Angelo Evangelou
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Giles Ward
International Organization of Securities Commissions (IOSCO)
Calle Oquendo 12
28006 Madrid
Spain

Re: Public Comment on Market Data in The Secondary Equity Markets

Mr. Ward,

Cboe Global Markets ("Cboe") appreciates the opportunity to provide comments on IOSCO's Consultation Report on Market Data in the Secondary Equity Markets (the "Consultation Report").[1] Cboe is a global operator of exchanges and market infrastructure and a leader in exchange-traded equities. Importantly, we are both a creator and consumer of market data.

Cboe offers competitive equity market data solutions based on the market data we create from our US, UK, and EU equity trading venues – some of the largest exchanges for trading equities and equity like instruments in each jurisdiction. In all jurisdictions we compete on price, product, and customer service. In addition, we are committed to providing transparency around our market data practices and seek to ensure our policies, pricing schedules, and licensing arrangements remain transparent, fair, and reasonable.

Overall, the provision of market data is competitive. We compete with a multitude of exchanges offering their own market data solutions, as well as with market data vendors – the latter of whom sit between end users and the creators of market data and account for a meaningful portion of market data costs of end users. We are encouraged by jurisdictions that are increasingly recognizing these market dynamics[2] as too often exchanges and the creators of market data are the sole focus of the market data debate.

It is evident that the growth in the availability, quality, and utility of trading data is due in no small part to exchange innovation. While some jurisdictions require exchanges to set market data fees consistent with a "reasonable commercial basis standard" that allows the value of the data to the user to be

[1] Consultation Report on Market Data in The Secondary Equity Markets, IOSCO, December 2020, *available at*, https://www.iosco.org/library/pubdocs/pdf/IOSCOPD667.pdf.
[2] Call for Input: Accessing and Using Wholesale Data, FCA, (March 2020), *available at,* https://www.fca.org.uk/publication/call-for-input/call-for-input-accessing-and-using-wholesale-data.pdf.

considered and other jurisdictions view market data fees through the lens of what is "equitable", it is critical that these requirements do not effectively become rate-setting mechanisms. Competitive forces and exchange innovation have helped create a modern ecosystem that serves everyday investors extraordinarily well. Tight spreads, low transaction costs, and declining commissions and fees are the norm in many markets, and exchanges are central to the quality trading experiences that investors are enjoying. Aggressive regulatory intervention not focused on tangible benefits to investors risks stifling innovation and damaging competition; and, in so doing, harming the progress that has been made to better serve investors.

Over time market participants have demanded more data of higher quality at higher speeds and greater reliability. As a result, exchanges now offer an a la carte menu of market data solutions that are designed to fit market participants' particular objectives and needs. Some market participants design their business models around low latency, non-display, pre-and post-trade market data solutions. Other market participants, such as retail investors, have no use for low latency data and consume pre- and post-trade, displayed data at little to no cost through their brokers or in some jurisdictions directly from exchanges. There is a cost to producing and disseminating this data, which has value to the consumer. It is appropriate and consistent with the concept of fairness and non-discrimination for exchanges to take into account this value when setting fees. Not only is this an equitable outcome, but it also helps ensure that exchanges are incentivized to continue innovating and helps ensure that professional investors continue to subsidize market data costs for retail investors, rather than the other way around.

Unfortunately, today's market data debate is largely centered on claims made by certain market participants that the cost of market data is simply too high. These participants are seeking to lower exchange fees *at all cost*, ignoring the remarkable experience of retail investors in today's marketplace, ignoring the potential repercussions, and ignoring the value they themselves extract from such data.

Of course, looking beyond fees, market data improvements can be made. Cboe has offered a number of recommendations, including enhancing the consolidated tape in the U.S. (e.g., by adding five levels of depth-of-book and more transparency for odd-lot quotations) and implementing a European consolidated tape. We believe these solutions would add value without unnecessarily increasing complexity or harming the resiliency of our markets. Beyond these recommendations we encourage IOSCO and its members to reject unnecessary, aggressive regulatory intervention and rate-setting in the provision of market data. Those steps are a bridge too far and will do more harm than good. Instead, we respectfully recommend that IOSCO continue to champion transparency, competition, and customer choice in the equities market.

Thank you for IOSCO's work in this important area. Please find additional feedback below.

Sincerely,

Angelo Evangelou

Angelo Evangelou

Defining Core Data

Q1: Please identify the data elements that are necessary for investors and/or market participants to participate effectively and competitively and make informed trading decisions in today's markets. In your response, please consider:

- *The type of investor (e.g. retail or institutional) that uses the data;*
- *How orders are sent to a trading venue (e.g. electronic, manual, direct access by clients; and*
- *How orders are routed*

Please provide the reasons why each element is necessary.

Market data needs vary greatly and are entirely dependent on the particular investment model of the market participant. Broadly speaking, at one end of the spectrum are proprietary trading firms consuming low latency, non-display, top-of-book and depth-of-book, pre-trade data and last sale information. At the other end of the spectrum are retail investors accessing market data through brokers or directly from exchanges (in certain jurisdictions) in the form of display, top-of-book and/or last sale information. In between these extremes sit a variety of other market participants that have varying market data needs. Some may consume display vs. non-display data or top-of-book vs. depth-of-book data or access data via market data vendors rather than from exchanges directly. At the end of the day, needs vary. Exchanges' a la carte menu of market data solutions is designed to serve the varied needs of market participants.

Q2: Are there other data elements that, while not necessary to all market participants, may be necessary for some market participants or business models? Please provide the reasons for your answer.

There is no one-size-fits-all, and no data element is necessary for all market participants. Exchanges provide a spectrum of offerings in order for market participants to determine which data element is right for them.

Q3: Please share your view on defining Core Market Data and how such a definition can be used (for example, for compliance purposes or as a mechanism to make routing decisions, etc.).

We question the usefulness in ascribing certain data sets as "core" and other data as non-core. As IOSCO recognizes there is no universal definition of core market data, and there can be no definition without the proper context. For example, IOSCO notes that the SEC defines core data (only recently doing so), but solely in terms of what the SEC believes should be reported to the consolidated tape in the U.S. In the European context IOSCO implies that core data is the data that trading venues and other regulated data providers are expected to make available to market participants. Of course, since there is no European consolidated tape the context of a definition of core data will necessarily differ from the U.S. experience. Jurisdictional differences aside, IOSCO also correctly recognizes that "different types of market participants have different market data needs – what one market participant considers Core Market Data may not necessarily be the same for another." We wholeheartedly agree. Business models and investing objectives matter, and they shape the *subjective* importance of different data sets. A universal definition of core market data that works across jurisdictions and for all market participants may not be feasible.

However, if there is to be a definition of core market data it should be consistent with policy objectives that first and foremost serve retail investors. What is considered core market data should be informed by what is "core" to retail investors and what best serves retail investors. Retail investors do not need low latency, depth-of-book, non-display data to inform their investment decisions. Retail investors' orders will not typically drill through multiple price points. While intermediaries may seek some or all of these data elements it's important to recognize that these intermediaries are in no way required to access every exchange or consume market data feeds from every exchange (not even pursuant to best execution obligations). In effect, this means exchanges and market data vendors compete, and market participants have real choice regarding market data providers with which they choose to contract.

To the extent a jurisdiction subscribes to the core vs. non-core dichotomy we believe core market data should be the data regularly consumed by retail investors (typically real-time, display, top-of-book and last sale data). Regardless of the exact definition it cannot be based on the perceived needs of each and every market participant. Moreover, certain data, such as historical data, must in all circumstances be considered non-core data.

Access to Market Data

Fair, Equitable and Timely Access

Q6: What factors should be considered in the context of evaluating "fair, equitable and timely access"? How should these factors be considered?

Cboe has a longstanding history of providing access to market data in a fair, equitable and non-discriminatory manner. Consistent with providing access in an equitable, fair and non-discriminatory manner is the ability to distinguish offerings on the basis of data usage and the type of market participant.

Fees Associated with Market Data

Q11. How should market data fees be assessed? How could this be implemented in practice? What factors should be considered and how can they be defined or applied?

As IOSCO notes, some jurisdictions require exchanges to set market data fees consistent with a reasonable commercial basis standard that allows the value of the data to the user to be considered and other jurisdictions view market data fees through the lens of what is "equitable". Regardless, it is critical that these requirements do not effectively become rate-setting mechanisms. Competitive forces and exchange innovation have helped create a modern ecosystem that serves everyday investors extraordinarily well. Tight spreads, low transaction costs, and declining commissions and fees are the norm in many markets, and exchanges are central to the quality trading experiences that investors are enjoying. Aggressive regulatory intervention not focused on tangible benefits to investors risks stifling innovation and damaging competition; and, in so doing, harming the progress that has been made to better serve investors.

It should be noted, however, that in our view certain exchanges have at times overstepped and adopted predatory practices. For example, in the European context a competing primary exchange implemented a non-display category for the "operation of an MTF" and priced the offering at a significant premium to other non-display uses. This has prevented competing venues from consuming primary trading data for Eastern European symbols, resulting in minimal participation in these securities by our trading members and therefore reducing venue competition. We have also witnessed the implementation of similar discriminatory fees that see primary exchanges assessing fees against their trading members that seek to trade on other venues. This deters participants from making markets on alternative venues and thus directly impacts venue competition and data competition. Additionally, if not anti-competitive, certainly restrictive in nature is the practice of primary exchanges requiring trading members of competing venues to have a direct license with the primary exchange in order for the trading member to utilize the competing venue's mid-point pegging functionality where the venue is already paying a license fee to use those prices.

Data Consolidation

Q14: Please provide your view on the need for consolidated data where there are securities trading on multiple trading venues. What should be the primary objectives of consolidated data and what outcomes should it lead to? How should these objectives and outcomes inform the nature of the consolidated data made available?

We believe investors are best served when they have efficient access to the best market prices. While in most jurisdictions market data vendors offer a consolidated view of equities prices, we believe the most efficient mechanism for providing investors access to market prices across venues is a consolidated tape. In the U.S. the equity SIPs serve as the backbone of the U.S. equities ecosystem, providing a single source for investors to gain real-time access to trade and quotation information. Over the years the U.S. SIP model has served investors well and helped ensure retail investors have low-cost access to real-time data. In fact, brokers pay a maximum of $3 per month per user to provide unlimited real-time displayed market data from the consolidated tape to their non-professional (retail) clients. These rates are generally absorbed by brokers, not investors, and they have been steady for many years. Transaction costs, mutual fund fees and expenses are declining for retail investors. This is due, in no small part, to the equities ecosystem that the U.S. SIPs helped create.

While there are market structure nuances, we believe the same benefits of a consolidated tape can accrue to European markets. Currently, there is no consolidated tape, and the cost to consolidate market data across all venues has prevented the voluntary creation of such a consolidated tape. We believe a European consolidated tape would, among other things, serve as an efficient, low-cost mechanism for investors to access real-time data and would help drive participation in the equities market, particularly from retail investors; aid best execution monitoring and transaction cost analysis; and broaden distribution of data for all European companies to the rest of the world – including small and medium-sized enterprises (SMEs) – in a consistent format, helping to encourage further financing and growth.

Q15: Is a consolidated data feed the most efficient mechanism to achieve these objectives and outcomes? If not, what are the alternatives that could help achieve these objectives and outcomes? How do these alternatives affect the cost of and access to market data? How can they be addressed?

Yes, we believe a CT is the most efficient mechanism to achieve the outcomes set forth in response to Q14.