

ATS Display Obligations

"The proposed amendments are designed to create a more level playing field with respect to order display and execution access for all market participants that receive and attempt to execute orders, including exchanges, ATSS, and OTC market makers."⁵

In regard to ATS display obligations SpreadZero asks two questions:

1. Is the current market structure failing?
2. Will the proposal achieve the stated goal?

We do not believe the current market structure is actually failing. Rather, it is in a state of flux and therefore can appear inefficient. Trading has always been an evolution of gaining advantage over other participants and will continue to be one regardless of the rules put in place to stop it. Of course, this argument could have been made numerous times in the past to justify doing nothing. We are not suggesting doing nothing but instead calling for moderation. A reduction by 95% of any threshold seems an extreme move and for all intents and purposes might as well be a reduction by 100%. It appears a more measured approach might be less disruptive and allow the SEC the opportunity to monitor the change. There were several calls for a reduction of the threshold to 1%. We would be interested in seeing a pilot program that starts with a reduction by half the current threshold to 2.5%.

More importantly, we are not sure this specific proposal will achieve its intended goal. If traders prefer using dark pools, they will find a way to use them. As soon as one dark pool must display quotes, the order flow will most likely migrate to another dark pool. It was proffered by Matthew Samelson⁶ that a threshold for consolidated dark pool volume to be the rubric with which to obligate all ATSS to display quotes in a particular issue. Although this sounds like a decent compromise, it takes away a valuable tool at exactly the point when the tool is needed. An extraordinary increase in trading in a stock may require greater efforts to control information leakage. Forcing an ATS to display its quotes may not create a level playing field but instead further entrench an unlevel playing field.

Post Trade Reporting

It is important to note that the proposal merely wishes to add the identity of which ATS arranged the trade in real-time and that 99% of dark pool trades are reported to the tape within 30 seconds.⁷ It is clear that there is a misunderstanding among many commentators (not just respondents to the SEC request for comment) that ATS trades go unreported. SpreadZero would benefit from this proposal as it would be free advertising and possibly draw more liquidity towards its matching engine. That said, it is hard to fathom the value the average trader would gain. One can not send orders to a dark pool on a whim. Dark pools are broker/dealers and have an account opening process which must be satisfied. If a trader already is a subscriber to a dark pool, it does not take much effort to discover if there is activity in an issue of interest. In fact, most trading desks perform this function automatically.

Block Exemption

We agree and appreciate the Commission's steadfast acceptance of the need for block exemptions. Here, as well, the Commission is faced with a task of defining "block." The more simple and broad the definition, the more fitting it becomes in the aggregate. Suggestions have been offered such as delineating among capitalization, ADV, number of shares, a lower dollar threshold (\$100,000 as opposed to \$200,000) and various combinations of these ideas. The more specific the criteria, the more questions are raised:

- How would market cap be defined?
- What happens if an intra-day move changes the classification of market cap?
- Is market cap necessarily a good proxy for liquidity and therefore is one flawed system replacing another flawed system while only adding complexity?
- If ADV is used, what happens when volume spikes?
- There are several definitions of "block" existent in the rules and guidelines in the industry. Which is most appropriate?

The list of questions can go on. SpreadZero sympathizes with the Commission and is of the opinion that simplicity is most appropriate in this instance. Therefore, we agree with the commission basing its block exemption on a dollar threshold for the reasons outlined in the proposal. We acknowledge other comments recommending a \$100,000 threshold and see the logic in the lower amount and defer to the SEC as to where the exact threshold amount should be placed.

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The financial markets are large, intricate, sophisticated environments with a myriad of self interested parties all attempting to represent their constituencies as best they can. In an ideal world, all interested investors would amicably commune and divulge all information and make investment decisions based on risk preferences from agreed upon risk/reward perceptions. But this ideal flies in the face of human nature. One merely need to draw an analogy to a personal experience of negotiating whether it be for a car, a house, a job, or a classic guitar. There is always the belief that one side or the other has an informational advantage. And so it goes with the equity markets. Thus begins a series of defenses and machinations to protect what one believes is rightfully theirs to protect. As well they should. Admittedly, the analogy is not perfect. However, in the next negotiation to buy a car, in the interest of transparency, fairness and efficiency, try bidding the highest price you are willing to pay and see how that works out.



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Again, we applaud the Commission for taking on this burden and giving all interested parties a chance to voice their opinion and we look forward to participating in this dialogue going forward.

Respectfully Submitted,

A handwritten signature in blue ink that reads 'Nicholas Carmi'.

Nicholas Carmi
CEO SpreadZero LLC

A handwritten signature in black ink that reads 'Stephen Murphy'.

Stephen Murphy
CCO SpreadZero LLC



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notes

¹ SEC Proposal File No. S7-27-09 page 7

² With respect to quotations for a reported security, the highest bid or lowest offer for that security made available by any reporting market center pursuant to § 240.11Ac1-1

³ Liquidnet response to request for comment File No. S7-27-09 pp B8-B9.

⁴ "An Actionable IOI is a bid or offer that can be accessed by one set of market participants that is not publicly disseminated at the risk of the market." (response to request for comment to File No. S7-27-09, p2)

⁵ SEC Proposal File No. S7-27-09 page 31

⁶ Woodbine Associates response to request for comment page 2

⁷ SEC Release No. 34-60960; File No. SR-FINRA-2009-061 page 3