



April 7, 2016

Mr. Brent Fields, Secretary  
Securities and Exchange Commission  
100 F Street NE  
Washington DC 20549

Re: NYSE Market Data Fees for Regulatory Purposes, File No. SR-NYSE-2016-19

Dear Mr. Fields,

The Security Traders Association (“STA”)<sup>1</sup> offers comments on NYSE Market Data Fees for Regulatory Purposes, File No. SR-NYSE-2016-19 (the “Proposal”). The Proposal filed with the Securities and Exchange Commission (the “Commission”) by NYSE seeks to amend its market data fee schedule to provide that Federal agency customers subject to Federal Acquisition Regulation (“FAR”)<sup>2</sup> may consume real-time proprietary market data products at no cost in support of those agencies’ regulatory responsibilities. The Proposal was designated by NYSE as immediately effective pursuant to Section 19(b)(3)(A) of the Act and paragraph (f)(2) of Rule 19b-4 there under because it establishes a due, fee or charge imposed by NYSE.

**General statements on market data and their costs**

The STA believes that issues involving market data and their fees have become increasingly complex and carry important implications for investors, exchanges and market participants. Further highlighting concerns relating to the increasing levels of market data fees and their potential impacts on market structure, several subcommittees of the SEC Equity Market Structure Advisory Committee added to their agendas market data issues.

The STA questions if exchanges should be able to raise or lower fees on market data with immediately effective filing proposals and would therefore recommend that the Commission consider if investors would be better served if any changes to market data fees were exposed to public comment and explicit approval process by the Commission.

*Chairman of the Board*  
**JOHN RUSSELL**  
Franklin Templeton  
Investments  
San Mateo, CA

*President & CEO*  
**JAMES TOES**  
Security Traders  
Association  
New York, NY

*Vice Chairman*  
**JON SCHNEIDER**  
ITG, Inc.  
Kansas City, MO

*Treasurer*  
**DOUG CLARK**  
ITG Canada Corp  
Toronto, Ontario CAN

*Secretary*  
**MIKE RASK**  
Hodges Capital  
Dallas, TX

*Past Chairman*  
**RORY O’KANE**  
KCG  
Chicago, IL

**GOVERNORS**

**PAT ARMSTRONG**  
Prime Executions, Inc.  
San Francisco, CA

**NATALIE  
CARPENTER**  
Longbow Research  
San Francisco, CA

**TIM CASEY**  
Cabrera Capital  
Boston, MA

**ANDREW D’AMORE**  
KCG  
Chicago, IL

**KNUT GREVLE**  
B. Riley  
Los Angeles, CA

**JODIE MROTEK**  
Henderson Geneva  
Capital Management  
Milwaukee, WI

**ANDY NYBO**  
Tabb Group  
New York, NY

**NICK OTTE**  
Scottrade  
St. Louis, MO

**ALEX PEREL**  
TD Securities  
Toronto, Ontario CAN

**BILL VANCE**  
Imperial Capital  
New York, NY

**CHRISTOPHER  
WILSON**  
Capital International  
Investors  
Los Angeles, CA

<sup>1</sup> The STA is a trade organization founded in 1934 for individual professionals in the securities industry and 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”

<sup>2</sup> FAR is the principal set of rules governing the process by which the U.S. federal government purchases goods and services



Federal agencies are not the only market participants responsible for reviewing market data for regulatory purposes. Broker-dealers have regulatory responsibilities which include conducting oversight and supervision of their activity and the activity of their customers' order flow. For example, under SEC Rule 15c3-5, ("Market Access Rule")<sup>3</sup>, broker-dealers are responsible for post-trade review of their customers' order flow to detect market abuse such as spoofing and layering. Critical to the effectiveness of such reviews is the use of proprietary market data feeds provided by exchanges.

Given the significant differences in the costs associated with receiving proprietary market data in real time as opposed to receiving it on a delayed basis, broker-dealers will often use data on a delayed basis where possible and still fulfill their oversight obligations.

Some major exchange groups<sup>4</sup> allow distributors and users to consume delayed data sufficient to perform the post-trade surveillance at no cost. This delayed data includes, but is not limited to, equities and futures. These exchange groups' pricing do not distinguish between types of users.

### **Comments on the Proposal**

The STA agrees with the underlying premise of the proposal that proprietary market data feeds will support the Federal agencies' regulatory responsibilities. In addition, we agree that Federal agencies' use of proprietary market data feeds for regulatory purposes, rather than for commercial gain, should be at a no cost.

The STA is concerned that the Proposal, which allows NYSE's proprietary market data be consumed in real time at no cost only for Federal agencies conflicts with Section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f(b)) which states that exchange rules cannot be "designed to permit unfair discrimination".

### **Recommendations**

STA recommends that the Proposal be amended to provide that all subscribers, regardless of their status as Federal agencies or regulated firms such as banks, broker dealers or private firms, be treated equally. If NYSE wishes to provide its proprietary market data to Federal

---

<sup>3</sup> [Securities and Exchange Commission Release No. 34-63241; File No. S7-03-10](#)

<sup>4</sup> [Nasdaq Global Data Policies updated as of March 18, 2015; Bats Global Markets, Inc. U.S. Market Data Policies updated as of February 19, 2016](#)



agencies at no cost, we recommend that the design and terms of that “no-cost” option be made available to consumers without prejudice.

The STA appreciates the opportunity to comment on the Proposal.

A handwritten signature in black ink, appearing to be "John Russell". The signature is stylized with several vertical strokes on the right side.

John Russell, Chairman of the Board

A handwritten signature in black ink that reads "James Toes". The signature is written in a cursive, flowing style.

James Toes, President & CEO

Cc;

Mary Jo White, Chair, Securities and Exchange Commission

Kara M. Stein, Commissioner, Securities and Exchange Commission

Michael S. Piwowar, Commissioner, Securities and Exchange Commission

Stephen Luparello, Director, Division of Trading & Markets, Securities and Exchange Commission