

## **SCHWAB SUMMARY OF COMPETING CONSOLIDATORS MODEL (4/6/01)**

### 1. Open Competition for Consolidation and Enhanced Market Data

- Anyone can consolidate either or both Nasdaq and exchange-listed data.
  - This requires dissolving the current Plans.
  - Market forces set pricing of consolidated data, but fair and non-discriminatory access are required and no restrictions on derivative uses and distribution channels.
  - No regulation at all of enhanced market data beyond today's mandatory minimum.
- Issues addressed: Dissolution of the Plans eliminates monopolies at the consolidation level. Also eliminates the bureaucratic and administrative inefficiencies associated with the Plans. Leaves enhanced market data to development and innovation free from regulation. Concerns about technology or provider failures would be no greater than they are today, where the system currently relies on vendors and broker-dealers to get market data to the public.

### 2. Distribution of Data to Consolidators (and others)

- Consolidators can obtain any regulatory-required data from SROs or broker-dealers.
  - If SROs (or broker-dealers) charge for regulatory-required data, they are subject to (a) Non-Discrimination principle that includes most favored nations pricing for all buyers, enterprise fee basis without regard to user classification or business models and without restrictions on redistribution channels, and (b) Sunshine principle that all fee schedules, contracts, and policies are made publicly available.
- Issues addressed: Non-discrimination and sunshine principles preclude SROs or Administrators of Plans from using monopoly power to advantage one type of market participant over another and from restricting derivative uses of the data. Allows collective pressure from buyers, since all will be getting the same deal, and broker-dealers can send their data directly to consolidators if SROs create unfavorable terms.

### 3. Role of / Impact on SROs

- Clear lines are drawn between market data collection from members for self-regulatory reasons, and SRO vending of market data for a profit.
- Issues addressed: Monopoly power of SROs is restrained in a competitive market for market data. Under the competitive model, costs of SRO oversight functions are more likely to be borne directly by members and issuers, rather than the investing public. In any event, there is no evidence today that reduction in market data fees would jeopardize SRO functions. Availability of NBBO could still be assured under 4, below. Regional exchanges should be able to compete effectively (and earn non-monopoly revenues) in the market data arena by partnering with each other, vendors, and/or broker-dealers. Monopoly fees from market data should not be the reason for keeping a non-competitive regional afloat.

### 4. Requirement of Mandatory Minimum Data / Role of SEC

- To foster competition and innovation, consolidated mandatory minimum should not extend beyond today's mandatory minimum.
- Under a competitive model, mandatory consolidation may not be necessary.
- SEC may set and enforce general standards for mandatory minimum (e.g., timeliness of "real-time," or capacity and sequencing standards), but not technology requirements.
- Primary SEC role is enforcing non-discrimination requirements (a role made easier by the Sunshine principle). SEC is not a rate-maker or reviewer of fee filings or Plans.