May 31, 2018

Mr. Brent J. Fields
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE Washington, DC 20549-1090

Re: Transaction Fee Pilot for NMS Stocks

Dear Mr. Fields:

STA[1] welcomes the opportunity to offer comment on the Securities and Exchange Commission's ("SEC" or the "Commission") proposed Transaction Fee Pilot for NMS Securities ("Pilot").

As the Commission states in the summary of the proposed rule:

The purpose of the Pilot is to study the effects that transaction-based fees and rebates may have on, and the effects that changes to those fees and rebates may have on, order routing behavior, execution quality, and market quality more generally.

STA's comments on issues related to market structure come from our roles as practitioners in the markets. STA's diverse membership, as measured by geography and business models, and long history of interacting with the Commission offers a unique perspective on the Pilot which we hope will contribute favorably to any final decisions to enact it and if so, its final design.

Over the years, STA has established certain principles for rule-making which have been helpful in formulating opinions and input on matters relating to market structure. Those which influenced our comments and are applicable to the Pilot include:

[1] STA is a trade organization founded in 1934 for individual professionals in the securities industry. STA is comprised of 26 Affiliate organizations with 4,200 individual professionals, most of who are engaged in the buying, selling and trading of securities. The STA is committed to promoting goodwill and fostering high standards of integrity in accord with the Association's founding principle, Dictum Meum Pactum – "My Word is My Bond"

STA believes that changes to market structure should be based on empirical data. In the absence of such data, the conducting pilots is a prudent and effective approach

STA believes that our markets are constantly evolving therefore retrospective reviews on existing rules is a responsible course of action and is in the best interests of investors.

STA believes conflicts of interest that are not mitigated or managed properly have the potential to cause harm to investor confidence. When conflicts exist, there is no one-size-fits-all approach to addressing them. Therefore, STA has recommended efficient monitoring of situations where a conflict exists and urges caution with allowing new conflicts into the market.[2] STA recognizes that while bans or prohibitions on arrangements where parties are conflicted may have benefits, they can also sometimes result in additional costs for investors. Therefore, it is incumbent upon regulators to consider if investors would be better off if the conflict were removed or allowed to remain in place with policies to mitigate the conflict. In some cases, it may be more effective and efficient to increase disclosures or take other actions short of a ban on an activity.

Based on these guiding principles and input from our membership STA is pleased to provide remarks on transaction-based fees and rebates and the design of the proposed Pilot.

Remarks on the Pilot

a. *Evolution of access fee*

Primary concerns on access fees have evolved over the years. When the Commission addressed access fees in Regulation NMS in 2005, those who supported an access fee cap viewed it as a compromise that would prevent certain market centers from abusing the protected quote status, or Order Protection Rule, to extract high fees. They also believed it would help give greater certainty to market participants that a quoted price will be the actual price paid for the security. The Commission established a $0.003 per share access fee cap in part because very few trading centers at the time charged fees that exceeded this amount, and the fee cap would address outlier trading centers that might otherwise charge fees higher than $0.003 per share. Today, the primary concerns on access fees is how they contribute to the maker/taker or taker/maker pricing models offered by exchanges and the offshoots of conflicts of interests in the routing of customer order flow by broker dealers. As commission rates have come down drastically since 2005, the possible influence that these conflicts of interest had in routing decisions increased.

[2] January 22, 2018 letter from Mike Rask, Hodges Capital STA Chairman and James Toes, STA President & CEO to Jennifer Piorko Mitchell; FINRA Retrospective Rule Review on the Effectiveness and Efficiency of Its Payment for Market Making Rule; Regulatory Notice 17-41

STA believes that the impact access fees have on our market structure and the primary concerns of their impact have evolved since they were originally implemented. Therefore, STA supports a review of them that includes conducting a pilot which can produce empirical data.

b. SEC Proposed Rule

Today, rules governing the securities markets are introduced to the marketplace by SEC initiatives in the form of rule proposals, or the rule filings of the Self-Regulatory Organizations submitted to the SEC for approval. In testimony before the Capital Markets and Government Sponsored Enterprises Subcommittee Committee on Financial Services U.S. House of Representatives on June 20, 2012[3], STA stated:

> *"While there are similarities and efficiencies within both these processes, they are distinct and vary primarily in the level of due diligence required of the Commission. Our concerns reside in the lack of criteria that are used in deciding which process better serves investor confidence when rules are proposed. Instead, the Commission should propose uniform, market-wide rules when there are significant market-wide implications."*

STA believes the Pilot has market-wide implications and therefore supports the Commission's decision for issuing the Pilot as a rule proposal for public comment, rather than as a national market system plan pursuant to Rule 608(a)(3) of Regulation NMS under the Securities Exchange Act of 1934.

STA supports the Commission's decision for issuing the Pilot as a rule proposal, rather than as a national market system plan.

c. Spreads & number of securities per bucket

There are a broad range of views among our members on how the Pilot will impact spreads and implicit costs to self-directed investors. Views range from those who believe there will be no impact to spreads on all securities, to those who believe spreads will widen on all securities, to those who believe spreads will widen on some, less liquid securities. While no consensus exists, STA believes the concerns that spreads will widen in all securities thus harming self-directed retail investors are well founded and therefore we recommend protections to be identified. STA recommends that a reduction of as much as 50% of securities per bucket is a means to achieve such protections and would be in the best interests of investors. Furthermore, we believe that such a reduction would not degrade the quantitative and qualitative data produced from the Pilot.

[3] June 20, 2012 testimony of Jim Toes, President & CEO Security Traders Association before the Capital Markets and Government Sponsored Enterprises Subcommittee Committee on Financial Services; U.S. House of Representatives

Our view is based primarily on the voluminous amount of data obtained from a pilot conducted by Nasdaq in 2014 which reduced maker-taker fees on just 14 stocks over a four month window.[4]

STA recommends that a reduction of as much as 50% of securities per bucket as a means to protect self-directed retail investors from potential harm of wider spreads caused by the Pilot.

d. Exchange Traded Products

As stated previously, the Pilot is intended to study routing behavior, execution quality and market quality more generally. By its definition and design the Pilot is not meant to impact the share price performance of those securities in the Pilot. STA believes that the design of the Pilot will achieve this goal for publicly traded company stocks. However, we have concerns regarding the Pilot's impact on exchange traded products ("ETPs"), in particular those which provide similar exposures. Price performance of publicly traded company stocks is determined by a number of reasons or variables. Even stocks of companies with similar business models, market capitalizations and valuation metrics experience unique events or circumstances which cause their share prices to deviate from each other. For similar ETPs there are less unique variables to cause divergences in the share price performance of one compared to another. STA is concerned that introducing a variable in the form of a different access fee and rebate regime, albeit de minimis, risks impacting the market quality for ETPs more on a relative basis than a publicly traded company.

Therefore, STA recommends that ETPs be excluded from the Pilot.

e. Coordination with Canadian Securities Administrators

In a November 13, 2014 letter[5] to the Honorable Mary Jo White, Chair Securities and Exchange Commission, the Canadian Security Traders Association[6] brought to the Commission's attention the opportunity to conduct a comprehensive cross-border pilot study of the effect of marketplace rebates on market quality and integrity, in conjunction with the Canadian Securities Administrators ("CSA"), the umbrella body of Canadian securities regulators. The CSA's intention to conduct a pilot stemmed from concerns that maker-taker pricing, the model of

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[4] File No. SR-NASDAQ-2014 128 http://nasdaq.cchwallstreet.com/NASDAQ/pdf/nasdaq-filings/2014/SR-NASDAQ-2014-128.pdf

[5] November 13, 2014 letter from the CSTA Trading Issues Committee to the Honorable Mary Jo White, Chair Securities and Exchange Commission. https://www.sec.gov/comments/s7-02-10/s70210-424.pdf

[6] The Canadian Security Traders Association, Inc. is a professional trade organization that works to improve the ethics, business standards and working environment for members who are engaged in the buying, selling and trading of securities (mainly equities). The CSTA represents over 850 members in Canada, and is led by Governors from each of three distinct regions (Toronto, Montreal and Vancouver). The organization was founded in 2000 to serve as a national voice for its affiliate organizations. The CSTA is also affiliated with the Security Traders Association (STA) in the United States of America, which has approximately 4,200 members globally, making it the largest organization of its kind in the world.

incentivizing liquidity provision by marketplaces, may result in certain distortions which needed to be understood and addressed. Simultaneously, the CSA was concerned that prohibiting the payment of rebates outright could have a negative effect on liquidity. The CSA therefore felt it was in the best interests of investors to conduct a pilot study. Many respondents to the CSA's proposal expressed concerns that without U.S. involvement, a pilot would lead to dramatic differences in the trading economics on inter-listed stocks between Canadian and U.S. markets. For this and other reasons, the CSA did not move forward with its proposed pilot study.

STA recommends that the Commission approach the Canadian Securities Administrator to determine if an opportunity exists to coordinate efforts on an access fee pilot.

Conclusion:

STA believes that the impact access fees have on our market structure has evolved since they were originally allowed and then capped. We therefore support a study that includes a pilot which can provide empirical data. STA appreciates the opportunity to comment on the proposed Pilot and looks forward to continued dialogue with the Commission on it and other market structure issues.

Mike Rask
Chairman of the Board

James Toes
President & CEO

cc: The Honorable Jay Clayton, Chairman
The Honorable Kara M. Stein, Commissioner
The Honorable Michael S. Piwowar, Commissioner
The Honorable Robert J. Jackson, Commissioner
The Honorable Hester M. Peirce, Commissioner
Brett Redfearn, Director, Division of Trading and Markets

Appendix A

November 13, 2014 letter from the CSTA Trading Issues Committee
to the Honorable Mary Jo White, Chair Securities and Exchange Commission.