

July 20, 2018

Boris Elisman, Chairman, President and CEO  
James A. Buzzard, Lead Independent Director  
Pradeep Jotwani, Chair, Corporate Governance and Nominating Committee  
c/o Pamela R. Schneider, Senior VP, General Counsel and Corporate Secretary  
ACCO Brands Corporation  
Four Corporate Dr.  
Lake Zurich, IL 60047-8997

*Re: Proposed SEC Transaction Fee Pilot for NMS Stocks<sup>1</sup>*

Dear Messrs. Elisman, Buzzard, and Jotwani:

I am writing on behalf of the Council of Institutional Investors (CII), a nonpartisan, nonprofit association of public, corporate, and union employee benefit funds, other employee benefit plans, foundations, and endowments with combined assets under management exceeding \$3.5 trillion. Our member funds include major long-term shareholders with a duty to protect the retirement savings of millions of workers and their families.

Our associate members include a range of asset managers with more than \$25 trillion in assets under management, most also with long-term investment horizons. CII members share a commitment to healthy public capital markets and strong corporate governance.<sup>2</sup>

We write this letter to express our concerns regarding your opposition to the SEC's proposed transaction fee pilot for NMS stocks<sup>3</sup> and to explain our enthusiastic support for the proposal.<sup>4</sup>

We would like to note that although the NYSE opposes the fee pilot and alleges that it will harm investors,<sup>5</sup> most institutional investors support the SEC's proposal.<sup>6</sup> More than 60 institutional

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<sup>1</sup> See Transaction Fee Pilot for NMS Stocks, Exchange Act Release No. 82,873, 83 Fed. Reg. 13,008 (proposed rule Mar. 26, 2018), <https://www.gpo.gov/fdsys/pkg/FR-2018-03-26/pdf/2018-05545.pdf>.

<sup>2</sup> For more information about the Council of Institutional Investors (CII) and our members, please visit CII's website at [http://www.cii.org/about\\_us](http://www.cii.org/about_us).

<sup>3</sup> See Letter from Neal V. Fenwick, Executive Vice President and Chief Financial Officer, ACCO Brands, Inc., to Brent J. Fields, Secretary, U.S. Securities and Exchange Commission (June 21, 2018), <https://www.sec.gov/comments/s7-05-18/s70518-3935640-166956.pdf>.

<sup>4</sup> See Letter from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors, to Brent J. Fields, Secretary, U.S. Securities and Exchange Commission 1 (May 10, 2018), [https://www.cii.org/files/issues\\_and\\_advocacy/correspondence/2018/May%2010%202018%20File%20Number%20S7-05-18%20Transaction%20Pilot%20\(final\).pdf](https://www.cii.org/files/issues_and_advocacy/correspondence/2018/May%2010%202018%20File%20Number%20S7-05-18%20Transaction%20Pilot%20(final).pdf).

<sup>5</sup> Letter from Elizabeth K. King, General Counsel and Corporate Secretary, NYSE Group, Inc., to Brent J. Fields, Secretary, U.S. Securities and Exchange Commission (May 31, 2018), <https://www.sec.gov/comments/s7-05-18/s70518-3755194-162578.pdf>.

<sup>6</sup> See Julie Segal, "In Rare Move, Big Pensions Band Together To Take on Stock Exchanges," Institutional Investor (May 30, 2018) ("It's extremely rare for so many asset owners and managers to speak as one on a markets issue—

investors, representing millions of beneficiaries and many trillions of dollars in investment assets, have written or endorsed public comment letters supporting the pilot.<sup>7</sup> These investors include public pension funds in New York,<sup>8</sup> Illinois,<sup>9</sup> California,<sup>10</sup> Wisconsin,<sup>11</sup> and Arizona.<sup>12</sup> CII believes that the thoroughly-considered conclusions of these sophisticated investors provide the most reliable source for determining whether the proposal is in these investors' best interests.

In opposing the Proposed Pilot, many companies are aligning themselves against some of their largest shareholders. More 75% of issuers opposing it have at least one of their five largest institutional investors supporting the Pilot.<sup>13</sup> Notably, institutional investors collectively owning at least 12.5% equity in Halliburton (27%), Apache Corporation (25%), Home Depot (19%), and Mastercard (12.5%) support the Proposed Pilot.<sup>14</sup>

CII's support for the proposed pilot arises from our "duty to communicate the interests and desires of the institutional investor community to regulators, to the public and to the industry regarding trading practices and commissions."<sup>15</sup> As evidence cited by the SEC indicates, the current transaction fee structure may incentivize "broker-dealers [to] route orders to exchanges that have the best quoted prices but are suboptimal for customers in other ways because orders are either less likely or take longer to execute."<sup>16</sup> We believe that the proposed pilot as currently designed will facilitate actionable statistical analysis of the potential conflicts of interest presented by fees and rebates.<sup>17</sup>

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their support for the transaction fee pilot shows that there's a very real conflict that needs to be addressed"), <https://www.institutionalinvestor.com/article/b18fcdt16220h6/in-rare-move.-big-pensions-band-together-to-take-on-stock-exchanges>; see also Letter from John Ramsay, Chief Market Policy Officer, Investors Exchange LLC, to Brent J. Fields, Secretary, U.S. Securities and Exchange Commission 3 (June 27, 2018) ("The SEC's proposal has triggered an unprecedented outpouring of support from institutional investors of all types"), <https://www.sec.gov/comments/s7-05-18/s70518-3968434-167099.pdf>.

<sup>7</sup> See, e.g., Letter from Kevin Duggan, Managing Director, Execution & Treasury, Capital Markets, Ontario Teachers' Pension Plan, and Don W. Pontes, Investment Director, Financial Markets, Sustainable Investment, CalPERS, to Brent J. Fields, Secretary, U.S. Securities and Exchange Commission (May 25, 2018); see also Letter from John Ramsay at 3, Appendix (listing institutional investors of various types who have written or co-signed public comments letters in support of the Proposed Pilot).

<sup>8</sup> See Letter from John Ramsay at Appendix (New York State Teachers' Retirement System, New York City Employees' Retirement System, New York City Police Pension Fund, New York City Fire Pension Plan, Board of Education Retirement System of the City of New York, and Teachers Retirement System of the City of New York).

<sup>9</sup> See *id.* (Illinois Public Pension Fund Association).

<sup>10</sup> See *id.* (California Public Employees Retirement System, California State Teachers' Retirement System, San Diego City Employees' Retirement System, San Francisco Employees' Retirement System).

<sup>11</sup> See *id.* (State of Wisconsin Investment Board).

<sup>12</sup> See *id.* (Arizona State Retirement System).

<sup>13</sup> See Gretchen Morgenson, "NYSE Opposition to Trading-Fee Review Puts Companies and Some Shareholders at Odds," *Wall Street Journal*, [https://www.wsj.com/articles/nyse-opposition-to-trading-fee-review-puts-companies-and-some-shareholders-at-odds-1531320631?mod=hp\\_lead\\_pos6](https://www.wsj.com/articles/nyse-opposition-to-trading-fee-review-puts-companies-and-some-shareholders-at-odds-1531320631?mod=hp_lead_pos6).

<sup>14</sup> *Id.*

<sup>15</sup> Council of Institutional Investors, Policies on Other Issues, Guiding Principles for Trading Practices, Commission Levels, Soft Dollars and Commission Recapture (adopted Mar. 31, 1998), [https://www.cii.org/policies\\_other\\_issues#principles\\_trading\\_commission\\_softdollar](https://www.cii.org/policies_other_issues#principles_trading_commission_softdollar).

<sup>16</sup> 83 Fed. Reg. at 13,041-42 (citing Robert H. Battalio, Shane A. Corwin, and Robert H. Jennings, "Can Brokers Have It All? On the Relation between Make-Take Fees and Limit Order Execution Quality," *J. Fin.* 2119-2237 (May 2016), available at <https://onlinelibrary.wiley.com/doi/full/10.1111/jofi.12422>).

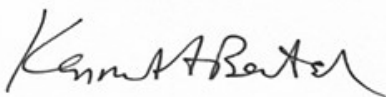
<sup>17</sup> See Letter from Jeffrey P. Mahoney at 3.

We further believe that the SEC's proposed approach to address this issue is appropriate. In order to provide a meaningful and useful dataset, the Pilot must encompass a wide range of NMS stocks and be of a sufficient duration to prevent the results from being skewed by any unrelated market events or distortions. The SEC's proposal adequately addresses these concerns and will provide an appropriate dataset. Furthermore, it is critical that the Proposed Pilot include "Test Group 3" in which exchanges would be prohibited from offering rebates.<sup>18</sup> We agree with the SEC that "the proposed Pilot would be substantially more informative with a no-rebate bucket than a pilot without one, because...only a complete prohibition on rebates will allow the Commission to study directly" whether rebates create a conflict of interest for broker-dealers and the effects of such conflicts.<sup>19</sup> Additionally, we do not support allowing issuers to opt-out of the Proposed Pilot because doing so could negatively impact the representativeness of the results obtained.<sup>20</sup>

Contrary to the NYSE's suggestion, the SEC does not "already [have] sufficient data to thoroughly examine the relationship between access fees and broker-dealer conflicts."<sup>21</sup> For example, as noted by SEC Director of Trading and Markets Brett Redfearn, the Proposed Pilot's scope and presence of Test Group 3 provide "an *important and unique* opportunity to *fully* evaluate the exchange pricing models."<sup>22</sup> We believe that the Proposed Pilot will provide the SEC with more complete and useful dataset than would otherwise be available.

Please share this letter with the full board. If you have any questions, please contact me at [ken@cii.org](mailto:ken@cii.org) or 202-261-7098, or CII General Counsel Jeff Mahoney at [jeff@cii.org](mailto:jeff@cii.org) or 202-261-7081.

Sincerely,



Kenneth A. Bertsch  
Executive Director

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<sup>18</sup> *See id.*

<sup>19</sup> 83 Fed. Reg. at 13,022.

<sup>20</sup> *See* Letter from Jeffrey P. Mahoney at 4.

<sup>21</sup> *See* Letter from Elizabeth K. King at 17.

<sup>22</sup> Brett Redfearn, Director, Division of Trading and Markets, Remarks at the Equity Market Structure Symposium sponsored by the University of Chicago and the STA Foundation (Apr. 10, 2018) (emphasis added), [https://www.wsj.com/articles/nyse-opposition-to-trading-fee-review-puts-companies-and-some-shareholders-at-odds-1531320631?mod=hp\\_lead\\_pos6](https://www.wsj.com/articles/nyse-opposition-to-trading-fee-review-puts-companies-and-some-shareholders-at-odds-1531320631?mod=hp_lead_pos6).