



March 2, 2020

Via E-Mail (rule-comments@sec.gov)

Vanessa A. Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

Re: Proposed Order Directing the Exchanges and the Financial Industry Authority to Submit a New National Market System Plan Regarding Consolidated Equity Market Data
(Release No. 34-87906; File No. 4-757)

Dear Ms. Countryman:

Citigroup Global Markets Inc. (“CGMI”)¹ appreciates the opportunity to comment on the above-referenced Proposed Order Directing the Exchanges and the Financial Industry Authority to Submit a New National Market System Plan Regarding Consolidated Equity Market Data (the “SIP Governance Proposal”), issued by the U.S. Securities and Exchange Commission (the “SEC” or “Commission”) on January 8, 2020.²

The Commission has specifically asked for views on the Proposed Order’s discussion of concerns with the current provision of equity market data by the existing three NMS Equity Data Plans, issues with the current governance structure of the current Plans, and the specific provisions set forth in the Proposed Order to address those concerns and issues.

¹ Citigroup Inc. (“Citi”) is a diversified global financial services holding company whose businesses provide a broad range of financial services to consumer and corporate clients as well as governments and other institutions. Citi has some 200 million client accounts and does business in more than 100 countries. Citi’s primary U.S. broker-dealer subsidiary, Citigroup Global Markets Inc. (“CGMI”), is registered as a broker-dealer in all 50 states, the District of Columbia, Puerto Rico, Taiwan and Guam, and is also a primary dealer in U.S. Treasury securities and a member of the principal United States futures exchanges. CGMI’s affiliate, Citigroup Derivatives Markets Inc., is actively engaged in U.S. options market making. Additional information may be found at www.citigroup.com or www.citi.com.

² <https://www.sec.gov/rules/sro/nms/2020/34-87906.pdf>

In at least three previous comment letters, CGMI has indicated support for changes to NMS Plan Governance and other related issues.³

In our August 2014 Letter, CGMI made five Equity Market Structure recommendations, including a recommendation that “*for-profit exchanges should no longer be afforded status as self-regulatory organizations (“SROs”), nor be entitled to regulatory immunity for their commercial activities,*”⁴ reiterating recommendations we made in our August 2012 Letter on Nasdaq’s handling of the Facebook IPO.

This is from our August 2014 Comment Letter, highlighting the conflicts of interest inherent in the then-current (and still existing) SIP Governance structure:

*“Several events since the time of filing Citi’s [August 2012] Facebook Comment Letter have only bolstered these arguments. On August 22, 2013 (one year to the day after Citi’s Facebook Comment Letter was filed, the NASDAQ consolidated feed experienced an outage that shut down trading in the U.S. stock market for more than three hours. Since that time, many have speculated that a contributing cause of this event is the lack of incentive that NASDAQ and the other exchanges have to maintain the operational resiliency of the consolidated feed, given that the exchanges also operate directly competing market data feeds for which they charge sizable fees. Year after year, exchanges generate an increasing percentage of their overall revenues from the sale of their direct, or proprietary, market data feeds. This has been demonstrated to lead to issues of operational resiliency that have caused major market disruptions like the one seen last August... In an era in which the exchanges were mutualized entities comprised entirely of member firms, these concerns may not have been as relevant. That era, however, is long gone; the exchanges have long-since been demutualized and taken public, and now answer to their shareholders (as they should). What has not kept pace with these developments is the self-regulatory structure that continues to govern our equity markets today...”*⁵

This is also from our August 2014 Comment Letter, asking for direct voting representation for the broader industry on the SIP Operating Committees:

³ See (i) Letter from Daniel Keegan, Managing Director, Citigroup Global Markets Inc. (August 22, 2012), available at <https://www.sec.gov/comments/sr-nasdaq-2012-090/nasdaq2012090-5.pdf> (our “August 2012 Letter”); (ii) Letter from Daniel Keegan, Managing Director, Citigroup Global Markets Inc. (August 7, 2014), available at <https://www.sec.gov/comments/s7-02-10/s70210-416.pdf> (our “August 2014 Letter”); and (iii) Letter from Daniel Keegan, Managing Director, Citigroup Global Markets Inc. (December 22, 2014), available at <https://www.sec.gov/comments/4-657/4657-73.pdf> (our “December 2014 Comment Letter”).

⁴ See our August 2014 Comment Letter at page 4.

⁵ See our August 2014 Comment Letter at pages 9 and 10.

“Finally, the entire industry needs more direct representation on its various regulatory and governance committees, including the CQ/CTA and UTP Plans specific to market data, not just in an advisory role. This governance issue has direct ramifications on the ability of the industry to efficiently and expediently implement new rules issues by the Commission and the SROs, and therefore had direct ramifications on investor confidence in our markets.”⁶

And lastly, this is from our December 2014 Comment Letter:

“Citi has previously argued, along with several industry associations, that SRO Governance is in need of reform to keep pace with the commercial reality that exchanges have long since been demutualized and are now for-profit corporations that answer to shareholders rather than the general public. As a result, it is no longer appropriate for the SROs to exclusively determine the scope of rules that apply to all segments of market participants, including the direct competitors of the for-profit exchanges themselves.”⁷

The issues we were addressing then are still as prevalent today – conflicts of interest and lack of broad industry representation in the operation of SIP infrastructure, which is a crucial market infrastructure utility. We applaud the Commission for finally addressing these issues in its SIP Governance Proposal.

We wholeheartedly support the SEC’s proposed reforms of the Governance process for these NMS Plans. In particular, we support granting non-SRO representatives 1/3 of the voting power on the new Plan Operating Committee, and reducing SRO votes to a maximum of two per exchange group. We think this not only empowers non-SRO members of our markets and increases transparency, but also importantly removes some of the perverse incentives for exchange groups to acquire or “light up” new exchange medallions. Under the current governance framework, each exchange medallion entitles the exchange group to another voting seat on the SIP Operating Committees, as well as an additional share of SIP revenue, with little incremental overhead expenses. Capping the number of SRO votes at two per exchange group removes this incentive. While we of course would like the non-SRO community to be allocated more than 1/3 of the voting power in total, we are cognizant of the statutory restrictions (under Section 11A of the Securities Exchange Act of 1934) that would be implicated if the SEC went that far.

The proposed categories of new voting representatives on the new Plan Operating Committee make sense to us: (i) an institutional investor, (ii) a broker-dealer with a predominantly retail customer base, (iii) a broker-dealer with a predominantly institutional investor customer base, (iv) a securities market data vendor, (v) an issuer of NMS stock, and (vi) a retail investor. There may be some overlap in some of those

⁶ See our August 2014 Comment Letter at page 10.

⁷ See our December 2014 Comment Letter at page 5.



categories – for example, Citi is both an issuer of NMS stock and a broker-dealer with a predominantly institutional investor customer base. Our suggestion would be to select representatives carefully to ensure as little duplication as possible.

We note with sincere appreciation the two dissenting Commissioners' vote against the SIP Governance Proposal, primarily on the grounds that the draft Order did not go far enough and delegates the authority to write a new Plan to the same group of conflicted, for-profit exchanges that have resisted these changes for many years as counter to their own economic interests. While we fundamentally agree, we are confident that – so long as the final Order explicitly directs those exchanges to take specific actions in the new Plan, without allowing them optionality to craft a different alternative – the current process ought to be sufficient to ensure substantial progress in this area. In short, we do not believe the perfect should be the enemy of the good.

In addition to the SIP Governance Proposal, the Commission has asked for comment on the Amendments to the current Equity Data Plans on issues relating to Conflicts of Interest⁸ and Confidentiality⁹. Such Plan Amendments would (i) make mandatory the current disclosure policies with respect to conflicts of interest, and (ii) establish a policy regarding the confidential treatment of any data or information generated, accessed, transmitted to, or discussed by the Operating Committees. We are generally supportive of these changes, while agreeing with some current SIP Advisory Committee members on the need to press the SIP Operating Committees to enhance them further.¹⁰ For example, while making the current conflicts disclosure policies mandatory is a good first step, we think that mandating a process for resolving such conflicts of interest is also necessary. That said, we recognize that these Plan Amendments can be approved by the Commission more expediently than the SIP Governance Proposal itself, and would represent an important step forward in increasing transparency and efficiency of the SIP Governance process. We encourage the Commission to approve these Amendments and the SIP Governance Proposal itself to finally modernize a long-ago outdated governance construct for a key industry utility.

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⁸ <https://www.sec.gov/rules/sro/nms/2020/34-87907.pdf> (CTA Plan) and <https://www.sec.gov/rules/sro/nms/2020/34-87908.pdf> (UTP Plan).

⁹ <https://www.sec.gov/rules/sro/nms/2020/34-87909.pdf> (CTA Plan) and <https://www.sec.gov/rules/sro/nms/2020/34-87910.pdf> (UTP Plan).

¹⁰ See comment letters dated January 24, 2020 from the CTA/UTP Advisory Committees on the Conflicts of Interest Policy (available at <https://www.sec.gov/comments/sr-ctacq-2019-01/srctacq201901-6694051-205990.pdf>) and the Confidentiality Policy (available at <https://www.sec.gov/comments/sr-ctacq-2019-04/srctacq201904-6694049-205989.pdf>).

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We sincerely appreciate the opportunity to comment on this proposal and all equity market structure issues, and we welcome feedback from all market participants on our above recommendations. Citi looks forward to continuing its dialogue on these matters with the Commission and its Staff. If you have any comments or questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Keegan", written over a light blue horizontal line.

Daniel Keegan
Managing Director
Head of North America Markets &
Securities Services
Co-Head of Global Equities & Securities
Services

cc: The Honorable Jay Clayton, Chairman
The Honorable Allison Herren Lee, Commissioner
The Honorable Hester M. Peirce, Commissioner
The Honorable Elad L. Roisman, Commissioner
Mr. Brett Redfearn, Director, Division of Trading and Markets