

September 6, 2016

Brent J. Fields, Secretary  
Securities and Exchange Commission  
100 F. Street, NW  
Washington, DC 20549

**Re: Release No. IA-4439; File No. S7-13-16; “Adviser Business Continuity and Transition Plans”**

Dear Mr. Fields:

This comment letter is submitted by Interactive Data Pricing and Reference Data LLC, a wholly owned indirect subsidiary of Intercontinental Exchange, Inc. (“ICE”). We appreciate the opportunity to comment on proposed Rule 206(4)-4 (the “Proposed Rule”).<sup>1</sup> We are submitting comments from two distinct viewpoints. First, as a registered investment adviser with the Securities and Exchange Commission (the “Commission”) under the Investment Advisers Act of 1940 (the “Advisers Act”), and second, as a third-party pricing service provider to the financial institutions and investment fund community. In general, we support regulatory initiatives aimed at protecting and supporting the functioning of the investment adviser industry, and encouraging best practices around continuity planning for investment advisers.

Background

Interactive Data Pricing and Reference Data LLC is registered as an investment adviser with the Commission under the Advisers Act, and has been in the evaluated pricing business for more than 40 years. We provide global security evaluations, reference data, risk analytics and other information designed to support financial institutions’ and investment funds’ pricing activities, research and portfolio management. We offer evaluated prices for approximately 2.7 million financial instruments including fixed income and international equity securities. For clarity, we define an evaluated price as a market-based measurement that represents our good faith opinion as to what the holder of a security would receive in an orderly, arms-length transaction (given an institutional round lot position) under current market conditions. It is in connection with our evaluated pricing services with respect to securities that we have registered as an investment adviser. We provide evaluated pricing services to thousands of financial services customers to support a wide range of their workflows including portfolio valuations, regulatory compliance and risk management, as well as investment research. We have built a strong presence in the financial community and currently count as customers all of the top 50 U.S. mutual fund companies, 49 of the top 50 U.S. asset managers and 34 of the top 50 global hedge funds (rankings as of August 2016<sup>2</sup>). Our evaluated prices are not tailored to the individual needs of our clients. We provide the same evaluated price (bid, mid and ask levels for a time-stamped point in time) for the same security

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<sup>1</sup> See SEC, Release No. IA-4439, Adviser Business Continuity and Transition Plans (2016), <https://www.sec.gov/rules/proposed/2016/ia-4439.pdf> (the “Proposal”).

<sup>2</sup> These statistics are based on an internal tracking and ranking system maintained by Interactive Data Pricing and Reference Data LLC.

at any given point in time to all clients. Our clients use our evaluated pricing services for purposes such as brokerage and trust accounting, trust operations, net asset value calculations, portfolio management and accounting functions, regulatory requirements, investment analysis and research. We make it clear to our clients that they are responsible for, and must use their own independent judgment, regarding the use of our evaluated prices for any particular application.

Interactive Data Pricing and Reference Data LLC does not manage client money or portfolios, we do not have custody of client funds or securities, and we do not make recommendations to clients about which securities to buy, sell or hold.

#### Transition Plans for Registered Investment Advisers that do not Manage Client Assets

We appreciate why the Commission sees value and a potential reduction in operational risk if registered investment advisers with client assets under management are required to adopt a formal transition plan that specifies policies and procedures concerning business transition in the event an investment adviser is unable to continue providing investment advisory services to clients. However, we believe that the Commission should explicitly modify the Proposed Rule to exempt certain registered investment advisers, such as pricing service providers, from the transition plan requirements of the Proposed Rule. We believe such an exemption should apply to registered investment advisers who do not provide any of the following investment advisory services:

- I. Management of client assets or supervisory or asset allocation services with respect to any client securities portfolios or accounts; or
- II. Provision of investment recommendations to purchase, sell or hold securities.

We strongly believe that these types of registered investment advisers, which would include third-party pricing service providers (given the nature of their businesses), should be exempt from the Proposal's specific requirements for transition planning. With no assets under management, many of the elements of the transition planning that the Commission is proposing investment advisers adopt do not apply. For example: (i) policies and procedures intended to safeguard, transfer, and/or distribute client assets during transition; (ii) policies and procedures facilitating the prompt generation of any client-specific information necessary to transition each client account, such as the identity of custodians, positions, counterparties, collateral, and related records of each client; and (iii) an assessment of the applicable law and contractual obligations governing the adviser and its clients implicated by the adviser's transition,<sup>3</sup> are generally not relevant with respect to advisers without any assets under management.

Moreover, given that the clients of third party pricing service providers are sophisticated financial institutions, including investment advisers, the clients of third party pricing service providers are best

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<sup>3</sup> Per the example provided by the Commission, an adviser's insolvency or termination may trigger a termination clause in a client's derivative contract. Also, the board and shareholders of a registered investment company must approve an advisory contract with any new adviser and the Advisers Act requires advisory contracts to include a provision that a contract cannot be assigned without client consent.



situated to develop appropriate plans to transition from any pricing service provider that ceases operations. Such clients are best positioned to understand their particular business needs and their use cases for data obtained from their pricing service providers, and are best positioned to assess potential replacement pricing service providers (including scope of coverage, fees, delivery mechanisms, quality of data, customer service, commitment to business continuity and such other factors that may be viewed as significant to a financial institution or investment adviser in its business judgment). Additionally, many investment advisers utilize the data from more than one pricing vendor (e.g. primary and back-up provider or hierarchy rules) thus making transition planning not necessary.

### Third-Party Pricing Service Provider Business Continuity is Self-Regulating Due to Competitive Forces

We support the Commission's efforts to promote a minimum standard of business continuity planning for registered investment advisers. We believe it is appropriate for all advisers to have robust policies and procedures in place to ensure business continuity while minimizing levels of disruption, regardless of whether that adviser manages client assets or makes recommendations with respect to securities.

However, we observe that the pricing service provider industry's existing business continuity planning is vigorous due to competitive forces and because our clients deploy our services into many essential workflows. For these reasons, we believe we could not be competitive if we were not able to demonstrate to our clients that we have a robust business continuity plan already in place. However despite the business continuity planning we already deploy, Interactive Data Pricing and Reference Data LLC does not manage investor money or provide advice to investment professionals who manage investor accounts, of which the rule is intended to protect.

### Current Business Continuity Plans Include Vendor Management Reviews

We understand that the Commission has witnessed a wide range of current practices in the industry, however we want to share that from our vantage point, many clients already have detailed business continuity plans that include detailed assessment of our business continuity plans (as a vendor). As a service provider to the financial services community, including many registered investment advisers, we witness the range of due diligence in which investment advisers engage as part of their vendor management practices and policies. Many of our larger institutional clients typically request on-site due diligence visits at least annually, whereas others request completion of detailed annual due diligence questionnaires. In 2015, we hosted 283 on-site visits and answered an additional 140 questionnaires in support of our clients' vendor management due diligence in support of their business continuity planning<sup>4</sup>. Through the first half of 2016, we have seen a dramatic increase in the number of due diligence questionnaires received, many of which include questions related to the company's business continuity program. We expect that this Proposed Rule will cause a further increase to those

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<sup>4</sup> It has been our experience that vendor due diligence management most often includes questions about business continuity planning of the vendor in question.

figures. Subject to our comments described above, we believe that the Proposed Rule is generally beneficial for the asset management industry and investors.

### Conclusion

Interactive Data Pricing and Reference Data LLC appreciates the opportunity to present our views on the implementation of formal business continuity and transition plans for registered investment advisers. We support the Commission's goals to seek to further safeguard client assets from certain fundamental operational risks.

With regard to specified provisions of this Proposal:

- Transition Plans should not be required for registered investment advisers that do not manage, directly or indirectly, client assets or make recommendations with respect to securities.
- Third-party pricing service providers currently maintain robust business continuity plans due to competitive forces.
- We observe robust vendor management policies and procedures in current business continuity planning for investment advisers which include review of our business continuity plans.

We look forward to the Commission's consideration of the views outlined in this letter and hope that our comments will be of use and be reflected in the final rule.

Sincerely,

A handwritten signature in blue ink, appearing to read "M Heckert".

Mark Heckert  
Managing Director, Global Evaluated Services Operations  
Interactive Data Pricing and Reference Data LLC