

March 16, 2015

Comment: Access to information for basic and priority market data streams should be reviewed

Parties such as these exchanges, not just BATS, but NYSE and others offering priority and premium data feeds should be required to file periodic reports, suggested initially six months after opening the offering of such data feeds, and annually thereafter, listing how many Professional users are receiving the market data offered from basic or premium feeds, as well as how many non-professional users have access to such information. One of the justifications for the non-professional user fee is to make access to the data available, so it should be valid to ask: Is use being made by non-professionals, or is this or these data streams providing an advantage solely to professional users. One element of the rule requires counting and reporting users to the exchange, so the requirement for a report to the Commission of such data should not be burdensome.

Priority access, for a high price, for professionals may facilitate flash trading, market manipulation, or unfair arbitrage. The nominal availability of similar data to non-professional users, while claimed to level the playing field, may not actually be in use. Parties who are willing to pay premium prices may therefore have better market information about depth of bids, levels of sale stops, and quantities available that would permit running through planned protective stops by retail investors as part of a program of open market manipulation. As discussed in the testimony cited below, flash trading may have uncertain effects on competitiveness, retail investors, and market stability. To the extent such trading relies upon or utilizes real time data streams, the access to those streams should be a subject of interest to the SEC and the public.

Because the BATS proposal is to charge those who redistribute information an additional charge for each non-professional user, the exchange management will have easy access to data to compare professional and non-professional use of their data streams. Reporting on the relative use will give insight into the equality of access to such data. See

http://www.banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=f9f033f8-219f-474e-9620-fb12e83a5af3

http://www.banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=200cd31f-d0be-449b-82f9-0d4590f43601