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VIA ELECTRONIC MAIL

June 30, 2020

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

Re: Proposed Rule on Market Data Infrastructure (ReleaseNo.34-88216; FileNo.S7-03-20, RIN3235-AM61)

Dear Ms. Countryman:

The Equity Markets Association ("EMA") welcomes the opportunity to provide comments on the U.S. Securities and Exchange Commission's ("SEC" or "Commission") Market Data Infrastructure proposal. Established in 2015, the EMA provides federal policymakers, regulators and investors with in-depth analysis on important issues that impact the U.S. equity markets. Its members, Cboe Global Markets, Nasdaq, and NYSE Group, believe in fair and transparent marketplaces, which incentivize strong capital formation and ensures a robust secondary market for trading securities.[1] Baker & Hostetler LLP represents the EMA and I serve as Counsel to the EMA. EMA's members are unified in their concerns about the Market Data Infrastructure proposal.[2]

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[1] See Equity Markets Association at http://www.equitymarketsassociation.org/

[2] EMA members have submitted individual comments on the Market Data Infrastructure proposal as well. See May 26, 2020, letter from John Zecca, Executive Vice President and Chief Legal Officer, Nasdaq available at https://www.sec.gov/comments/s7-03-20/s70320-7235187-217094.pdf; May 26, 2020, letter from Patrick Sexton, EVP, General Counsel & Corporate Secretary, Cboe Global Markets, Inc. available at https://www.sec.gov/comments/s7-03-20/s70320-7229960-217067.pdf; and June 1, 2020, letter from Elizabeth K. King, Chief Regulatory Officer, ICE, General Counsel and Corporate Secretary, NYSE available at https://www.sec.gov/comments/s7-03-20/s70320-7261548-217665.pdf

Since the COVID-19 pandemic hit the United States, U.S. equity and options markets members have unquestionably demonstrated that our markets are resilient and can handle historic volatility, message traffic and the repeated activation of market-wide circuit breakers. Simply stated, our markets contributed to confidence at a time when the markets desperately needed it.

Meticulous capacity planning, engineering talent and deep client relationships allowed EMA members to handle the huge spikes in message traffic and volume. These outcomes were not by sheer luck; they were the result of intensive planning, system programming and vigorous testing that allowed the U.S. exchanges to handle extreme market turbulence caused by the spreading pandemic, providing a forum for investors to manage their risk and in many cases access the cash they needed in the midst of trying times. This outcome was also part and parcel of a robust trusted relationship between the markets and our regulator, the Securities and Exchange Commission, over many decades.

On June 2, 2020, the EMA hosted a webinar that we strongly commend to the Commission's attention.[3] The webinar made clear:

- Markets functioned well through the highest periods of volatility during the pandemic crisis and continue to do so.
- While there may have been some doubt about asset values, as uncertainty increased in late February and early March, what was never in doubt was the predictability, stability, reliability and resiliency of the trading infrastructure at exchanges and the reliability and availability of market data.
- Markets demand operational and regulatory certainty - regulators should be cautious when changing those rules.
- Wholesale changes to well-functioning market infrastructure, particularly during a pandemic, introduces untold operational and technical risks, confusion and the likelihood for an unfriendly investor experience.
- Market structure reform raises highly complex, competitive and regulatory issues. EMA members support incremental, thoughtful improvements to the well-functioning market infrastructure we have today, not a rush to make risky and ill-considered changes, the benefits of which are unclear and do not outweigh the harm.

[3] See Equity Markets and the COVID-19 Pandemic Webinar (June 2, 20020), available at http://www.equitymarketsassociation.org/media/2020/6/3/june-3-2020

The unanimity of our membership in their concerns about the Market Data Infrastructure proposal is detailed in their previously submitted comments and recommendations:[4]

- Cboe: "We urge caution against unnecessary tinkering with critical market infrastructure without demonstrating that there are proven benefits for investors. Indeed, the need to carefully evaluate the potential impact of changes to critical market infrastructure is further highlighted in today's market environment, where increased volatility amid concerns around COVID-19 have put this infrastructure to the test." [5]

- Nasdaq: "The lack of deep analysis regarding the Proposal's extensive reach across many aspects of our well-functioning markets creates a high probability of unintended negative consequences that are likely to far outweigh any of the intended benefits." [6]

- NYSE: "Without suggesting the comments contained below are exhaustive of those that NYSE would provide if given sufficient opportunity, NYSE believes that the Proposal is severely flawed, overly speculative, and will result in significant, unintended consequences for the entire market system. As discussed below in Part I, the substantial changes to market data content are needlessly complex and are not reasonably designed to meet the differentiated needs of market participants. Next, as discussed in Part II, the success of the Proposal's consolidation model rests entirely on unfounded assumptions regarding the appearance of a market for competing consolidators and baseless speculation regarding fees for new consolidated market data, rendering the Proposal arbitrary and capricious. Finally, as discussed in Part III, the Commission's effort to retain NMS Plans while removing their primary function—to collect, consolidate, and disseminate market data through a single plan processor—is nonsensical and demonstrates the irrational outcomes that would stem from adopting the Proposal."[7]

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[4] See May 26, 2020, letter from Patrick Sexton, EVP, General Counsel Corporate Secretary, Cboe Global Markets, Inc., available at https://www.sec.gov/comments/s7-03-20/s70320-7229960-217067.pdf

[5] See May 26, 2020, letter from John Zecca, Executive Vice President and Chief Legal Officer, Nasdaq available at https://www.sec.gov/comments/s7-03-20/s70320-7235187-217094.pdf

[6] See June 1, 2020, letter from Elizabeth K. King, Chief Regulatory Officer, ICE, General Counsel and Corporate Secretary, NYSE, available at https://www.sec.gov/comments/s7-03-20/s70320-7261548-217665.pdf

Instead of spending time and taxpayer dollars working on rulemakings such as the Market Data Infrastructure proposal, the Commission should help "Mr. and Mrs. 401(k)," and focus its attention on efforts to review needless regulation and regulatory over-reach and to help improve and facilitate capital formation.

The EMA is ready to work with the Commission on proposals that solve problems and advance market structure changes that enhance transparency and level the playing field for all trading venues and investors. As SEC Chairman Jay Clayton recently observed the markets, "functioned largely as designed, and importantly, as market participants would expect."[8] EMA agrees with the Chairman and before proceeding with this proposal, the Commission must follow the first rule of public policymaking: "DO NO HARM."

Thank you for the consideration of EMA's comments.

Sincerely,

Kevin R. Edgar
Counsel, BakerHostetler LLP
Counsel, Equity Markets Association

[8] Jay Clayton, Chairman, SEC, Remarks to the Financial Stability Oversight Committee (May 14, 2020), http://business.cch.com/srd/clayton-remarks-financial-stability-oversight-council-051420.pdf