Statement at the Roundtable on Market Data and Market Access

Commissioner Elad L. Roisman

Oct. 25, 2018

Thank you, Brett and the Division of Trading and Markets staff, for organizing this roundtable. Further thanks go to the panelists for contributing your time and energy in preparing for and attending this event. Looking at the agenda and at those seated around the room, it is clear that we have very knowledgeable participants who will not hesitate to engage in robust discussions over the next two days.

From these discussions, I hope to gain a more granular understanding of the forces that motivate various customers' demand for SIP data versus the different types of proprietary data and levels of access that exchanges provide. In this regard, I have several specific questions on which we need more information as the Commission considers policy-making in this area and others that are integrally related.

As an initial matter: How are regulatory requirements, imposed on market participants, influencing this demand? I have already voiced my concern about the Order Protection Rule and asked that the Commission review its effects in today's marketplace.[1] But I would be interested to hear about other rules — such as the Vendor Display Rule[2] or obligations to achieve best execution[3] — that may be pushing market participants toward products or services that they would not otherwise demand for themselves or their customers. I believe a starting point for the Commission should be to review any such rules to see how we can tailor their requirements to achieve their objectives and limit any unintended consequences.

Next, to what extent do participants demand premium data products or access from exchanges in order to provide their own products or services that compete with the same exchanges? In this regard, I am thinking of entities like internalizers and crossing platforms, ATSs, dark pools, and ECNs that may utilize exchange data to provide quotes and facilitate off-exchange trading in real-time.[4] We need to bear in mind that these types of market participants, while providing their own value in the marketplace, are doing so on top of fundamental services that we currently rely on exchanges to provide, such as facilitating capital formation and price discovery. Yet, while we heavily regulate exchanges, these market participants operate with much less regulatory scrutiny and lower cost. So, as we understand how such market participants capitalize on the functions of exchanges, we should consider the extent to which they are bearing their share of those costs.

As for exchanges, Regulation NMS contemplated that certain market data fees would be used to bolster SRO funding.[5] In Regulation NMS, the Commission explicitly stated that "[m]any commenters recommended that the level of market data fees should be reviewed and that, in particular, greater transparency concerning the costs of market data and the fee setting process is needed." While the Commission agreed, it directed commenters to voice these concerns in a separate concept release relating to SRO structure.[6] Considering the issues we are discussing today, is it time for us to revisit the 2004 SRO concept release?

With respect to market participants who pay premiums to exchanges for data and access to optimize their own trading: What prevents a broker-dealer from unsubscribing to proprietary feeds if fees get too high? What alternatives could meet its objectives and what forces of friction prevent switching? Also, how could the SIP products be improved to fulfill this demand?

Finally, we need to ask how retail investors are affected by the issues we are discussing at this roundtable. What level of price improvement is achieved when broker-dealers, trading on behalf of institutional investors (and ultimately retail investors) rely on these higher cost products or services rather than the SIP products? If costs for market data and access were reduced, how much of that savings would be passed on to retail investors and investors in general?

To sum up, I believe it is important for the Commission to discern where market forces versus regulation are driving demand for premium products and services versus SIP products, as well as how retail investors are benefiting from our regulation in this area. Any change in the Commission's approach to market data and access will inevitably affect today's market dynamics. As regulators, it is incumbent upon us to understand, as fully as possible, the incentives our actions generate and, on this basis, decide whether the benefits we aim for are worth the consequences (including costs and complexity) that will ensue.

Before I close, I think it is important to step back and put some context around these discussions. As we debate the merits of shaving micro- and nano-seconds of latency in our equities trading, we have yet to achieve reliable pre-trade transparency in our fixed income markets. And, in fixed income, post-trade transparency is debated in terms of minutes and hours.[7] The U.S. fixed income market is much larger than our equities market, and yet we have not discussed that market in as fine detail as we are addressing the equity market at this roundtable. While I look forward to learning as much as I can over the next two days, I am also eager for the Commission to consider how we can make the U.S. fixed income markets as robust and favorable to investors as our equity markets.

Thank you.

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[1] Commissioners Hester M. Peirce and Elad L. Roisman, "Joint Statement on the Application of SIFMA for Review of Action Taken by NYSE Arca, Inc., and NASDAQ Stock Market LLC" (Oct 16, 2018), https://www.sec.gov/news/public-statement/peirce-roisman-statement-101618.

[2] Rule 603(c) of Regulation NMS.

[3] I am interested in continuing the dialogue about whether providing further clarity or guidance about best execution requirements would address some of the issues underlying many of the concerns raised about the provision of market data and other market structure issues.

[4] I understand that a significant volume of trades occur on these types of platforms.

[5] *See, e.g.*, Regulation NMS, Release No. 34-51808 (June 9, 2005), at 33 ("If the Commission were to limit market data fees to cover only Plan costs, SRO funding would have been cut by $393.7 million in 2004. Given the potential harm if vital SRO functions are not adequately funded, the Commission believes that the level of market data fees is most appropriately addressed in a context that looks at SRO funding as a whole. It therefore has requested comment on this issue in its recent concept release on SRO structure.")

[6] *See* Concept Release Concerning Self-Regulation, Release No. 34-50700 (Jan. 14, 2004), https://www.sec.gov/rules/concept/2010/34-61358fr.pdf.

[7] *See*, *e.g.*, U.S. Securities and Exchange Commission Fixed Income Market Structure Advisory Committee, "Recommendation for a Pilot Program to Study the Market Implications of Changing the Reporting Regime for Block-Size Trades in Corporate Bonds" (Apr. 9, 2018), https://www.sec.gov/spotlight/fixed-income-advisory-committee/fimsac-block-trade-recommendation.pdf.