

## [Securities Regulation Daily Wrap Up, TOP STORY—Panelists butt heads over market data access and fees at SEC roundtable, \(Oct. 25, 2018\)](#)

Securities Regulation Daily Wrap Up

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During a sometimes feisty roundtable discussion on market data and market access, representatives from the national exchanges and the financial services industry offered their views on the current landscape for market data products and market access services. The roundtable, which was hosted by the SEC, took place a little over a week after the Commission issued a [decision](#) setting aside fees charged by NYSE Arca and Nasdaq, finding that the exchanges had not met their statutory obligation to demonstrate that the fees were fair and reasonable and not unreasonably discriminatory. The roundtable was the latest in a series of SEC roundtables on equity market structure.

[According to](#) Trading and Markets Director Brett Redfearn, one of the goals of the roundtable was to examine the infrastructure for distributing market data to ensure that fees being charged for these services are fair, reasonable, not unreasonably discriminatory, and do not impose an undue burden on competition. The roundtable's first panel discussed the evolution of securities information processors (SIPs) and market access services provided by the national exchanges and how it has affected the ability of market participants to obtain the data.

**View of the exchanges.** Chris Concannon, president and COO of Cboe, said that he had been hopeful when the Commission announced the roundtable, but decried what he called an "unprecedented and unwarranted assault" on exchanges. As such, he arrived at the roundtable without a proposal in hand; however, he said he would be willing to listen to facts, but not "unsupported claims." According to Concannon, retail investors have never had it better, and the trading costs for retail investors continue to decline. The debate is not about Main Street versus Wall Street, he said, but Wall Street versus the regulated exchanges.

NYSE President Stacy Cunningham agreed that the market data debate is not a Main Street issue, but a Wall Street issue. The U.S. markets are the envy of the world, she said. The markets are driven by the forces of supply and demand, competition, and transparency, and we shouldn't assume that tinkering with those things will not undermine what makes the U.S. markets unique. She noted that the revenues the NYSE earns on market data is roughly \$220 million, a "miniscule fraction" of the top five equity trading revenues for five banks. She said the all-in cost to trade on NYSE—including transaction fees, market data fees, co-location fees, porting fees, and connectivity fees—has come down. The SEC's time would be better spent talking about how to encourage the public markets to be more competitive globally versus the private market landscape, she advised.

Tom Wittman, CEO of Nasdaq Stock Exchange, said that Main Street investors are well served by today's market data infrastructure and there is no place for government intervention in a well-functioning marketplace to resolve "commercial disputes." The government should, however, promote competition, especially price competition. He rejected as a myth the idea that the exchanges are taxing Mom and Pop investors. Retail investors can access market data at little to no cost, he said. Another myth is that firms and professional traders are forced to purchase the fastest data feeds, according to Wittman. Competition and innovation have created a wide array of proprietary data products that professionals can choose to use or not, he remarked.

**Other views.** The non-exchange representatives did not share these views of their fellow panelists. Mehmet Kinak, head of Global Equity Market Structure and Electronic Trading at T. Rowe Price, stressed that he was representing the side of long-term retail Main Street investors. The blanket statement that costs have not gone up is incorrect, he said. At T. Rowe Price in the last three years, the cost for non-display data has gone up 25 percent and has doubled in the last five years. For display terminal usage in the past five years, costs have gone

up 50 percent. For non-display products, Kinak said, his firm is not allowed to store, reproduce, report, or use for analysis, any type of data without being charged. He observed that the exchanges do not derive data, they just aggregate it and force firms to pay for it multiple times. And while retail investors may not pay for it directly, it is in their cost of execution, he explained.

Doug Cifu, CEO of Virtu Financial, said that while the SIP is useful and necessary for some parts of its business, his firm and every other market participant are compelled to purchase proprietary data feeds and exchange connectivity. He noted that the access fee cap has limited the exchanges' ability to charge his firm more for transactions, but the exchanges, in response, created "synthetic" access fees by increasing market data and connectivity charges to circumvent Regulation NMS, some of which he described as "simply unconscionable." As an example, he explained that an exchange charged Virtu \$1.88 million dollars per year for six cross-connect cables, which can be purchased on Amazon for \$88.

Brad Katsuyama, co-founder and CEO of IEX, observed that the way technology has evolved in other industries was by delivering new products faster, cheaper, and better. In contrast, the products sold by the national markets are subject to egregious markups and price hikes because there is no substitute, he said. There is no substitute, for example, for a NYSE direct connection in a NYSE data center, he advised. "IEX would gladly pay millions of dollars to someone else other than our competitors for connectivity and market data...but there is no choice," Katsuyama remarked. He also noted that, due to the obligation of best execution, exchanges enjoy a regulatory monopoly on the sale of their market data, which is not generated so much as it is regenerated from the trading activity of their own members.

Katsuyama said his suggestion on how to move forward in this debate can be summarized in two words: transparency and accountability, including the transparency of the revenues earned by exchanges from selling market data and connectivity products and the costs exchanges incur to offer these products. He also urged that historical market data be made freely available to the public.

**Roisman requests rules review.** Commissioner Elad Roisman, who had concurred with Commissioner Hester Peirce in the Commission's decision on NYSE Arca and Nasdaq fees, noted that he had already voiced his concern about the order protection rule in the concurring opinion and has asked that it be reviewed by the Commission. He [expressed](#) his support for a Commission review of other rules, including the vendor display rule and the best execution rule, that, in his view, may be pushing market participants toward products or services that they would not otherwise demand for themselves or their customers.

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