

Public Statement

Market Data Infrastructure: Open Meeting Statement



Commissioner Hester M. Peirce

Dec. 9, 2020

Thank you, Mr. Chairman, and thank you Brett [Redfearn], Kelly [Riley], Ted [Uliassi], and S.P. [Kothari] for your presentations. Thank you especially to the staff in the Divisions of Trading and Markets and Economic and Risk Analysis and the Office of General Counsel for all of your work on this rulemaking. Wrestling with a 900-page document on market data is not for the faint-hearted, and all of you have shown yourself to be formidable wrestlers.

Section 11A of the Exchange Act, which became law in 1975, directs the Commission to take on the task of facilitating the establishment of a national market system for the trading of securities.^[1] Then SEC Chairman Roderick Hills remarked, “The SEC did not lobby for this legislation, nor are we sure what it will take to fulfill its mandate.”^[2] I still am not sure what bureaucratic facilitation of markets means. Markets spring up organically from people’s inherent drive to, as Adam Smith put it, “truck and barter.”^[3] Government has a role to play, but most of what it takes to facilitate a market is for the government to set up a clear, predictable legal framework, and then get out of the way so that people can truck and barter with other people who want to truck and barter.

Today’s rulemaking is, at its core, about getting to as many market participants as possible the information they need to trade and getting it to them fast. Laying the groundwork for better, more widely available, faster data is the kind of market facilitation I can support. It responds directly to one of the congressional findings underlying Section 11A, namely the importance of “the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.”^[4] The importance of market data is nothing new; Adam Smith’s *Wealth of Nations*, in addition to explaining the implications of the “human . . . propensity to truck and barter,” reproduced market data, including prices for wheat for the years 1202 to 1764.^[5] Today’s participants in our equity markets, of course, need faster, more granular, present-day data.

Enhancing the content of information made available through the national market system infrastructure should help a wide range of market participants. Unfortunately, nothing that we are doing today takes us out of the role of serving as market data price referee for core data. However, the new competing consolidator mechanism might be an effective way to inject competition into the market for data dissemination. The benefits of this approach will depend on how many entities sign up to be competing consolidators. I would have supported measures to limit the costs of being a competing consolidator, such as not requiring them to be subject to Regulation SCI. The success of the new dissemination approach will turn in large part on what happens during the long, costly, and complicated implementation process that lies ahead.

This rulemaking does not address my bigger concerns about the distortive effect the Order Protection Rule is having on our markets. The final rule extends, rather than pares back, the OPR. As one commenter warned,

Permitting market makers to post displayed quotes in economically insignificant sizes while providing them the benefits of order protection will ultimately lead to a market where everyone is forced to display quotes in very

small sizes [requiring] asset managers with large transactions [to] increasingly have to further “slice” their trading activity into smaller increments to avoid signaling their full trading interest to the market.[6]

The final rule took the double-down-on-the-OPR approach preferred by many other commenters. We need to monitor how the markets respond and be willing to have a serious conversation about whether the OPR’s benefits outweigh its costs.

Thank you again to Brett Redfearn, whose devotion for market structure is unrivaled. Your passion for the health and vitality of our markets is contagious. Thanks also to the staff in Trading and Markets, DERA, Office of General Counsel, and elsewhere throughout the Commission for your work on this rulemaking.[7]

[1] Securities Exchange Act of 1934, § 11A(a)(2), 15 U.S.C. § 78k-1(a)(2)(2012) (directs the Commission “to use its authority under this chapter to facilitate the establishment of a national market system for securities”).

[2] Roderick M. Hills, Address at the Securities Industry Association Annual Convention (Dec. 5, 1975), available at <https://www.sec.gov/news/speech/1975/120575hills.pdf> (last visited Dec. 8, 2020).

[3] Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* 13 (Modern Library ed. 1937) (writing of “a certain propensity in human nature . . . to truck, barter, and exchange one thing for another”).

[4] Securities Exchange Act of 1934, § 11A(a)(1)(c)(iii), 15 U.S.C. § 78k-1(a)(1)(C)(ii) (2012).

[5] Smith, *supra* note 3, at 251-258.

[6] Letter from Mehmet Kinak, Global Head of Systematic Trading & Market Structure, T. Rowe Price, and Jonathan D. Siegel, Legal Counsel, T. Rowe Price, to Vanessa Countryman, Secretary, SEC (June 3, 2020), available at <https://www.sec.gov/comments/s7-03-20/s70320-7274733-217748.pdf> (last visited Dec. 8, 2020).

[7] Specifically, I would like to thank, from the Office of General Counsel: Meridith Mitchell, Jeff Finnell, Michael Conley, Marie-Louise Huth, Robert Teply, Dominick Freda, Janice Mitnick, Cynthia Ginsberg, Daniel Staroselsky, and Martin Totaro; from the Division of Economic and Risk Analysis: S.P. Kothari, Chyhe Becker, Amy Edwards, Paul Barton, John Ritter, Selvin Akkus Clemens, Lauren Moore, Taylor Evenson, P.J. Hamidi, and Patti Vegella; and from the Division of Trading and Markets: Brett Redfearn, Christian Sabella, David Shillman, David Saltiel, Kelly Riley, Ted Uliassi, Elizabeth Badawy, Leigh Duffy, Yvonne Fraticelli, Steve Kuan, Joshua Nimmo, Heidi Pilpel, Sara Gillis Hawkins, David Liu, An Phan, Jerry Citera, Peggy Sullivan, Dmitry Bulkin, Mark Donohue, Arun Manoharan, Alex Jadin, Chris Ray, Kapil Gogia, Catherine Moore, Devin Ryan, John Fahey, Chris Chow, Gita Subramaniam, and Andrea Orr.