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# Assessing the Impact: SEC Proposals on Market Data

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<p><b>OUR VIEW</b></p>	<p>On February 14, the SEC published for comment a proposed rule that would significantly change the system for collecting and disseminating U.S. stock market data. <b>If adopted, it likely would reduce the market data revenues of the securities exchanges and reduce the market data costs of market participants making order routing decisions, including broker-dealers and asset managers.</b></p> <p>The SEC believes it would “reduce information asymmetries between market participants who currently rely on market data provided through the exclusive SIPs [consolidators] and those who purchase the proprietary market data products” – <b>in plain English, allow greater numbers of market participants to rely on consolidated data without purchasing exchanges’ proprietary data.</b> As Chairman Clayton and the 3 sitting SEC Commissioners voted unanimously to publish the proposed rule, there is a strong likelihood it could be adopted before the end of this year.</p>
<p><b>WHAT YOU SHOULD KNOW</b></p>	<p>Market data for the U.S equities market has evolved into a two-tiered system. The exchanges and FINRA jointly operate the consolidated feeds (last sale information and top of book information – the National Best Bid and Offer). Exchanges also offer proprietary data feeds, which generally feature greater content (particularly depth of book information) and lower latency than the consolidated feeds.</p> <p>In recent years, exchange critics in the broker-dealer and asset management industries – including Morgan Stanley, Schwab, T.D. Ameritrade, and T. Rowe Price – have focused attention on the fees charged by the exchanges for market data products. These critics, as well as trade associations, academics and commentators, maintain that for-profit exchanges are unfairly setting the rules and costs for other market participants. They argue the exchanges determine costs for the consolidated feeds -- essentially a public utility -- with very little oversight from the SEC. In addition, they argue that exchanges’ proprietary data feeds -- essential to operate in today’s electronic markets – are monopoly products priced as the exchanges see fit. Schwab has publicly recommended the inclusion of depth of book information in consolidated data, saying “that change alone can offer retail investors a tremendous benefit.” SIFMA reports that retail firm members generally use one level of depth for order routing, while institutional firm members generally use up to five levels of depth.</p>
<p><b>WHAT’S NEXT</b></p>	<p>The SEC is seeking public comment within 60 days on the proposed rule on “Market Data Infrastructure:” <a href="https://www.sec.gov/rules/proposed/2020/34-88216.pdf">https://www.sec.gov/rules/proposed/2020/34-88216.pdf</a></p> <p>The proposal would for the first time require that certain depth of order book information, odd-lot data, and auction information be included in the consolidated feed rather than in exchanges’ proprietary data feeds. Specifically, it would include for each exchange an</p>

	<p>aggregation of all quotes at each of the next 5 prices lower than the best bid and higher than the best offer. Order information for higher priced stocks in amounts smaller than 100 shares would be included in the consolidated feed, calibrated by stock price. Auction order imbalance and other auction information generated by the exchanges during an auction would also be included in the consolidated feed. The proposal would also allow non-exchanges to compete in the role of consolidator of data. The SEC believes “that sufficient incentives exist to attract a number of entities to register as competing consolidators and for a competitive market to develop” – <b>in plain English, competition will bring down the cost of consolidated data.</b></p> <p>The SEC will be the key decisionmaker on this issue. The exchanges will engage allies in Congress to question Chairman Clayton about the ramifications of the proposal, including in testimony before Congress later this year. Notwithstanding this “oversight,” Congress is highly unlikely to limit the SEC’s authority in this area. In addition, the Trump Administration in 2017 recommended inclusion of depth of book information in the consolidated feed and allowing for competing consolidators.</p>
<p><b>BACKGROUND</b></p> <p><i>“BY EXPANDING THE CONTENT OF [CONSOLIDATED] DATA AND INTRODUCING COMPETITIVE FORCES INTO THE MARKET, THE PROPOSALS WOULD ENHANCE TRANSPARENCY AND ENSURE THAT IMPROVED NMS MARKET DATA IS AVAILABLE ON TERMS THAT ARE ACCESSIBLE TO A WIDE VARIETY OF PARTICIPANTS IN TODAY’S MARKETS” – SEC CHAIRMAN CLAYTON</i></p>	<p>Using its “national market system” authority granted by Congress in 1975, the SEC has for decades required the exchanges and FINRA to collect and disseminate certain information about stocks that trade in the National Market System (NMS). The exchanges and FINRA act jointly to provide best bid and offer and last sale information to an exclusive consolidator (Securities Information Processor, or SIP), which disseminates a National Best Bid and Offer and last sale information.</p> <p>But the world has changed dramatically, in at least three major ways. First the exchanges are now shareholder-owned, for-profit businesses. Second, the SEC in Regulation NMS (2005) limited the access fees that exchanges could charge market participants, while allowing them to sell proprietary data feeds. Over time, the exchanges have come to rely more heavily on their data feeds as a source of revenue. Finally, decimalization of stock trading (from pricing in 1/8ths of dollars to pricing in pennies) means that less liquidity is displayed at the National Best Bid and Offer than previously.</p> <p>The SEC believes the consolidated data system “[has] not kept pace with technological and market developments and [is] no longer satisfying the needs of many investors.” The SEC has noted critically that “[e]xchanges have continued to improve their proprietary data feeds without similar improvements to the SIPs to reflect this market evolution.”</p> <p>This is the SEC’s third major initiative on market data in recent months. <b>Taken together, they represent an effort to realign the economics of market data, away from the exchanges and toward market participants.</b></p> <ul style="list-style-type: none"> <li>• In January 2020, the SEC proposed an order that would require the exchanges and FINRA to propose a New Consolidated Data Plan, to replace the existing plans covering consolidated data. It would limit the number of votes that an exchange group controlling more than one exchange may control on the Plan operating committee. The SEC further proposed that broker-dealers, asset managers, issuers, market data vendors and retail investors participate as voting members of the New Plan operating committee. The SEC contemplates that the New Plan will ensure that consolidated data offerings are “priced in a manner that is fair and reasonable.”</li> <li>• In October 2019, the SEC published a proposal to subject proposed fee changes for consolidated data to public comment.</li> </ul>