Bloomberg

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May 21, 2015

Brent J. Fields, Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

RE: Bloomberg STP LLC; Notice of Filing of Application for Exemption from Registration as a Clearing Agency (File Number 600-33)

Dear Mr. Fields,

Bloomberg STP LLC ("Bloomberg STP") appreciates the opportunity to comment on the Securities and Exchange Commission's (the "Commission") notice of filing of Bloomberg STP's application for exemption from registration as a clearing agency. This letter responds to the eight questions raised in the Commission's notice and addresses comment letters that have been submitted in response to the Commission's notice.

Bloomberg STP appreciates the Commission's thoughtful approach to granting exemptions from registration as a clearing agency to entities seeking to provide matching services and acknowledges multiple factors need to be considered to ensure that such exemptions are consistent with the policy goals of Section 17A of the Securities Exchange Act of 1934 (the "Exchange Act"), including the protection of investors and maintenance of fair competition.

For reasons discussed below, we respectfully urge the Commission to approve Bloomberg STP's application for exemption from registration as a clearing agency. Approval would allow much-needed competition in matching services, and would be fully consistent with the public interest, protection of investors and the purposes of Section 17A of the Exchange Act by promoting the safety and soundness of the national system for clearance and settlement of securities transactions and the continued development of linked and coordinated clearance and settlement mechanisms subject to uniform standards.

I. The Bloomberg Matching Service

Bloomberg L.P. was founded in 1981 with the core mission of bringing transparency to capital markets through access to information. Today, Bloomberg L.P. and its affiliates provide financial market information, data and news globally, and offer a broad spectrum of products and services that promote efficiency across the trade lifecycle. Bloomberg

STP[1] proposes to offer a matching service ("Bloomberg Matching Service") as a new service that would complement and offer integration with an array of products and services offered by a variety of market participants.

The Bloomberg Matching Service will electronically compare trade data provided to Bloomberg STP by a broker-dealer, on one hand, with allocation information provided to Bloomberg STP by the broker-dealer's institutional customer, on the other. The Bloomberg Matching Service will determine whether the allocation information matches the trade data. If the information matches, the Bloomberg Matching Service will generate and send an affirmed confirmation to The Depository Trust Company ("DTC") that will be used to effect settlement of the trade. This workflow is known as "central matching." A second workflow allows institutional customers or their custodians on their behalf to compare and match post-trade information and then send matched confirmations through the Bloomberg Matching Service to DTC for settlement. This workflow is known as the "electronic trade confirmation service."

II. Bloomberg Matching Service Promotes Section 17A Goals

The Commission has stated its view that "an entity that limits its clearing agency functions to providing matching services need not be subject to the full panoply of clearing agency regulation" and noted that "Section 17A(b)(1) [of the Exchange Act] authorizes the Commission to exempt (conditionally or unconditionally) any clearing agency from any provision of Section 17A if the Commission finds that such exemption is consistent with the public interest, the protection of investors, and the purposes of Section 17A."[2] In addition, the Matching Release states: "Applicants requesting exemption from clearing agency registration are required to meet standards substantially similar to those required of registrants under Section 17A in order to assure that the fundamental goals of that section are furthered (*i.e.*, safety and soundness of the national clearance and settlement system)."[3] The Commission has consistently applied these principles to matching services in considering whether to grant exemptions from clearing agency registration.[4]

[1] Bloomberg STP is a wholly-owned subsidiary of Bloomberg L.P.

[2] Securities Exchange Act Release No. 39829 (April 6, 1998), 63 FR 17943, 17947 ("Matching Release").

[3] Id. at 17947 n.28.

[4] *See* Securities Exchange Act Release Nos: 41377 (May 7, 1999), 64 FR 25948 (Thomson Financial Technology Services, Inc. ("TFTS")) ("1999 TFTS Exemption"); 44188 (April 17, 2001), 66 FR 20494 ("2001 Omgeo Exemption"); 74394 (February 27, 2015), 80 FR 12048 (Bloomberg STP LLC); 74794 (April 23, 2015), 80 FR 23618 (SS&C Technologies, Inc.).

The Bloomberg Matching Service is consistent with the public interest, the protection of investors, and the purposes of Section 17A and contributes to fair, orderly and efficient markets by promoting the goals of Section 17A.

The Bloomberg Matching Service promotes investor protection.

Section 17A states that ". . . [t]he prompt and accurate clearance and settlement of securities transactions . . . are necessary for the protection of investors . . . ."[5] The Bloomberg Matching Service will promote the Section 17A goal of investor protection by providing a prompt and accurate matching service that eliminates a single point of dependency, as well as by enhancing the robustness of the clearance and settlement system, as further discussed below.

The Bloomberg Matching Service promotes efficiencies.

Section 17A states that ". . . inefficient procedures for clearance and settlement impose unnecessary costs on investors and [their market intermediaries] . . . ."[6] The Bloomberg Matching Service will promote the Section 17A goal of reducing costly inefficiencies by bringing automation to some segments of the marketplace that today use manual procedures and by enabling straight-through processing throughout the entire trade lifecycle, which will contribute to increases in same-day affirmation rates and increases in settlement rates.[7]

The Bloomberg Matching Service promotes technology-driven solutions.

Section 17A states that ". . . [n]ew data processing and communications techniques create the opportunity for more efficient, effective, and safe procedures for clearance and settlement . . . ."[8] The Bloomberg Matching Service will promote this Section 17A goal by bringing proven technological expertise and resources to the matching services space.

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[5] Exchange Act Section 17A(a)(1)(A).

[6] Exchange Act Section 17A(a)(1)(B).

[7] The Bloomberg Matching Service intends to connect with electronic trading systems and post-trade services (both services provided by affiliates of Bloomberg STP as well as other third parties). These integrated connections will facilitate straight-through-processing across such services to enable market participants to monitor their trades across the complete trade lifecycle, reduce operational risks by avoiding the need for manual workflows and information re-entry, and reduce the incidence of settlement exceptions.

[8] Exchange Act Section 17A(a)(1)(C).

The Bloomberg Matching Service promotes linkages and standardization.

Section 17A states that ". . . the linking of all clearance and settlement facilities and the development of uniform standards and procedures for clearance and settlement will reduce unnecessary costs and increase the protection of investors and [their market intermediaries] . . . ."[9] The Bloomberg Matching Service will promote this Section 17A goal by directly linking to DTC and establishing interoperability with other matching services. Also, the Bloomberg Matching Service will use industry standard communication protocols (*e.g.*, TCP/IP, SNA) and message and file transfer protocols (*e.g.*, FIX, WebSphere MQ), as well as support the FIX global post-trade processing guidelines.[10] As a result, the Bloomberg Matching Service will be able to accept market participants' preferred means of sending and receiving data, thereby minimizing the development cost needed to use the Bloomberg Matching Service.

The Bloomberg Matching Service promotes fair competition.

Section 17A further provides that "The Commission is directed . . . having due regard for the . . . maintenance of fair competition among . . . clearing agencies . . . to use its authority . . . (i) to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities . . . ; and (ii) to facilitate the establishment of linked or coordinated facilities for clearance and settlement of transactions in securities . . . ."[11] The Bloomberg Matching Service will promote this Section 17A goal by bringing competition that fosters innovation and provides market participants a choice of matching service vendors.

III. <u>Public Comment on Bloomberg STP's Application</u>

A. Overwhelming public support.

Public comments show overwhelming support for the approval of Bloomberg STP's application. Twenty-two comment letters submitted by a diverse range of market participants, including the Securities Industry and Financial Markets Association Asset Managers Forum ("SIFMA AMF"), broker-dealers, investment managers, a custodian and vendors, urge the Commission to bring competition to the market.[12]

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[9] Exchange Act Section 17A(a)(1)(D).

[10] Bloomberg L.P. is a member of the FIX Global Post Trade Working Group and Bloomberg STP has adopted the FIX working group specifications and guidelines and best practices.

[11] Section 17A(a)(2)(A).

[12] Importantly, the current commenters echo the sentiments expressed by many commenters in 2001 with respect to the application for exempt clearing agency status of Omgeo LLC ("Omgeo"), the

The comment letter from SIFMA AMF clearly states the well-understood implications of competition in that "competition will logically improve pricing, as service providers will need to competitively price their services as well as provide a dependable and highly functional platform to operate their tools."[13]

B. Lone exception: DTCC.

The lone exception to this broad-based support is the letter submitted by The Depository Trust & Clearing Corporation ("DTCC"),[14] which is the sole owner of Omgeo and is the sole owner of DTC, the registered clearing agency to which matching services submit affirmed confirmations. The DTCC letter makes a variety of claims aimed at protecting Omgeo's monopoly by narrowing the sphere of competition and delaying the introduction of competition. While benefiting itself, DTCC's proposals would work to the detriment of market participants that are uniformly calling for change.

IV. <u>Response to DTCC's Comment Letter</u>

DTCC's anticompetitive recommendations would harm market participants and the national clearance and settlement system.

To ward off and delay competition, DTCC recommends that the Commission (1) require the Bloomberg Matching Service and any other matching service to rely exclusively on DTCC's "Existing Infrastructure" and (2) modify the 2001 Omgeo Exemption to delay interoperability between matching services. As explained below, implementation of these recommendations would harm the market and disadvantage market participants.

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only current provider of matching services. In that earlier comment period, 17 of the 36 comment letters submitted "urged the Commission to ensure that no entity improperly gains a monopoly on any aspect of trade processing" and "requested that before the Commission grants an exemption to [Omgeo], the Commission take steps to safeguard interoperability and competition among service providers." See Global Joint Venture Matching Services-US, LLC, Securities Exchange Act Release No. 44188 (April 17, 2001), 66 FR 20494.

[13] Letter from Timothy W. Cameron, Esq., Managing Director, Asset Management Group, and Elisa Nuottajarvi, Asset Management Group, The Asset Managers Forum, Securities Industry and Financial Markets Association (April 2, 2015) ("SIFMA AMF Comment Letter") at 2. As the letter notes on page 1: "SIFMA brings together the shared interests of hundreds of securities firms, banks and asset managers. The Asset Management Group ("AMG") of SIFMA is the voice for the buyside within the securities industry and broader financial markets, and [The Asset Managers Forum] is the operations-focused group within the AMG." The AMF's mission is to "provide thought leadership and guidance on pertinent industry issues and to create a premier venue for operations professionals to develop and share best practices in order to drive industry change." The AMF "brings together subject matter experts to discuss and develop practical solutions to highly topical operational challenges." (*See* http://www.sifma.org/amf/about/)

[14] Letter from Larry E. Thompson, Vice Chairman and General Counsel, DTCC (April 6, 2015) ("DTCC Letter").

A. Mandating use of DTCC's Omgeo-centric Existing Infrastructure would harm the market and frustrate the goals of Section 17A.

"Existing Infrastructure" is defined in the DTCC Letter as the combined products and services of multiple separate entities all owned and controlled by DTCC: Omgeo's TradeSuite ID, DTC's depository systems and National Securities Clearing Corporation ("NSCC") systems. Among other roles, these products and services generate and provide internal control numbers, allow Omgeo's affirmed confirmations to be sent to DTC and to Omgeo's customers that are custodians and settlement agents, and provide other related services, including recordkeeping and audit trails.

DTCC uses the phrase "single access" model to refer to the concept of relying on the Omgeo-centric Existing Infrastructure for access to DTC, NSCC and custodians/settlement agents.

i. Existing Infrastructure: Single point of dependency.

DTCC's recommendations would harm market participants by perpetuating the existence of a single point of dependency for the marketplace. If use by all matching services were mandated, the Omgeo-centric Existing Infrastructure would represent a potential single point of failure for matching services by constituting the only means of accessing DTC and would represent a source of systemic risk. Allowing additional vendors to provide matching services and to link directly to DTC would eliminate the current single point of dependency by providing market participants an alternative means of reaching DTC's settlement services. In a speech on September 17, 2014 at the SRO Outreach Conference, Chair White stressed the need to eliminate single points of failure in the market and noted there is much work to be done in this area.[15] Additionally, SIFMA AMF in its supportive comment letter reiterates the need to eliminate the single point of dependency and welcomes the Bloomberg Matching Service as "much needed relief" that will address this problem.[16]

ii. Existing Infrastructure: Unjustified barrier to entry.

DTCC's recommendations would also harm market participants by creating a barrier to entry that is unjustified. Vendors would be discouraged from entering the matching services business because of the limited scope of services they would be able to provide outside the Omgeo-centric Existing Infrastructure. Vendors would also be disincentivized from entering the matching services business because their competitor Omgeo would be in

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[15] Chair Mary Jo White, "Collaboration, Cooperation and Oversight" (September 17, 2014), available at http://www.sec.gov/News/Speech/Detail/Speech/1370542975724#.VRls2Y6N020.

[16] SIFMA AMF Comment Letter at 2.

control of basic matching services functions. Use of the Omgeo-centric Existing Infrastructure would disadvantage matching services since it would interpose Omgeo between a competitor matching service provider, on one hand, and DTC and the matching service users, *e.g.*, custodians and settlement agents, on the other.[17] By deterring vendors from entering the matching services space, DTCC's recommendations would create a barrier to entry that stifles innovation even within the narrow range of matching service functions that would occur outside the proposed Omgeo-centric Existing Infrastructure.

iii. Existing Infrastructure: Hampers innovation.

Mandating usage of the Omgeo-centric Existing Infrastructure would create a Commission-endorsed infrastructure under the control of one group. This would preserve the status quo, eliminating any incentive for DTCC and its affiliates to innovate or to upgrade and improve infrastructure. If competition is introduced, however, there will be incentives for all providers to meet market demands.

iv. Existing Infrastructure: Impedes the move to a shortened settlement cycle.

The Commission's Investor Advisory Committee recently advised the Commission that reducing the settlement period is critical to reducing systemic risk in the financial system and recommended moving to a T+1 settlement period "as soon as possible."[18] Moving to a shortened settlement cycle[19] will help mitigate the operational and systemic risks that exist between trade date and settlement date, thereby increasing the overall efficiency of the securities markets and reducing each market participant's market and counterparty risk. Efficiency and risk reduction will ultimately result in greater liquidity in the marketplace.

DTCC's recommendations for mandated use of the Omgeo-centric Existing Infrastructure would impede the move to a shortened settlement cycle and delay needed benefits to market participants.

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17 Omgeo could seek, for example, to impose charges on competing matching services for accessing DTC through Omgeo or could provide inferior connectivity.

18 "Recommendation of the Investor Advisory Committee: Shortening the Trade Settlement Cycle in U.S. Financial Markets (February 12, 2015)" (available at http://www.sec.gov/spotlight/investor-advisory-committee-2012/settlement-cycle-recommendation-final.pdf) (emphasis in original). The securities industry is actively supporting efforts to shorten the settlement cycle. *See, e.g.,* Securities Industry and Financial Markets Association, Shortened Settlement Cycle Resource Center, http://www.sifma.org/issues/operations-and-technology/shortened-settlement-cycle/overview. Bloomberg STP is an active member of multiple working groups in that effort.

19 The U.S. market currently recommends moving to a T+2 settlement cycle.

First, mandating use of the Existing Infrastructure would discourage matching service providers to enter the market, impeding wider use of matching services. Without competition there are fewer incentives for service providers to innovate. Innovation and quality services are important drivers to transitioning to a shorter settlement cycle. To aid the market in this move, Bloomberg STP intends to service, among others, investment managers, brokers and custodians that currently rely on manual processes for post-trade matching of trade and allocation information. For example, Bloomberg STP will enable such investment managers to gain the benefits of an electronic matching service while continuing to use their existing workflows (fax, email, pdf, etc.) to send allocation instructions to their executing brokers.[20] Transitioning this segment of market participants to an automated matching solution is an important step in the move to shortened settlement cycles.

Innovation will also help to raise same-day affirmation rates and minimize the incidence of exceptions that lead to fails. For example, the Bloomberg Matching Service will receive trade execution information in real time, thereby enabling Bloomberg Matching Service users immediately to identify and address processing exceptions on trade date. Also, a variety of efficiency tools that we believe are not offered currently to market participants will be available to help Bloomberg Matching Service users prevent and manage settlement exceptions, including tools for exception monitoring and instant chat functionality. Achieving same-day affirmations and facilitating settlement efficiencies are an important part of the move to shortened settlement cycles.

Second, DTCC's recommendations would prevent the establishment of separate, direct connections to DTC and therefore eliminate the benefits that multiple pathways would provide, such as alleviating message traffic congestion during high volume trading periods, *e.g.*, near the time of market close. By providing an alternate means for affirmed confirmations to be transmitted to DTC, custodians and settlement agents, the Bloomberg Matching Service will provide increased resiliency that is important to move securely to a shortened settlement cycle.

B. Mandated use of Existing Infrastructure: DTCC commercial interests vs. regulatory obligations

DTCC's recommended use of the Omgeo-centric Existing Infrastructure reflects a fundamental conflation of DTCC's commercial interests as an unregulated entity with the regulatory obligations of its respective regulated subsidiaries. DTCC is the holding company for a variety of subsidiaries, which include three wholly-owned registered clearing agencies, including DTC. As a registered clearing agency, DTC is fully subject to

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[20] Bloomberg STP will do this by automating the process of extracting from and electronically transmitting to executing brokers the allocation instructions contained in fax, email and pdf documents provided by the investment managers.

the terms and requirements of Section 17A. The other relevant wholly-owned DTCC subsidiary is Omgeo, which is an exempt clearing agency that enjoys the benefit of a Commission exemption and is subject to its terms.[21] DTCC itself, however, is not an entity registered with, or regulated by, the Commission. DTCC fails to distinguish between DTCC's corporate business interests, on one hand, and the requirements pertaining to DTC as a registered clearing agency and the requirements applicable to Omgeo as an exempt clearing agency under the 2001 Omgeo Exemption, on the other. The discussion below unpacks a number of points in the DTCC Letter where DTCC has made confusing and inappropriate assertions relating to itself and its regulated subsidiaries.[22]

i. Direct access to DTC: Essential to matching service concept, critical to national clearance and settlement system.

DTCC recommends that the Commission draw a fundamentally incorrect and inappropriate dichotomy when assessing competition for matching services. DTCC states: "The Commission should distinguish competition in central matching . . . from competition in access to settlement and related functions (*e.g.*, providing internal control numbers, and sending matched confirmations and settlement instructions to settlement agents and the central securities depository) when reviewing Bloomberg STP's requested exemption . . . ."[23] DTCC thereby suggests that a matching service consists only of the internal function of comparing data and does not include the function of transmitting an affirmed confirmation to DTC.

The Commission should reject this false dichotomy. The Commission's interpretation of matching services as a clearing agency function states that a matching service seeking an exemption from registration would be required to "establish an electronic link to a registered clearing agency that provides for the settlement of its matched trades."[24] This clearly shows that the sending, and the means by which a matching service sends its

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21 *See* Global Joint Venture Matching Services-US, LLC, Securities Exchange Act Release No. 44188 (April 17, 2001), 66 FR 20494 ("2001 Omgeo Exemption").

22 As we discuss below, many of the recommendations that DTCC makes would be inappropriate for its regulated entities to make in a comment letter since they would need to be proposed through a rule change or an exemptive order amendment.

DTCC's identity confusion is further complicated by DTCC's claim that it is "an industry-owned and governed utility." DTCC Letter at 19. To the extent that DTCC means by this to imply that it speaks for the securities industry in its comment letter, the other comment letters indicate otherwise. DTCC, moreover, is not a utility, but a commercial service provider.

23 DTCC Letter at 2.

24 Matching Release, 63 FR at 17947 n.28.

matched trades to DTC, is an integral and required component of a matching service. The Commission's established concept of a matching service recognizes that the capability of a matching service to send affirmed trades directly to DTC via the electronic link between the matching service and DTC is critical to a safe and sound process for clearing and settling trades in the national clearance and settlement system. Mandating use of the Omgeo-centric Existing Infrastructure would frustrate and impair the established concept of a matching service and the benefits that matching services bring to market participants.

ii. Mandating use of the Omgeo-centric Existing Infrastructure: Violates DTC's obligations as a registered clearing agency.

DTC, as a registered clearing agency and self-regulatory organization, has an obligation to maintain rules that "foster cooperation and coordination with persons engaged in clearance and settlement of securities transactions, [that] remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions," and that "do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of [the Exchange Act]."[25]

Mandating use of the Omgeo-centric Existing Infrastructure would be inconsistent with these Exchange Act obligations.[26] DTCC would have the Commission adopt a requirement that favors one or more of DTCC's wholly-owned subsidiaries, including Omgeo. The requirements of Section 17A mean that DTC and the Commission have an affirmative obligation to facilitate the development of matching services, such as the Bloomberg Matching Service, in a manner that does not burden competition and that facilitates the linking of clearance and settlement facilities.

The ability of matching services other than Omgeo to access DTC (to send matched trades and to obtain DTC Control Numbers (as defined below)) was a major concern when the 2001 Omgeo Exemption was issued. In obtaining permission to transfer the TradeSuite service to Omgeo, DTCC repeatedly promised that "[v]endors acting on behalf of DTC participants will be able to transmit settlement instructions directly to DTC without the involvement of [Omgeo]."[27] This representation appears again in DTCC's

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[25] Exchange Act Section 17A(b)(3)(F) and (I).

[26] In support of its proposal to mandate use of the Existing Infrastructure, the DTCC Letter references the 1980 Clearing Agency Standards Release. DTCC Letter at 13, citing to Securities Exchange Act Release No. 16900 (July 1, 1980), 45 FR 41920. DTCC's reference to that document, however, is misplaced. The standards discussed there are directed to registered clearing agencies, and pre-date the advent of matching services by 19 years. The linkages discussed in the release are between registered clearing agencies, not between registered clearing agencies and matching services. Rather than the 1980 release, the relevant conditions for matching services' access to DTC are contained in the Exchange Act and DTC's rules.

[27] Securities Exchange Act Release No. 44189 (April 17, 2001), 66 FR 20502, 20504.

January 4, 2001 comment letter on the Commission's request for public comments relating to the 2001 Omgeo Exemption[28] and was specifically included in the 2001 Omgeo Exemption.[29] Moreover, DTC represented that "it shall not favor any single provider of Central Matching Services, including [Omgeo], over any other Central Matching Services in terms of the quality and caliber of the interface to DTC's clearing agency or settlement functions, quality of connectivity, receipt of delivery and payment orders, speed or processing delivery and payment orders, capacity provided, or priority assigned in processing delivery and payment orders."[30]

DTCC also went to extensive lengths to assure the Commission and the public that the Exchange Act requirements of equal access to DTC would continue to be met. In DTCC's January 12, 2001 comment letter DTCC confirmed that:

> Vendors acting on behalf of DTC [p]articipants will be able to transmit settlement instructions directly to DTC without the involvement of [Omgeo]. . . . The formation of [Omgeo] will not affect access to DTC's settlement system . . . DTC has operated standardized interfaces with members of the financial industry for more than 25 years. Participants, their vendors and other registered clearing agencies have standardized access to DTC's services. Both DTC and [Omgeo] will certainly be expected by their customers in the financial industry to continue that long-standing practice. ***DTC's long-standing practice of providing members of the financial industry with equal, standardized access to DTC's services will continue after formation of [Omgeo]. That practice is required by Section 17A of the Exchange Act and is subject to the Commission's regulatory oversight***.[31] (emphasis added)

Several statements in the DTCC Letter with respect to DTCC's regulated subsidiaries appear to be inconsistent with fulfillment of their regulatory obligations as well as these representations. We do not believe that any technological developments since the time that these representations were made can excuse a departure from them. In fact, just the opposite: technological improvements have increased the ability to establish safe and secure communication links.

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[28] Letter from Carl H. Urist, Managing Director and Deputy General Counsel, DTCC (January 4, 2001), at 1.

[29] 66 FR at 20497.

[30] 66 FR at 20505.

[31] Letter from Carl H. Urist, Managing Director and Deputy General Counsel, DTCC (January 12, 2001).

iii. Mandating use of the Omgeo-centric Existing Infrastructure would require DTC to propose an unjustified rule change.

DTCC "requests that the Commission require adoption of the single access approach."[32] That request is inappropriate because DTC, as a registered clearing agency, is a rules-based organization and is permitted to do only what its rules provide. We know of no DTC rule, and DTCC has not cited any in its letter, that requires matching services to use the Omgeo-centric Existing Infrastructure to access DTC. If DTC wished to adopt such a requirement, it would be required to submit a rule change to the Commission, which must be published for notice and comment, and subject to Commission review and approval or rejection.[33] DTC has not done so. Therefore, neither DTC nor DTCC can propose to condition access to DTC's services on the use of the single access model without following mandated procedures. Further, any such proposed rule change would be unjustified because such a rule change would contradict DTC's Exchange Act obligations, as discussed above.

C. DTCC's claims in support of narrowing and delaying competition are meritless.

DTCC makes a variety of claims in support of its goal of narrowing and delaying competition, all without material justification, other than to preserve the status quo and benefit itself.

i. Direct connection to DTC, custodians and settlement agents: No harm to market participants.

DTCC claims that, if the Bloomberg Matching Service were to send affirmed confirmations directly to DTC for settlement and to custodians and settlement agents, the securities industry would incur additional unnecessary costs and risks because connections for doing so have already been built and tested by the Omgeo-centric Existing Infrastructure.[34] In making this assertion, it appears that DTCC is primarily concerned with modifications to DTC systems and the additional costs and resources to be borne by DTC. DTCC is focused on the effort and resources that DTC would need to undertake to connect to the Bloomberg Matching Service, which DTC claims may force it to "reprioritize other critical projects" to accommodate new entrants in the matching services space.[35] Section 17A requirements do not allow derogation from regulatory obligations as a result of other priorities.

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[32] DTCC Letter at 14.

[33] *See* Section 19(b) of the Exchange Act and Rule 19b-4 thereunder.

[34] DTCC Letter at 11.

[35] DTCC Letter at 12.

There is nothing new or unique about the activities that will be required of DTC to establish an interface with the Bloomberg Matching Service. Bloomberg STP would expect to use the same protocol as Omgeo uses to send affirmed trades to DTC.[36] Furthermore, the comment letters on Bloomberg STP's application demonstrate that market participants do not view linkage requirements as disadvantageous. The SIFMA AMF Comment Letter articulates that additional service providers will permit firms to improve upon contingency strategies and disaster recovery models as well as to allow firms to diversify their support model and mitigate risk by moving trade volume to the service providers not experiencing interruptions or outages. We agree with the view expressed in the SIFMA AMF Comment Letter, and note that, like many industry participants, Bloomberg STP's affiliates currently maintain as part of their day-to-day operations multiple connections with a variety of pre-trade and post-trade trade-related services, including Omgeo, using FIX and other standardized protocols.[37] Advances in technology and standardization of communication protocols in the past decade have made connectivity more readily available, and we expect that connectivity to DTC could be established by means similar to those used today throughout the marketplace.

Bloomberg STP would also expect to set up connectivity directly with its own users and to determine how to communicate with them without the involvement of Omgeo.

Accordingly, Bloomberg STP should be free to communicate affirmed confirmations to DTC and connect to its own customers (*e.g.*, custodians and settlement agents), in each case, without being dependent on its competitor (which is an operator of the Omgeo-centric Existing Infrastructure) to do so. The DTCC Letter provides no material justification for its claims otherwise.

ii. Need for DTC Control Numbers does not necessitate or justify mandated use of Existing Infrastructure.

DTCC also advocates for requiring the use of the Omgeo-centric Existing Infrastructure to obtain a DTC "control number" ("DTC Control Number") from Omgeo to be used throughout an institutional trade by the parties to the trade and their agents in the electronic confirmation, matching and settlement processes.[38]

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[36] The absence of a need to rely on the Omgeo-centric Existing Infrastructure to send matched confirmations to DTC is further exemplified by the ability of broker-dealers and custodians today to send unaffirmed or exempted trades directly to DTC as Deliver Orders (DOs). We understand these Deliver Orders are sent directly to DTC without the need to use an Omgeo service.

[37] Consistent with this point, the DTCC Letter notes that "Omgeo currently interfaces with over 60 vendors, including [a Bloomberg STP affiliate], on behalf of their customers . . . ." DTCC Letter at 20.

[38] DTCC Letter at 15.

Bloomberg STP believes that, ideally, there should be one issuer of control numbers. The DTC Control Number, which is essential to safe and sound settlement of transactions, however, is the responsibility of DTC to provide as a registered clearing agency, and not the responsibility of DTCC, Omgeo or any other DTCC affiliate.[39] As described by the Commission, the process for obtaining DTC Control Numbers is an integral component of providing a matching service.[40] Requiring Bloomberg STP to obtain DTC Control Numbers from Omgeo (as opposed to from DTC) would disadvantage Bloomberg STP and, as a result, market participants, because Bloomberg STP's competitor Omgeo would be in control of an integral function on which the Bloomberg Matching Service is reliant. If transferring the DTC Control Number functionality back to DTC is the best way to address this issue, the Commission should mandate doing so. Alternatively, if the Commission were to allow DTC to continue to outsource issuance of DTC Control Numbers to a matching service (Omgeo) then DTC should seek expeditiously also to allow Bloomberg STP to generate DTC Control Numbers on behalf of DTC.[41]

Regardless of which entity issues the DTC Control Number, from an operational perspective, the Bloomberg Matching Service will obtain DTC Control Numbers during its matching process[42] and will enrich the confirmation generated through the service with the DTC Control Number, thereby providing the same benefits to efficiently and effectively settle trades as provided by the DTC Control Number today.

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39 The DTCC Letter notes that the DTC Control Number is currently issued on behalf of DTC through the DTCC TradeSuite ID facility. DTCC Letter at 8 n.30. Confusingly, DTCC also claims that the DTC Control Number is "issued by TradeSuite ID on behalf of *DTCC* (emphasis added)." Id. at 7 n.27. *See also* page 7 of the DTCC Letter referring to "the DTCC-issued control numbers." The Commission allowed DTC to transfer TradeSuite to Omgeo. Securities Exchange Act Release No. 44189 (April 17, 2001), 66 FR 20502). TradeSuite is presently owned and controlled by Omgeo. Even though DTC has outsourced some of its operations to another entity, DTC retains its registered clearing agency obligations with respect to the provision of, and access to, its services.

40 Matching Release, 63 FR at 17944. A DTC Control Number is also required to be obtained by qualified vendors of electronic trade confirmation services. *See* FINRA Rule 11860(b)(3)(A)(ii). There is no provision in FINRA Rule 11860 that requires the use of the Omgeo-centric Existing Infrastructure by qualified vendors.

41 We note that DTC could ensure that DTC Control Numbers generated by Bloomberg STP are distinguishable from those generated by Omgeo by requiring, for example, use of a "B" prefix for the former and an "O" prefix for the latter.

42 Contrary to DTCC's claim that a specific time for obtaining the "control number" should be incorporated into Bloomberg STP's application, DTCC Letter at 9 n.33, the incorporation of the DTC Control Number in the matching and qualified vendor processes is well-understood. As described in the Matching Release, the control number is obtained from DTC during the process of confirming the terms of a trade with the broker-dealer involved in the trade (63 FR at 17944) (also describing the process when a "Qualified ETC Vendor" processes a trade and "at some point in this process" sends a trade confirmation to DTC to obtain a control number. 63 FR at 17944-17945).

iii. Trades can be submitted in proper format to DTC without use of Existing Infrastructure.

DTCC claims that using the Omgeo-centric Existing Infrastructure will help DTC ensure that the trade instructions it receives are in a proper format.[43] Whether trade instructions are in a "proper format," however, requires only the use of an agreed protocol. The Bloomberg Matching Service will use industry standard communication, message and file transfer protocols and will be able to ensure that the trade instructions sent to DTC are in a "proper format."

iv. Bloomberg Matching Service and other vendors as source of Rule 10b-10 confirmations will not harm market participants.

DTCC claims that a regulatory advantage of using the Omgeo-centric Existing Infrastructure is that market participants "already have their regulatory compliance systems programmed to rely on the Existing Infrastructure as the source of [Exchange Act] Rule 10b-10 compliant confirmations," and cites the series of no-action letters that Omgeo has received from Commission Staff to permit broker-dealers to use Omgeo to provide electronic confirmations to comply with Rule 10b-10.[44] DTCC also states: "If multiple central matching services were to provide an additional source of such confirmations (assuming similar Rule 10b-10 and related recordkeeping relief was obtained by such other central matching services)" the result would be costly and unnecessary duplication and would lead to risks of error to the detriment of the industry and investors.[45]

First, multiple sources of electronic Rule 10b-10 compliant confirmations would not harm market participants. The Commission's staff has issued several no-action letters permitting various commercial entities, including matching services and other types of entities, to provide electronic confirmation services that allow broker-dealers to satisfy their obligations under Rule 10b-10 and associated recordkeeping requirements.

Second, DTCC notes the fact that Omgeo has received a series of no-action letters from the Commission's Staff to provide Rule 10b-10 confirmations and implies that to be a compliant matching service Bloomberg STP would be required to obtain "Rule 10b-10 and related recordkeeping relief" similar to that previously obtained from the Commission's

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Consistent with the requirement and the process described in the Matching Release, the Bloomberg Matching Service will obtain a DTC Control Number during the confirmation process.

43 DTCC Letter at 15 n.41.

44 DTCC Letter at 8.

45 DTCC Letter at 8.

Staff by Omgeo (and DTC).[46] The Commission's Staff has issued such no-action letters to a number of electronic confirmation services in addition to Omgeo, including SS&C Technologies, Inc., which has also applied to the Commission for an exemption from clearing agency registration related to central matching.[47] Most recently, however, the Commission's Staff stated that it would "no longer respond to letters in this area unless they present novel or unusual issues."[48] Contrary to DTCC's representation, we do not believe the Commission intends for receipt of Rule 10b-10 no-action relief to be an obstacle or barrier to entry for the first competitor.

Therefore, in light of DTCC's position that other matching services must obtain no-action relief similar to what the Staff has provided to Omgeo, we respectfully request that the Commission provide clarity to Bloomberg STP on this point. Specifically, should the Commission determine to approve our application, we request that the Commission include in the order issued in response to Bloomberg STP's application confirmation that the Rule 10b-10 no-action relief described above applies to broker-dealers which use Bloomberg STP's proposed service.[49]

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[46] DTCC Letter at 8 and footnotes 28 and 29.

[47] E.g., SEC Staff No-Action Letters to: MarketAxess Corporation (January 26, 2015); TradeWeb LLC (July 22, 2003); SS&C Technologies, Inc. (August 13, 2008).

[48] SEC Staff No-Action Letter to MarketAxess Corporation (January 26, 2015). We note in this connection that the Staff references two no-action letters to Omgeo. Id. at 2 n.2.

[49] The service would generate electronic trade confirmations as follows:

i. Each confirmation provided will include all of the information required under Rule 10b-10. This information will be provided to Bloomberg STP by the broker-dealer. Bloomberg STP will accept and incorporate terms and conditions relating specifically to the broker-dealer that would not change on a trade-by-trade basis, and will accept information required by Rule 10b-10 on a trade-by-trade basis from a broker-dealer. Bloomberg STP also will permit broker-dealers to include additional disclosures as they deem necessary on the electronic confirmation, including disclosures not specifically required under Rule 10b-10.

ii. Broker-dealers will be allowed to provide with each electronic confirmation all information normally appearing on the back of a paper confirmation, including any additional disclosures not required under Rule 10b-10 that a broker-dealer wishes to provide. Bloomberg STP will offer broker-dealers the ability to store within Bloomberg STP's system multiple backers per securities product type. Also, Bloomberg STP will offer broker-dealers the ability to provide such backer content to Bloomberg STP via FIX messages on a trade-by-trade basis, eliminating the need for broker-dealers to store such backer content within Bloomberg STP's system. Confirmations will be provided in a single, contiguous form regardless of the manner in which they are provided.

iii. The confirmation will indicate that the customer should contact the broker-dealer with which it effected a transaction with any questions, and that Bloomberg STP will not answer *v. Use of the Omgeo-centric Existing Infrastructure for record storage: Potential concern instead of benefit.*

DTCC claims that mandating use of the Omgeo-centric Existing Infrastructure will ensure that all records of institutional trades are centralized at a single entity, DTCC, and will therefore be a benefit.[50] DTCC's description of "centralization of time-stamped trade records at DTCC" and "the current system under which DTCC produces and maintains all of the audit records in a centralized location" is worrisome. The introduction of an additional record storage venue will benefit the marketplace by alleviating reliance on a single entity.

D. No justification to delay interoperability of Omgeo with other matching services.

To safeguard competition among matching service providers, the 2001 Omgeo Exemption requires Omgeo to comply with detailed Interoperability Conditions[51] to:

> develop, in a timely and efficient manner, fair and reasonable linkages between [Omgeo] and Other Central Matching Services that, at a minimum, allow parties to trades that are processed through one or more Central Matching Services to communicate through one or more appropriate effective interfaces with Other Central Matching Services.[52]

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any questions or otherwise become involved in post-transaction discussions between customers and broker-dealers.

iv. Customers and broker-dealers will have the ability to view, download and print their confirmations through the Bloomberg STP system, and will be able to establish default procedures pursuant to which such confirmations are downloaded and/or printed automatically. Confirmations will be stored electronically by Bloomberg STP and be available to broker-dealers for not less than the period required by Rules 17a-3 and 17a-4 under the Exchange Act.

v. The broker-dealers will obtain the prior written, informed consent of their customers (which may be electronic) to the receipt of trade confirmations electronically using Bloomberg STP electronic Rule 10b-10 confirmation messages. If the customer revokes this consent, then the broker-dealer will send any future Rule 10b-10 confirmations to that customer through means other than Bloomberg STP electronic Rule 10b-10 confirmation messages.

50 DTCC Letter at 7-8.

51 66 FR at 20499-20500. Additional conditions apply to prices for interfaces and prices for customers. Id. at 20500.

52 2001 Omgeo Exemption, 66 FR at 20499 (footnote omitted). The Commission implemented a framework to achieve this goal including requiring Omgeo, within 120 days of request, to negotiate and agree with another central matching service to develop and build an interface. Within 90 days after reaching a binding agreement and receiving all the information necessary to develop and

For the past 14 years, neither DTCC nor Omgeo has raised any concerns about the terms of the 2001 Omgeo Exemption while enjoying its considerable benefits. Indeed, DTCC concedes that the 2001 Omgeo Exemption reflected a "concern that Omgeo could restrict competitors' access to DTC and give Omgeo an unfair advantage through differential pricing, lack of interoperability, and preferential treatment of Omgeo's clients by DTC."[53] Now, however, DTCC maintains that the timeframes specified in the 2001 Omgeo Exemption for negotiating interfaces between Omgeo and other matching services are unrealistic. DTCC asks the Commission to selectively nullify the very conditions that the Commission found were "necessary and appropriate" to justify granting Omgeo its exemption.[54] DTCC fails to raise a single policy or practical reason to justify the Commission's altering the terms of the 2001 Omgeo Exemption, citing only the need for its subsidiaries to devote resources to comply with exemption conditions.[55] That is not a valid reason to modify the provisions in the 2001 Omgeo Exemption as DTCC suggests.[56]

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operate the interface, Omgeo is required to begin operating the interface. Both time periods are subject to extensions by written agreement.

As described in Section V.C.2. of Exhibit S to Bloomberg STP's application for exemption, Bloomberg STP would be subject to interoperability conditions similar to those in the 2001 Omgeo Exemption.

The Commission's intent in imposing the "Interoperability Conditions" is clear from the order itself and speeches given by SEC officials at the time. For example, the then-Director of the Commission's Division of Market Regulation, Annette Nazareth, states that, "[The 2001 Omgeo Exemption] contains a number of conditions that we believe will enable other entities to compete with [Omgeo]. We believe competition will help foster innovation and help the industry achieve straight-through processing and [shorten trade settlement time]." Speech delivered to the Securities Traders Association (May 3, 2001), available at http://www.sec.gov/news/speech/spch484.htm. Additionally, in a 2004 speech, the then-Senior Associate Director of the Division of Market Regulation, Larry E. Bergmann, exalts one of the benefits of competition as generating greater efficiency than non-competitive models and cited the 2001 Omgeo Exemption as a situation where regulation effectively established the framework to facilitate competition. Speech Delivered at the International Securities Settlement Conference (February 10, 2004), available at https://www.sec.gov/news/speech/spch021004leb.htm.

53 DTCC Letter at 19.

54 It is significant to note that the U.S. Department of Justice provided advice to the Commission in formulating certain conditions of the 2001 Omgeo Exemption. 66 FR at 20498 n.40. We also note that Omgeo itself has not expressed any of these concerns in response to the Bloomberg STP application.

55 The timeframes in the 2001 Omgeo Exemption contain flexibility if needed and provide for neutral industry participants to monitor interoperability negotiations between Omgeo and other matching services.

56 DTCC also fails to show that any modification of the 2001 Omgeo Exemption is "necessary or appropriate in the public interest." The Commission has twice this year stated that it preliminarily

If Omgeo wishes to seek amendments to critical portions of the 2001 Omgeo Exemption, the required procedure is for *Omgeo*, not DTCC, to file an amendment to Omgeo's Form CA-1 describing its proposals.[57]

E. DTCC's criticisms of Bloomberg STP are unjustified.

The DTCC Comment Letter makes a variety of criticisms of Bloomberg STP, all of which are unjustified.

i. Contrary to DTCC's assertion, there is nothing unusual or pernicious in the fact that Bloomberg STP will be a for-profit business.

DTCC implies that there is something unusual or pernicious in the fact that Bloomberg STP will be a for-profit business, and that the Commission should impose pricing and access conditions on Bloomberg STP and its affiliates.[58] Whether or not Bloomberg STP or any other future entrant is "for-profit" is irrelevant. Many SEC-regulated entities, as well as those operating pursuant to exemptions, are for-profit businesses. DTCC does not cite any evidence that the 2001 Omgeo Exemption or any other precedent contemplates that the subsequent entrants to Matching Services may not be for-profit entities or require any special controls by virtue of that status.[59]

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believes that granting applications for similar exemptions with virtually identical terms "would be consistent with the Commission's past practice, and that additional matching service providers should promote innovation and reduce costs for investors." 80 FR at 12053 (Bloomberg STP); 80 FR at 23624 (SS&C Technologies). Technological developments since 2001 do not justify extending the timeframes established by the 2001 Omgeo Exemption because technological improvements have increased the ease of establishing safe and secure communication links.

We believe that the conditions in the 2001 Omgeo Exemption, and the substantially equivalent conditions proposed to be applied in the Bloomberg STP exemptive order, are sufficient to promote the purposes of Section 17A of the Exchange Act and to allow the Commission to adequately monitor the effects of Bloomberg STP's proposed activities on the national system for the clearance and settlement of securities transactions. With regard to allowing for adequate monitoring by the Commission, in addition to the exemptive order conditions requiring annual audit reports, reports of outages, advance notice of material changes, periodic affirmation rate reports and recordkeeping, Bloomberg STP will also be subject to Commission monitoring under Regulation Systems Compliance and Integrity ("Regulation SCI"). The exemptive order conditions also require semi-annual reports to the Commission regarding Bloomberg STP's adherence to key interoperability conditions.

57 We expect that the Commission would publish any such proposals for public notice and comment. We also assume that, if amended, substantially similar conditions would also be applied to every matching service.

58 DTCC Letter at 19.

59 In fact, at the time that the 2001 Omgeo Exemption was granted, the Commission observed that

ii. Contrary to DTCC's assertion, there is no need to be concerned about the insolvency or discontinuation of Bloomberg STP.

DTCC cites the hypothetical risks of Bloomberg STP's insolvency or discontinuation of the Bloomberg Matching Service as having the potential to negatively impact the industry.[60] DTCC's concerns over the insolvency of Bloomberg STP are pure speculation. Bloomberg STP has devoted substantial resources to developing its matching service. Bloomberg STP is committed to the Bloomberg Matching Service and is adequately capitalized. Additionally, as part of obtaining approval as an exempt clearing agency, Bloomberg STP has agreed to provide the Commission annual audited financial statements. No additional assurances regarding financial strength are necessary.

iii. Contrary to DTCC's assertion, industry needs are and will be represented in the establishment and operation of the Bloomberg Matching Service.

DTCC asserts without any evidentiary support that Bloomberg STP lacks sufficient governance and other controls. DTCC claims lack of industry participation and suggests that industry needs will not be fairly represented in the establishment and operation of the Bloomberg Matching Service.[61] DTCC's supposed concerns are entirely unfounded. We have engaged in extensive discussions with market participants in developing the Bloomberg Matching Service,[62] which discussions have made it apparent that the marketplace is eager for a competitor in the matching services space. We have established a governance structure designed to ensure that the Bloomberg Matching Service will be operated in a manner that is consistent with the public interest and the protection of investors, including establishing a Board of Directors to oversee the business, establishing fitness standards for qualification of each member of the Board of Directors and establishing specific governance principles.[63] Additionally, we intend to establish an

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Omgeo would be operated on a for-profit basis. Additionally, the first Commission exemption to provide a matching service was issued to TFTS in 1999. TFTS was not industry-owned or governed and was a for-profit enterprise.

60 DTCC Letter at 17-18.

61 DTCC Letter at 17.

62 In designing the Bloomberg Matching Service, Bloomberg STP met with over 30 investment managers. We also created and obtained input from two working groups, one comprised of representatives from seven industry-leading custodians and another comprised of representatives from 15 prominent broker-dealers. The feedback that Bloomberg STP received from market participants through these efforts has been carefully considered as part of development of the product design specifications of the Bloomberg Matching Service.

63 Although the Commission stated that a matching service requesting an exemption from clearing agency registration would be "required to meet standards substantially similar to those required of registrants under Section 17A," Matching Release, 63 FR at 17947 n.28, the Commission also

advisory board consisting of industry members and users of the Bloomberg Matching Service, including representatives from broker-dealers, investment managers and custodians. Bloomberg STP also intends to continue engaging with the securities industry and market participants as a further means of ensuring that the Bloomberg Matching Service operates in a manner that is consistent with the public interest and the protection of investors.

iv. Contrary to DTCC's assertion, Bloomberg STP will be appropriately staffed to operate the Bloomberg Matching Service.

Contrary to DTCC's assertion,[64] Bloomberg STP is staffed with an adequate number of qualified and experienced personnel to operate the Bloomberg Matching Service. Bloomberg STP's staff includes industry veterans who know the marketplace and are well suited to operate the Bloomberg Matching Service and ensure that Bloomberg STP complies with all applicable regulatory standards, including stringent business continuity, information security and capacity testing plans and procedures.

v. Contrary to DTCC's assertion, Bloomberg STP will maintain the privacy of users and confidentiality of data.

DTCC attempts to raise concerns about licensing arrangements between Bloomberg STP and its parent, Bloomberg L.P., and ultimately Bloomberg STP's ability to maintain the privacy of users and confidentiality of data within its databases and suggests that

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concluded that "an entity that limits its clearing agency functions to providing matching services need not be subject to the full panoply of clearing agency regulation." Id. at 17947. In the first exemption granted to a matching service, the Commission expressly decided that a matching service was not required to satisfy the fair representation standard in Section 17A(b)(3)(C). 1999 TFTS Exemption, 64 FR at 25949 n.16. Most recently, the Commission determined that the enhanced governance requirements in Exchange Act Rule 17Ad-22 apply only to registered clearing agencies, and do "not apply to entities exempt from registration as a clearing agency, unless the terms of future exemptions specifically contemplate its application, in whole or in part." Securities Exchange Act Release No. 68080 (October 22, 2012), 77 FR 66220, 66252. The Commission has not suggested that any change from that position is necessary or appropriate.

When Omgeo was granted its exemption in 2001, the order noted that five members of Omgeo's board of managers would be industry representatives. 2001 Omgeo Exemption, 66 FR at 20495. That structure was simply noted as a fact in the order, and there was no suggestion that the Commission had changed its position from the 1999 TFTS Exemption, which it cited without comment in its discussion of the statutory standards applicable to Omgeo. Id. at 20497 n.36. We note that Omgeo's board composition may have reflected industry concerns about possible preferential treatment for Omgeo by DTC, which are both DTCC subsidiaries. *See* id. at 20498 n.39. That concern does not apply to Bloomberg STP.

64 DTCC Letter at 21.

additional firewalls and internal controls be required.[65] As an example, DTCC cites Bloomberg L.P.'s enhancement of access controls to prevent inappropriate access to Bloomberg L.P. client data. If anything, Bloomberg L.P.'s enhanced access controls provide added assurance that Bloomberg STP's data will be held securely. Bloomberg L.P. is a preeminent data service provider and it and Bloomberg STP have in place information security policies and procedures that meet or exceed industry standards.

vi. Contrary to DTCC's assertion, Bloomberg STP will have sufficient system capacity and business continuity/disaster recovery capability.

DTCC asserts that it is concerned whether Bloomberg STP's systems would have the capacity to handle the significant amount of potential order flow, particularly the high volumes that can occur during times of market stress or volatility.[66] DTCC's concern regarding systems capacity is unjustified. Bloomberg STP has planned for adequate systems capacity and conducts stress testing. Bloomberg STP and its affiliates have a comprehensive business continuity management program to ensure a timely response to, and effective recovery from, unanticipated business interruptions that may affect facilities, technology and/or people. To minimize business interruption events, Bloomberg STP will undertake continuous monitoring and identification of potential risks and take action designed to mitigate the impact of these risks.

vii. Contrary to DTCC's assertion, the Bloomberg Matching Service will not create antitrust issues.

The DTCC Letter claims that approving Bloomberg as a competitor will introduce "possible antitrust issues," and requests that the Commission include provisions in Bloomberg STP's exemption regarding the use and sale of the Bloomberg Matching Service vis-à-vis other products of Bloomberg L.P.[67] There is no merit in DTCC's assertion of potential antitrust concerns. DTCC does not offer any logical explanation of how approving Bloomberg STP's application—and introducing Omgeo's first competitor ever—could harm competition, though it might affect Omgeo's current monopoly in matching services and DTCC's own business interests.

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65 DTCC Letter at 18.

66 DTCC Letter at 22.

67 DTCC Letter at 19-21.

Rather, the emergence of Bloomberg STP as a competitor to Omgeo advances key principles that underlie the Commission's 2001 Omgeo Exemption. As market participants noted at the time, competition permits market participants to select those products and services that meet their needs.[68]

Nevertheless, for the sake of completeness, we note that DTCC suggests that the Commission impose conditions on Bloomberg STP that it did not impose on Omgeo. DTCC purports to cite "possible antitrust issues" as the rationale for its speculative request for Commission action, but it provides no justification for such action. Indeed, DTCC's request is ironic, as DTCC's requested action would undermine antitrust principles by imposing additional restrictions on the ability of a new entrant to compete against an entrenched monopolist.

DTCC also purports to be concerned that Bloomberg STP will target only large, high-volume customers.[69] This is not accurate. As explained above, Bloomberg STP plans to offer the Bloomberg Matching Service to a wide range of market participants including the currently non-automated segment of the market, many of which are smaller entities.

viii. Contrary to DTCC's assertion, the Bloomberg electronic trade confirmation service will increase, not reduce, settlement efficiency.

The DTCC Letter claims that the Bloomberg Matching Service's electronic trade confirmation service (Scenario 2) would not align with the migration to a T+2 settlement cycle.[70] DTCC also asserts without any evidence that affirmation rates for electronic trade confirmation services are lower than affirmation rates of Omgeo's central matching service. There is no justification or substantiation provided by DTCC for these claims. The electronic trade confirmation service to which DTCC refers is the same type of electronic confirmation service that Omgeo currently provides to custodians and other market participants, and is mentioned in the 2001 Omgeo Exemption. Market participants such as custodians that today use this type of service to match trades are no less interested in timely settlement than other market participants. Bloomberg STP believes that central matching and the electronic trade confirmation service are both efficient and effective workflows for achieving shorter settlement cycles and that there is demand in the marketplace for both types of services. Finally, the Bloomberg Matching Service,

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[68] That was the fundamental objective underlying interoperability concerns of commenters. *See, e.g.*, comment letters from: Gary Bullock, Global Head of Operations, UBS Warburg (January 3, 2001); Neil T. Henderson, Senior Vice President, The Chase Manhattan Bank (January 5, 2001); Michael Wyne, Chairman – AMF, and Gary Koenig, Vice Chairman – AMF, The Bond Market Association, The Asset Managers Forum (January 5, 2001).

[69] DTCC Letter at 19, 21.

[70] DTCC Letter at 16-17.

including the electronic trade confirmation service, will actually increase rather than reduce settlement efficiency, for the multiple reasons described above.

F. DTCC's claims that additional regulatory obligations should apply to Bloomberg STP and/or its affiliates have no legal basis.

The DTCC Letter makes claims that a variety of additional regulatory obligations should apply to Bloomberg STP and/or its affiliates, none of which have any legal basis.

i. Contrary to DTCC's claim, there is no legal basis for asserting that Regulation SCI should apply to Bloomberg STP affiliates or for applying the standards in the 2003 Interagency Paper to Bloomberg STP.

The DTCC Letter suggests that Bloomberg STP and its affiliates which provide support services to Bloomberg STP should be "subject to the full panoply of legal and regulatory requirements under Regulation [Systems Compliance and Integrity] and the Interagency Paper [on Sound Practices to Strengthen the Resilience of the U.S. Financial System]."[71] First, if Bloomberg STP is granted the requested exemption, it (like Omgeo and any other exempt clearing agency matching service) will become subject to the Commission's Automated Review Policies and, when it becomes effective in November 2015, its successor Regulation SCI.[72] There is no legal basis for DTCC's claim that Regulation SCI should apply to Bloomberg STP's affiliates. Those affiliates are not covered by the regulation as adopted by the Commission. Second, the standards articulated in the 2003 Interagency Paper apply to "core clearance and settlement organizations." There is no mention of exempt clearing agencies in the document, and therefore it is not applicable to the Bloomberg Matching Service. Further, the 2003 Interagency Paper is effectively superseded by the Commission's action to address the concerns in that document by the adoption of Regulation SCI.

ii. Contrary to DTCC's claim, there is no legal basis for asserting that Bloomberg STP should be subject to additional regulatory obligations to which DTC, NSCC and FICC (but not Omgeo) are subject.

DTCC asserts that "DTCC's regulated affiliates have each been subject to business continuity standards higher than those explicitly specified in Regulation SCI, and [Bloomberg STP] should be held to those same standards."[73] DTCC overstates the case.

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[71] DTCC Letter at 22. The 2003 Interagency Paper was published in Securities Exchange Act Release No. 47638 (April 7, 2003), 68 FR 17809.

[72] *See* Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR 72252.

[73] DTCC Letter at 21 (with a footnote reference to the 2003 Interagency Paper, which does not apply to exempt clearing agencies, addressed previously).

DTCC's regulated affiliates are subject to high standards, but certain of those "regulated affiliates," namely DTC, NSCC and the Fixed Income Clearing Corporation, are registered clearing agencies and have been designated as Systemically Important Financial Market Utilities ("SIFMUs").[74] The Commission has specified special requirements for the SIFMUs for which it is the appropriate supervisory regulator.[75] DTCC's affiliate comparable to Bloomberg STP, *i.e.*, Omgeo, however, is not a registered clearing agency and not a SIFMU. Therefore, the standards applicable to DTCC's regulated affiliates do not apply to Omgeo, nor will they apply to Bloomberg STP. Rather, the scope of the requirements pertaining to exempt clearing agencies is specified in the relevant statutory provisions and Commission exemptive orders.[76]

iii. Contrary to DTCC's claim, no further action is required at this time for Bloomberg STP to seek qualified vendor status under FINRA Rule 11860.

DTCC seems to suggest that some action apart from filing the Bloomberg STP application presently must be taken by the Commission, FINRA or Bloomberg STP for Bloomberg STP to become a "qualified vendor" under FINRA Rule 11860.[77] That is incorrect. As the DTCC Letter acknowledges,[78] Bloomberg STP's application seeks an exemption to permit it to provide both a matching service and an electronic trade confirmation service. If the Commission grants the exemption, Bloomberg STP will be authorized to be "utilized for the electronic confirmation and affirmation of all depository-eligible transactions" under FINRA Rule 11860.[79] Moreover, the Commission has stated that, in the process of considering whether to grant an exemption, an entity would have to meet the requirements to become a qualified vendor under the relevant self-regulatory organization rules, *e.g.*, FINRA Rule 11860, because they are necessary elements in providing a matching

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74 *See* Financial Stability Oversight Council Annual Report, Appendix A (2012).

75 Exchange Act Section 17Ad-22. *See also* Securities Exchange Act Release No. 71699 (March 12, 2014).

76 *See* Matching Release, 63 FR at 17947.

77 DTCC Letter at 3-5, 9-10. DTCC states: "If [Bloomberg STP] is requesting qualified vendor status, then we understand that FINRA would be required to request such status on [Bloomberg STP]'s behalf through a no-action letter [to the Commission]," citing Securities Exchange Act Release No. 41378 (May 7, 1999), 64 FR 1999 [sic] [25940]. DTCC Letter at 9 n.32. That is incorrect. As required by FINRA Rule 11860(b)(3)(C), Bloomberg STP, not FINRA, would submit an auditor's report to the Commission Staff which the Staff must determine is not unacceptable.

78 DTCC Letter at 9-10.

79 *See* FINRA Rule 11860(a)(5), (b)(1).

service.[80] Accordingly, no further action is required at this time for Bloomberg STP to acquire qualified vendor status.[81]

iv. Contrary to DTCC's claim, there is no justification for the Commission to impose conditions on access to Bloomberg's FailStation.

Finally, DTCC claims that the Commission should require conditions on access to "Bloomberg STP's FailStation" product that are similar to those required for access to Omgeo's ALERT in the 2001 Omgeo Exemption.[82] DTCC explains that the conditions in the 2001 Omgeo Exemption include assurances that other central matching services and persons that represent or otherwise provide services to customers (*i.e.*, end-users) of Omgeo would have access to Omgeo's ALERT on "fair and reasonable terms." DTCC's concern, however, is misplaced. FailStation is not a product offered by Bloomberg STP. FailStation is offered by Bloomberg Finance L.P., an affiliate of Bloomberg STP, and is made available to all market participants who wish to purchase it. Accordingly, there is no need to impose a regulatory obligation on Bloomberg STP to ensure FailStation remains accessible to market participants.[83]

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80 Matching Release, 63 FR at 17947 n.27.

81 Bloomberg STP recognizes that there are requirements in FINRA Rule 11860 that must be satisfied prior to commencing operations as a qualified vendor.

82 DTCC Letter at 20.

83 It is important to note that Omgeo's ALERT and Bloomberg's FailStation are completely different services. Omgeo's ALERT is "a database of customer relationship information and settlement data that is shared by institutions, broker-dealers, and custodians." *See* 2001 Omgeo Exemption. Bloomberg's FailStation, by contrast, is a tool that allows investment managers, custodians and broker-dealers to monitor and manage pre- and post-settlement exceptions.

We would be pleased to meet with Commissioners or Commission Staff to address any questions that they may have.

Sincerely,

Ben Macdonald
President
Bloomberg STP LLC

cc: The Honorable Mary Jo White, Chair
The Honorable Luis A. Aguilar, Commissioner
The Honorable Daniel M. Gallagher, Commissioner
The Honorable Kara M. Stein, Commissioner
The Honorable Michael S. Piwowar, Commissioner
Stephen I. Luparello, Director, Division of Trading and Markets
Gary Goldsholle, Deputy Director, Division of Trading and Markets
Peter Curley, Associate Director, Division of Trading and Markets
Jeffrey Mooney, Assistant Director, Division of Trading and Markets