



August 7, 2018

Secretary Brent J. Fields
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

Re: Form CRS Relationship Summary ; Amends to Form ADV; Required Disclosures in Retail Communications and Restrictions on the use of Certain Names or Titles (File S7-08-18); and Proposed Commission Interpretation Regarding Standard of Conduct for Investment Advisers; Request for Comment on Enhancing Investment Adviser Regulation (File S7-09-18); and Regulation Best Interest (File S7-07-18)

Dear Mr. Fields:

ICE Data Services, a business of Intercontinental Exchange, Inc. (NYSE:ICE), appreciates the opportunity to comment on the U.S. Securities and Exchange Commission's ("SEC" or "Commission") Proposed Rules¹ that would clarify and expand responsibilities for investment advisers and broker dealers around their requirements to put their clients' interests ahead of their own.

This letter will address the following topics in connection with the Proposed Rules:

- The benefits of building upon an existing regulatory regime subject to certain modernizations.
- Recent advances in technology within the vendor community have potential implications for a best interest rulemaking

Background on ICE Data Services

ICE Data Services offers end-to-end market data services to support the trading, investment and risk management needs of customers across virtually all asset classes. Our range of data services for global financial and commodity markets includes pricing and reference data, exchange data, analytics, feeds, desktop and connectivity solutions. These services include the pricing and analytics suite offered by ICE Data Pricing & Reference Data LLC.

Our pricing and analytics services consist of an extensive set of independent evaluated pricing services focused primarily on fixed income and international equity securities, valuation calculation services,

¹ Release No. IA-4888, "Form CRS Relationship Summary; Amendments to Form ADV; Required Disclosures in Retail Communications and Restrictions on the use of Certain Names or Titles" dated April 18, 2018 ("Form CRS Proposal"). Release No. IA-4889, "Proposed Commission Interpretation Regarding Standard of Conduct for Investment Advisers; Request for Comment on Enhancing Investor Adviser Regulation" dated April 18, 2018 ("IA Conduct Proposal"). And Release 34-83062, "Regulation Best Interest" dated April 18, 2018 ("Best Interest Proposal").



reference data, market data, fixed income and equity portfolio analytics as well as risk management analytics. Our index services offer a range of products across fixed income, equities, commodities and currencies, designed to support all aspects of the benchmarking and performance measurement process. Our desktop and connectivity services comprise technology-based information platforms, feeds and connectivity solutions. These include trading applications, desktop solutions, data feeds and infrastructure to support trading, and investment functions.

The Proposed Rules Should Build Upon Existing Regulatory Regimes and Modernize Existing Rules, Where Appropriate

ICE Data Services agrees with the SEC's approach of building on existing regulatory regimes for investment advisers and broker dealers instead of trying to develop an entirely new set of requirements. We believe, however, that it would be appropriate for the SEC to work towards modernization of the rules embedded in the 1940 Act for investment advisers, as well as encourage the modernization of requirements governed by FINRA and MSRB for the broker-dealer community, before leveraging this regime as the foundation of an explicit best interest regulation. Some of the existing FINRA and MSRB rules explicitly mentioned in the Best Interest Proposal are over a decade old and not reflective of industry advances. We suggest that modernization of these rules be undertaken before implementing an enhanced fiduciary standard for existing regulation including, but not limited to: FINRA Rule 2111 (Product Suitability), FINRA Rule 2121 (Fair Prices and Commissions), FINRA Rule 5310 (Best Execution and Inter-positioning), MSRB Rule G-30, and potentially even Section 206 of the Investment Advisers Act, among others.

For example, ICE Data Services compiled empirical evidence and data support that reflects the extent to which FINRA Rule 2121 is antiquated relative to current industry capabilities.² Among other things, FINRA Rule 2121 specifies a pricing hierarchy to define prevailing market price. This rule was adopted nearly two decades ago and has not been modernized to reflect changes in the industry. Broadly speaking, the pricing hierarchy for defining prevailing market price under FINRA Rule 2121 first looks to a broker-dealer's own contemporaneous cost (from a recent purchase of the security) or proceeds (from a recent sale of the security); followed by contemporaneous inter-dealer trades; followed by contemporaneous dealer-buy or dealer-sell transactions; and so forth.

Twenty years ago, the previous trade may have been the best possible proxy for where the next trade would likely occur, but Figure 1 below demonstrates that commercially available solutions such as ICE Data Service's Continuously Evaluated Pricing (CEP) perform significantly better than the previous trade in predicting the next trade price. Introduced in 2015, our CEP offers evaluations for certain fixed income instruments throughout the trading day. The evaluation approach uses rules-based pricing

² FINRA Rule 2121 requires and defines "Fair Prices and Commissions" in transactions between broker-dealers and customers. The rule states that a fair price must take into consideration "all relevant circumstances, including market conditions with respect to such security at the time of the transaction," along with the expense involved and the dealer's profit. See:

http://finra.complinet.com/en/display/display_main.html?rbid=2403&element_id=11539



applications and market inputs that include, but are not limited to, executed trades, broker quotes, credit information and collateral attributes, as applicable.³

As Figure 1 below demonstrates, CEP better predicts the next trade than the previous trade, and this trend gets magnified the longer the gap between the last trade and previous trade. The trend also holds true intra-day, as the predictive power of CEP is better than the last trade on average even after a 15 minute gap or longer.⁴

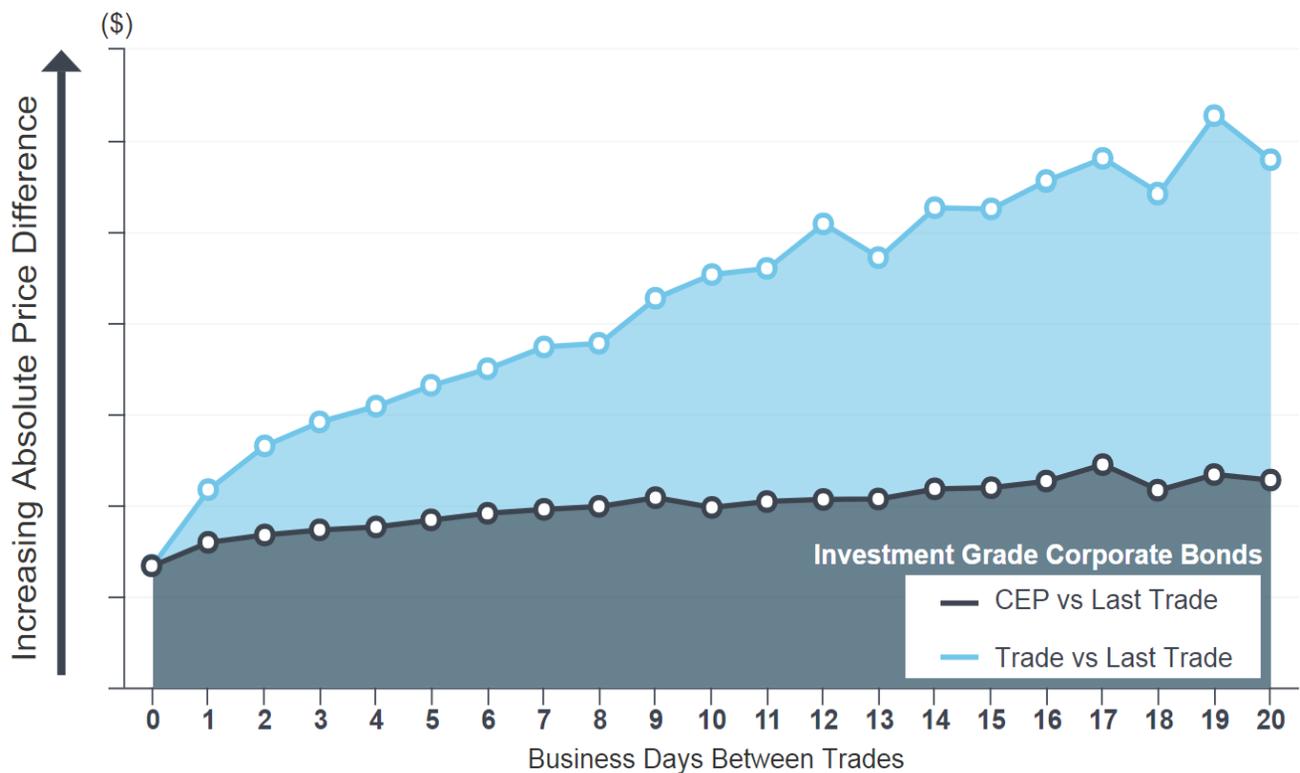


Figure 1: Absolute Price Difference of IG Corporate bonds for the most recent trade versus both CEP and previous trade based on timestamp lag in days

The Proposed Rules Should Acknowledge Vendor Capabilities

The proposed best interest standard and clarifications on investor adviser's standard of conduct do not include requirements for quantitative assessment of best execution, however, we see such measurable

³ Additional information on CEP can be found at <https://www.theice.com/market-data/pricing-and-evaluations/cep>

⁴ Please note that a similar study was conducted for the High-Yield Corporate Bond universe which showed a similar trend with an even greater magnitude of difference between the two approaches. Further details can be supplied to the SEC upon request.



metrics emerging as leading practice in the industry. We believe that it is critical for the SEC to consider the existing capabilities of industry and data vendors to make a quantitative assessment of best execution in connection with an expanded best interest standard regime.

With guidance from both the sell-side and buy-side, we have developed additional services on top of CEP including an execution quality measurement service that we think is applicable to interests put forth in the Proposed Rules. Our tools are used by traders, portfolio managers and compliance officers to more closely monitor trading activities across the growing number of venues and trading protocols. With broad coverage globally across corporate bonds (both investment grade and high-yield), emerging markets, money markets, sovereigns, agency debentures, TBA mortgages, MBS pass-through pools and municipal bonds, we see fixed income best execution workflows migrating towards quantitative analysis, similar to the evolution of the equity markets.

As the SEC looks to establish a more formal investor best interest regulatory regime, we hope the Staff will consider the fact that recent advances in technology and vendor capabilities make it feasible to estimate a fair price range for a security at the time of a transaction with greater precision than 20, 10 or even 5 years ago. For example, a best interest standard could explicitly require that firms conduct a quantitative assessment of best execution in their handling of client orders. ICE Data Services stands ready to provide insight to the Commission Staff on the role that vendors play in this regard.

Conclusion

ICE Data Services has always supported increasing transparency and investor protection in the marketplace. We support the long history of regulations from the SEC and various SROs to achieve these critical goals. We firmly believe that the tools and data that ICE Data Services develops on the backbone of these requirements (e.g. FINRA TRACE and MSRB EMMA) only further assist the industry in establishing leading practices around compliance with the various best interest mandates to protect investors.

We support the SEC's approach of building on existing regulatory regimes for investment advisers and broker dealers. At the same time, we believe that some assumptions that underlie portions of the Advisers Act and FINRA and MSRB rules for broker-dealers overlook industry advances over the past decade that are materially relevant to the goals of a best interest standard. Rather than leverage the existing regulatory framework without modification, we believe it is critical for the SEC to consider the existing capabilities of industry and data vendors to make a quantitative assessment of best execution in connection with an expanded best interest standard regime.

Kind Regards,

A handwritten signature in black ink, appearing to read "Mark Heckert", is positioned above the typed name.

Mark Heckert
Vice President, Pricing and Analytics
ICE Data Services