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[Rule G-14](#)

Request for Comment on Enhancements to Post-Trade Transaction Data Disseminated Through a New Central Transparency Platform

The Municipal Securities Rulemaking Board (the MSRB) is requesting comment on enhancements to the post-trade municipal securities transaction data that would be disseminated from a new central transparency platform (the “CTP”) as contemplated under the MSRB’s [Long-Range Plan for Market Transparency Products](#), (January 27, 2012) (the “Long-Range Plan”). The MSRB is seeking input from all interested parties on specific enhancements to the post-trade transaction information currently collected and disseminated publicly by the MSRB. Furthermore, this notice is intended to elicit input on the potential benefits and burdens associated with the proposed enhancements to post-trade transaction information, which would be made available to the public through the MSRB’s Electronic Municipal Market Access (EMMA[®]) website¹ and related data feeds, as well as input on potential alternatives to achieving the goals enunciated below.

Comments should be submitted no later than September 26, 2014 and may be submitted in electronic or paper form. Comments may be submitted electronically by clicking [here](#). Comments submitted in paper form should be sent to Ronald W. Smith, Corporate Secretary, Municipal Securities Rulemaking Board, 1900 Duke Street, Suite 600, Alexandria, VA 22314. All comments will be available for public inspection on the MSRB’s website.²

¹ EMMA is a registered trademark of the MSRB.

² Comments are posted on the MSRB website without change. Personal identifying information such as name, address, telephone number, or email address will not be edited from submissions. Therefore, commenters should submit only information that they wish to make available publicly.

Questions about this notice may be directed to Justin R. Pica, Director, Product Management - Market Transparency, at 703-797-6716.

Background

MSRB Rule G-14 currently requires brokers, dealers and municipal securities dealers (collectively “dealers”) to report all executed transactions in municipal securities to the MSRB’s Real-time Transaction Reporting System (RTRS) within 15 minutes of the time of trade, with limited exceptions.³ RTRS serves the dual objectives of price transparency and market surveillance. Because a comprehensive database of transactions is needed for the surveillance function of RTRS, Rule G-14, with limited exceptions, requires dealers to report all of their purchase-sale transactions to RTRS, not just those that qualify for public dissemination to serve the transparency function.⁴ The MSRB makes transaction data available to the general public through the EMMA website at no cost simultaneously with the dissemination of such data through paid subscription services to market data vendors, institutional market participants and others that subscribe to the data feed.

The MSRB’s Long-Range Plan envisions that the next-generation of RTRS will be an integral part of the CTP, which also will include, in addition to enhanced public access to real-time post-trade transaction information, new centralized public access to pre-trade pricing information, as well as related disclosure information, yield curves and other utilities. Two concept releases on the CTP have been published for comment by the MSRB that sought input on enhancements to post-trade transaction information. The initial concept release on the CTP, [MSRB Notice 2013-02 \(January 17, 2013\)](#) (the “January 2013 Concept Release”), provided background information on the MSRB’s initiative under the Long-Range Plan to develop the CTP and sought input on the appropriate standard for “real-time” reporting and dissemination of transaction price and related information through the CTP, as well as on baseline technology, processing and data protocols for post-trade transaction information. The second concept release on the CTP, [MSRB Notice 2013-14 \(July 31, 2013\)](#) (the “July 2013 Concept Release”), sought

³ Transactions in securities without CUSIP numbers, in municipal fund securities, and certain inter-dealer securities movements not eligible for comparison through a clearing agency are the only transactions exempt from the reporting requirements of Rule G-14.

⁴ In this respect, RTRS serves as an audit trail for municipal securities trading, with the exception of certain internalized movements of securities within dealers that currently are not required to be reported and the lack of reporting of customer identifications and other related specific items of information. Compare [Consolidated Audit Trail](#), Exchange Act Release No. 34-67457 (July 18, 2012), 77 FR 45722 (August 1, 2012).

comment on specific data elements the MSRB should consider disseminating publicly through the CTP with respect to post-trade transaction information.⁵

Post-Trade Transaction Transparency Plan

Based upon the comments received in response to the two concept releases and through dialogue with industry members, the MSRB is proposing to proceed with the following components for a post-trade reporting and public dissemination process through the CTP. The MSRB is seeking input in these specific areas, as well as on any other aspects of post-trade transaction transparency not otherwise addressed below.

Trade Reporting Process

Maintain Existing RTRS Portals. Currently, dealers report trade information through one of three RTRS Portals: (i) the message-based trade input RTRS Portal (the "Message Portal") operated by Depository Trust and Clearing Corporation (DTCC), through which reports of inter-dealer trades and trades with customers may be submitted in an automated manner; (ii) the RTRS Web-based trade input method (the "RTRS Web Portal") operated by the MSRB, through which reports of trades with customers may be submitted manually and all transactions, regardless of method of submission, may be reviewed for compliance purposes; and (iii) the RTTM Web-based trade input method (the "RTTM Web Portal") operated by DTCC, through which reports of inter-dealer trades may be reported manually.

The Message Portal and RTTM Web Portal were established as the primary methods of dealer reporting of trade data to RTRS to reduce burdens to dealers by leveraging existing data-flows through DTCC for clearance and settlement purposes. A primary reason for pursuing this "straight-through process" was to improve dealer compliance and overall data quality by maximizing the extent to which data used to execute transactions was also used for reporting purposes without further re-keying of such data.

The January 2013 Concept Release sought input on whether MSRB's decision to adopt a straight-through processing approach with regard to trade reporting and marketplace clearance and settlement functions should continue to drive the trade reporting process for the CTP. While commentators noted some concerns with the existing process, primarily related to limitations on the ability to make certain corrections to inter-dealer trade reports, the MSRB proposes to maintain the connection with

⁵ Comments received in response to these concept releases may be [viewed on the MSRB website](#).

DTCC as well as continue to utilize the three portals for reporting transaction information. In the CTP, the MSRB will undertake to make improvements to the ability for dealers to make corrections to inter-dealer trade reports, most notably to allow for corrections to “step out delivery” mismatches⁶ and to improve the processing of changes to settlement dates or issue cancellations that occur for new issues in the “when, as and if issued” period.

Fifteen-Minute Reporting Requirement and End-of-Day Reporting Exceptions

Maintain Existing Trade Reporting Deadlines. Rule G-14(b)(i) currently requires each dealer to report to RTRS information about each purchase and sale transaction effected in municipal securities in the manner prescribed by the Rule G-14 RTRS Procedures and the RTRS Users Manual. Subsection (a)(ii) of the Rule G-14 RTRS Procedures establishes the general requirement that transactions effected with a Time of Trade (that is, the time at which a contract is formed for a sale or purchase of municipal securities at a set quantity and set price) during the hours of the RTRS Business Day (being 7:30 a.m. to 6:30 p.m., Eastern Time, Monday through Friday) must be reported within 15 minutes of Time of Trade. Rule G-14 RTRS Procedures provide limited circumstances in which dealers may report trades by the end of the day of trade execution rather than under the standard 15-minute reporting requirement.

The January 2013 Concept Release sought input on whether a shorter timeframe than 15 minutes would be appropriate upon transitioning to the CTP as well as whether to eliminate, or shorten, any of the end-of-day exceptions, upon transitioning to the CTP. The MSRB proposes to maintain the existing general requirement that transactions be reported within 15 minutes of the time of trade and also proposes to maintain the existing end-of-day exceptions to the 15 minute deadline upon transitioning to the CTP.

Transaction Reporting of New Issues

Establish New Conditional Trading Commitment Indicator. Although trade executions and trade confirmations for new issues are not permitted prior to the time of formal award of the bonds by the issuer to the underwriter,⁷ dealers often solicit orders, accept orders and make conditional allocations

⁶ See [MSRB Notice 2005-22 \(April 1, 2005\)](#).

⁷ See [MSRB Rule G-12 Interpretive Letter, “Confirmation: Mailing of WALL confirmation,” dated April 30, 1982](#).

prior to the formal award. The prices at which such orders are conditionally allocated pending the formal award (referred to herein as “conditional trading commitments” or “CTCs”) generally are determined prior to the formal award and often will reflect market conditions at the time of such determination rather than at the time the trade is actually executed after the formal award. Accordingly, CTC transaction prices may not be indicative of current market conditions when they are executed and reported.

To address this issue, the July 2013 Concept Release proposed enhancements that would provide for distinguishing of trade reports resulting from CTCs and current secondary market transactions reported with similar times of trades.⁸ To achieve this benefit, the MSRB proposes to require dealers to identify trade reports resulting from CTCs with a new indicator⁹ and report the date and time the CTC was formed in a new field on trade reports that would be disseminated publicly.¹⁰ All dealers, including dealers outside the underwriting group, would include the new CTC indicator as well as the date and time that the CTC was formed on trade reports. This information would supplement information currently reported by dealers and would not advance the timing by which the trades must be reported.

The CTC indicator, together with the date and time at which the pricing of the commitment was made, would provide important transparency as to whether such price is indicative of current market conditions. Further, capturing the date and time that the commitment was formed would enable market participants to discern the sequence of new issue trading as well as

⁸ The MSRB previously proposed requiring dealers to indicate transactions that are based upon a conditional trading commitment to alert users of disseminated information that the trade date and time reflective of when the trade was executed may not be reflective of market conditions as of the date and time that the order was priced. See [MSRB Notice 2006-10 \(April 21, 2006\)](#); [MSRB Notice 2007-10 \(March 5, 2007\)](#). However, there was general agreement at the time that there would be several operational concerns with complying with such a requirement, most notably the lack of availability of the time of formal award, and such proposal was not adopted. Since then, underwriters have become obligated under Rule G-34 to announce the time of formal award and time of first execution for new issues. In addition, the EMMA website now makes such information publicly available.

⁹ All references to new indicators in this notice would be implemented using the existing special condition indicator field in RTRS Specifications currently used to identify trade reports subject to special conditions.

¹⁰ The date and time the CTC was formed would be reported in addition to the date and time of trade execution currently reported and disseminated publicly.

to link specific transactions to market conditions as of the time an order was formed.¹¹

The MSRB seeks further comment with respect to this provision:

- As an alternative to dealers having to compare the date and time a CTC was formed to the date and time of formal award to determine which trade reports would be required to include the CTC indicator and date and time that the CTC was formed, would it be appropriate to define a CTC as any trade report executed on the first day of trading in a new issue that is a result of an order formed more than a specified number of hours in the past? This definition would allow dealers to identify trade reports subject to a new CTC indicator requirement without having to process the date and time of formal award into systems used for trade reporting.
- Using the alternative approach described above, would it be appropriate to define a CTC as a trade execution on the first day of trading in a new issue that results from an order formed two or more hours in the past? A two hour period would be consistent with MSRB rules that require underwriters to provide a minimum of two hours advance notification of the time of first execution in a new issue.

Expand Application of Existing List Offering Price and RTRS Takedown Indicator. Transaction reporting procedures require dealers that are part of the underwriting group for a new issue to include an indicator on trade reports, which indicator is disseminated to the public, for transactions executed on the first day of trading in a new issue with prices set under an offering agreement for the new issue. These transactions include sales to customers by a sole underwriter, syndicate manager, syndicate member or selling group member at the published list offering price for the security (“List Offering Price Transaction”) or by a sole underwriter or syndicate manager to a syndicate or selling group member at a discount from the published list offering price for the security (“RTRS Takedown Transaction”). Such trade reports are provided an end-of-day exception from the 15 minute reporting requirement.

As discussed in the July 2013 Concept Release, since the introduction of this List Offering Price/RTRS Takedown Transaction provision, certain market

¹¹ Being able to discern the sequence of new issue trading could also help with identifying the Internal Revenue Service “issue price” for new issues.

practices and the information publicly available through the EMMA website have evolved. Outside of traditional underwriting syndicates or selling groups, some dealers have entered into long-term marketing arrangements with other dealers that serve in the syndicate or selling group relating to purchases and re-sales of new issue securities (“distribution agreement dealers”). The MSRB understands that these distribution agreement dealers agree to execute transactions with customers at the published list offering prices. Accordingly, the MSRB proposes to expand the definition of List Offering Price/RTRS Takedown Transactions to include sale transactions by distribution agreement dealers to customers at the list offering price as well as to inter-dealer sale transactions by syndicate or selling group members to distribution agreement dealers at a discount from the list offering price.¹²

The MSRB seeks further comment with respect to this provision:

- The List Offering Price/RTRS Takedown Transaction provision currently is only applicable for transactions executed on the first day of trading of a new issue. Some recent offerings have occurred over a number of days with different list offering prices set each day. Should the List Offering Price/RTRS Takedown Transaction provision apply to sale transactions on each day that such new issues are offered? While the trade date and time would indicate that the trades were executed on different days, would having a variety of prices all indicated as List Offering Price/RTRS Takedown Transactions be confusing to users of the price transparency information disseminated publicly?
- An RTRS Takedown Transaction currently is defined as an inter-dealer sale transaction by a sole underwriter or syndicate manager to a syndicate or selling group member at a discount from the published list offering price for the security. To what extent are securities distributed to syndicate or selling group members at prices that do not represent a discount from the published list offering price? If the definition of an RTRS Takedown Transaction was revised to include all sale transactions irrespective of price by a sole underwriter or syndicate manager to a syndicate or selling group member on the first day of trading in connection with the distribution of a new issue, would this reduce the usefulness of the RTRS Takedown Transaction indicator disseminated publicly?

¹² As a further enhancement, MSRB plans to establish two distinct indicators that would be disseminated publicly to clearly distinguish List Offering Price and RTRS Takedown Transactions.

Transaction Yields

Eliminate Requirement to Report Yield on Customer Trade Reports.

Transaction reporting procedures require dealers to include on most reports of customer transactions to RTRS both a dollar price and yield.¹³ The yield required to be reported to RTRS for customer trades is consistent with the yield required to be displayed on a customer confirmation under Rule G-15(a), which requires yield to be computed to the lower of an “in whole” call or maturity, subject to certain requirements set forth in the rule for specific special situations (generally referred to as the “yield to worst”). Rule G-15(a) requires the confirmation to include the date to which yield is calculated if such date is other than the nominal maturity date, and also requires the confirmation for a transaction effected based on a yield other than yield to worst to include both yields. Since April 30, 2012, the MSRB has calculated and included in disseminated RTRS information yield on inter-dealer trades computed in the same manner as required for customer trades.

The MSRB proposes to eliminate the requirement for dealers to include yield on customer trade reports.¹⁴ Consistent with the manner in which the MSRB calculates and includes in disseminated RTRS information yield on inter-dealer trades, the MSRB proposes to calculate and disseminate yield on customer trade reports in the CTP.

The MSRB seeks further comment with respect to this provision:

- To what extent, if any, would the elimination of the requirement to report yield on customer transactions alleviate operational concerns raised in connection with reporting certain “away from market” trade reports,¹⁵ such as transactions arising from customer repurchase agreements?

¹³ For inter-dealer transactions, dealers report the dollar price at which the transaction was effected and the MSRB calculates and includes in disseminated information the corresponding yield.

¹⁴ Note that dealers would continue to be able to report that a when, as and if issued transaction was executed on the basis of yield in the event that the settlement date is not known at the time the trade is executed, thus preventing an accurate calculation of the corresponding dollar price to be performed.

¹⁵ Such “away from market” trades are described in Section 4.3.2 of the [Specifications for Real-Time Reporting of Municipal Securities Transactions](#).

Dealer Compensation Arrangements

Establish New Indicator for Customer Trades Involving Non-Transaction-Based Compensation Arrangements. Normally, in principal transactions, the trade price reported to and publicly disseminated by the MSRB includes all aspects of the price, including any mark-up or mark-down that compensates the dealer for executing the transaction. In agency transactions, dealers are required to report to the MSRB both the price of the security and the commission charged to the customer. RTRS publicly disseminates prices for agency transactions that incorporate the commission reported to provide for comparability with principal trade prices. However, dealers effecting transactions with customers as part of an arrangement that does not provide for dealer compensation to be paid on a transaction-based basis, such as in certain wrap fee arrangements, will report to the MSRB transaction prices that do not include a compensation component. The MSRB does not currently collect information regarding fees charged in non-transaction-based compensation arrangements, and it does not collect or disseminate an indicator of transactions that are effected in that manner.

The July 2013 Concept Release proposed distinguishing in the transaction information disseminated publicly customer transactions that do not include a dealer compensation component from those that include a mark-up or mark-down or a commission. The MSRB proposes to require dealers to include an indicator on such trade reports that would be disseminated publicly and anticipates that being able to distinguish that certain customer transactions do not include a dealer compensation component would improve the usefulness of the disseminated transaction information.

Establish New Field for Reporting Miscellaneous Transaction Fees. Some dealers charge miscellaneous fees on transactions which may be in addition to or in place of any mark-up or mark-down assessed or commission charged. For example, some dealers who offer automated execution of transactions charge a small, flat "transaction fee" per transaction. While such charges are required to be displayed on customer confirmations, they may not be required to be included in the calculation of yield.¹⁶ The MSRB proposes to require dealers to report such fees in a separate field on trade reports to support the audit trail function of transaction data and not to publicly disseminate any such fees reported.

¹⁶ See [Notice Concerning Confirmation Disclosure of Miscellaneous Transaction Charges, dated May 14, 1990](#) and [Notice Concerning Flat Transaction Fees, dated June 13, 2001](#).

Market of Execution

Establish New Indicator for ATS Transactions. Dealers may use a variety of means for transacting in municipal securities, including broker's brokers or alternative trading systems ("ATS") as well as traditional direct transactions with a known counterparty. The MSRB currently identifies all transactions executed by a broker's broker. This identifier is applied based on the broker's broker informing the MSRB that it acts in such capacity. The MSRB does not currently identify trades executed through an ATS.

To better ascertain the extent to which ATSs are used in the municipal market and to indicate to market participants on disseminated transaction information that an ATS was employed, the July 2013 Concept Release proposed adding an indicator similar to the existing broker's broker indicator to identify transactions executed using the services of an ATS and the MSRB proposes to establish such an indicator. For those ATSs that take a principal position between a buyer and seller, the ATS and the dealers that transact with the ATS would be required to include the ATS indicator on trade reports. In instances where an ATS connects a buyer and seller but does not take a principal or agency position between those parties and does not have a transaction reporting requirement, the dealers that transact with each other as a result of using the services of the ATS would be required to include the ATS indicator on trade reports and also report information that identifies the ATS used. In all cases, the ATS indicator would be included on transaction information disseminated publicly. Identifying in disseminated transaction information that an ATS was employed should provide for higher quality research and analysis of market structure by providing information about the extent to which ATSs are used and should complement the existing indicator disseminated for transactions involving a broker's broker.

Economic Analysis

While the MSRB has evaluated comments received in response to the prior concept releases and has considered the benefits and burdens, it seeks further input on the likely benefits and burdens associated with the potential enhancements to post-trade transaction transparency that would be disseminated from the CTP. The prior concept releases sought input on a fairly wide range of general changes and this notice requests comment on a plan to proceed with specific changes for a post-trade reporting and public dissemination process through the CTP. In accordance with the MSRB's policy on the use of economic analysis in rulemaking, the MSRB seeks input on the following factors with respect to these potential enhancements: 1) whether there is a need for the enhancements; 2) the relevant baselines against

which the likely economic impact of the enhancements can be considered; 3) reasonable alternative regulatory approaches; and 4) the potential benefits and costs of the enhancements and the main alternative regulatory approaches.

1. The need for the enhancements to post-trade transaction information.

Transparency refers to the degree to which information regarding quotations for securities, the prices of transactions, and the volume of those transactions is made publicly available in a securities market.¹⁷ With respect to post-trade transaction transparency, RTRS serves the dual objectives of price transparency and market surveillance. The MSRB makes transaction data available to the general public through the EMMA website at no cost simultaneously with the dissemination of such data through paid subscription services to market data vendors, institutional market participants and others that subscribe to the data feed. Through this approach, RTRS has democratized access to post-trade transaction information, either directly through the EMMA website or through third-party vendors that receive the automated feed of RTRS data from the MSRB.

The MSRB's Long-Range Plan envisions that the next-generation of RTRS would be an integral part of the CTP. Certain market practices have evolved since the establishment of RTRS, such as increased usage of ATs and expanded usage of distribution agreement dealers in connection with sales of new issues, suggesting the need for new data elements that would enhance the post-trade transaction information disseminated publicly by the MSRB. MSRB believes that the potential enhancements to post-trade transaction information would improve the quality and usefulness of the information.

2. The relevant baselines against which the likely economic impact of the enhancements can be considered.

To evaluate the potential impact of the enhancements, a baseline, or baselines, must be established as a point of reference. The analysis proceeds

¹⁷ Principles of Transaction Transparency, Securities Regulators of the Americas ("COSRA") (1993). Transaction transparency is distinct from concepts relating to dissemination of official statements, periodic financial information and other disclosure information about an issuer and its securities. Of course, transparency and disclosure are both important principles for a securities market, each serving to reduce information asymmetries, to promote efficient pricing and to foster investor confidence and liquidity.

by comparing the expected state with the enhancements in place to the baseline state prior to the enhancements being in place. The economic impact of the enhancements is measured as the difference between these two states. The MSRB regards the relevant baseline for all potential enhancements discussed in the release to be the requirements of current MSRB Rule G-14 and the transaction information currently collected and disseminated publicly by the MSRB.

3. Identifying and evaluating reasonable alternative regulatory approaches.

With respect to reasonable regulatory alternatives, the MSRB has considered a number of potential enhancements to post-trade transaction information in the two prior concept releases. For example, in prior concept releases the MSRB outlined several alternatives for establishment of the CTC indicator and the timing by which such transactions would need to be reported as well as alternatives for enhancing the information disseminated related to List Offering Price/RTRS Takedown Transactions. Based upon comments received regarding these enhancements and through dialog with industry members, the MSRB is proposing to proceed with the components for a post-trade reporting and public dissemination process through the CTP identified in this notice. This notice also includes additional alternative approaches to the implementation of some of the potential enhancements, such as the CTC indicator and the application of List Offering Price/RTRS Takedown Transaction indicator. The MSRB welcomes comments regarding additional reasonable regulatory alternatives that the MSRB should consider.

4. Assessing the benefits and costs, both quantitative and qualitative, of the draft rule and the main alternative regulatory approaches.

With respect to the likely benefits and costs associated with each enhancement, the MSRB acknowledges that comments received in response to the two concept releases addressed some of the likely benefits and costs for many of the potential enhancements. In this release, the MSRB seeks additional input on the likely benefits and burdens of each of the potential enhancements. Specifically, the MSRB seeks input on the following questions:

1. The CTC indicator, together with the date and time at which the pricing of the commitment was made, would provide important transparency as to whether such price is indicative of current market conditions. Further, capturing the date and time that the commitment was formed would enable market participants to discern

the sequence of new issue trading as well as to link specific transactions to market conditions as of the time an order was formed. To what extent will the proposed information achieve these benefits? What will be the operational cost to dealers resulting from the establishment of a new CTC indicator as well as requiring dealers to report the date and time the CTC was formed in a new field on trade reports?

2. The MSRB proposes to expand the definition of List Offering Price Transactions to include sale transactions by distribution agreement dealers to customers at the list offering price since such trade reports are executed at published list offering prices which may not reflect market conditions at the time that the transactions are actually executed. What will the operational burden be for distribution agreement dealers to meet this expanded definition? To what extent are distribution agreements with dealers employed and will having trades identified as resulting from agreements to trade at published list offering prices improve the usefulness of the transaction data?
3. The MSRB proposes to eliminate the requirement to report yield on customer trade reports. Will dealers realize a cost savings benefit through reduction in error feedback from MSRB resulting from price/yield calculation errors due to the elimination of the requirement for dealers to include yield on customer trade reports? Will there be a benefit to investors from having MSRB calculate and disseminate yield on customer trade reports in a way that is consistent with the manner in which MSRB calculates and includes yield on inter-dealer trades?
4. To distinguish customer transactions involving non-transaction-based compensation arrangements, the MSRB proposes requiring dealers to include an indicator on such trade reports that would be disseminated publicly. What will be the operational cost to dealers from requiring an indicator to be included for transactions with customers that do not provide for dealer compensation to be paid on a transaction-based basis? Are there benefits to users of disseminated transaction information in being able to distinguish customer transactions involving non-transaction-based compensation arrangements?
5. What will be the operational cost to dealers from a requirement that they report miscellaneous transaction fees in a separate field that is not publicly disseminated?

6. The MSRB proposes to require dealers to include an indicator on trade reports that indicate that an ATS was employed and disseminate such information to market participants. What will be the operational cost to dealers and to ATSs from requiring an ATS indicator on trade reports? In instances where dealers transact with each other as a result of using the services on an ATS and where the ATS does not take a position between the transacting parties, what will be the operational cost to dealers from reporting the identification of the ATS in these instances? To what extent will the ATS indicator allow for higher quality research and analysis of market structure by providing information about the extent to which ATSs are used?

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