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April 21, 2010

Securities and Exchange Commission

100 F Street, N.E.

Washington, D.C. 20549-1090

Attention: Elizabeth M. Murphy

Secretary, Securities and Exchange Commission

Re: File No. S7-02-10; Comments to Concept Release on Equity Market Structure

Ladies and Gentlemen:

Thank you for the opportunity to comment on aspects of the Securities and Exchange Commission's Concept Release on Equity Market Structure (the "Concept Release"). One of our clients, a proprietary trading firm, has requested that we comment on one of the many questions posed by the Commission in the Concept Release; specifically, as a means to address systemic risk, should ***"all proprietary firms be required to register as broker-dealers and become members of FINRA to help assure that their operations are subject to full regulatory oversight?"***

While one could advance an argument that systemic risk has yet to be appropriately addressed in the current market structure, it is our position that addressing that risk by requiring proprietary firms to register as broker-dealers and become members of FINRA is misplaced. Requiring broker-dealer registration for all proprietary trading firms would be a significant shift, and would add significant costs and burdens to those firms. Those additional costs and burdens are simply not justified in light of the Commission's recognition of the fact that, "from an operational standpoint, the equity markets performed well during the world-wide financial crisis in the Autumn of 2008 when volume and volatility spiked to record highs", and "the equity markets continued to

operate smoothly and participants generally were able to trade at currently displayed prices....”

It is further our position that proprietary firms help promote market integrity by providing an important source of liquidity in difficult trading conditions. That “built-in” market force protection should continue to be supported, and we believe that protection would be undermined by the imposition of a new and broad regulatory design.

Proprietary firms have made large investments in their businesses, including the manner in which they operate, at least partly in reliance on the current regulatory structure. As just one example, many qualified proprietary firms have entered into portfolio margining arrangements with broker-dealers which permit them to finance their trading activities in a more cost effective and efficient manner than in the past. Requiring broker-dealer registration at this point would frustrate the reasonable expectations of those firms which have relied on the existing rules and have either de-registered or implemented business plans which exclude registration.

While our client strongly objects to the imposition of any additional regulatory requirements on unregistered proprietary firms or their personnel, our client also recognizes the impact that certain large proprietary firms could have on the equity markets. Thus, it would seem prudent for the Commission to focus on the trading conducted by such large proprietary firms with as little consequence as possible to the proprietary firms and their personnel. Accordingly, our client supports the Commission’s initiative of a large trader reporting system under Section 13(h) of the Exchange Act, which would provide regulators with key trading information that could be monitored by the Commission. Once a “large trader” is identified, then all of that large trader’s trades could be tagged by the broker-dealers through which the trades are executed or cleared and then reviewed by the Commission (as an adjunct to the Electronic Blue Sheet system). Note that some firms, including our client, may object on the basis of confidentiality, so the Commission may want to consider the extent to which the collection of trading information can be used by persons outside of the proprietary firms to decipher, among other things, a large trader’s trading strategies.

It appears to us that a proposal along these lines could give the Commission the information it is seeking to better understand the unregistered entities that could help to move markets.

Thank you for your consideration of our comments and suggestions. Any questions in relation to our comments may be directed to Steven T. Gersh in our New York office at (212) 682-6717.

Very truly yours,

BERKOWITZ, TRAGER & TRAGER, LLC