

SEC Orders Equity Exchanges and FINRA to Modernize Consolidated Market Data

On May 6, 2020, the U.S. Securities and Exchange Commission ("SEC") issued an [order](#) that required equity exchanges and FINRA to submit a new National Market System ("NMS") plan with a modernized governance structure for the production of public consolidated equity market data and the dissemination of trade and quote data. As explained in its order, the SEC hopes that a consolidation of equity market data systems will help to eliminate duplicative systems and reduce lags in data dissemination as well as data inaccuracies.

Current Data Plans

Presently, there are three separate equity data plans that govern the collection, consolidation, processing, and dissemination of NMS data. The three existing equity data plans relate to three different networks also known as tapes:

Tape A reports securities listed on the New York Stock Exchange;

Tape C reports securities listed on Nasdaq; and

Tape B reports regional listed securities.

The Securities Information Processor ("SIP") links the markets by processing and consolidating NMS data such as protected bid/ask quotes and trades from every trading venue, including Electronic Communication Networks, and third-market broker-dealers into a consolidated data feed. The SIP also disseminates critical regulatory information including National Best Bid and Offer, which is also referred to as the "top of book," Limit Up Limit Down price bands, regulatory trading halts, and short sale restrictions. The existing governance model was established in the 1970s, at a time when trading volume in any given stock was concentrated on its listing market and when the U.S. equity exchanges had different ownership structures. However, as noted by the SEC in its order, markets and technology have since changed.

Requirements for New Plan

The SEC's order requires that the equity exchanges and FINRA develop and submit a consolidated data plan that replaces the three current plans. The proposed plan must include, at minimum:

- **Non-SRO Members of the Operating Committee:** The operating committee will include individuals representing each of the following categories: an institutional investor, a broker-dealer with a predominantly retail investor customer base, a broker-dealer with a predominantly institutional investor customer base, a securities market data vendor, an issuer of NMS stock, and a person who represents the interests of retail investors (collectively, "non-SRO Members").
- **Votes of SRO Members of the Operating Committee:** Each exchange group and unaffiliated self-regulatory organization ("SRO") will be entitled to name a member of the operating committee ("SRO member"), who will be authorized to cast one vote on all operating committee matters pertaining to the

operation and administration of the new consolidated data plan. An SRO member representing an exchange group or an unaffiliated SRO whose market center(s) have consolidated equity market share of more than 15 percent during four of the six calendar months preceding a vote of the operating committee will be authorized to cast two votes.

- **Votes of Non-SRO Members of the Operating Committee:** The aggregate number of votes provided to non-SRO Members will, at all times, be one half of the aggregate number of SRO member votes.
- **Voting by the Operating Committee:** All actions, except the selection of non-SRO Members and decisions to enter into an SRO-only executive session, will need an augmented majority vote, i.e., a supermajority vote of the operating committee, along with a majority vote of the SRO members of the operating committee.
- **Independent Plan Administrator:** The new plan must provide for an independent plan administrator that is not owned or controlled by a corporate entity that offers for sale its own proprietary market data product.
- **Conflicts of Interest:** The new plan must include provisions designed to address the conflicts of interests of both SRO and non-SRO members.
- **Confidentiality:** The new plan must include provisions designed to protect confidential and proprietary information from misuse.

Observations

Costs charged by exchanges for technology and data have been a sore spot in the securities industry and have created tension between the exchanges and the trading community. These issues started to become apparent with the demutualization of securities exchanges. SEC Chairman Jay Clayton, as well as Commissioners [Hester Peirce](#), [Elad Roisman](#), and [Allison Herron Lee](#) all expressed their support of the SEC's order. With regards to next steps, FINRA and the equity exchanges will have ninety days to submit the new governance structure for public review and comment and then SEC approval.

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