

March 1, 2016

Mr. Brent J. Fields
Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549–1090

Re: Regulation of NMS Stock Alternative Trading Systems (File No. S7-23-15)

Dear Mr. Fields:

Citadel LLC¹ (“Citadel”) appreciates the opportunity to provide comments to the Securities and Exchange Commission (the “Commission”) on its proposal to amend Regulation ATS (the “Reg ATS Proposal”) to require greater transparency from alternative trading systems (“ATs”) transacting in National Market System stocks (“NMS Stock ATs”).²

Citadel has been a firm supporter of Commission efforts to comprehensively review U.S. equity market structure in order to protect and ensure market quality, fairness and operational stability.³ A cornerstone to open, fair and efficient markets is providing investors with sufficient pre-trade and post-trade transparency, which levels the playing field by removing information asymmetries and enables trading systems and market participants to compete on the merits.

As such, we commend the Commission on proposing rules that would significantly increase the amount of public information required to be disclosed by NMS Stock ATs. These rules would require publication of the trading system’s Form ATS along with critical information regarding, among others, (a) subscriber segmentation, (b) potential conflicts of interest, (c) order types, and (d) fees, rebates and incentives. This information will help market participants assess the relative merits of these trading centers and achieve best execution while also reducing competitive imbalances between ATs and exchanges.

As the Commission considers finalizing these proposed requirements, we believe there are several areas where the Reg ATS Proposal can be strengthened, and applied to platforms trading government securities, in order to further improve market quality, fairness, and resiliency for market participants.

¹ Citadel is a global financial firm built around world-class talent, sound risk management, and innovative market-leading technology. For more than a quarter of a century, Citadel’s hedge funds and capital markets platforms have delivered meaningful and measurable results to top-tier investors and clients around the world. Citadel operates in all major asset classes and financial markets, with offices in the world’s leading financial centers, including Chicago, New York, San Francisco, Boston, London, Hong Kong, and Shanghai.

² 80 Fed. Reg. 80998 (Dec. 28, 2015) (the “Reg ATS Proposal”).

³ See, e.g., our Letter to the Commission dated July 21, 2014, available at: <https://www.sec.gov/comments/equity-market-structure-2013/equitymarketstructure2013-7.pdf>.

I. Further Enhancing the Transparency, Fairness and Resiliency of NMS Stock ATSS

A. NMS Stock ATSS Should be Required to Provide Fair Access

Fair access to trading systems is critical to enhancing market quality and competition. Arbitrary access restrictions employed by NMS Stock ATSS impede the ability of investors to transact against the most competitive prices and achieve best execution, while creating competitive imbalances as certain market participants have greater access to trading systems than others.

Under current Regulation ATS, NMS Stock ATSS are not required to provide fair access to market participants for a given security unless they reach a 5% average daily trading volume threshold in such security during at least 4 of the preceding 6 calendar months.⁴ As acknowledged by the Commission in its Reg ATS Proposal, nearly all NMS Stock ATSS currently do not meet this threshold for the securities listed on their systems,⁵ and therefore are permitted to discriminate among market participants with respect to access, functionality, order interaction and fees. Examples of discrimination include (a) arbitrary, ill-informed, or anti-competitive denials of access, (b) order types that exclude or discriminate against certain market participants, and (c) bespoke fee arrangements that preference specific participants on the trading system.

We urge the Commission to eliminate the 5% trading volume threshold given the importance of NMS Stock ATSS in today's equities markets. The Commission last modified the fair access volume threshold in 2005 in connection with adopting Regulation NMS, lowering it from 20% to 5%.⁶ Since then, the number of NMS Stock ATSS and their overall market share has continued to increase, while the market share of the national securities exchanges has declined.⁷ Currently, there are 46 different NMS Stock ATSS, accounting for approximately 15% of total share volume in aggregate.⁸ Certain NMS Stock ATSS now handle more trading volume than national securities exchanges.⁹ And yet, despite the important role of NMS Stock ATSS, Commission analysis of the data from the second quarter of 2015 showed that no individual NMS Stock ATS accounted for more than approximately 2% of the total volume in NMS stocks, far below the current 5% threshold.¹⁰

As indicated by the data above, the current number of NMS Stock ATSS has made it difficult for any one trading system to reach the volume threshold that would trigger application of the fair access requirement, even though these trading systems, collectively, are more important for investors to access than ever. Furthermore, large NMS Stock ATSS actively monitor trading volumes and, if necessary, throttle these volumes to remain below the threshold. Maintaining the current volume threshold also creates a competitive imbalance between exchanges, which are

⁴ 17 CFR 242.301(b)(5).

⁵ See Reg ATS Proposal at 81057.

⁶ *Id.* at 81000.

⁷ *Id.* at 81112.

⁸ *Id.* at 81124, 81134.

⁹ *Id.* at 81008.

¹⁰ *Id.* at 81008.

subject to fair access requirements, and NMS Stock ATSs, a dynamic that could undermine the price transparency provided by exchanges that is fundamental to the price discovery process for investors.

B. Public Display Should be Increased on NMS Stock ATSs

Regulation ATS requires an NMS Stock ATS to report its highest displayed bid and lowest displayed offer in certain securities for inclusion in the quotation data made available by the exchange or national securities association to which it reports.¹¹ However, similar to the fair access requirement described above, the order display requirement only applies to NMS stocks for which the NMS Stock ATS executed 5% or more of the average daily trading volume in that security during at least 4 of the preceding 6 calendar months.¹² In today's equities markets, it is difficult for any one trading system to reach this required volume threshold and large NMS Stock ATSs actively monitor trading volumes and, if necessary, throttle these volumes to remain below the threshold.

As we commented to the Commission in the context of its 2009 proposal on the Regulation of Non-Public Trading Interest,¹³ we urge the Commission to consider lowering or eliminating the trading volume threshold. Lowering the display threshold to 0.25%, as proposed in 2009, would take into account the number of NMS Stock ATSs in the current market structure and increase the amount of information available to all market participants. As a result, public quote data would more accurately reflect current trading interest, enhancing the price discovery process. Either lowering the display threshold or eliminating it entirely would also reduce the competitive imbalance that currently exists between exchanges, which are subject to quote display requirements, and NMS Stock ATSs.

C. The Commission Should Provide a Public Comment Period for Form ATS-N Filings

We support the Commission's proposal to require NMS Stock ATSs to make a Form ATS-N filing that the Commission will review in order to ensure a consistent level of information is made available to market participants.¹⁴ Commission review is important to ensure that the required disclosures are complete and accurate. In connection with the review process, we believe it would be helpful for the Commission to receive feedback from market participants regarding the filing made by an NMS Stock ATS, and therefore we support the Commission further harmonizing this process with the application and filing process for exchanges and allowing for public comment on Form ATS-N filings.

¹¹ 17 CFR 242.301(b)(3).

¹² *Id.*

¹³ See our Letter to the Commission dated February 23, 2010, available at: <https://www.sec.gov/comments/s7-27-09/s72709-64.pdf>.

¹⁴ See Reg ATS Proposal at 81023.

D. Daily Reports Should be Provided Regarding NMS Stock ATS Volumes

We support both the Commission's and FINRA's efforts to improve public transparency around NMS Stock ATS trading volumes. Currently, FINRA Rule 4552 requires weekly volume information, which must be reported to FINRA on a security-by-security basis within seven business days after the end of each calendar week. We believe end-of-day information would bring greater transparency to market participants.

II. Applying Regulation ATS to Platforms Trading Government Securities

The U.S. Treasury market is the deepest and most liquid government securities market in the world, and plays a fundamental role in both the U.S. and global economies. It is also a market that has undergone significant change over the course of the last decade, with a transition to electronic trading and the entry of new liquidity providers to compete with the traditional incumbents. In light of the evolution of U.S. Treasury market structure, we firmly support a comprehensive review of the current regulatory framework in an effort to improve market transparency, fairness and resiliency.

One area that we believe would benefit from review is the regulation and oversight of U.S. Treasury trading venues. As highlighted in the *Joint Staff Report: The U.S. Treasury Market on October 15, 2014*, a significant portion of on-the-run U.S. Treasury trading occurs on electronic platforms that closely resemble NMS Stock ATSs.¹⁵ However, under current Commission regulations, an ATS that solely trades government securities and is registered as a broker-dealer or is a bank is exempt from the requirement to register as an exchange or an ATS.¹⁶ We urge the Commission to eliminate this exemption, as we believe it is critical for these electronic trading platforms to be subject to appropriate regulatory oversight, including registration with the Commission and equivalent obligations to NMS Stock ATSs.

Examples of obligations that promote a transparent, efficient and resilient market include the systems compliance and integrity standards in Regulation SCI that are designed to mitigate operational risk on electronic platforms. In addition, we believe market participants transacting in government securities would benefit from the operational transparency requirements included in the Commission's Reg ATS Proposal, including with respect to (a) subscriber segmentation, (b) potential conflicts of interest, (c) order types, and (d) fees, rebates and incentives. Finally, government securities platforms should be subject to fair access requirements in order to ensure they are not permitted to arbitrarily exclude specific market participants. These requirements will not only promote market safety, stability and integrity, but will also improve conditions for investors through increased transparency, more competition, better pricing and new sources of liquidity.

In conjunction with removing the exemption in Regulation ATS for government securities platforms, we believe the regulatory framework should ensure that a level playing field is

¹⁵ See Joint Staff Report: The U.S. Treasury Market on October 15, 2014 (July 13, 2015), available at: http://www.treasury.gov/press-center/press-releases/Documents/Joint_Staff_Report_Treasury_10-15-2015.pdf.

¹⁶ See 17 CFR 242.301(a)(4)(i) and (ii)(A).

maintained across these currently unregistered trading systems. As such, the Commission should state clearly that all government securities platforms on which multiple third-party buying and selling interests are able to interact in the system satisfy the Commission's interpretation of the definition of an "exchange", as set forth in Rule 3b-16, and therefore are required to register either as an exchange or an ATS. This includes platforms that facilitate multilateral execution by allowing participants to exchange information regarding the essential terms of a transaction or to respond to actionable indications of interest that are in substance quotations. As a result, both the central limit order book platforms that operate in the interdealer segment of the U.S. Treasury market and the request-for-quote electronic platforms that operate in the dealer-to-customer segment of the U.S. Treasury market would be subject to equivalent obligations, ensuring that both segments of the U.S. Treasury market benefit from increased transparency, more competition, and greater resiliency.

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We appreciate the opportunity to provide comments on the Commission's proposed rules for NMS Stock ATSS. Please feel free to call the undersigned at (312) 395-3100 with any questions regarding these comments.

Respectfully,

/s/ Adam C. Cooper

Senior Managing Director and Chief Legal Officer