

May 25, 2018

Mr. Brent J. Fields  
Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090  
Re: Release No. 34-82873; File No. S7-05-18

Dear Mr. Fields,

We applaud the SEC's efforts to optimize market structure through the Transaction Fee Pilot, and therefore voice our support for the Pilot.

However, we are disappointed with the lack of a trade-at bucket in the current proposal, given the success of trade-at in increasing lit liquidity within the Tick Size Pilot. The Tick Size Pilot's trade-at bucket functioned as such in spite of the fact that it was a "weakened" implementation, and this need not be the case for a trade-at group in the Transaction Fee Pilot.

#### **Tick Pilot Analysis**

We examined the test pilot securities using the full SIP historical feed, from July 1, 2015 through May 24, 2018. We excluded securities that were removed from the pilot or that could not be followed continuously from the beginning of the study period to the end.

We performed pairwise comparisons of each security, comparing each statistic's value before and after it was added to the pilot, the timing of which was variable according to FINRA's implementation.

We observed a significantly larger increase in the number of shares available at the NBBO for Group 3, the trade-at group. We noted median increases of 101% and 106% for the bid and ask, respectively, in Group 3, versus 74% and 79% for Group 1 and 71% and 77% for Group 2.

Mean 30-minute-timeframe volatility also decreased for Group 3, while increasing for Groups 1 and 2, with the control decreased to a lesser degree. This, too, seemingly reflects greater liquidity available for the trade-at Group 3.

(We did not observe significant and consistent differences in daily volume, spread, or effective spread Test Group 3 versus Groups 1 and 2. Please see the attached spreadsheet for all results.)

## **Fragmentation**

We would like to suggest yet another test bucket to test an anti-fragmentation policy. In this bucket, the order that sets the SIP NBBO receives the execution in all circumstances (e.g., bypassing hidden orders). This would give an even greater incentive to set the better NBBO, without the need to grant exclusivity to one exchange.

## **Fairness**

The core problem with internalization and fragmentation is the reduction in fairness of the overall market, particularly towards liquidity adders, whether they be retail or non-HFT institutional investors. Liquidity takers are also harmed by a fragmented and internalized market due to decreased liquidity. This pilot could incorporate additional buckets in order to address these issues and thereby bolster participants' confidence in the fairness of the regulated markets.

Respectfully submitted,

Michael Jacejko  
Birch Bay Capital, LLC  
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Email: [redacted]

Group	Sample Size	Pre-Pilot	Post-Pilot	Mean	Mean	Pre-Pilot	Post-Pilot	Median	Median
		Mean	Mean	Difference	Percent Difference	Median	Median	Difference	Percent Difference
Spread									
Group 0	1168	0.0173238	0.0171062	-0.0002176	0.239282	0.00404566	0.00364955	9.12E-05	0.0282321
Group 1	382	0.0135137	0.0123257	-0.001188	0.539149	0.00400769	0.00528237	0.0008249	0.269045
Group 2	375	0.0129284	0.014277	0.00134863	0.590301	0.00403287	0.00518503	0.00085177	0.288926
Group 3	375	0.0113079	0.0117716	0.00046365	0.534499	0.00364664	0.00480709	0.0006935	0.283823
Effective Spread									
Group 0	1168	0.0118429	0.0106387	-0.0012042	0.0844775	0.00291862	0.00277471	8.34E-05	0.0499055
Group 1	381	0.00964968	0.00935678	-0.0002929	0.707908	0.00284248	0.00393264	0.00087164	0.414534
Group 2	374	0.00876014	0.00988163	0.00112149	0.71259	0.00264044	0.00401997	0.00078145	0.352205
Group 3	374	0.00719073	0.00902395	0.00183323	0.670447	0.00257668	0.00393857	0.00088233	0.352725
30-Min Volatility									
Group 0	1055	0.0050064	0.00480553	-0.0002009	0.858649	0.00311149	0.00261574	-0.0004313	-0.170874
Group 1	349	0.00336944	0.0043165	0.00094706	0.641566	0.00231464	0.00278123	0.00045929	0.218829
Group 2	338	0.00343252	0.00384	0.00040749	1.05103	0.00229757	0.00262112	0.00035864	0.160631
Group 3	335	0.0042895	0.00384561	-0.0004439	0.257964	0.00294709	0.00270749	-3.77E-05	-0.010247
Bid Size									
Group 0	1168	282.703	330.848	48.1444	0.300665	171.849	179.364	7.18997	0.0538682
Group 1	381	292.382	581.702	289.32	1.5062	167.858	322.323	125.441	0.74597
Group 2	374	235.44	574.36	338.919	1.4671	167.506	308.87	122.882	0.715485
Group 3	374	255.695	804.85	549.155	2.30433	173.134	371.586	179.106	1.01634
Ask Size									
Group 0	1168	256.692	316.257	59.5647	0.265628	171.621	186.944	8.9459	0.0658625
Group 1	381	303.43	512.056	208.626	1.30508	165.814	336.709	130.082	0.793795
Group 2	374	226.705	511.435	284.73	1.29972	166.468	319.926	121.888	0.770452
Group 3	374	242.484	729.186	486.702	2.08015	173.094	392.046	193.876	1.06145
Bid Amount									
Group 0	1168	3383.25	4211.39	828.145	0.409618	2829.39	3661.35	642.113	0.234705
Group 1	381	3625.85	9452.94	5827.1	2.167	2979.13	6693.91	3175.71	1.02658
Group 2	374	3542.34	8516.21	4973.87	1.73551	3043.29	6941.12	3378.18	1.1199
Group 3	374	3878.99	13167.1	9288.13	2.98455	2917.29	7750.63	4014.52	1.42583
Ask Amount									
Group 0	1168	6546.91	8409.64	1862.73	0.446389	2871.53	3824.71	736.292	0.252189
Group 1	381	4412.66	9110.76	4698.09	2.02572	3005.7	7032.94	3194.25	1.06801
Group 2	374	4047.81	9493.65	5445.84	1.71668	3104.85	7368.42	3570.19	1.19152
Group 3	374	5312.9	13957.8	8644.89	2.67202	3024.49	8456.07	4678.03	1.61527