



May 26, 2020

Ms. Vanessa Countryman
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: Market Data Infrastructure (File No. S7-03-20)

Dear Ms. Countryman:

ACS Execution Services, LLC (“ACS”)¹ is writing to provide its comments on the proposed rule to expand the content of NMS information that is required to be collected, consolidated, and disseminated as part of the national market system under Regulation NMS and to amend the method by which such NMS information is collected, calculated, and disseminated.

The proposed rule raises important policy issues and, to that end, issues of importance to ACS and other similarly situated market participants. Significantly, ACS believes that competition in the provision and dissemination of market data, and enhancing what constitutes consolidated market data, can bring certain benefits to the markets including the potential for reduced market data costs and allowing market participants to more efficiently execute orders.

For these reasons, and the reasons discussed below, ACS supports the proposal overall. We nevertheless have several recommendations on certain aspects of the proposal, particularly around the proposed definitions of round lot and protected bid and offer, as well as on certain aspects of the proposed competing consolidator model. Our specific comments and recommendations follow.

I. Introduction

As ACS has stated in our previous letters to the Commission on proposals that would impact market data, we support initiatives to enhance available liquidity and optimize price discovery by deemphasizing speed as a key factor in trading, as well as those aimed at reducing the amount of latency arbitrage and the times in which ACS and other broker-dealers may be “picked off” by

¹ ACS Execution Services, LLC is a registered broker-dealer and FINRA member that provides execution services to other broker-dealers through a platform designed by its affiliate Global Liquidity Partners (GLP). GLP is a technology company providing Electronic Execution Technology driven by a highly efficient proprietary architecture. GLP’s trading platform is built on a low latency chassis and combines speed and a state-of-the-art decision engine designed to source liquidity while minimizing information leakage. For further information on GLP, visit <https://globalliquiditypartners.com>.

predatory trading practices.² With these goals in mind, we have based our trading platform on the ability to help eliminate the speed advantage of predatory trading firms and any “gaming” that may occur in the markets. We also utilize an array of trading strategies to maximize liquidity across the numerous trading venues.

ACS believes that an efficient system for the provision of market data can help a number of variables that ACS’ liquidity management system (as well as the systems of other broker-dealers) takes into account when trading including sourcing liquidity from the fragmented marketplace, reducing transaction costs, addressing latency related to market centers, addressing quote depth and bid/ask spread, and figuring out the optimal time to execute an order. In all, we believe that improving the methods for the dissemination of market data as well as enhancing what constitutes consolidated market data, including many of the recommendations in the proposal, will be important for the variety of routing strategies employed by ACS and other broker-dealers.

As a preliminary matter, we also want to reiterate the views expressed in our previous letters that taking into account broker-dealers’ best execution responsibilities when making reforms to the rules around trading will be critical to allow broker-dealers to trade effectively in the markets. We therefore recommend that the Commission clarify and provide guidance surrounding broker-dealers’ best execution responsibilities as it relates to many aspects of the proposal, including the proposed definition of round lot and protected bid and offer, as well as some of the aspects surrounding the choice of competing consolidator. We believe Commission guidance in this area would assist in resolving many of the issues addressed by the proposal and the concerns of many commenters on these issues.

II. Enhancements to Consolidated Market Data

The proposal would expand the content of consolidated market data, which includes “core data.” Under the proposal, core data would include several data elements that are not currently provided by the exclusive SIPs including certain depth-of-book information, and information about odd lots and auctions.

ACS strongly supports expanding core data to include additional information of significance to investors. As the proposal notes, through the provision of such additional information, market participants may have access to data to make better routing and trading decisions. In addition, we agree that the proposed information to be included in core data has become much more important to broker-dealers in recent years as the top of book liquidity that is displayed and disseminated as part of current core data has reduced in size, as odd-lot quotations have come to represent significant amounts of liquidity that are not reflected in current core data, and as an increasing proportion of total trading volume is executed during opening and closing auctions.

² See, e.g., Letter from Tim Lang, Chief Executive Officer, ACS, to Vanessa Countryman, Secretary, SEC (File No. SR-CboeEDGA-2019-012), October 21, 2019; Letter from Tim Lang, Chief Executive Officer, ACS, to SIP Operating Committees, November 15, 2019 (Odd-Lots Proposal Letter); and Letter from Tim Lang, Chief Executive Officer, ACS, to Vanessa Countryman, Secretary, SEC (File No. SR-IEX-2019-15), January 21, 2020 (IEX D-Limit Proposal).

Proposed Definition of Round Lots

Arguably the most contentious issue raised in the proposal is the proposed definition of round lot and, as discussed below, the associated issues around the definition of protected bid and offer. Specifically, the proposal sets forth a new definition of “round lot” that would include certain information about quotations that are currently defined as odd-lots and are therefore not included in the SIP. Depending upon their stock price, the proposed definition would assign different round lot sizes to individual NMS stocks.

ACS has previously expressed support for SIP inclusion of odd lot quotes.³ As we stated at the time, given the higher levels of odd lot activity, there should be a corresponding increase in the transparency of publicly available odd lot data. Specifically, we recommended that adding odd lot data to core data may provide market participants with important additional information about the price and liquidity of NMS stocks. We also believed that inclusion of odd lot data in core data may help alleviate some of the concerns surrounding market data costs and the need to pay exchanges for their proprietary market data feeds. Similarly, ACS stated that there should be a consideration of other changes to facilitate additional transparency of odd lot orders and associated market data, such as reducing the round lot size for higher-priced securities. We therefore supported a broader discussion of these issues and are pleased that the Commission is addressing these issues in the proposal.

While we support the proposal’s inclusion of odd-lots in core data, we believe that rather than utilizing the proposed “tiered” definition of round lot, the better solution would entail having all quotes over a certain notional value be included in the proposed definition of core data. Using notional value alone as the basis for what is considered core data would eliminate complexities around creating a new regime for calculating round lots and what is encompassed in each round lot tier.

If the Commission determines to define round lots in terms of tiers, we believe that the proposed five tiers of round lots may add unnecessary complexity to the markets. We therefore recommend that the number of tiers be reduced to at most three levels. ACS is open to further discussion and examination around the specific range of shares that should be encompassed by these tiers but the key factor should be basing what is considered a round lot on notional value that is of significance and of a meaningful value to market participants. We therefore recommend that the Commission also raise the minimum notional value amount under the proposal above \$1,000 to better provide for an order size of significant value in today’s markets. As discussed further below, we believe that revising the round lots tiers in this manner also would ensure that any round lot included in the NBBO would be of an amount that is of significant notional value to warrant being deemed a protected quote.

Proposed Amendments to the Definition of Protected Bid or Offer

The proposal would amend the definition of “protected bid or protected offer” by requiring automated quotations to be of at least 100 shares to qualify as a protected quote. The proposal

³ See ASC Odd-Lots Proposal Letter, *supra* note 2.

notes that Rule 611 under Regulation NMS, *i.e.*, the Order Protection Rule (“OPR”), requires trading centers to have policies and procedures that are reasonably designed to prevent trade-throughs on that trading center of protected bids or protected offers in NMS stocks.⁴ Rule 611 currently applies only to round lots, therefore the proposed definition of round lot would result in an expansion of the OPR by requiring the protection of quotations in the proposed smaller round lot sizes.

ACS supports an examination of the OPR and whether trade-through restrictions make sense in today’s markets. The proposal states that the Commission believes that Rule 611 should not be extended to smaller-sized quotations reflected in the proposed definition of round lot. In particular, the Commission argues that market developments since the adoption of Regulation NMS, improvements in trading and order routing technology, and best execution responsibilities all provide sufficient incentives for market participants to engage with meaningfully sized orders even without the extension of the OPR.

While we do not disagree with this assessment, we believe that given all of the potential implications of a change to the OPR to the ways that market participants trade, that any changes to current trade-through restrictions should not be made through the market data infrastructure proposal and instead is more appropriate for consideration in a separate Commission initiative. It will be critical to include in such an examination how inclusion of unprotected quotes would impact the NBBO, including the metrics that brokers will use for certain algorithms or trading strategies.

ACS therefore opposes the proposed definition of protected bid and offer and believes that, at this time, all quotations included in the NBBO should remain protected. In addition, by amending the proposal to change the definition of round lot and what is considered as core data as discussed above (*i.e.*, based on pure notional value or, alternatively, have round lots with a reduced number of tiers, with protection provided for such quotations), the Commission can provide protected quotes in the NBBO that will be “meaningful” for most market participants.

Depth of Book Data and Auction Information

The proposal would expand core data to include certain depth of book information and auction information. ACS supports these aspects of the proposal. As the proposal notes, providing depth of book information can be important information for strategies designed to optimize the ability to access market liquidity. In addition, only limited auction information is currently included in SIP data even though an increasing proportion of total trading volume is executed during opening and closing auctions.

At this time, ACS does not believe that providing complete depth of book data is necessary and believes that providing depth of book at the proposed five price levels is sufficient to improve the usefulness of core data for ACS and most market participants. We agree with the proposal that the addition of complete, order-by-order depth of book data to core data would represent a large

⁴ A “trade-through” is defined as “the purchase or sale of an NMS stock during regular trading hours, either as principal or agent, at a price that is lower than a protected bid or higher than a protected offer.”

amount of information, which could in turn increase latencies in the provision of proposed core data and introduce complexity into the markets.

III. Proposed Enhancements to the Provision of Consolidated Market Data

The Commission is proposing to replace the existing centralized, exclusive consolidation model for SIP data with a decentralized, competitive consolidation model.⁵ ACS supports the introduction of the proposed consolidation model. As the proposal notes, there are several potential benefits that such a model may bring including increased efficiency in the delivery of consolidated market data, enabling innovation in consolidated market data delivery, and reducing the various types of content and latency differentials that currently exist between SIP data and proprietary data products.

Ensuring Competition Among Competing Consolidators and Addressing Costs of Market Data

As the proposal notes, for the benefits of the competing consolidator model to be fully realized there would need to be a sufficient number of competing consolidators entering the market. ACS believes that only with a sufficient number of competing consolidators can there be true competition, and therefore incentive for competing consolidators to provide reliable and accurate consolidated market data and, importantly, in a cost-effective manner. To this end, we are hopeful that introducing competition into the provision of consolidated market data will lower market data costs. We also believe that having a sufficient number of multiple competing consolidators will be important to ensure resiliency and backup in the collection, consolidation, and distribution of consolidated market data.

ACS is concerned, however, about the potential lack of competition in the competing consolidator space, as well as the need for further oversight of the fees that competing consolidators would charge for market data. The proposal states that the Commission has several reasons to believe that it is likely that a sufficient number of firms would be willing to enter the space of competing consolidators so that the market would be competitive. Nevertheless, the Commission also recognizes the risk that there could be too few competing consolidators to fully realize the stated benefits of this model, in which case the proposal states that the proposed competitive changes may have a number of costs, including higher prices for the consolidation and dissemination of consolidated market data, which could increase the overall prices market participants pay for consolidated market data.

The proposal notes that the Commission considered an alternative to the decentralized consolidation model that would require competing consolidators' fees to be subject to the Commission's regulatory approval. ACS believes this alternative is worthy of discussion. We agree with the proposal that this alternative would potentially reduce the risk and uncertainty

⁵ To implement this model, the Commission proposes to: (1) introduce definitions of competing consolidator and self-aggregator; (2) require the SROs to provide their NMS information to competing consolidators and self-aggregators in the same manner the SROs make available this information to any person and to remove the requirement that there be only one plan processor for each NMS stock; (3) require the registration of competing consolidators and establish the obligations with which they must comply and a new Form CC for competing consolidator registration; and (4) amend Regulation SCI to expand the definition of "SCI entities" to include competing consolidators.

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surrounding the total price of consolidated market data, particularly that market participants are exposed to unreasonable fees. At the very least, we support the Commission's examination of appropriate safeguards that can be put in place under the new regime to control the fees charged by competing consolidators for market data. We are concerned that without such safeguards, market participants will be subject to another market data regime that would involve many of the same conflicts of interest currently facing the industry, such as having the fees charged by competing consolidators for core market data based on the amount of other business executed with the competing consolidator.

We are pleased that the proposal would require competing consolidators to publicly disclose certain information about their organization, operations, and products, as well as regularly publish certain performance statistics on, for example, capacity, system availability, and latency. ACS supports requiring competing consolidators to publicly disclose such information. We believe the dissemination of this type of information would help market participants make better-informed decisions about which competing consolidator to subscribe to and utilize for any market data needs. We also are hopeful that this transparency will result in further incentives for competing consolidators to keep market data costs down.

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We offer our assistance to the Commission as these issues continue to be examined. If you have any questions on our letter, please feel free to contact me directly at [REDACTED] or at [REDACTED].

Sincerely,



Tim Lang
Chief Executive Officer

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