



April 16, 2014

Via Electronic Mail

Via Electronic Mail (rule-comments@sec.gov)
U.S. Securities and Exchange Commission
100 F. Street, N.E.
Washington, DC 20549-1049

RE: File No. SR-FINRA-2014-018; Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change to Establish a Fee Schedule for Alternative Trading System Volume Information

Dear Ms. Murphy:

KOR Group LLC "KOR" appreciates the opportunity to comment on FINRA's proposal to establish a fee schedule for providing volume information on Alternative Trading Systems. As discussed in our previous comment letter, KOR's guiding principles include Transparency, Metrics and Data Freedom. It is under this premise that KOR **strongly disagrees** with FINRA's plan to charge fees for, and profit from, the release of critical, aggregate information about the activities taking place in Alternative Trading Systems (ATSS).

Open source and open data movements have been tremendously successful in demonstrating the benefits of clear, free, machine-readable data and transparency. Most critical systems in the financial services industry run on Linux, a completely free and open source operating system. Many other open source programs are found at the heart of key applications in financial services, including trading; quantitative analysis; infrastructure monitoring; compliance and reporting; risk management; and high-performance computing. Academics have realized huge benefits in opening up data for analysis and opinions by other academics in fields as diverse as astronomy, anthropology, archaeology, physics, finance, computer science, and so many more. Nearly every academic discipline has embraced this open data philosophy.

Globally and in the United States, the open data future is being embraced:

- President Obama's May 9, 2013 directive was titled: *Making Open and Machine Readable the New Default for Government Information*. Its general principles open with this inspirational declaration:
Openness in government strengthens our democracy, promotes the delivery of efficient and effective services to the public, and contributes to economic growth. As one vital benefit of open government, making information resources easy to find, accessible, and usable can fuel entrepreneurship, innovation, and scientific discovery that improves Americans' lives and contributes significantly to job creation.
- In 2004, OECD Science Ministers signed a declaration that all publicly funded archive data should be made publicly available.
- Governments around the world, and around the country, have embraced this model, most notably in New York, Chicago, Los Angeles and Philadelphia. The US Government's data.gov website currently allows users access to 90,925 freely available datasets.
- In "An Independent Review of Public Sector Information," the premise is introduced that the US won "Phase 1" of the digital revolution - connectivity, but that others can win "Phase 2" - the capacity to process and learn from data. The author goes on to explain why and how Public Sector Information is critical to this next phase.
- The Royal Society, in its "Science as an Open Enterprise" paper, takes the same opinion, and explains that:
"Realizing the benefits of open data requires effective communication through a more intelligent openness: data must be accessible and readily located; they must be intelligible to those who wish to scrutinize them; data must be [accessible] so that judgments can be made about their reliability and the competence of those who created them; and they must be usable by others."
 The paper contends that "[t]he internet provides a conduit for networks of professional and amateur scientists to collaborate and communicate in new ways and may pave the way for a second open science revolution, as great as that triggered by the creation of the first scientific journals."

It is in this spirit that KOR continues to push the SEC and FINRA to embrace the open data movement as a clearly superior way of regulating in a complex, modern environment. KOR believes that the role of the regulator is not to profit from, or even cover the costs of, providing access to data that will so clearly provide much needed, critical information to the public about the operation and activities in ATSS.

FINRA's plan for providing data to non-professionals flies in the face of every tenant of the open data movement. The plan is also a direct affront to President Obama's transparency-themed Executive Order. That Executive Order clearly explains that the default for providing data should be: *"free and machine readable, and requests that independent agencies adhere to this order."*

FINRA asserts that academics are eligible for free access as non-professionals, which means they will be unable to download data in a machine readable format and unable to publish any findings with derived data. Such prohibitions are

incomprehensible. Further, an organization such as KOR—which takes in all publicly available data it can find on US Market Structure and publishes public and non-public reports—would be prohibited from access to this dataset, which would deprive the public of expertise and analysis that is not necessarily performed by an academic, but which should still be made freely available. KOR believes that there are many individuals and organizations for whom FINRA’s plan would constitute an obstruction of information. Indeed, interest in data-driven analysis of US market structure has attracted a large community of important participants whose contributions promise improvements in market health. To prevent their performance of this role is tantamount to obstructing market health improvement.

FINRA goes on to explain that it must charge for the data in question “to recover the costs associated with collecting, formatting, and disseminating the data.” However, FINRA already receives fees and dues from its members, a structure that has already resulted in a surplus cash position. It is inexplicable that FINRA cannot, therefore, cover the cost itself for providing this data in a free, open, machine-readable format to the public. FINRA acknowledges the benefits to providing this data:

“FINRA believes the ATS data it will provide will deliver significant benefits to the marketplace overall by increasing transparency and providing additional tools for market participants to engage in better, more timely and more reliable analysis regarding ATS trade volume trends.”

Despite the benefits, FINRA believes it will need to charge a very high amount:

- \$12,000 to professionals, who are not permitted to redistribute derived data (i.e. summary and analysis), and
- \$18,000 to vendors.

FINRA rationalizes these fees without providing any explanation as to the costs involved in processing and providing this data, by comparing fees charged by **for-profit** firms for similar data access.

This comparison defies common sense. FINRA is in no way a for-profit firm. FINRA is a self-regulatory body. The agency’s first comparison should be with other efforts to provide data about regulated enterprises to the public by other regulators.

The best example of this is the SEC’s Market Structure website, in which data is made freely available to the public to perform its own analysis. Professionals and vendors are not charged to recover the costs the SEC incurred to provide this data. Another excellent example is open FDA, where the FDA provides open API’s and access to raw data for any public FDA datasets. FINRA and the SEC could learn a lot from the FDA’s approach to open source and open data.

A full list of government agency projects providing free, open, machine-readable data on the private businesses that they regulate would be a voluminous report. These agencies include: USDA, FDA, NASA, NOAA, SEC, Department of Energy, CFPB, EPA, and many others.

It is time for Financial Services industry regulators to re-orient themselves to open data, and this is the perfect example of data that should be made freely available. FINRA acknowledges the value of this data to the investing public and acknowledges the value that this level of transparency will provide. It is contradictory; therefore, that FINRA intends to prohibit the use of this data to its greatest potential and to obstruct the distribution of derived data that is critical to our understanding of and participation in today's equity markets.

KOR appreciates the opportunity to comment on the above filing. Should you have any questions, please feel free to contact us.

Sincerely,



Christopher Nagy
CEO
KOR Group LLC



Dave Lauer
President
KOR Group LLC

CC: Steven Luparello – Director Division of Trading & Markets
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