



December 4, 2023

Via Electronic Submission

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
New Brunswick Financial and Consumer Services Commission
Prince Edward Island Office of the Superintendent of Securities
Nova Scotia Securities Commission
Newfoundland and Labrador Office of the Superintendent of Securities
Northwest Territories Office of the Superintendent of Securities
Office of the Yukon Superintendent of Securities
Nunavut Office of the Superintendent of Securities

Canadian Securities Administrators
Tour de la Bourse
2010-800, Square Victoria
Montréal, Québec, H3C 0B4
csa-acvm-secretariat@acvm-csa.ca

Canadian Investment Regulatory Organization
Attention: Kent Bailey, Senior Policy Advisor, Market Regulation Policy
Suite 2000, 121 King Street West
Toronto, Ontario, M5H 3T9
kbailey@iirc.ca

Re: CSA/CIRO Staff Notice 23-331 Request for Feedback on December 2022 SEC Market Structure Proposals and Potential Impact on Canadian Capital Markets

Dear Sirs/Mesdames:

Cboe Global Markets, Inc., Neo Exchange Inc. (operating as "Cboe Canada"), and TriAct Canada Marketplace LP (operating as "MATCHNow") (collectively, "Cboe") appreciate the opportunity to respond to the joint Canadian Securities Administrators ("CSA") and Canadian Investment Regulatory Organization ("CIRO") request for feedback (the "RFF")

published on October 19, 2023.¹ The RFF focuses on the potential impact that certain U.S. Securities and Exchange Commission (“SEC”) equity market reform proposals (the “SEC Proposals”) could have on Canadian markets, assuming they are adopted as proposed, and raises the question of whether Canadian regulators should consider similar proposals.

Cboe Global Markets, through its subsidiaries, is a global provider of market infrastructure including four U.S. equities exchanges, a Tier-1 Canadian equities exchange, and the largest dark pool in Canada. Cboe has thoroughly considered the potential impact of the SEC proposals on both U.S. and Canadian markets. Cboe is strongly supportive of solutions that promote transparency, consistency, and better outcomes for investors. However, as we have previously stated, many aspects of the SEC Proposals including the overly expansive approach to tick reform, proposed changes to access fee caps, and duplicative disclosure rules will precipitate costs that outweigh many of the perceived benefits.²

The SEC Proposals Are Unlikely to Impact Canadian Markets nor Are They Appropriate for Canadian Markets

After careful consideration, Cboe expects the SEC’s adoption of the proposals will have only modest ripple effects on Canadian equity markets, if any. One exception would be in the case of interlisted securities (i.e., those listed on both Canadian and U.S. exchanges); should the SEC proceed with changes to tick sizes it will be important to allow Canadian markets to match the final minimum pricing increments or tick sizes adopted in the U.S. This approach would help prevent the migration of Canadian trading in interlisted securities to U.S. venues with more granular tick sizes (a concern that does not arise for non-interlisted securities). However, Cboe’s preference would be for the SEC to not enact major changes with respect to tick sizes for interlisted securities to prevent disrupting the current equilibrium for interlisted securities. To the extent possible we would urge Canadian regulators discuss these potential spillover effects with the SEC.

As a general matter, we also **do not recommend Canadian regulators adopt the SEC proposals.** The SEC Proposals would represent a dramatic overhaul of existing market structure that could cause significant market disruption and increase costs for market participants and investors without meaningfully improving market dynamics.

Moreover, many of the concerns that gave rise to the SEC proposals do not exist in Canada to the same extent, if at all. For instance, the concerns that motivate change to the Order Competition Rule arise from the fact that in the U.S. there is an internalized

¹ See CSA/CIRO Staff Notice 23-331 Request for Feedback on December 2022 SEC Market Structure Proposals and Potential Impact on Canadian Capital Markets, available at, https://www.osc.ca/sites/default/files/2023-10/csa_20231019_23-331_feedback-request-sec-market-structure.pdf

² See https://cdn.cboe.com/resources/government_relations/Cboe-Response-to-SEC-Market-Structure-Proposals-3-31-23.pdf

segment of orders, whereas in Canada, orders are generally not permitted to be executed internally by a trading venue or dealer that restricts order-by-order competition. Similarly, the concerns that give rise to the Disclosure of Order Execution Information proposal include the varied reporting obligations of the different types of U.S. entities willing to accept and execute orders in NMS securities. By contrast, in Canada, regulators have ensured that market centers are generally either exchanges or ATSS and subject to the same basic regulatory framework and level playing field, so the same concern does not arise.

Ultimately, the actual impact of the SEC reforms on Canada's equity markets will vary depending on the scope and details of the final rules and how they are implemented. We welcome the opportunity to provide additional feedback if, and when, the SEC reforms are adopted. To the extent Canadian regulators are interested in pursuing reforms that could improve Canadian market structure, Cboe respectfully urges regulators to embrace a targeted approach and avoid prescribing overly aggressive measures in well-functioning markets. Below we offer our recommendations on modest changes that could meaningfully improve Canadian markets.

Recommendations

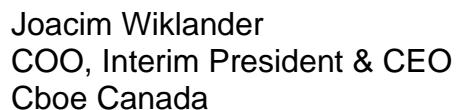
- Best execution and enhanced transparency for real-time market data (“RTMD”) in Canada. Cboe has previously voiced its position that one of the most pressing issues related to the existing market structure framework in Canada is the inability of retail investors and retail investor advisors (“Retail Stakeholders”) to access consolidated Level 1 core real-time market data (“Consolidated RTMD”).³ Cboe believes that access to core real-time market data is an important requisite to achieving true best execution. Rather than pursuing discrete best execution reforms as proposed by the SEC or mandating additional disclosures, we believe reforms that aim to grant Level 1 data access to Retail Stakeholders would solve a distinct and pressing problem in Canadian markets and organically improve best execution and transparency. This would meaningfully enhance the investor experience.
- Tick-constrained securities in Canada. Introducing variable tick sizes across a broad set of securities, as proposed by the SEC, could introduce operational complexity and market disruptions. Cboe put forth an approach that can help regulators objectively identify and address only truly tick-constrained securities, evaluate the results, and then consider more targeted tick changes and potential harmonization. While we have identified very few tick constrained securities in Canada, the methodology remains suitable for Canadian markets. **See Appendix I for details on the methodology and how it can be applied to Canadian markets.** Nevertheless, for interlisted securities it is important to allow Canadian venues to match the pricing increment adopted by the SEC. For non-interlisted

³ See Letter from Cboe Canada (f/k/a NEO Exchange) and MATCHNow (February 21, 2023), available at, https://cdn.cboe.com/resources/government_relations/NEO-Response-to-CSA-21-403-Market-Data-2-21-23.pdf

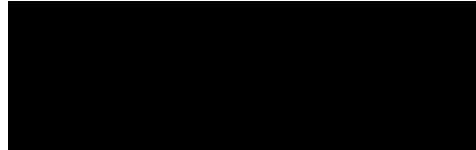
securities that are tick constrained, however, we believe that half-penny increments for those securities are appropriate.

Cboe appreciates the opportunity to share its views on the RFF and welcomes the opportunity to discuss these comments further.

Sincerely,



Joacim Wiklander
COO, Interim President & CEO
Cboe Canada



Bryan Blake
VP, Head of Canadian Equities
Cboe Global Markets

Appendix I: How to Address Tick Constrained Stocks in Canada

Cboe does not recommend Canadian regulators adopt a similar framework to the proposed amendments to SEC Rule 612 on minimum pricing increments. While we agree that there are tick-constrained securities in both the U.S. and Canada, we believe the SEC's proposed approach is flawed and a poor model for 1) identifying tick-constrained stocks and 2) addressing those tick-constrained stocks. Instead, we support a more pragmatic approach to tick reform where regulators objectively identify and address truly tick-constrained securities, evaluate the results, and then consider more targeted tick changes over time. We recommend regulators leverage multi-factor methodologies, including but not limited to Cboe's Tick-Size Reduction Framework, which can be easily adapted to Canadian markets.⁴

Identifying tick constrained stocks

Starting with the complete universe of securities, we recommend applying at least three constraints – quoted spread, quote-size-to-trade-size ratio, and notional turnover ratio – to arrive at a group of securities that are quantifiably tick-constrained (Figure 1).

Using this approach, Cboe identified Canadian tick-constrained securities and compared it to the analysis put forth in the RFF. CIRO analyzed trading in Canadian listed securities from January 1, 2023, to April 30, 2023, and found that, on average, 140 securities out of 2,944 would be considered tick-constrained and would have smaller trading increments if a similar rule were adopted in Canada. We found a much smaller share of truly tick-constrained securities from the 2,714 universe of securities studied – only 11 compared to CIRO's 140 (Figure 2). However, according to CIRO, the 140 securities they identified accounted for 39% of the volume, 16% of the value, and 26% of the trades during the study period, whereas the 11 securities that we identified represented 3% of the volume, 6% of the value, and 2% of the trades during the same period.

Minimum increments for tick-constrained stocks

Canadian and U.S. equities markets are not currently harmonized with respect to tick sizes, nor would they be under the SEC Proposals. The lack of unified tick regime across the two countries has not been a major issue of concern for market participants to date. Therefore, if the SEC moves forward with its proposals, we do not recommend that Canadian markets follow suit; however, with respect to interlisted securities, an SEC final rule that leads to more granular tick-sizes for interlisted securities could prove problematic for Canadian venues, if Canadian regulations did not follow suit. Consequently, it would be beneficial for Canadian capital markets to have tick sizes match the US for interlisted securities, as this could prevent trading from migrating from Canada to the US in search of a more granular pricing increment. For non-interlisted securities that are tick-constrained, however, we believe half-penny increments are and will continue to be appropriate.

⁴ See https://cdn.cboe.com/resources/government_relations/Cboe-Tick-Size-Response-2-28-23.pdf

Proposed Multi-Factor Methodology to Identify Tick-Constrained Securities

Figure 1. Methodology Description

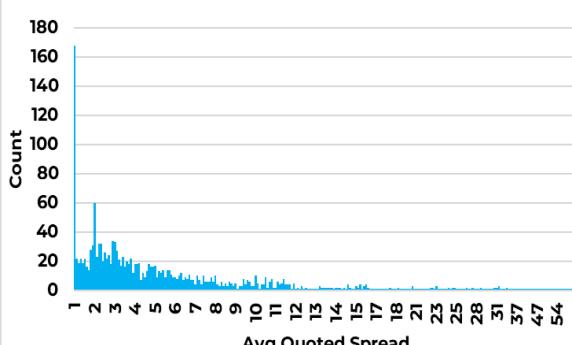
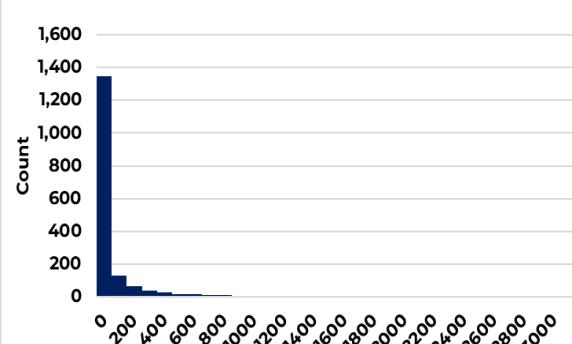
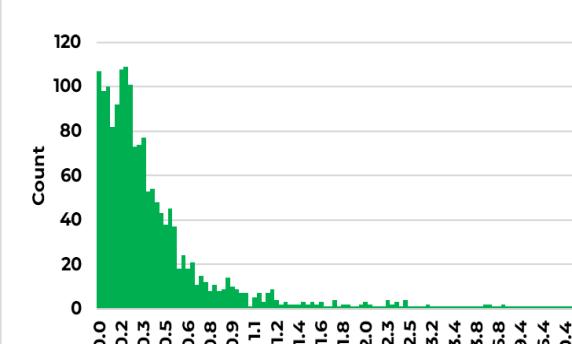
<p>Step 1: Inside Quoted Spread</p> <p><u>Parameter:</u> 1 to 1.1 cents <u>Basis:</u> 1.1 cents is a reasonable approximation to identify preliminarily tick-constrained securities.</p> <ul style="list-style-type: none"> • <u>Calculation:</u> Daily Average NBBO Quoted Spread during regular market hours, excluding auctions, locked and cross markets. 	
<p>Step 2: Quote-Size-to-Trade-Size Ratio (Quote-Trade Ratio)</p> <p><u>Parameter:</u> Top 75 percentile ($\geq 84x$) <u>Basis:</u> High Quote-Trade ratio is an objective signal: despite abundance of liquidity, tick-constraint disincentivizes crossing the spread, leads to less executions. <u>Calculation:</u> Daily Average Inside Quoted Size divided by Daily Average Traded Size during regular market hours, excluding auctions, locked and cross markets.</p>	
<p>Step 3: Notional Turnover Ratio</p> <p><u>Parameter:</u> Top 75 percentile ($\geq 1.49\%$) <u>Basis:</u> Focus regulatory effort on truly tick-constrained securities vs. thinly traded ones. <u>Calculation:</u> Daily Average Notional Traded divided by Daily Average Market Capitalization during regular market hours, excluding auctions, locked and cross markets.</p>	

Figure 2. Methodology and Results

