Dark Pool Comment Letter to the SEC

File No. S7-27-09
From Morgan Hunter

February 19, 2010

Elizabeth M. Murphy, Secretary
Securities and Exchange Commission
100 F. Street, NE., Washington, DC
20549-1090

Dear Ms. Murphy:

I am very grateful for the opportunity to address the issues that you have presented in the proposed Regulation of Non-Punic Trading Interest.

I have read the rule proposals and most of the comment letters. I have never submitted a letter before and I am not really sure my words can stack up against corporate lawyers, business analysts and trade associations but I am compelled to write nonetheless….so here goes.

Non-displayed liquidity has been around as long as there have been transparent, price discovery markets. It finds its roots in the explicit and implicit trading cost which result from our one dimensional market structure: a transparent, continuous auction market model. Explicit costs are easily quantified and come in the form of fees, commissions and spreads. Implicit trading costs are much more difficult to quantify and take shape in the form of market impact, opportunity cost, execution delay and price slippage, Aside from the heavy toll trading costs take on trading performance, the lost alpha or the inability to fully capture the value of an investment decision may be the greatest cost of all. Without a doubt, these trading costs combine to severely reduce the overall performance of an investor's portfolio.

Dark pools which execute non-displayed liquidity may be the only effective weapon an investor or trader has against implicit trading costs and lost alpha. Transparency is a double-edged sword in the world of trading costs and lost alpha. For certain, a dark pool can be an investor or trader's best friend.

Unfortunately, "free-for-all" dark pool regulation and commercial, self-interest has resulted in massive spatial and temporal fragmentation, exclusive liquidity fiefdoms, limited dark pool operation or fee disclosure, incidental trade volume disclosure, anemic level of useful innovation and worst of all an increase in trading costs, intraday volatility and lost alpha.

Though I support these proposals, in light of the above discussion, I wish to make some suggestions.

Dark pools that distribute IOIs or order information are not dark pools…but ECNs. They should be regulated as such.

.25% volume threshold makes sense.

Trade Attribution. A trade is a trade is a trade. Every ATS trade regardless of size should be required to print real time and with attribution. Without real time attribution, investors can not source liquidity; can not effectively do transactions cost analysis or dark pool comparisons independently or trust the integrity of the tape. Exchanges attribute their blocks real time with attribution, why can’t ATSs? If there is such a large institutional concern about information leakage, then maybe it is time that the marketplace innovate a solution rather than regulate a solution. This is where transparency is an absolute must for ATSs.

Thank you again for this opportunity.

Sincerely,

Morgan Hunter