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Submitted electronically through: <https://www.sec.gov/rules/sro.shtml>

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 Amendment No. 1, and Order Instituting Proceedings to Determine Whether to Approve or Disapprove an Amendment to the National Market System Plan Regarding Consolidated Equity Market Data, as Modified by Amendment No. 1 to Adopt a Fee Schedule

Dear Ms. Countryman:

Fidelity Investments (“Fidelity”)¹ appreciates the opportunity to comment on: (i) Amendment No. 1 to the proposal filed by the self-regulatory organizations (“SROs”), in their capacity as Members of CT Plan LLC (the “CT Plan”), to adopt a fee schedule for the public dissemination of real-time consolidated equity market data for NMS stocks (“SIP data”); and (ii) the Securities and Exchange Commission’s (“SEC”) Order Instituting Proceedings to Determine Whether to Approve or Disapprove the proposed amendment, as modified by Amendment No. 1 (“Amendment No. 1” or the “Proposal”).²

As we previously noted,³ Fidelity appreciates the SROs’ outreach to industry participants during the development of the Proposal. We support the Proposal’s common-sense approach to classify SIP data subscribers as Non-Professional or Professional based on their use of SIP data, rather than their employment status, and the proposed safe harbor for Professional and Non-Professional designations, which appropriately protects real-time redistributors from audit liability when relying in good faith on user representations.

Fidelity, however, does *not* support the Proposal’s fees, particularly the fees for

¹ Fidelity is one of the world’s largest providers of financial services, including investment management, retirement planning, portfolio guidance, brokerage services, benefits outsourcing, and many other financial products and services. Derrick Chan, Head of Equities for Fidelity Capital Markets, is a member of the CT Plan’s Advisory Committee.

² See Securities Exchange Act Release No.105125, 91 FR 17026 (Apr. 3, 2026), available at <https://www.govinfo.gov/content/pkg/FR-2026-04-03/pdf/2026-06463.pdf>. All capitalized terms used herein have the meaning ascribed to them in the Proposal and CT Plan.

³ 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>. Fidelity’s comments available at <https://www.sec.gov/comments/4-757/4757-695267-2173234.pdf>.

Non-Professional display use of SIP data, which remain largely unchanged. Indeed, in Amendment No. 1, the SROs make no changes to their proposed fee levels for data relied upon by millions of retail investors to make informed trading decisions. Given (i) the cost, compliance, and oversight efficiencies expected from the consolidation of three equity data plans into a single CT Plan, (ii) the reduction of the two Plan Administrators to a single Plan Administrator, and (iii) the broader trend of technology-driven cost reductions across financial services, these fees must be lower. The SROs have failed to demonstrate that their proposed fees are fair, reasonable, and not unreasonably discriminatory, as required by the Securities Exchange Act of 1934 (“Exchange Act”). The SEC should disapprove the Proposal.

Executive Summary

Fidelity appreciates the SROs’ work on developing fees for the CT Plan, but recommends the SEC disapprove the Proposal for the following reasons:

1. SIP data is not constrained by competitive alternatives.
2. Non-Professional display and Enterprise Cap fees cannot be evaluated for fairness or reasonableness without basic information regarding SIP costs and revenues.
3. Time-limited approval cannot cure the Proposal’s challenges.

1. SIP Data is Not Constrained by Competitive Alternatives

The SROs assert that the Proposal’s Non-Professional pricing is competitively reasonable when evaluated against a market participant assembling a consolidated Top of Book feed by individually purchasing multiple proprietary exchange products and integrating them internally (a “synthetic SIP”). The SROs’ reliance on “synthetic SIP” construction to support a competitive environment for SIP data further underscores their SIP monopoly power.

Reconstructing SIP-like data would require the purchase of multiple monopoly-priced exchange proprietary data feeds, complex aggregation infrastructure, acceptance of data gaps, and continued reliance on SIP data for regulatory certainty. The ability to approximate SIP data through such means is not evidence of competition; it confirms the absence of economically viable substitutes to a product that defines official market prices.

More importantly, exchange proprietary data is not a substitute for SIP data in any sense relevant to the Exchange Act. Only SIP data establishes the official National Best Bid and National Best Offer for purposes of Regulation NMS compliance, including the Order Protection Rule and the Vendor Display Rule, as well as best execution analysis and regulatory surveillance.⁴ The industry simply cannot rely on exchange proprietary data to meet certain

⁴ See also Prepared Remarks of Paul S. Atkins at the SEC Investor Advisory Committee (June 10, 2021) noting that “[t]he monopolistic market data regime that the SEC has allowed to develop, including through the NMS regime, is yet another driver towards market distortions, increasing costs, and the resultant concentration of market participation. For best execution and to meet customer demand, a broker-dealer must pay prices that are not set by market forces.” available at: <https://patomak.com/2021/06/10/prepared-remarks-of-paul-s-atkins-at-the-sec->

regulatory requirements. Because exchange proprietary data cannot be used in place of SIP data from a regulatory perspective, it cannot meaningfully constrain SIP pricing under the Exchange Act’s “fair and reasonable” standard. There are no restraints to SIP pricing, which is the precise issue that we are trying to resolve.

2. Non-Professional Display and Enterprise Cap Fees Cannot Be Evaluated for Fairness or Reasonableness Without Basic Information Regarding SIP Costs and Revenues

The SROs impose SIP data costs on market participants through a complex mix of per-subscriber display fees, non-display fees, access fees, and other fees, despite the underlying data product being identical and its production costs not scaling on a per-investor or per-use basis. This structure bears no relationship to the SROs’ costs of collecting, consolidating, and disseminating SIP data and instead shifts a disproportionate share of those SIP costs to retail investors and firms that broadly distribute SIP data to their retail customers.

The SROs contend that modest adjustments to Non-Professional display fees and the inclusion of an Enterprise Cap address SEC and market participant concerns regarding investor access to SIP data. SIP data, however, exists to serve a public purpose: promoting transparency, informed investor participation, and confidence in the national market system. Consistent with the SEC’s mission to maintain fair, orderly, and efficient markets, SIP data, particularly data relied upon by retail investors, should be made available at or near cost.

The SEC has previously opined that fees charged for SIP data “need to be tied to some type of cost-based standard in order to preclude excessive profits if fees are too high or underfunding or subsidization if fees are too low.”⁵ But meaningful evaluation of SIP data fees is impossible because the SROs continue to withhold basic information regarding SIP costs and revenues. Accepting the SROs’ argument – that SIP data is produced as part of an integrated exchange “platform” rather than as a standalone service – would eliminate meaningful SEC review of SIP fees by allowing the SROs to avoid demonstrating any relationship between fees charged and services provided.

We do not believe the SEC can make its independent determination as to whether the Proposal’s fees, particularly Non-Professional display and Enterprise Cap fees, are reasonable without an understanding of the costs of producing and disseminating SIP data.⁶ We share an observation made by former Commissioners Cynthia Glassman and Paul Atkins in their Regulation NMS dissent discussion of SIP market data fees that:

It is difficult to argue that, in an era of heightened disclosure requirements,

[investor-advisory-committee-june-10-2021/#:~:text=The%20monopolistic%20market%20data%20regime.not%20set%20by%20market%20forces.](#)

⁵ Concept Release: Regulation of Market Information Fees and Revenues, Release No. 34-42208, 64 Fed. Reg. 70613, 70627 (Dec. 17, 1999).

⁶ See *Susquehanna Int’l Grp, LLP v. Sec. & Exch. Comm’n*, 866 F.3d 442 (D.C. Cir. 2017) (holding that the SEC must make independent findings and determinations and not merely accept those made by SROs).

a virtual public utility should not be required to openly justify and account for the use of public funds. Moreover, having chosen to maintain the current single processor system, the majority, if it is to accomplish its mission of promoting transparency and protecting investors, while allowing competition to flourish, must accept the responsibility for scrutinizing rates charged for market data and monitoring the heavy hand of monopoly power.⁷

The SEC should not place market participants in the untenable position of *requiring* the use of market data at elevated prices set by the “heavy hand of monopoly power.” The SEC has existing authority to require greater transparency into SIP data cost structures.⁸ Given SIP data’s role as a regulatory utility within the national market system, such transparency is essential to accountability, meaningful oversight, and investor protection.

3. Conditions or Modifications Cannot Cure the Proposal’s Challenges

The SEC has requested comment as to whether modifications to the Proposal, or “conditions to its approval, such as a sunset period,” could render the Proposal consistent with the Exchange Act.⁹ They cannot. The Proposal’s fundamental challenge is not its duration, but the SROs’ failure to provide evidence that the proposed fees for a regulatory mandated data product are fair, reasonable, and not unreasonably discriminatory. Applying a time-limited approval for unsupported fees would not satisfy the SEC’s obligations under the Exchange Act.

Nor do we expect that the SROs will lower SIP data fees at a later date. Although the D.C. Circuit upheld the SEC’s authority to consolidate the equity data plans and to reform Operating Committee voting rights, the court vacated the provision granting voting rights to non-SROs, including broker-dealers and investment advisers.¹⁰ As a result, despite SEC best efforts, if the SEC approves the Proposal in its current form, future market dynamics may result in a CT Plan governance structure in which incumbent exchanges retain sufficient voting control to maintain the proposed, high SIP data fees.

⁷ Regulation NMS, Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37504 (June 29, 2005) at 37643 (dissenting statement of Commissioners Cynthia A. Glassman and Paul S. Atkins) available at <https://www.sec.gov/files/rules/final/34-51808-dissent.pdf>.

⁸ For example, in 2004, the SEC proposed a rule requiring exchanges to disclose more detailed revenue and expense information, including information related to market data fees; however, the proposal never advanced. *See* Proposed Rule: Fair Administration and Governance of Self-Regulatory Organizations, Release No. 34-50699, 69 Fed. Reg. 71126 (Dec. 8, 2004).

⁹ Proposal at 17047.

¹⁰ *See* Nasdaq Stock Mkt. LLC v. Sec. & Exch. Comm’n, 38 F.4th 1126 (D.C. Cir. 2022) available at [USCOURTS-caDC-21-01167-0.pdf](https://www.uscourts.gov/casdc/21-01167-0).

Conclusion

The SROs have not met their burden to demonstrate that the Proposal is fair, reasonable, or not unreasonably discriminatory. The SROs' reliance on exchange proprietary data as a competitive constraint to SIP data is legally and economically unsound. Moreover, the lack of SIP data cost transparency prevents the SEC and market participants from undertaking a meaningful analysis of SIP data fees. Accordingly, the SEC should disapprove the Proposal.

* * *

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. Richard Holley, Assistant Director, Division of Trading and Markets
Ms. Kelly Riley, Senior Special Counsel, Division of Trading and Markets

Mr. Jeff Kimsey, Chairman, Operating Committees of the Securities Information Processors (SIPs) & Vice President, NASDAQ