Opening Statement at the SEC Staff Roundtable on Market Data and Market Access

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Good morning. Welcome to our roundtable on market data and market access. We very much appreciate the willingness of such a thoughtful and diverse representation of market participants to join us here today so that, together, we can address this important and challenging set of issues. I am confident that the discussions we will have over the next two days will allow all of us to consider, in a rigorous and comprehensive way, how we might bring greater transparency and clarity to our critical market data and connectivity infrastructure.

First, let me say that the views that the staff and I express today are our own and do not necessarily reflect the views of the Commission, the Chairman, the Commissioners or other members of the staff.[1]

Our goals for this roundtable are straightforward. We want to examine our infrastructure for distributing market data with an eye to ensuring that we are fulfilling our mission to protect investors, maintain fair, orderly and efficient markets, and facilitate capital formation. More specifically, to meet our obligations under the Exchange Act, we also need to ensure that the fees that are being charged for such important market services are fair and reasonable, not unreasonably discriminatory, and do not impose an undue or inappropriate burden on competition.[2]

These are words you have read or heard a hundred times with respect to the mandate of the Commission; however, these are words that require significant thought and consideration by both regulators and market participants alike. This is especially true in today's market environment given the remarkable evolution of market technology, market infrastructure and the corporate structure of today's stock exchanges. Today and tomorrow, we plan to discuss what our panelists think is working well with our market infrastructure, and where there are areas that may be in need of improvement. And, if there are areas that warrant a new or improved approach, we are encouraging our panelists to give us their thoughts about the right direction.

Throughout our discussions today and tomorrow, first and foremost, we are here for individual investors, Main Street investors as Chairman Clayton often calls them. We are not here to benefit any one business model over another. We continue to be focused on how individual investors may be affected from any potential changes being discussed.

As most of you know, we currently have a two-tiered system of market data and market access in the U.S. equity markets. There are the consolidated data feeds distributed pursuant to joint-SRO national market system plans. And there are the proprietary data products and access services that are provided directly by the exchanges. One set of products is faster, more content rich and more costly than the other. It is unclear whether the landscape that we have today was what was envisioned or expected when related policy decisions were made in the past. So how did we get here?

To answer that, we need to go back to the 1970s when Congress directed the establishment of a national market system, or "NMS." The primary objective of the NMS was to promote fair and efficient markets, and Congress emphasized its belief that market data systems would "form the heart of the national market system."[3] The joint-SRO market data plans then were created to implement this statutory directive, and the plans began distributing a consolidated data stream through a central processor, or "SIP." By 1999, the Commission concluded that consolidated data had been "an essential element in the success of

the U.S. securities markets."[4] It stated that consolidated data had been "the principal tool for enhancing the transparency of buying and selling interest in a security and for facilitating the best execution of customers' orders by their broker-dealers."[5]

The Commission addressed market data concerns when it adopted Regulation NMS in 2005.[6] Although many commenters recommended that the Commission adopt a competing consolidator model to replace the SIP model, the Commission decided not to adopt such a model, but did remove any restrictions that would prevent exchanges from distributing their own information directly. The Commission's rationale for these Regulation NMS decisions has important implications for our discussions today and going forward.

At that time, the Commission was concerned that moving away from the SIP model towards a competing consolidator model might undercut the benefits of core data. The reason for this concern is telling: the Commission noted that, "if the benefits of a fully consolidated data stream are to be preserved for investors, every consolidator would need to purchase the data of each SRO."[7] Under these circumstances, the Commission concluded that "[a]s a practical matter, payment of every SRO's fees would be mandatory, thereby affording little room for competitive forces to influence the level of fees."[8] It noted that some exchanges "might well propose higher fees to increase their revenues, particularly those with dominant market shares whose information is most vital for investors."[9]

Today, a key, overarching issue for this roundtable is whether, despite the Commission's belief in 2005 that retaining the existing SIP model would uphold the integrity and affordability of core data, a series of factors, including significant technological advances and new proprietary data offerings, has led to the very result that the Commission hoped to avoid. Technology has greatly transformed the U.S. equity markets. This transformation raises fundamental questions for our two-tiered system of market data and market access, including:

- Does SIP data, with its latencies and content differentials compared to proprietary data, meet the basic needs of market participants in today's algorithmic markets? Or are the exchanges' proprietary data products and access services necessary to satisfy competitive forces and regulatory duties?
- And, does SIP data alone still qualify as "core" data, or have we inadvertently evolved to a model in which the purchase of an additional set of proprietary data and access products is mandatory for core data?

I am very much looking forward to our panels today as we discuss these and many other questions of important to investors and the health of the U.S. equity markets.

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[1] The Securities and Exchange Commission disclaims responsibility for any private publication or statement of any SEC employee or Commissioner. This statement expresses the author's views and does not necessarily reflect those of the Commission, the Commissioners, or other members of the staff.

[2] On October 16, 2018, the Commission took two actions regarding the review of market data fees under the standards required by the Exchange Act. See In the Matter of the Application of Securities Industry and Financial Markets Association, Exchange Act Release No. 84432 (Oct. 16. 2018), available at https://www.sec.gov/litigation/opinions/2018/34-84432.pdf; In the Matter of the Applications of the Securities Industry and Financial Markets Association and Bloomberg L.P., Exchange Act Release No. 84433 (Oct. 16. 2018), available at https://www.sec.gov/litigation/opinions/2018/34-84433.pdf.

[3] H.R. Rep. No. 94-229, 94th Cong., 1st Sess. 93 (1975).

[4] Securities Exchange Act Release No. 42208, 64 FR 70613, 70614 (December 17, 1999) (Regulation of Market Information Fees and Revenues).

[5] Id. The Commission also concluded that consolidated data was also instrumental in "addressing fragmentation… among different market centers." Id.

[6] Securities Exchange Act Release No. 51808, 70 FR 37946 (June 29, 2005) (Regulation NMS).

[7] Id. at 37559.

[8] Id.

[9] Id.