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February 26, 2021

Giles Ward
International Organization of Securities Commissions (IOSCO)
Calle Oquendo 12 28006
Madrid Spain

Email: consultation-03-2020@iosco.org

Dear Mr. Ward:

Re: Public Comment on Market Data in The Secondary Equity Markets (the “Consultation”)

The Investment Industry Association of Canada (the “IIAC” or the “Association”) appreciates the opportunity to comment on the Consultation. The IIAC’s 115 IROC-regulated investment dealer member firms are the key intermediaries in Canadian capital markets, and account for the vast majority of financial advisory services, securities trading and underwriting in public and private markets for governments and corporations. The IIAC provides leadership for the Canadian securities industry with a commitment to a vibrant, prosperous investment industry driven by strong and efficient capital markets.

The IIAC is also a member of the International Council of Securities Associations (“ICSA”), which has submitted a response in conjunction with other related industry associations. The IIAC participated in the drafting of that response, and supports the arguments and recommendations contained therein.

Although this submission re-states some of the critical points contained in the ICSA letter, we believe it is important to submit a Canadian response, in order to highlight certain relevant points regarding market data regulation in respect of Canadian equity markets, that may not have been covered in the ICSA submission.

Our response to the questions posed in the Consultation are as follows:

Q1: Please identify the data elements that are necessary for investors and/or market participants to participate effectively and competitively and make informed trading decisions in today’s markets. In your response, please consider:

- **The type of investor (e.g. retail or institutional) that uses the data;**
- **How orders are sent to a trading venue (e.g. electronic, manual, direct access by clients; and**
- **How orders are routed**

Please provide the reasons why each element is necessary.

As noted in the Consultation, one difficulty is that the definition of Core Market Data is not unique or singular, rather determined by the usage of data by the different functions and operations in securities firms and institutions.

Canada, unlike the U.S., does not have a Securities Information Processor (“SIP”), and therefore does not have a concept of Core Market Data which is specifically subject to regulation. In the U.S., the SIP is widely regarded as Core Market Data. In recent years, it became evident that the scope of the data in the SIP did not provide sufficient data needed to participate effectively in the markets. The recent amendments to SEC regulation redefined and expanded the elements of such Core Market Data to update the definition to adapt to current trading conditions¹.

Access to market data informs all of the key steps in the investment process, from advising the client, determining the appropriate trading benchmarks, routing the order and analyzing the trade execution. As such, both real time and delayed pre and post-trade data is required.

Historical trading data is also critical for analytics and research teams to undertake analysis related to market liquidity, volatility, and any changes in market dynamics relevant to the trading desk and perform transaction cost analysis (“TCA”) on the executed trades to improve the performance in the future.

At a minimum, Core Market Data should include the primary types of trading data used during order execution (on a pre- and intra-trade basis), including real-time level 1 (top of book) and level 2 (depth of book) exchange data. This would provide the trading desks and the portfolio managers with real-time information on current market prices and, in the case of equities, the number of shares available at all levels of the central limit order book. This data, from all marketplaces is critical for dealers acting for clients or on their own behalf, to ensure best execution and to carry out effective trading strategies which are key to firms’ core business and regulatory compliance.

The data in the definition Core Market Data should include data essential to the entire trading cycle, and be consistent across jurisdictions. For example, the recently adopted SEC regulation expanding this definition², may provide a good starting point for other regulators. The data identified as core data and regulated as such, should also be subject to the price regulation as it moves through from marketplaces to third party vendors, including Bloomberg and Refinitiv for example. If core data is distributed through these vendors, without any adjustments or changes, the data should not be subject to additional markups.

¹ <https://www.sec.gov/news/press-release/2020-311>

² <https://www.sec.gov/news/press-release/2020-311>

Q2: Are there other data elements that, while not necessary to all market participants, may be necessary for some market participants or business models? Please provide the reasons for your answer.

Trading desks, portfolio managers, and other business units also use a broader set of market data feeds, which include real-time news, economic calendar events, sell-side ratings changes, index data, and processed data and so on. Such additional usage of (enhanced) data is typically consumed via third-party data vendors (e.g. Bloomberg or Refinitiv) which aggregate multiple data feeds into a single location. See Q16 for additional details and concerns related to products and services provided by third-party vendors.

Q3: Please share your view on defining Core Market Data and how such a definition can be used (for example, for compliance purposes or as a mechanism to make routing decisions, etc.).

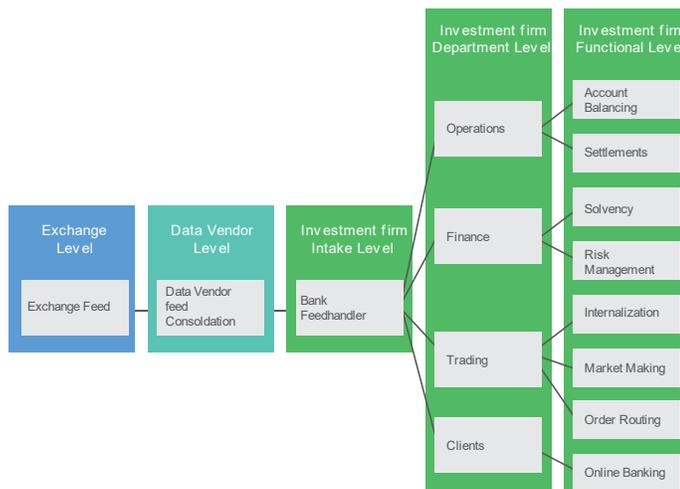
Defining Core Market Data may be helpful to establish regulation that would ensure data elements that are essential to the basic functioning of the investment industry are protected from predatory pricing arising from a monopolistic market structure. However, a further concern with defining Core Market Data based on only the essential data needed, is that there is always an argument to include other data points that provide a more comprehensive view of the market, which may be essential to provide certain investors with products they demand. If those data points are not included in the definition of Core Market Data, and as such are subject to regulation, the implication may be that providers are free to charge whatever they can for such data. This may have downstream effects, by reducing the different products and services available to investors and reducing the availability of a comprehensive market view to the majority of investors³. For instance, in Canada, much of the Canadian investor community is only able to see partial quotes and trading volumes, due to the excessive cost of acquiring and displaying real time quotations from all marketplaces.

Q4: How is market data used by different types of investors or different functions of your firm? Consider, for example:

• **Type of investor (e.g. retail or institutional)** • **Trading Desks (proprietary or client-servicing including retail and institutional, Institutional, proprietary)** • **Compliance** • **Risk-Management** • **Back office functions**

Market data is used throughout a firm's operations and the chart below from ICSA's letter outlines the high-level uses of data by different groups within the firm.

³ To illustrate, consider order routing. It's reasonably easy to argue that low-latency data feeds suitable for high-precision order routing are not widely applicable, and therefore shouldn't be "core." And yet, dealers are required to provide best execution. Doing that without fast feeds in the last mile would be impossible. Does this mean that non-core data nonetheless has a community of captive consumers? We believe that to be the case – which brings us back to the difficult question of what is meant by "core", and what that means for data that is outside the definition." Source Perels of Wisdom – Scotiabank Newsletter December 7 2020



As a result of the different purposes for which the market data is used, there are corresponding differences in the type of market data that may be needed.

1. **Operations:** Market data is used in account balancing and trade settlement, including valuation and Fair Price adjustments, reconciliations, calculation of penalties in case of failure of settlement, product improvement, initial and variation margin calculation, securities lending, collateral management, credit and counterparty risk calculation for OTC derivatives, and audit oversight. The market data requirements are a combination of real time and delayed data.
2. **Finance:** Market data is used for solvency and risk management, including liquidity risk management, market risk management, credit and counterparty risk for OTC derivatives, operational risk management, solvency calculations. The market data requirements are a combination of real time and delayed data.
3. **Trading:** Market data is needed in both the (i) pre-trade process of internalization, market making and order routing, which include full order book data from all (relevant) exchanges, market data for pre-trade analytics; and (ii) for Smart Order Routers, price formation, block-size liquidity provision, trading strategy research, trade idea generation. The market data required is real time, latency sensitive data. Additionally, the front end also needs utility market data for monitoring and risk checks and frontline support. With respect to post-trade, there is a need for market data to perform TCA, analysis of block trades, evidence of best execution/fiduciary obligation. The market data requirements are a combination of both real time and delayed market data.
4. **Clients:** For those clients who have direct access to trading via the broker/dealer system (order execution only services), there is a need for access to real-time data.

5. In addition to the categories referenced in the diagram and detailed above, Compliance and Back-Office units require market data for specific purposes.

Q5: What impact does different uses have on the need to access data? How can these impacts be managed or addressed?

As firms need to consume the same data for different uses within their organization, it gives the marketplaces the opportunity to create new charges for each use of the data, despite the fact that it may only be delivered to the firm once. Even in situations when the data is not used for a different function, some marketplaces are charging dealers to store the data within their own firms, despite the fact that they have already paid for access and use. Firms are also charged multiple times when the same data is used by the same user for different purposes.

In order to address this issue, there must be rules restricting the way in which marketplaces can charge for the same data. Our recommendations related to cost-based pricing are relevant in that regard. IOSCO should consider cost benchmarks and core principles on market data pricing. It may also be helpful to involve Competition Authorities, recognizing the disproportionate market power that can be exercised.

Q6: What factors should be considered in the context of evaluating “fair, equitable and timely access”? How should these factors be considered?

One of the most important issues that underpins the problem of excessive and escalating market data costs is the lack of transparency in virtually all elements of the production, distribution, pricing and administration of market data. As such, it is critical that there be transparent, clear and unambiguous disclosure in the following areas:

- Price information, including comparison with past years’ prices to facilitate year over year comparability and comparability as between market data providers;
- Detailed articulation of the services provided, and any changes from the previous year’s inclusion of service offerings;
- Information regarding the cost of production to assist in assessing the value of data vs price charged; and
- Clear and simple descriptions of how data use will be audited. This should include the items that the user must provide, for example: audit locations, market data and trading platforms, audit period, type of data permissioned (real time, EOD or Delayed), level of data, list of users ID’s permissioned etc. with the data including activated and deactivated dates per data type.

In respect of the cost of production, it is critical to acknowledge that market data is a by-product of the primary function of an exchange, which is trading. As orders are placed and executed, market data is automatically produced. As such, the marginal costs of production are close to zero and the incremental

costs associated with data production are limited to collecting the information and distributing it to customers.⁴

In order to ascertain whether pricing is reasonable, it is important to have transparent and consistent information on the actual costs of producing and distributing market data and establishing connectivity (including ports).

It would be useful for marketplaces to provide a cost benchmark which shows the costs that are included in production and distribution of market data. This could serve as a tool for data distributors in their assessment on what is reasonable and whether the Exchanges and other data providers comply with the requirements. It would also assist regulators in evaluating the reasonableness of market data fees, and applications for changes.

In addition to disclosure, marketplaces must ensure that data be provided in machine-readable format, without access restrictions.

If an Exchange contributes to a consolidated tape, there should be no difference in latency. In order to have a level playing field, data on the consolidated tape, should have the same latency as direct feeds.

Q7: What types of access do trading venues and RDPs provide? Are some forms of access provided only to specific market participants?

See responses to Questions 2 and 4.

Q8: Please identify the type of access necessary for different investors and/or market participants to participate and make informed trading decisions in today's markets and the rationale for the type of access and identified differences. In your response, please consider:

- Type of investor (e.g. retail or institutional)
- Trading Desk (Proprietary or client-servicing including retail and institutional)
- How orders are sent to a trading venue (e.g. electronic, manual, direct access by clients)
- Order routing
- Business models
- Compliance and regulatory issues

See responses to Questions 2 and 4.

Q9: What issues or concerns arise in the context of fair, equitable and timely access to market data?

The issues and concerns can be divided into several categories, discussed below.

1. New and increasing fees for existing services

⁴ The Cost Of Exchange Services Disclosing the Cost of Offering Market Data and Connectivity as a National Securities Exchange IEX paper – 2019 - <https://iextrading.com/docs/The%20Cost%20of%20Exchange%20Services.pdf>

As documented in several reports,⁵ exchanges use their market power and monopoly position as it relates to market data to charge excessively high market data fees and impose unreasonable conditions with respect to the terms of sale in their licensing agreements.

Not only have the fees for existing services increased, the market data products that Exchanges charge for are continually in flux, with previously bundled products being unbundled, with the client charged separately, and without the prices reflecting the reduced number of products received for the fee. In this way, Exchanges often claim their prices have not increased, but neglect to mention that clients get much fewer services for the same fee.

For example, in recent years, in addition to the fee for the actual data, Exchanges have added new access fees, site fees, distribution fees, display fees, non-display fees, delayed data fees, fees for storing, historical data fees, fees for creating “new original work”, derived data fees, and connectivity fees.

It is evident that many new fees are not based on costs. Exchanges are clear that the basis for many of the new fees are based on what they believe is the value of the information to the client, based on different uses the client may have for the same data. This violates the principle of fairness and consistency, and is at odds with the way in which other monopolies and quasi-monopolies charge for their products. It also creates a lack of predictability and comparability in pricing in that the Exchanges alone determine what the “value” of each particular data use is to the client. This will of course vary among clients and is subjective.

2. The conditions for using market data - Licensing Provisions

Related to the above, the way in which data is charged for has created a confusing and complex licensing system, designed to maximize the Exchange’s ability to charge for any use of the data, within and across divisions at the firm.

Market data licensing agreements take advantage of the use of broad terms and definitions, which may cover virtually every use of data, even by the same person in the firm but for a different purpose, (including storage by the client) as defined by the Exchange. This fragmentation means that the Exchange charges multiple times for the same data, even if it is only delivered once to an individual.

Given the power of the Exchange, due to their monopoly on the essential data, the licenses contain one-sided obligations and unfair contractual terms and provisions. For instance, firms are charged in situations where they make changes to data for their own purposes.

Despite the fact that much of the market data arises from the actual trading by the client firm, Exchanges impose non-disclosure provisions (black box).

Each and every exchange and trading venue has its own pricing and license policies with different taxonomy and terminology. There is no harmonization and the ability to compare products and services is virtually impossible. In addition, comparing prices even within one exchange or trading venue is very

⁵ See eg Copenhagen Economics (2013, 2014, 2018, 2019), SLGC (2012) Expand(2018), Lawrence R. Glosten Economics of the Stock Exchange Business:Proprietary Market Data (2020)

difficult, as pricelists do not offer multiyear price comparisons. Even if pricelists for several years can be compared manually by members, analysis is hampered by the lack taxonomy and terminology in terms of products and services and the trend to expand (slice and dice) licensing policies even more to cover each use case with a separate license. For example, one exchange now splits the use of market data within the trading department into separate licenses for trading proper and the trading risk management function. There is also a third license for use of market data in general risk management.

Some marketplaces also include pricing mechanisms that charge firms for merely having the ability to access data, even if they do not access this data. Certain marketplaces have set up their systems so that they cannot track data use, so they charge on the basis of how many people could possibly see the data, even if only a small subset of those individuals actually do view or use the data. Marketplaces should be required to have an entitlement system so that it can identify active users, and charge accordingly.⁶

Agreements are also riddled with clauses where a discount in one area is offset by additional costs in another. For example, the supplier may offer a reduced fee for the data but adds in additional overheads on distribution, reporting and usage.

3. Audit Practices

In addition to the direct costs imposed through the unbundling of products and creation of new bases on which to charge the client, the audit practices of firms create additional costs to the client firms.

The complex and detailed audit of the similarly complex and detailed licensing provisions require firms to create complex and detailed policies to monitor and govern their market data usage across all areas and for all uses of market data within the firm. The audit reviews can cover several years, and any findings by the Exchange can lead to retroactive fees if they find the firm has used data in a manner for which it has not paid specific fees. These complex and confusing licensing provisions are interpreted solely by the Exchange, so that there is little room for discussion or argument, and the burden of establishing the contrary position is on the user.

If the firm has been found to have overpaid, the retroactivity in compensation generally goes back only 60 -90 days. Conversely, if the firm is found to have underpaid, the Exchange can demand payment going back several years. In addition, where there is a disagreement, the Exchanges use the threat of discontinuance of service to pressure the client to abandon their claim.

Audits on contracts have become so aggressive and time consuming that our members have put extensive and seemingly excessive measures in place to ensure compliance and avoid any audits. Audit by trading

⁶ A current system that is available for this purpose is the MISU – Multiple Instance Single User. MISU is a policy practiced by some Exchanges to allow customers to identify a single “devise” fee with respect to an individual user (professional-internal) receiving market data on multiple display devise services entitled to that exchanges data. Some exchanges will offer this globally, regionally, per Vendor and/or per internal application display. In most cases, each exchange requires either a pre-audit, minimum user count be in place or MISU contracts be established before a customer can use MISU reporting. Some exchanges also require annual audit for all MISU users against reporting (customer & vendor).

venues is perceived by our members as a third revenue generation source besides pricing and license policies.

Our members do not know exactly which characteristics of usage may be requested during any future data audits. Therefore, our members are required to keep very detailed logs across all applications which use trading data so they can ensure compliance with the terms of the agreement. Some of the items monitored include how many users are accessing the data, how many individual securities and attributes are being requested each day, and whether the data is being accessed on a delayed or real-time basis. While our members have teams and processes in place to monitor data usage and work with data vendors, keeping logs and tracking users is complex, time-consuming, and technologically challenging.

4. Lack of transparency

Related to the issue of confusing and complex licensing, the services and fees, and how they relate to costs and former pricing strategies are not disclosed. Firms will get notification of an increased fee or new fee for a service previously included with another service without explanation or a clear disclosure on how this will change the way in which their market data fees will change. This lack of transparency also makes it difficult to compare the fees at various Exchanges.

In addition to these issues, some marketplaces also have pricing based on the Assets Under Administration of the entire organization (for example a bank with an investment advisor arm). This is clearly an unfair and opportunistic strategy, which has no connection to the cost of producing data, or the use of data by the firm.

Market data is an essential component of the core business of investing. The excessive and increasing cost of market data acts as a barrier to entry to the industry for investment firms, particularly smaller firms with fewer resources. As with other monopoly and quasi-monopoly industries, it is incumbent on the regulators to counterbalance their market dominance with regulation and enforcement that ensures that companies do not exploit their position in the market to the detriment of their clients and the market participants.

Q10: Please share your view on interchangeability of market data between trading venues. If concerns are identified, please provide suggested mechanisms to address them.

As documented in the joint ICSA, EFAMA and MFA Global Memo on Market Data Costs provided to IOSCO in February 2020, and the studies formerly referenced in this paper, the market data provided by each trading venue is unique, and is not interchangeable. In order to comply with best execution requirements, and undertake trading strategies to achieve optimal client outcomes, pre and post-trading data, both real time and delayed, from each trading venue is required. As such, there is no competition in market data and the incumbent exchanges continue to hold a dominant position.

Q11: How should market data fees be assessed? How could this be implemented in practice? What factors should be considered and how can they be defined or applied?

Given the monopoly position of exchanges in respect of market data, it is critical that market data fees not be based on inelastic demand from firms. Rather the cost of production and distribution of the market data are appropriate metrics.

We recommend IOSCO establish global core principles, which can be tailored by each jurisdiction taking into account their unique legal and regulatory frameworks.

The principles should be underpinned by the acknowledgement that exchanges hold disproportionate market power over market data generated from orders and trades conducted on their venues.

One of the key elements of the framework should be the development of a cost benchmark for producing and distributing market data, as recommended in the Copenhagen Economics reports and the IEX report.

The price of market data and any accompanying connectivity charges must be based on the efficient costs of producing and distributing the market data (as opposed to the value market participants may derive from market data) with a reasonable mark-up. The cost should be measured against a recognized cost benchmark.

In furtherance of this recommendation, regulators should require trading venues to submit detailed cost and revenue data in order to understand the elements that comprise the market data calculation, specifically, the mark-up that the exchanges currently charge.

The exchanges should also be required to simplify and have consistent contract terms to allow for comparison year over year and among industry participants.

We also recommend the elimination of “non-display categories”, and that pricing only differentiate between professional and non-professional users.

Trading venues should standardize price lists, key market data contract definitions, terms and interpretations. Contract definitions, terms and policies should be specific and avoid overly broad or general terms.

We also recommend that market data licensing contracts should avoid “derived data” terms, which are lopsided and unfair. Standardized agreements should be subject to regulatory review.

Trading venues should publish transparent, clear and unambiguous pricelists for all products and services which enable also multi-year price comparisons.

Investigation of client data usage through data usage declarations or statements of use as pre-contractual requirement should be prohibited.

Market data licensing contracts should be simplified to ease administrative burdens and so that audits are not necessary or at a minimum, greatly simplified.

Q12: Please provide details of other products or services related to market data that are provided by trading venues or other RDPs.

See responses to Question 7 and 16.

Q13: Please share your views on the fees for connected services that are necessary to access essential market data. If concerns are raised, please identify mechanisms to address them.

Regulation related to connectivity and port fees is needed as these are an increasing revenue stream for trading venues, and pricing should be based on the same principles as the market data pricing. There should be a holistic view in regulating trading venues and other data providers in order to ensure that there are no new ways to identify revenue streams.

Q14: Please provide your view on the need for consolidated data where there are securities trading on multiple trading venues. What should be the primary objectives of consolidated data and what outcomes should it lead to? How should these objectives and outcomes inform the nature of the consolidated data made available?

Although a consolidated tape could assist with a comprehensive and standardized view of the trading landscape, it would not address the issue of market data fees, as it does not address the underlying issues.

Q15: Is a consolidated data feed the most efficient mechanism to achieve these objectives and outcomes? If not, what are the alternatives that could help achieve these objectives and outcomes? How do these alternatives affect the cost of and access to market data? How can they be addressed?

A Consolidated Data feed (“CT”) will never be a substitute for proprietary data, as firms cannot use a CT for trading purposes since the data is unique per venue. A CT will not solve the problems with high and increasing market data costs.

Q16: Please describe any issues or concerns not raised by IOSCO in this Consultation Paper and describe any suggested mechanisms to address them.

Benchmark administrators under Benchmark Regulation (“BMR”) and other entities may provide benchmark data (fixing, index) and their components (prices, values, composition, weightings).

The fund industry represents an important group of benchmark users, either in the case of index funds and exchange traded funds (“ETFs”) – where benchmarks are used as a target for index tracking funds – or in the case of the evaluation of an active manager’s performance – where the fund performance is measured against a selected index or a set of indices, or to set performance fees. During the last two decades, the importance of certain benchmarks to investors is growing due to the growth in passive investing and investors increasingly choosing passive index-tracked instruments, investment funds and ETFs.

Similar to Exchange based market data, competition is not working well in the provision of indices and benchmarks. Regular above inflation price increases, as well as complex licensing terms, resulting in higher charges (slicing and dicing of products is also a problem in this area). There are a small number of

established benchmark providers that have brand awareness among end users. This has led to an oligopolistic market structure, consisting of MSCI, S&P and FTSE Russell in the equity index space.

Over the past few years, our members have observed significant increases of costs related to the use of indices, especially the access to the underlying data. Specifically, our members have witnessed double digit price increases directly by benchmark administrators and through the making available of the data by market data distributors (“MDD”). These lead to very high stock market returns for major index provider shareholders at the expense of the wider industry.

Benchmark data is often procured not directly from data providers but from MDDs who collect, catalogue and distribute them. One point to note is that MDDs - such as Bloomberg, Refinitiv, Rimes, or Six Financial are not regulated as financial services providers under the Benchmark Regulation.

In this context, our members have experienced the following trends:

- A significant increase in prices: Index providers have introduced a significant price increase for their products which are clearly above the inflation rate without any additional value for Asset Managers.
- A general increase in the workload of the administration of license agreements: Due to the growth of data usage index providers have refined their licensing models and cover now each step along the whole value chain of an Asset Manager. The data license practices ranges from internal applications support to external regulatory reporting as well as ETF production and brand licenses. Benchmark administrators also do not hesitate to charge market participants (e.g. Buy-Side) for separate “created works”, “manipulated data” or “derived data” licenses based on use of trading venue, ratings or index data to create (e.g. through mathematical or other manipulations or processes) new data points. For example, benchmarks providers, such as FTSE-Russell, also called historically “index sponsors” today impose in excess of 50 different licenses to leverage their profits from the Buy-Side community. Index providers do not have a transparent price and cost policy for the different and complex license models.

Further adding to the licenses’ complexity, there is no standard taxonomy of how license concepts are defined. There also appears to be an intentional objective to increase the complexity in the diversification of the type and variety of data policies and price policies, to allow for each index sponsor to have a unique selling point (“USP”) and make it harder for investors to compare the cost of different index services in the index license manager (“ILM”) contract management tool.

Whilst data and benchmark providers have complete visibility on what everyone is paying, each individual firm is precluded by competition law and confidentiality clauses from having any information about what their peer firms are paying. As such there is no way for firms to judge whether they are paying a fair rate or whether a price hike is simply a tactic by the data provider to raise prices.

Due to a lack of standardization for license concepts fund management companies do not have the possibility to compare the license models across different index providers. Some of the issues are as follows:

- “Slicing and Dicing” of license models: Existing licenses are (further) split along the whole value chain of an Asset Manager. Existing license agreements which were previously priced only for one Asset Manager are now often licensed several times for several companies (custodian, outsourced asset manager, investor). Licensing models have become more fragmented which means that the rights of use of data are more restrictive differentiating between the circumstances of the use of the same data. For example, multiple licensing fees may apply for the same data if used for internal analysis, client reporting and also regulatory purposes. Therefore, the increase of prices along the whole value chain in the fund industry goes on. This will also be the case for climate-related or other sustainable investments (“ESG”) benchmarks which the Buy-Side needs also to take into consideration with the increased focus on sustainability in asset management.
- Stringent audit procedures: Audit procedures are conducted on the benchmark users to review the adoption and correct application of indices and benchmarks, but often with the aim of generating additional fee income only.

We strongly encourage the EU and UK institutions to extend the BMR rule and to take the following proposals into consideration to address the cost issue:

- Price lists: benchmark administrators should be required to publish annual price lists of all products/services allowing also for multiyear comparisons and easy identification of product /service changes.
- Cost disclosure: BMR should provide for basic pricing rules for products and services stating that prices/revenues under BMR need to have a reasonable relationship with the cost of production. Therefore, benchmark administrators need to publish in-depth cost disclosures allowing to compare the cost of (all) data products with their revenues/price development and to allow for cost-based pricing of benchmark data.
- At minimum, index data production cost-based pricing rules should be envisaged for basic “raw” index data including the respective index levels, prices, constituents and weightings. This is similar to what is currently already required from exchanges under MiFID rules, BMR administrators proprietary value-added index data and research services will continue to be the main revenue stream for the providers in addition to any index name usage license fees (ETF, index funds) going forward, and will coexist with the envisaged cost based pricing of the basic index data offer.
- Prohibition of certain license practices: in particular, the (early) termination of data licenses by benchmark administrators in case of pricing policy or data policy changes should be prohibited until an arbitration tribunal or a regular court has adjudicated on the legality of the required changes.

Conclusion

We believe significant changes to the market data regulation framework is required to ensure the efficient functioning of the markets, based on the need for robust use of information by stakeholders. While market data providers are entitled to benefit from effective distribution of such data, the monopolistic

structure of the product must be recognized, and appropriate regulation must be established for the benefit of the entire market ecosystem.

Thank you for considering our comments. We would be pleased to discuss our submission should you have any questions.

Yours sincerely,

A handwritten signature in black ink, appearing to read "S. Copland", written in a cursive style.

Susan Copland