

March 20, 2023

VIA EMAIL

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission, New Brunswick
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward
Island
Nova Scotia Securities Commission
Office of the Superintendent of Securities, Service NL
Northwest Territories Office of the Superintendent of Securities
Office of the Yukon Superintendent of Securities
Nunavut Securities Office

The Secretary
Ontario Securities Commission
20 Queen Street West
22nd Floor, Box 55
Toronto, Ontario M5H 3S8
Email: comments@osc.gov.on.ca

Re: *CSA Consultation Paper 21-403 – Access to Real-Time Market Data (the “Consultation”)*

The Canadian Advocacy Council of CFA Societies Canada¹ (the “CAC”) appreciates the opportunity to provide the following general comments on the Consultation and respond to the specific consultation questions below.

¹ The CAC is an advocacy council for CFA Societies Canada, representing the 12 CFA Institute Member Societies across Canada and over 21,000 Canadian CFA Charterholders. The council includes investment professionals across Canada who review regulatory, legislative, and standard setting developments affecting investors, investment professionals, and the capital markets in Canada. Visit www.cfacanada.org to access the advocacy work of the CAC.

CFA Institute is the global association of investment professionals that sets the standard for professional excellence and credentials. The organization is a champion of ethical behavior in investment markets and a respected source of knowledge in the global financial community. Our aim is to create an environment where investors' interests come first, markets function at their best, and economies grow. There are more than 190,000 CFA Charterholders worldwide in 160 markets. CFA Institute has nine offices worldwide and there are 160 local societies. For more information, visit www.cfainstitute.org or follow us on [LinkedIn](#) and Twitter at [@CFAINstitute](#).

We are highly supportive of the effort to bring greater transparency and accountability to the fees associated with accessing real-time market data (“RTMD”) in Canada. Given the comparatively high price of accessing RTMD in our country, we would broadly support those models canvassed in the Consultation which would place a reasonable cap on these fees. In order to evaluate the reasonableness of these fees adequately, we would prefer to see a model which cross-references fees in Canada with other international markets like the United States.

To the extent the Consultation contemplates the formation of a new industry group to identify and standardize terms and definitions or an Administrative IP responsible for setting and managing access to and the use of consolidated RTMD products, we would encourage the inclusion of a diverse range of market participants and interested stakeholders in these groups. While vendors and dealers have obvious expertise and experience in this area, independent experts and academics may also have valuable insights which could be beneficial.

Specific Responses to Questions

#1. Please identify any potential unintended consequences at the industry, marketplace, or firm level if we pursue this option.

The process of reviewing and commenting on these proposed changes will require the investment of significant time and effort from interested and affected market participants. As such, we would encourage substantive engagement and responsiveness to feedback in pursuit of fairness and the balancing of the many interests at play.

#2. Would this approach satisfy the need for more transparency in relation to proposed fee changes and their review process? If yes, please indicate what benefits this approach would offer. If no, please explain why and whether other requirements should be considered.

We believe this option would satisfy the need for enhanced transparency in relation to fee changes and the review and approval process of those changes. This approach would allow interested parties to keep adequately apprised of proposed changes and to provide feedback where a change is seen to be inappropriate or unfair. The approach does not however, offer any concrete barrier against fee increases. While the requirement to justify fee increases may lead to greater transparency into fee considerations, it would not in itself constitute pricing containment.

#3. What are your concerns, if any, with continuing to use the DFM? If the DFM were to continue to be used, what changes are necessary?

While we are not opposed to the continued use of the DFM model in Canada, we would support a broader review of the methodology to consider whether it is still fit for purpose. Particularly since the method is only used in Canada, the DFM should be reviewed in light of alternative models, including those utilized in foreign jurisdictions. Beyond this, the fee ranges calculated under the DFM and inputs used should be fully

transparent. This would allow market participants to better understand the nature and structure of the fees which they are charged.

We would also be strongly in favour of a reasonableness check on these fees against comparable aggregate fees in other countries, notably the United States, Australia, and European markets. This could form an additional input to help ensure our approach and its results are effective and internationally competitive.

#7. Should we consider adopting a methodology for non-professional subscriber fees? If yes, what should be factored into such a methodology? If not, why not?

We would be in favour of the adoption of a formal regulatory fee mechanism for this class of subscribers. The lack of any such methodology devalues the interests of non-professional subscribers and ultimately any inordinate fees discourage their participation in Canadian equity markets.

#8. Should standardized key terms and definitions, such as professional and non-professional users, be developed for the access to, receipt, distribution, and use of RTMD products? If yes, please explain what the benefits of such an approach would be. If not, please explain why not.

We see tangible benefits to standardizing terms and definitions in relation to RTMD products. This approach could add clarity and potentially reduce administrative and other burdens for market data users and vendors, and ensure protections aimed at certain user classes are more uniformly applied. Particularly with respect to terms like non-professional users, a clear definition would be instrumental in acknowledging that the needs of non-professional users are markedly different than professionals who require more complex data feeds. This will hopefully result in reduced fees for non-professional subscribers, and improved access to our markets.

#11. What would be the unintended consequences, if any, of standardizing these types of key RTMD terms and definitions?

One risk of standardizing these types of key terms and definitions is that the defined terms may become ossified over time in response to change and/or innovation. This is always a potential unintended consequence when the parameters of any system are sought to be standardized. To mitigate this risk, the approach should be reviewed regularly to be responsive to changes and innovation.

With respect to the creation of a separate industry group to aid in this process, we would encourage the CSA to consider including in this group not just vendors and dealers as mentioned in the Consultation, but also independent experts, academics and others who may be able to bring different informed perspectives across interested stakeholders.

#12. Would caps on fees charged by marketplaces for their RTMD consumed through the consolidated TIP products affect the consumption and use of consolidated RTMD? If so, how? If not, why not, and are there alternatives that should be considered?

We are in favour of introducing appropriate caps on the fees charged by marketplaces for order and trade data consumed through the consolidated data products distributed by the TIP. When establishing the cap(s) and deciding on which factors should be considered for determining cap levels, we would encourage the CSA to look at representative market data costs in other jurisdictions, particularly the United States, Australia, and European markets.

#15. What are your views on the appropriateness of an Admin IP model for Canada? What would be the key benefits and challenges and how could any challenges be addressed?

One potential challenge of adopting an Admin IP model for Canada is determining who will participate in the group. As noted in the Consultation, the potential for conflicts of interests between producers and consumers may inhibit the effectiveness of the model. While the Consultation posits a strong governance structure to mitigate this risk and ensure the Admin IP meets its regulatory obligations, we would also suggest that the approach may benefit from including other less financially invested parties. Consultants and academics could provide informed and more independent insights in this area, and potentially ensure that the Admin IP doesn't become deadlocked by two conflicting viewpoints.

#19. Based on the size and scale of the Canadian market, should the CSA consider allowing for multiple TIPs to operate under the Admin IP approach?

We believe that the best approach going forward is a model which allows for multiple TIPs should commercial and competitive interests arise. While we acknowledge the potential that there may not be multiple parties interested given the size and scale of the Canadian market, the potential should still be encouraged to allow for the potential benefits of competitive offerings.

#21. If there is only a single TIP, should it operate as a for profit business or as a not-for-profit entity? Please explain your answer.

If the CSA elects to pursue a single TIP model, we would be interested in the potential of a not-for-profit business model if properly developed and maintained, such that it could serve a utility function for one or more segments of market data users, and feed the public interest objective of equitable and reasonably priced access to Canadian market data.

Concluding Remarks

We support those aspects of the Consultation aimed at enhancing transparency and accountability by ensuring that all fees and increases to those fees for RTMD in Canada are subject to public notice and comment. While there are many laudable features in the options canvassed, we would particularly like to see a model which involves regular comparisons with comparable aggregates of foreign market data fees and fee structures to ensure that our markets are competitive. This is particularly important given the inter-listed nature of our markets and the comparably inexpensive RTMD rates in the U.S.

We thank you for the opportunity to provide these comments and would be happy to address any questions you may have. Please feel free to contact us at cac@cfacanada.org on this or any other issue in future.

(Signed) *The Canadian Advocacy Council of
CFA Societies Canada*

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