



CIBC CAPITAL MARKETS

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Ontario Securities Commission

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RE: CSA Consultation Paper 21– 403 Access to Real-Time Market Data

CIBC World Markets Inc. (CIBC WMI) thanks you for this opportunity to comment on CSA Consultation Paper 21– 403 *Access to Real-Time Market Data* (“The Consultation”).

CIBC WMI is the investment dealer platform of Canadian Imperial Bank of Commerce (CIBC). We are a registered Canadian broker-dealer, engaged in, among other things, providing equities trading and execution services to retail and institutional investors. Our comments reflect the views of an institutional broker dealer and a retail broker dealer who is an active participant in Canadian equity markets.

Our general position

Where innovations and efficiencies in technology have broadly reduced many costs in financial services, the opposite has occurred in the fees for market data. Costs continue to increase in a manner that is unsustainable for the broader ecosystem.

As a result, market participants who are unable to afford access to multiple data feeds must rely on a less comprehensive picture of the market, while trading against participants with access to faster and more robust data. In particular, retail investors may be offered an incomplete view of the market, which restricts their ability to achieve the best possible trading outcomes.

In general, CIBCCM recognizes that there exists fundamental issues with the cost structure surrounding the distribution of RTMD and is supportive of The Consultation which aims to better understand and ultimately alleviate the inefficiencies introduced by regulatory obligation in relation to accessing RTMD.

Market participants require access to RTMD for a variety of functions to make informed investing and order routing decisions. Currently, the marketplaces are responsible for administering the distribution of RTMD to the general public, through data feeds which generate significant revenue for the marketplaces. While the marketplaces offer a service in collating and aggregating the data of the market participants, there is an opportunity for greater transparency in how they price that aggregated market data back to participants. We recognize the function marketplaces play in the ecosystem; however marketplaces have enormous and ultimate pricing

power over RTMD access, and it is our belief that this data ought to be obtainable at a reasonable cost.

This Consultation represents a welcome acknowledgement of the opportunities for improvement in our market structure related to the costs of RTMD. The consumption of RTMD is premised, in part, on regulatory requirements (Order Protection Rule (“OPR”) and Best Execution) whereby participants are required to connect to and pay for data from multiple marketplaces in order to satisfy these requirements. Furthermore, each marketplace has significant discretion over the cost and distribution of their data. This consultation is a step in the right direction toward addressing this imbalance.

Ultimately, the goal of The Consultation ought to be to improve access to RTMD such that all types of participants can benefit from accurate, timely and high-quality RTMD when undertaking investment decisions. In other words, market data costs must be reasonable and subject to market forces and we welcome regulatory engagement to help make that happen.

It is our opinion that a full review of market data fees is required. This review should focus on adjusting down the overall baseline, more accurately reflecting the associated costs of RTMD, and providing greater transparency on markups. We believe the allocation of RTMD fees ought to be based on a Data-Fee Model (DFM) whereby marketplaces collect data fees based on their overall contribution to the markets.

In addition to a re-alignment of the true costs of market data, we support the creation of a cost recovery mechanism in the form of a utility model to better control for associated data costs. The fees associated with RTMD ought to be tied to a cost-based standard, with optionality to consumers to pay for additional services not required by regulatory obligation. We further believe that any controls implemented for RTMD fees should extend to include other connectivity and/or technology charges.

We also support the implementation of enhanced industry oversight of market data fees. This includes greater transparency of RTMD products at the time of creation. Data fee changes and data product initiatives by marketplaces ought to follow a review and approval process where a detailed description of associated costs and revenues is provided for industry comment prior to approval or implementation.

Response to specific questions

We have limited our question responses to those where we have constructive feedback.

Questions #1 and #2

Enhance transparency of any RTMD related fee proposals by requiring marketplaces, as part of the regulatory review and approval process, to publish proposed changes when they are filed for approval.

- Please identify any potential unintended consequences at the industry, marketplace, or firm level if we pursue this option.
- Would this approach satisfy the need for more transparency in relation to proposed fee changes and their review process? If yes, please indicate what benefits this approach would offer. If no, please explain why and whether other requirements should be considered.

We support greater transparency for the market data fee approval process. We believe this to be an option we ought to pursue to strengthen the governance process in Canada for the reasons described above.

Question #3

- What are your concerns, if any, with continuing to use the DFM? If the DFM were to continue to be used, what changes are necessary?

We believe that a re-baseline of RTMD costs is essential to the continuation of the existing DFM process. This re-baseline is a fundamental requirement of this overall exercise. Only by better understanding the true costs of market data administration and distribution can appropriate cost structures and related controls be created. Through improved transparency and management of RTMD costs, the industry will collectively benefit. Ultimately, this improved transparency and cost management will create a more competitive ecosystem, as measured by the overall cost to trade in Canada.

Question #4

- Is the application of the DFM appropriate for both senior and venture market data?

The application of the DFM is appropriate for both senior and venture market data. We withhold comment on whether the formulas for the application of the DFM to senior and junior listings ought to be the same, though we do believe the framework should include both.

Question #5

- Should the application of the DFM be extended beyond subscriber fees? For example, should the DFM be applied to non-display and distribution fees (whether internal and/or external distribution fees) given the potential challenges noted above?

DFM governance should extend beyond subscriber fees.

For example, we strongly believe the DFM should be equally applied to non-display fees, as well as subscriber fees. Non-display fees are simply RTMD that are consumed and used by machines. A marketplace's data is currently run through a (DFM) model. This model derives a baseline for the value of that data, determining an appropriate fee capture as a collective of all the various marketplaces, which contribute to the overall market data landscape. This ought to be applicable to non-display fees as well as display fees; non-display fees are important to capture given the growing industry trend towards system generated automation of trading.

If RTMD reform is strictly limited to subscriber fees, transparency may be lost on other costs which undermines the strength of the model overall.

Question #6

- What are the potential benefits or risks of making the fee ranges calculated under the DFM transparent? Should there be greater transparency of other inputs to the DFM (for example, reference points or key input metrics)? If so, please comment on the potential benefits and risks.

We support transparency of the calculated fee ranges for the reasons described in our general position above.

Question #7

- Should we consider adopting a methodology for non-professional subscriber fees? If yes, what should be factored into such a methodology? If not, why not?

We are primarily concerned with the methodology applied to professional subscriber fees. Furthermore, it is essential that this methodology is inclusive of non-display fees and ancillary fees, which equally contribute to the existing RTMD cost challenges we experience today.

Given the proposed solution of introducing a Technical Information Processor (TIP)+ model to better address RTMD processes, it would only be appropriate for the framework to include methodology for non-professional fees as well as professional subscriber fees. The inclusion of non-professional fees is practically a requirement to better understand overall costs and to appropriately determine how to allocate those costs when looking at the overall RTMD infrastructure.

Question #8

- Should standardized key terms and definitions, such as professional and non-professional users, be developed for the access to, receipt, distribution, and use of RTMD products? If yes, please explain what the benefits of such an approach would be. If not, please explain why not.

Standardization of key terms and definitions is appropriate to simplifying the administration of RTMD products and services. Through the standardization of terms, we can more accurately capture like-for-like services, rather than defining these by a certain user type that may not appropriately group users or activities. Furthermore, through standardization participants are also in a better position to validate RTMD offerings from marketplaces and administer accordingly.

Question #9

- What other key terms and definitions should be standardized? What factors or industry legacy issues should be considered in standardizing such terms?

We would like to highlight that due to how technology is implemented, a single (professional) user will pay for the same market data multiple times given the propensity to have multiple trading systems and/or trading components on a single desktop. In our view, market data usage should be per individual rather than per system / per individual which has the potential to overstate fees.

Question #10

- Would this approach help address market participants' concerns with respect to the administrative burden related to the access to and use of consolidated RTMD? Please explain your answer.

Standardization is a necessary step in managing the administrative burden related to the access and use of a consolidated RTMD. Note that in the context of our response, this burden is more applicable to retail data management.

Question #11

- What would be the unintended consequences, if any, of standardizing these types of key RTMD terms and definitions?

Unintended consequences could arise when being too specific in the standardization of terms. Terms that are overly specific can create overly prescriptive requirements that do not capture all fee types.

Question #12

- Would caps on fees charged by marketplaces for their RTMD consumed through the consolidated TIP products affect the consumption and use of consolidated RTMD? If so, how? If not, why not, and are there alternatives that should be considered?

We do not believe that a cap on fees for consolidated TIP products alone would affect the consumption and use of consolidated RTMD.

However, this could positively impact use by retail channels, whereby lower fees in conjunction with a simplified administrative process (contract management, etc.) would allow for greater adoption of the consolidated TIP product. This provided the cost of the consolidated TIP product is less than the cost of the services consumed today.

A consolidated TIP product is unlikely to replace services currently employed through institutional channels, as the consolidated product may not satisfy the needs of these particular channels that leverage direct market feeds.

Question #13

- Under this approach, do you believe data vendors would begin to offer TIP-based products and pass cost savings on to the end user? If not, what drivers would be necessary to encourage this? Do you envision any potential unintended consequences under this approach?

Data vendors would offer TIP-based products provided demand is there. Similarly, if there is transparency to product costs, it would be our expectation that data vendors would pass through any cost savings accordingly.

Question #14

- What means of establishing caps and what factors for establishing cap levels should be considered?

In order to establish appropriate cap levels, the requirement exists to create a more appropriate benchmark for RTMD. To achieve this, there must be greater transparency into the real marketplaces' costs to provide data services. Furthermore, there should be a limitation to the mark up of these costs, such that it operates as a cost recovery mechanism. In addition, the fee caps (by marketplace) should align with the DFM and delineating a relative value by marketplace for the collection of data fees.

Question #15

- What are your views on the appropriateness of an Admin IP model for Canada? What would be the key benefits and challenges and how could any challenges be addressed?

One of the key benefits of an Admin IP model is engagement from a variety of constituents for both product definition and fee setting. Inevitably, the key challenge is likely to be the conflicts of interest that may arise. However, with an appropriate governance structure these conflicts can be managed.

The benefit of having a cost-effective consolidated data product will be a considerable industry achievement. This new consolidated data product could be consumed by a significant population of data users, it would also reduce the overall cost burden to the industry and, last, it would improve the experience of certain channels (namely retail). Thus, in our opinion, the potential benefits outweigh the potential challenges.

Question #16

- What are the unintended consequences or risks that should be considered?

We recognize that by operating RTMD as a cost recovery mechanism and/or utility model, this may limit competition and investment in the business, likely stifling innovation, and efficiencies long term.

Question #17

- Are there any other key responsibilities that should be considered for an Admin IP model?

We have no specific comments in respect of this question.

Question #18

- What governance model could be introduced that would be fair and help overcome conflicts such that the Admin IP could achieve its regulatory obligations?

One consideration on this point could be a profit share model. Under this model the contributors to market data creation are further incented through recouping RTMD fees, given their contribution to the market data creation.

Question #19

- Based on the size and scale of the Canadian market, should the CSA consider allowing for multiple TIPs to operate under the Admin IP approach?

Although we appreciate the value of competition to better business outcomes, we believe it is unlikely for there to be opportunity for multiple TIPs. Furthermore, given our preference is to operate on a cost recovery basis, we believe that a single TIP is the more appropriate model.

Question #20

- Alternatively, should there only be a single TIP and, if so, should it be operated independently of the Admin IP?

In our opinion, a single TIP with an independent Admin IP enforces appropriate checks and balances in the proposed construct. We also believe the Admin IP should include a governance structure that consist of effective representation of a variety industry stakeholders and participants.

Question #21

- If there is only a single TIP, should it operate as a for profit business or as a not-for-profit entity? Please explain your answer.

The single TIP should be run as a utility and should be not-for-profit.

Question #22

- With respect to Staff Consideration 1, do you think that our review of RTMD costs and accessibility should consider the impact of regulatory requirements, such as OPR and best execution? What could drive changes in consumer behaviour (such as disconnecting from marketplaces that offer little benefit to the market compared with the costs or unprotected marketplaces)? What changes could impact the competition among data producers? What could incrementally increase consumer bargaining power? And ultimately, could any of these suggestions impact fees? Please explain your answer.

At this time, we do not believe the RTMD cost Consultation should include a review of OPR and Best Execution obligations. We believe that this will simply extend the review process.

Question #23

- Would any of the options outlined above assist dealers with moving retail orders to other marketplaces during a marketplace outage?

Better access to cost-effective market data can only help the retail channels. However, there are other matters associated with the management of retail order flow when experiencing marketplace outages.

Question #24

- Are there any other options to address industry's concerns about the access to and cost of RTMD that we have not considered? Please explain your answer.

We commend the CSA for putting together a thoughtful industry consultation, and appreciate the opportunity to provide our comments. Please feel free to contact us with any questions or requests for clarification.

Respectfully,

Heather Killian

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