

February 19, 2021

Ms. Vanessa Countryman
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: Joint Industry Plan; Order Instituting Proceedings to Determine Whether to Approve or Disapprove a National Market System Plan Regarding Consolidated Equity Market Data (File No. 4-757)

Dear Ms. Countryman:

BMO Capital Markets¹ is writing to provide its views on the SEC order instituting proceedings to determine whether to approve or disapprove the SROs' proposed new single national market system ("NMS") plan governing the public dissemination of real-time consolidated equity market data for NMS stocks ("CT Plan"). As we discussed in our prior comment letters on the CT Plan,² BMO Capital Markets believes that of all of the market structure and trading issues being examined and debated, concerns relating to the provision of market data, including the current governance model of the NMS plans, are of utmost importance.³ We therefore expressed support for the provisions of the proposed CT Plan overall.

The SEC order requests further comment on the CT Plan, and provides notice of the grounds for disapproval under consideration. We are submitting this letter to reiterate the two areas of focus in our most recent comments - ensuring the timely implementation of the Plan and addressing real and

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² References to certain prior comments, comment letters, and submissions on trading and market structure issues cited in this letter were filed under the "Clearpool Group" name. Clearpool Group was acquired by BMO Financial Group in April 2020.

³ See Letter from Joe Wald, Chief Executive Officer, and Ray Ross, Chief Technology Officer, Clearpool to Vanessa Countryman, Secretary, Securities and Exchange Commission (File No. 4-757), dated February 28, 2020 (Notice of Proposed Order Directing the Exchanges and the Financial Industry Regulatory Authority to Submit a New National Market System Plan Regarding Consolidated Equity Market Data) and Letter from Joe Wald, Co-Head of Electronic Trading, and Ray Ross, Co-Head of Electronic Trading, BMO Capital Markets Group to Vanessa Countryman, Secretary, Securities and Exchange Commission (File No. 4-757), dated November 12, 2020 (Notice of Filing of a National Market System Plan Regarding Consolidated Equity Market Data).

potential conflicts of interest around the Plan. Our specific recommendations on the CT Plan can be found in our previous comment letters on the proposals.

I. Need to Ensure Timely Implementation of the CT Plan

BMO Capital Markets strongly supports continuing efforts to address issues relating to market data, including the current governance model of the NMS plans. With that said, as previously discussed, the industry has waited a significant amount of time for the reform of the governance structure of the current NMS market data plans, and has put much effort towards seeing that such reform occurs. We therefore believe it is critical that the CT Plan be implemented on a timely basis.

Unfortunately, while the proposed CT Plan specifies the steps to be undertaken before the Plan becomes effective and operational, it does not include specified time periods in which these actions must be commenced or completed. BMO Capital Markets is concerned that the lack of any definitive deadlines will unduly delay the Plan's implementation and we continue to believe it is nonsensical to rely on the SROs, many of whom have no incentive to change the current governance structure, to take actions on a timely basis to ensure the implementation of the Plan.

We therefore reiterate our recommendation that reasonable and definitive timelines and deadlines be delineated in conjunction with the specified actions that need to occur to implement the Plan. Further, it will be important to require that periodic updates be provided as to the status of implementation of the specified actions in the proposed Plan, and to make such updates public in nature.

II. Need to Address Conflicts of Interest

The conflicts of interest that currently exist relating to the provision of market data goes to the heart of the issues that market participants are facing in this area. Market data plans are governed by SROs that have conflicts of interest in the provision of market data; conflicts of interest that create significant concerns regarding whether the consolidated feeds meet the need to ensure the prompt, accurate, reliable, and fair dissemination of market data. BMO Capital Markets therefore supports, among other things, expanding voting representation under the CT Plan to non-SROs and having them participate as full voting members of the Operating Committee as we believe this will allow non-SROs to have a role in the CT Plan's decision-making process and therefore help address conflicts of interest.

Having a role in the decision-making process, however, is not enough. The Commission requests comment whether the proposed CT Plan effectively addresses the inherent conflict of interest between the Participants' collective responsibilities in overseeing the existing equity data plans and their individual interests in maximizing the viability of proprietary data products that they sell to market participants. As we stated in our previous letter, an effective policy addressing conflicts of interest cannot be based merely on disclosure. The conflicts that SROs face when it comes to market data has already been well documented and are well known. We believe a conflicts of interest policy must therefore be vigorous enough to ensure that SROs take actionable steps to mitigate such conflicts. As discussed in our previous letter, we believe that additional steps, such as recusal and explicit prohibition of certain actions and/or certain persons, also will be necessary, particularly in relation to: (1) "Member Observers" and their access to information and ability to participate in various committee meetings; and (2) the ability for SROs to engage in business activities outside of the business activities of the CT Plan relating to market data services.

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BMO Capital Markets continues to offer its assistance to the Commission as it examines the proposed CT Plan. If you have any questions on our comment letter, please feel free to contact Joe Wald at [REDACTED], or Ray Ross at [REDACTED].

Sincerely,



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



Ray Ross
Managing Director, Co-Head of Electronic
Trading
BMO Capital Markets Group

Cc: The Honorable Allison Herren Lee, Acting Chair
The Honorable Hester M. Peirce, Commissioner
The Honorable Elad L. Roisman, Commissioner
The Honorable Caroline A. Crenshaw, Commissioner

Christian Sabella, Acting Director, Division of Trading and Markets