



October 12, 2022

Submitted via Email

Attention:

Alina Bazavan
Ontario Securities Commission
abazavan@osc.gov.on.ca

Myha Truong
Ontario Securities Commission
mtruong@osc.gov.on.ca

Paul Redman
Ontario Securities Commission
predman@osc.gov.on.ca

Maxime Lévesque
Autorité des marchés financiers
maxime.levesque@lautorite.qc.ca

Michael Brady
British Columbia Securities Commission
mbrady@bcsc.bc.ca

Mark Wang
British Columbia Securities Commission
mwang@bcsc.bc.ca

Bonnie Kuhn
Alberta Securities Commission
Bonnie.kuhn@asc.ca

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

Me Philippe Lebel, Corporate Secretary
and Executive Director, Legal Affairs
Autorité des marchés financiers
Place de la Cité, tour Cominar
2640, boulevard Laurier, bureau 400
Québec (Québec) G1V 5C1
consultation-en-cours@lautorite.qc.ca

IIAC'S POSITION ON MARKET DATA COSTS

Dear Sirs and Mesdames:

The Investment Industry Association of Canada (IIAC) would like to state its current position on market data. This letter builds on previous comments that the IIAC has made in this area made to your attention. There is a growing global consensus for the implementation of internationally recognized principles to address excessively high market data fees and unfair licensing provisions.

The constant increase in market data costs for stakeholders of the industry is a growing concern and is increasing the ultimate costs to investors. The IIAC is dedicated to promoting fair and competitive costs for accessing market data. Here is the IIAC's position on the steps that should be taken by the regulators:

- **Ending the exchanges' monopoly on data production and distribution**

The IIAC believes the exchanges' monopoly on market data production and distribution should end because it creates an uncompetitive environment where the barriers to entry are almost insurmountable to other potential players. This situation allows the exchanges to set data fees without proportion to cost, which would not be the case in any other industry protected by a monopoly. This is especially true in the Canadian financial markets where the number of primary exchanges is relatively limited. While we acknowledge that ending the monopoly could reduce exchanges' revenue stream, it would also increase competition, foster innovation and benefit the broader market and investors.

- **Securities legislation should require trading venues to publicly disclose the detailed cost and revenue of data production**

While we acknowledge the importance of publicly accessible market data fees disclosure¹, we believe that it does not provide a sufficient level of transparency. Exchanges should be required to publicly disclose detailed information on their production costs to properly compare cost versus fees charged to market participants. This would enable the marketplace participants and investors to assess if the fees are fair in relation to costs.

- **Proportionate fees in relation to cost**

We consider that further to the public disclosure of data cost production, fees that the exchanges charge should be set by establishing a regulatory formula capping them proportionally to costs. Such a rule should apply to information providers (IPs) as well as third party providers. We also believe that regulators should be provided with audit powers to determine if disclosed production costs are reasonably accurate.

- **Defining "Core data" in Canada**

Unlike the United-States, Canadian securities legislation does not provide an equivalent core market data definition. Considering the recent *NYSE et al. v. SEC* decision by the U.S. Court of Appeals, the IIAC is advocating to implement a similar concept in the Canadian securities regulation landscape.

- **Simplifying data licencing contracts and subjecting them to regulatory oversight**

The IIAC believes that licensing contracts for accessing market data should be simplified and be subject to regulatory oversight to ensure that they are not unduly restrictive. This is consistent with the regulator's public interest mandate given the importance of market data.

The IIAC would like to discuss its position with the CSA in advance of any future recommendations. We would be pleased to meet in person to and answer any questions that you may have in respect of our position.

¹ See s. 10.1. of Reg 21-101 (*Regulation 21-101 Respecting Marketplace Operation*)

We look forward to hearing from you with regard to this issue.

Yours sincerely,

Investment Industry Association of Canada
100 Wellington Street West, Suite 1910 Toronto, ON M5K 1H6
TD West Tower