[redacted] (FISMA)

From: [redacted] (MARKT)
Sent: 16 September 2013 17:13
To: MARKT LIST G3
Subject: MiFID meeting with NASDAQ OMX

On Monday, 16 September, Maite, [redacted], [redacted], [redacted] and [redacted] met with [redacted], and [redacted] of NASDAQ OMX.

Regarding the August 22nd systems problems, they explain that they run the US consolidated tape. This is a required data feed, which is price controlled.
On that day, NYSE ARCA had problems linking up to the system, leading to information asymmetries. ARCA's order matching system switched to the back-up system, but disconnecting too many instruments. NASDAQ's systems could not handle this overload, and forced a regulatory halt. Rebooting the system, including testing, took three hours.
The underlying issue is that ARCA had been fined by the SEC for having some of their feeds faster than others. ARCA sped up all their feeds to fix this, but to speeds which led to problems at NASDAQ.
One problem was that the transmission of the regulatory halt went over a data line which was blocked.

On the Facebook IPO, they noted that they had an algorithm working to match orders, a so-called spin.
When orders were cancelled, they redid the spin. As the orders came in such large numbers, they were cancelled faster than the spin could clear them.
HFT was not an issue; HFT's do not participate in IPO's.

Under the trade through rule, an average trade hops across four to five different markets before it is executed.
Retail orders do not reach the exchange, as they go to dark pools under payment for order flow schemes.
Dark markets are needed for large orders. It would be better to follow Canada and Australia's examples and require price improvement before an order can go dark, and only for orders above a certain size. In the US, only five to ten percent of dark pool trades are executed at the mid-point.
Payment for order flow is not included in best execution.

SME's are not listing due to market structure concerns.
Companies are using confidential prospectus filings, which were introduced under the Jobs Act. (This possibility always existed for foreign firms.)
They are getting many complaints about proxy advisor firms.
On the 1000 smallest companies, NASDAQ make about 50 dollars a day in total. Market making is not viable in those shares.

For Europe, they are concerned about the OTF as a private pool of liquidity, which would exclude local banks.
As a result, local banks will no longer want to invest in SME's.

[redacted] | Policy Officer | Securities Markets Unit | DG Internal Market and Services
[redacted]@ec.europa.eu