amendment for core market data (“MDI fee amendment”). Without the requisite filing, and subsequent SEC approval, of the MDI fee amendment, a competitive environment for consolidated market data cannot begin.

In 2022, certain exchanges proposed an MDI fee amendment that would have set fees for consolidated market data at such high rates that the SEC disapproved the amendment.<sup>13</sup> The SROs have not yet filed a revised MDI fee amendment for SEC review and approval. The SEC should revisit the Competing Consolidators and Self-Aggregator model that the SEC adopted in the MDI rules. The SEC should either confirm its approach and set a date certain by which the CT Plan must propose a fee amendment or determine a new method for introducing competition into the market for consolidated equity market data, potentially in connection with its work on digital asset market structure.

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Fidelity would be pleased to provide further information, participate in any direct outreach efforts that the SEC undertakes, or respond to questions the SEC may have about our comments.

Sincerely,



cc: The Honorable Paul S. Atkins, Chairman  
The Honorable Hester M. Peirce, Commissioner  
The Honorable Mark T. Uyeda, Commissioner

Mr. Jamie Selway, Director, Division of Trading and Markets  
Mr. Jeff Kimsey, Operating Committee Chair, CT Plan

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<sup>11</sup> Securities Exchange Act Release No. 90610, 86 FR 18596 (Apr. 9, 2021).

<sup>12</sup> *The Nasdaq Stock Market LLC, et al v. SEC*, No. 21-1100 (D.C. Cir. 2022).

<sup>13</sup> See Securities Exchange Act Release No. 95849, 87 FR 58592 (Sept. 27, 2022). Fidelity estimated that the 2022 proposed MDI fee amendment would have more than doubled Fidelity’s depth of book costs over its current depth of book spend.