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Please find bellow our response to CSA STAFF CONSULTATION PAPER 21-401, Omega would like to thank the all the participants who created this paper, it offers insight into the present market structure, and we look forward to further data and consultation.

Thank You

Brian Crew
CEO Omega ATS

In this post 2008 environment the demand for competition that drove the creation of the multiple market environment has, among many, been replaced with growing concerns with regard to cost and perhaps a longing for a return to monopoly. Despite the alleged complexity and costs created by multiple marketplaces the modern trader and client lives in a golden age, never have spreads been smaller (including the maker/taker fee) , never have commissions been lower, never have marketplaces tailored and designed services fees and order types to serve the various trading communities.

These benefits have been a product of the multiple market environment that has brought competition to a market that was a mutualized monopoly just a few years ago. The CSA Staff Consultation Paper 21-401 predates the Maple settlement, and thus should be looked at in the contemporary context of four of the eight markets reviewed representing one ownership group. Presently the Canadian Market is split between Maple and all others.

Despite being already dated the first three tables of the Consultation paper does offer some rather reassuring results. Using the TSX's fees as par, most of independent marketplaces fees fall into a relatively tight band from slightly higher to slightly lower than those of the TSX. If there is fee abuse it is the exception and not the norm among independent markets.

So if it is not the fees themselves that are out of line one must address the way that they are charged and we at Omega believe that that the seeming complexity of the fee structure is a source of frustration to many participants. Various fees for Top of Book, fees for Depth of Book, fees that discriminate between the varied products, and multiple fees charged by multiple market operators seem designed to frustrate subscribers.

We at Omega believe that the smaller market places benefit the Canadian market participants beyond their market share; Maureen O'Hara and Mao Ye in their 2011 article in the Journal of Financial Economics argue that "the addition of new trading venues has increased competition, forcing traditional exchanges to lower trading charges and other fees. The proliferation of venues has also provided a wealth of trading options to the trading community, fostering innovations such as reductions in latency and more sophisticated crossing networks." It is with that in mind we welcome the establishment of a streamlined market fee based on market share as proposed in option 5-6-7. But as one of the smaller participants in the Canadian equities market we see the establishment of a *de minimis* threshold as being both anti-competitive and fundamentally biased against independent participants.

Prior to the first trade substantial expenditures have been made by a marketplace, and while that is the cost of setting up shop, no merchant is forced to give away his product up to a certain level.

Option 1: Cap fees for core data.

This option would consist of defining a set of data, known as core data that would be necessary to comply with regulatory requirements. The regulatory authority would then regulate the distribution of the fees applicable to this core data, whether distributed through the IP or through the marketplaces. Since core data would not necessarily need to include all data elements that are currently in market data feeds, it could be available at a lower price.

Marketplaces would be free to set fees for non-core real-time data products, subject to the normal fee review and approval process. To prevent marketplaces from bundling core data with other data as a way to circumvent the pricing restrictions, marketplaces would be required to offer core data as a stand-alone product.

1. ***Are there unintended consequences at the industry, marketplace or firm level that could result if this option is pursued? Would these consequences be evenly distributed across the industry or will certain types or sizes of firms be more impacted than others?***

There are core data requirements, mandated by regulation that all participants must access. It is understandable that this is seen as an unfair or forced purchase. The primary issue of this solution is the definition of "core data".

2. ***What are the competitive and business impacts of the proposed option?***

In order to maintain market integrity there is a certain level of data that must be purchased to feed the needs of the smart order routers (SOR). Without this participants would be doomed to fail in their best execution requirement.

That the information needed to support the SOR be offered at a negligible price would have a negligible impact on data providers (there are relatively few SOR's), while relieving costs for the smaller participant.

3. **Would the proposed option be effective in addressing market data fee issues? Would this option be more effective if pursued with an additional option? If yes, which one(s)?**

No comment

4. **What elements should be included in core data? Why?**

All the data necessary to maintain the SOR and compliance feed.

5. **How should the cap be set? Please provide as much detail as possible.**

Cap should be based on a cost basis.

6. **Should there similarly be caps applied to non-core data? If so, how should the caps be set? Alternatively, what should staff consider when assessing the fees to be charged for non-core data?**

Any cap on noncore data should be based on a fee per unit of data, applied across all marketplaces, in order to prevent fee abuse

Option 2: Cap data fees charged by a marketplace until it meets a *de minimis threshold*

This option would impose a cap on the fees that a marketplace could charge for its market data until it reaches a *de minimis* threshold for a period of time. This threshold could be based on market share or market share combined with some other metric. The cap could be set at zero or at a nominal amount until the threshold is met. If a marketplace falls below the *de minimis* threshold for a certain period of time, its market data fees would be subject to the cap until the marketplace moves above the *de minimis* threshold again.
The cap would not apply to marketplaces that are above the *de minimis* threshold. Marketplaces in this situation would be able to set fees, subject to the approval process in place.

7. ***Are there any unintended consequences at the industry, marketplace or firm level that could result if this option is pursued? Would these consequences be evenly distributed across the industry or will certain types or sizes of firms be more impacted than others?***

The consequences seem all too intended and yet they do not address the problem. The problem is not how little data is produced by a marketplace but rather how expensive it is. For some members of the trading community who still long for the good old days of monopoly and ¼ to a ½ spreads the existence of small players in the market is seen as a nuisance. If a small player with a small amount of data charges a fair price for it, it is as valuable to the user. The CSA study points out that for the most part the smaller exchanges and ATS' charge about the same as the TMX on a per unit basis. A data cap would not prevent data fee abuse. If the TSX average fee of .0042 per million shares is all one could charge no one could argue that anybodies data is overpriced.

8. What are the competition and business impacts of the proposed option?

The smaller marketplaces would face an even greater barrier to advancement. With one participant buying its way to more and more market share, it seems unthinkable to create a further barrier of entry to a competitor.

9. Would the proposed option be effective in addressing market data fee issues? Would this option be more effective if pursued with another option? If yes, which one(s)?

No, it would only effectively hurt smaller participants. Unless it is bonded to a regime that would effectively control the level of the individual fees, and types of different fees. If I don't pay a small firm that charges a reasonable price, for all its data, while still paying high fees or varied and arbitrary fees for various bits of information nothing has improved. In fact it is made worse by the erosion of the competitive environment created by the smaller participant.

10. What factors could be considered in establishing the de minimis threshold? What could be the appropriate measure and measurement period? Please provide as much detail as possible.

There is no level in which data can be declared worthless. Each piece of data used should be paid for it is the price not the quantity that drives fairness.

11. What factors could be considered in setting the cap? Please provide as much detail as possible.

Not a cap but a well regulated price per unit of data is the solution, no marketplace is discriminated against, and competition is maintained.

No comment.

<u>Option 3: Cap all data fees for all marketplaces starting at a de minimis threshold and gradually increasing the threshold and the applicable caps</u>

This option would limit the level of market data fees individually charged by all marketplaces. Similar to the previous option, the *de minimis* threshold could be based on market share or market share combined with some other metric. We have not decided what the *de minimis* threshold metric could be; however, to facilitate an understanding of this option we will use market share as the *de minimis* metric. Whereas option 2 only contemplates a single market share threshold and fee cap, this option would create a matrix with a cap level for each threshold interval.
The cap for the *de minimis* threshold could be set at zero or at a nominal amount until the *de minimis* threshold is met. The cap would increase when a marketplace moves beyond the *de minimis* market share threshold and into a higher market share threshold. Conversely, the cap would decrease to a lower level if a marketplace regresses back to a lower market share threshold. Similar to

option 2, a marketplace must remain above a set threshold for a certain period of time before it can increase its fee up to a level that corresponds to the threshold tier it is in.
This option would prevent any marketplace from charging fees that are not reflective of its market share. Additionally, the tier fee caps and market share thresholds structure would keep fee increases in check by tying them to a marketplace's market share.

12. Are there any unintended consequences at the industry, marketplace or firm level that could result if this option is pursued? Would these consequences be evenly distributed across the industry or will certain types or sizes of firms be more impacted than others?

13. What are the competition and business impacts of the proposed option?

See option 2

14. Would the proposed option be effective in market data fee issues? Would this option be more effective if pursued with another option? If yes, which one(s)?

See option 2

15. What factors could be considered in establishing the de minimis threshold and the successively higher thresholds? What could be the appropriate measure and measurement period?

See option 2

16. What factors could be considered in setting the gradually increasing caps? What could be an appropriate approach in setting these caps? Please provide as much details as possible.

See option 2

17. Should the caps for fees be waived when a certain threshold is met? Please provide as much detail as possible.

See option 2

Option 4: Cap fees for data sold through the IP

This option would cap the fees that marketplaces charge buyers who purchase their data from the IP. All marketplaces would be subject to a cap, although not necessarily the same one (as in option 3). This model preserves the pass-through model but caps the costs that could be passed through. The cap could be set by the regulators and implemented through a rule. The marketplaces would still be free to set fees for direct subscribers and vendors, subject to the normal fee review and approval process. This option would create a lower-cost consolidated data feed from the IP. As many users do not need to purchase data directly from marketplaces (e.g., users that are not latency sensitive) this option could address their concerns. Users whose business models require them to purchase data directly from the marketplace or from third party vendors would not necessarily see a direct benefit in terms of lower costs, but the existence of a lower-cost alternative may impose some market discipline on data prices generally.

18. ***Are there any unintended consequences at the industry, marketplace or firm level that could result if this option is pursued? Would these consequences be evenly distributed across the industry or will certain types or sizes of firms be more impacted than others*?**

Omega sees no unintended consequences, but rather sees this as solving at least half the problem by protecting the smaller subscribers (not latency sensitive). The cap should be based on a pay-go matrix based on either the value or volume of trades.

19. What are the competition and business impacts of the proposed option?

Option four would solidify the creation of a two tiered marketplace. Is any market participant immune to latency? Is the less expensive IP user at a disadvantage, and how would that reflect the concept of equal access?

20. Would the proposed option be effective in addressing market data fee issues? Would this option be more effective if pursued with another option? If yes, which one(s)?

The proposed option would offer some relief to the users of the IP only, we are uncertain if this would end complaints about market data.

21. What factors could be considered in establishing the caps?

A fair unit cost for data is the only way to achieve a fair price.

Option 5: Regulate consolidated market data fees charged by the IP

This option is similar to option 4, except that it would directly regulate the fees charged by the IP for consolidated data rather than the fees charged by marketplaces. Unlike option 4, this model would eliminate the pass-through model but would necessitate creating a different fee and compensation model for the data fees. Like option 4, this option would not regulate fees for data sold directly by marketplaces.

In this option, the IP and not the marketplaces would set the fee for its consolidated data, subject to approval by the regulatory authority. The fee could be determined by a rule of the regulatory authority, the IP independently or co-operatively by the marketplaces, as is done with consolidated data in the United States. Marketplaces would share in the IP's revenue on a pre-determined basis, either by agreement or rule or as approved by the regulatory authority. Under this option, marketplaces would be free to set fees for direct subscribers and vendors, subject to the fee review and approval process.

This approach is similar to the approach taken in the United States, where the revenue from the consolidated data distributed by the SIPs is allocated by a set formula.

This option requires legislative amendments to the securities regulatory authorities' jurisdiction to specifically regulate the operations of the IP and the fees charged for its products.

22. *Are there unintended consequences at the industry, marketplace or firm level that could result if this option is pursued? Would these consequences be evenly distributed across the industry or will certain types or sizes of firms be more impacted than others?*

Option 5, offers an additional step in the right direction. Only a new model fee can offer a fairer system for both all marketplaces and participants. We doubt that there is any major appetite by either the industry or the government to intervene so directly, so we see little future in the option.

23. What are the competitive and business impacts of the proposed option?

Option five would solidify the creation of a two tiered marketplace. Is any market participant immune to latency? Is the less expensive IP user at a disadvantage, and how would that reflect the concept of equal access?

24. Would the proposed option be effective in addressing market data fee issues? Would this option be more effective if pursued with another option? If yes, which one(s)?

The proposed option would offer some relief to the users of the IP only, we are uncertain if this would end complaints about market data.

25. How should the fee be set and by whom?

The fee should be set by the industry, and the IP distributor.

<u>Option 6 -- Cap consolidated data fees sold by marketplaces to all data vendors, not just to the IP</u>

This option is also similar to option 4; however, instead of capping the fees that marketplaces charge buyers who purchase their data directly from the IP, the fees that marketplaces charge buyers of consolidated data from all data vendors would be capped. Marketplaces would be free to charge whatever fees they determine appropriate for non-consolidated data whether distributed by vendors or by the marketplaces directly. This will allow all data vendors to distribute the consolidated data at the same lower, capped rate to marketplace participants as the IP.

26. Are there unintended consequences at the industry, marketplace or firm level that could result if this option is pursued? Would these consequences be evenly distributed across the industry or will certain types or sizes benefit more than others?

Data vendors usually purchase data at a discount and re-sell it. It would be near impossible to regulate the profit structure of all the data vendors. Nor would it seem within the mandate of the CSA.

27. How does this option compare with option 4? What costs and benefits arise from offering regulated fee consolidated data through competitive data vendors rather than a single regulated IP?

Unlike option 4 it does not create a two tiered market.

28. What advantages, if any, would result from being able to receive consolidated data from a number of data vendors?

The consolidators create the feed handler, and offer that feed to the subscriber. Changes and updates are the problem of the consolidator and not the subscriber directly; the extra cost to the participant is negated by the service.

29. How should the fee be set and by whom?

The fee should be set by the data vendors and the marketplaces.

30. Should data vendors distributing aggregated data under this model be subject to regulation by the CSA?

It is doubtful that this would be achieved without protest.

Option 7: Mandate a data utility to operate on a cost-recovery basis

Concerns about the costs of market data have lead some marketplace participants to suggest the creation of a "public utility" source of consolidated market data in Canada.

A mandated data utility could be funded by marketplaces and/or data customers and would operate on a cost-recovery basis. Any revenue generated from the selling of the consolidated data would be divided amongst the utility participants based on a revenue sharing model agreed upon by all parties involved. The amount of revenue that each participant receives would be proportionate to their contribution to price discovery and liquidity. This utility would have to be overseen by the regulatory authority as it would be providing a service critically important to the capital markets.

This option is similar to Option 5, except that it would be developed by the industry rather than imposed by the regulatory authority. Legislative amendments and an overhaul of the transparency requirements would be needed if a public data utility was created.

31. *Are there unintended consequences at the industry, marketplace or firm level that could result if this option is pursued? Would these consequences be evenly distributed across the industry or will certain types or sizes of firms be more impacted than others?*

Option 8, the creation of a new self managed utility is the best solution. Data would be distributed to all at a reasonable price. The fees would be consistent for the entire spectrum of data and the fees would flow back to the data producers on an EQUITABLE basis.

It would be best achieved by evolving the IP into a faster and more efficient data consolidator. The greatest flaw would be the timeline necessary to effect this change.

32. What are the competitive and business impacts of the proposed option?

We see only positive impacts

33. Would the proposed option be effective in addressing market data fee issues? Would this option be more effective if pursued with another option? If yes, which one(s)?

Yes, all users and providers would pay, and be paid for the data at a fair and equitable price.

34. Is it sufficient to create a utility, or must its prices also be regulated?

The utility would have to be overseen by the regulatory authority as it would be providing a service critically important to the capital markets.

35. Should there be any restrictions on the data to be provided by marketplaces to this utility -- e.g., should this data be limited to core data?

We could embrace the core data model, but again that may create a two tiered system.

Option to Address Transparency of Fee Proposals and Changes to Fee Models

Option 8: Publish amendments to market data fees and fee models for comments

36. ***Are there any unintended consequences at the industry, marketplace or firm level that could result if this option is pursued?***

We believe that with the present market structure, market pricing planning is sufficiently scrutinized by the OCC, and should remain private.

37. What are the competition and business impacts of the proposed option?

No Comment

38. Would the proposed option be effective in addressing market data fee issues? Would this option be more effective if pursued with another option? If yes, which one(s)?

No Comment

39. Would the rationale and the pre-implementation impact analysis be sufficient in assessing whether the proposed fees do not constitute an unreasonable condition on accessing a marketplaces data services? If no, what other requirements should be considered?

No Comment