

MEMO# 32215

February 18, 2020

ICI Draft Comment Letter on SEC Proposed Order to Reform NMS Plan Governance

[32215]

February 18, 2020 TO: Equity Markets Advisory Committee RE: ICI Draft Comment Letter on SEC Proposed Order to Reform NMS Plan Governance

As we previously informed you, the Commission published for comment a proposed order to modernize the operation of existing national market system plans (the “NMS Plans”) that govern the public dissemination of real-time, consolidated equity market data.^[1] The ICI has prepared a draft comment letter on the Proposed Order. The letter expresses strong support for the Proposed Order, noting that we long have supported reforming the NMS plans’ governance system.

The draft letter is attached and summarized below. In addition, we request your specific feedback on two matters described below. The letter is due to the Commission no later than February 28.

Please provide me with any comments on the draft by email at ddonohue@ici.org or phone at (202) 218-3563 no later than Monday, February 24.

Non-SRO Voting Representation

The draft letter strongly supports:

- requiring the New NMS Plan to include voting representatives from entities unaffiliated with self-regulatory organizations (“SROs”) on the new NMS Plan’s operating committee — including a representative from an institutional investor such as an asset manager; and
- amending the voting structure of the New NMS Plan to allocate one-third of the voting power to these new operating committee representatives.

Request for Feedback: Responding to concerns that the NYSE already has expressed to the Commission, we seek your review on whether or not we should state that we would not object to a provision in the New NMS Plan explicitly providing that non-SRO voting representatives have a duty to act in good faith and in the public interest.

Exchange Act Voting Power

The draft letter supports the Commission reducing the voting power of exchange groups to a single vote, with the ability to obtain a second vote if they maintain consolidated equity market share of at least 15% for at least four of the six calendar months preceding a vote of the operating committee.

Independent Administrator

The Proposed Order would require a SIP to have an independent administrator that does not sell competing market data products. The draft letter expresses strong support for this aspect of the Proposed Order, noting that it is an essential requirement.

Request for Feedback: Recognizing that FINRA may be named that administrator, we specifically seek your feedback on any concerns you may have with this.

Dorothy M. Donohue
Deputy General Counsel - Securities Regulation

[Attachment](#)

endnotes

[1] See ICI [Memorandum](#) to Equity Markets Advisory Committee No. 32163, dated January 21, 2020, available at https://www.ici.org/my_ici/memorandum/memo32163.

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