

November 7, 2007

Dr. Erik R. Sirri  
Director, Division of Market Regulation  
U.S. Securities and Exchange Commission  
100 F St., N.E.  
Washington, D.C. 20549

Re: In the Matter of NetCoalition, File No. SR-NYSEArca-2006-21

Dear Dr. Sirri:

On behalf of the Technology and Regulation Committee of the Securities Industry and Financial Markets Association (“SIFMA”),<sup>1</sup> we would like to thank you and your staff for meeting with us on October 16, 2007. We very much appreciated your discussing several issues of interest to our group, including market data.

We wanted to follow up with you at this time on one item that was discussed in the context of the broader issue of market data. During the meeting, a SIFMA member firm commented that the proposed new FINRA data service for historical TRACE data seems reasonably priced.<sup>2</sup> FINRA has stated that it is providing this new service at a fee that offsets its costs, and we note that it is substantially lower than other pending market data fee proposals. While SIFMA expressed concern that FINRA had not provided supporting data to that effect, SIFMA did submit a letter strongly commending FINRA for providing the new service and for doing so on what is intended to be a cost basis.<sup>3</sup> Accordingly, SIFMA believes that FINRA is on the road to achieving what we have recommended for some time – that market data fees be fair, reasonable and cost-based.

At the meeting, you mentioned that the new FINRA historical TRACE data service may be dissimilar to the NYSE OpenBook service, and therefore one probably

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<sup>1</sup> The Securities Industry and Financial Markets Association brings together the shared interests of more than 650 securities firms, banks and asset managers. SIFMA’s mission is to promote policies and practices that work to expand and perfect markets, foster the development of new products and services and create efficiencies for member firms, while preserving and enhancing the public’s trust and confidence in the markets and the industry. SIFMA works to represent its members’ interests locally and globally. It has offices in New York, Washington D.C. and London and its associated firm, the Asia Securities Industry and Financial Markets Association, is based in Hong Kong.

<sup>2</sup> *Notice of Filing of Proposed Rule Change Relating to Historic TRACE Data*, Securities Exchange Act of 1934 (“Exchange Act”) Release No. 56327 (Aug. 28, 2007).

<sup>3</sup> SIFMA Comment Letter re: *Notice of Filing of Proposed Rule Change Relating to Historic TRACE Data* (Oct. 3, 2007).

should not draw a comparison between the fees for those services. We discussed this point after our meeting and, upon further reflection, believe you may have been thinking about the NYSE OpenBook real-time data service that has a fee of \$60 per month per user, which is in fact very different from the FINRA historical TRACE data service. The NYSE does, however, have a separate historical OpenBook data service that is very similar to the new FINRA historical data service, in that both are delivered via FTP on a regular basis and contain securities pricing information. We drew a comparison between the fees for these two services – the FINRA TRACE and the NYSE OpenBook historical data services – and found that the NYSE OpenBook historical data service is *45 times* more expensive than the new FINRA service, as demonstrated in Attachment A. Further, the NYSE OpenBook service has a more limited use because it contains securities pricing information for only one exchange, the NYSE, whereas the FINRA service covers all eligible bond trades.

We believe this significant disparity in fees demonstrates that there is a real need to reexamine the rule making process to ensure that for-profit SROs are not marking up their single-exchange data feed services unreasonably. As you know, we do not see sufficient cost data from exchanges showing that their fees are fair and reasonable. Therefore, until we see such data, we can only assume that this disparity in fees reflects a for-profit SRO taking an unreasonable mark-up on their market data. We could also draw a similar comparison with pending Nasdaq, Amex, and NYSEArca market data fee filings, in that those filings also provide no substantive evidence that the proposed fees are fair and reasonable as required by law. As stated in numerous comment letters filed by SIFMA and others in support of the NetCoalition Petition, the cumulative impact of these fees on the industry is significant. Accordingly, we would like this letter and attached information to be included in the NetCoalition proceeding, File No. SR-NYSE-Arca-2006-21.

Again, we appreciate meeting with you on these important issues and hope that this additional information is helpful. Please let me know if you have any further questions or comments. I can be reached at 202-434-8447.

Regards,



Melissa MacGregor  
Vice President & Assistant General Counsel

Attachments

cc: Brian G. Cartwright, General Counsel, SEC  
Dr. James A. Overdahl, Chief Economist, SEC  
Robert D. Colby, Division of Market Regulation, SEC  
Marlon Paz, Division of Market Regulation, SEC

## SIFMA Comparison of Fees for Internal Usage of Historical FINRA TRACE Data versus Historical NYSE Data\*

Provider	Fee	Ongoing Annual Subscription Cost For Internal Use	Fee For Historical Data-2 yrs**
FINRA TRACE (BTDS) Historical Reference Data	<b>Enterprise Fee</b>		
	2,000 (+ one time setup 2,000)	<b>2,000 (annual FINRA enterprise fee)</b>	<b>6,000 (2,000 per year + 2,000 set up fee)</b>
NYSE OpenBook	<b>Per User Fee</b>		
	1st month and ongoing 2,500	30,000 (annual for fee single user)	
	2 - 12 @ 2,000 monthly		
	13 - 36 @ 1,500 monthly		
	37 -72 @ 500 monthly		
	<b>Enterprise Fee</b>	66,000 (annual enterprise fee = 12 X (2,500 +3,000))	42,500 (see chart for 24 month purchase)
NYSE ArcaBook	<b>Per User Fee</b>		
	1st month and ongoing 1,000	12,000 (annual fee for single user)	
	2 - 12 @ 800 monthly		
	13 - 36 @ 500 monthly		
	37 -72 @ 300 monthly		
	<b>Enterprise Fee</b>	24,000 (annual enterprise fee = 12 X (1,000 +1,000))	15,800 (see chart for 24 month purchase)
Total NYSE Historical Reference Data		<b>90,000 (total annual NYSE enterprise fee for DOB data)</b>	<b>58,300</b>

		<p>Note: this 90,000 NYSE annual fee for depth of book historical reference data is 45 times more expensive than the 2,000 annual fee for the FINRA TRACE data. Although the number of records in transactions, bids and offers in the historical NYSE data may be greater than the number of reported trades in the historical FINRA data, the FINRA data covers far more instruments and is more complex than the NYSE data because there are more data points tracked on bond trades. In addition, the FINRA data covers all eligible bond trades as opposed to trades on only one exchange or market place. NASDAQ, for example, charges an additional enterprise fee for its historical depth of book data of \$60,000 per year of ongoing usage. The contrast between FINRA's fee and the SRO fees, which are dozens of times more expensive, is striking. FINRA has stated it only intends to offset its costs for its historical data product. The SROs such as NYSE and NASD, on the other hand, refuse to disclose cost data to support the contention that, as required under applicable law, their fees are "fair and reasonable."</p>	
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\* Note: the above comparison is of fees for internal customer use. There also is a disparity between the additional fees that apply for redistribution.

\*\* Note: this column represents the fees to purchase two years of historical data.