CITADEL

February 23, 2010

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

Re: *Regulation of Non-Public Trading Interest*
File No. S7-27-09

Dear Ms. Murphy:

Citadel Investment Group, L.L.C. ("Citadel") appreciates the opportunity to comment on the Securities and Exchange Commission's (the "Commission") proposal to increase the transparency of alternative trading systems ("ATSs").[1] Citadel's experience as one of the most active liquidity providers and institutional investors in the U.S. equity markets gives us unique insights regarding the likely impact of the Proposal.[2] Citadel supports the Commission's proposal to (1) lower the threshold in Regulation ATS that triggers ATS public order display obligations, and (2) require real-time disclosure of the identity of dark pools and other ATSs on the reports of their executed trades.

Citadel supports these proposed changes because they will promote more transparent and efficient markets and strengthen our national market system. All market participants will benefit from the more comprehensive dissemination of the best displayed quotes and trade reports from any exchange-like market that brings together buyers and sellers. Whether an exchange-like market has chosen to operate as an ATS or an exchange has no impact on the benefits provided by this information. In addition, because advances in technology and other changes in market rules and practices have created robust competition among exchanges and ATSs, there is no longer a need to give ATSs an exemption from the normal quote display and trade reporting obligations that apply to all exchanges. For these reasons, we believe the Commission should consider expanding these proposed changes in several respects discussed more fully below.

I. Introduction

At the time of the adoption of Regulation ATS, the equity trading markets were generally dominated by a "primary market" for each stock. To increase competition among markets, Regulation ATS was designed to encourage innovation and the creation of alternatives to the

[1] Exchange Act Release No. 60997 (Nov. 13, 2009) (the "Proposal").

[2] On an average day, Citadel affiliates account for approximately 8% of U.S. listed equity transactions and 30% of U.S. listed equity option transactions. Founded in 1990, the Citadel group of companies includes an asset management division that principally executes alternative investment strategies across multiple asset classes, and Citadel Securities, which includes investment banking, institutional sales and trading, an industry leading market making franchise, and Omnium, a recognized administrator serving financial institutions. Citadel operates in the world's major financial centers, including Chicago, New York, London, Hong Kong and San Francisco.

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traditional registered exchanges by exempting ATSs from certain regulatory requirements that apply to registered exchanges. This approach lowered the regulatory barriers to entry for new markets.

Since the adoption of Regulation ATS, there have been ongoing advances in technology that have sharply decreased the costs of automation, linkages and other technology needed to launch new markets. In addition, the Commission adopted Regulation NMS, which forced the primary markets to compete directly on price with all other markets.

The results of these changes have been extraordinarily positive. Today, the competition among markets is robust. For example, in 2005 the NYSE's market share of trading in NYSE listed stocks was 79.1%. In 2009, it was 25.1%.[3] Today, no exchange has a market share of more than 19% of volume in NMS stocks.[4]

In light of these changes, it is timely for the Commission to reexamine the balance between the quality of pre-trade and post-trade transparency on ATSs, and the need to encourage competition by minimizing the regulatory burdens on ATSs. We believe the Proposal would appropriately rebalance the scales in favor of transparency now that there is robust competition among exchanges and ATSs.

Thus, as we explain in more detail below, we support the Commission's proposals to lower the threshold for ATS display obligations and to increase post-trade transparency for ATSs. We think the Commission should go further, and eliminate the display threshold altogether. In addition, we believe that the proposed exemptions for block size orders and trades are not warranted, and the ATS fair access threshold should be lowered in parallel with the order display threshold.

II. ATS Display Obligations

A Lowered Display Threshold Would Provide Better Public Information. Lowering the display threshold for ATSs would increase the information available to all market participants because everyone would have access to quotes that are today only available to subscribers to the ATS disseminating a quote. As a result, the data available in the public quote stream would more accurately reflect current trading interest and the markets would benefit from this enhanced transparency and price discovery. Therefore, we support the Commission's proposal to lower the ATS quote display threshold from 5% to 0.25%.

We believe that the Commission should consider more fully implementing these national market system transparency principles by eliminating this trading volume display threshold

[3] Exchange Act Release No. 61358 at 6 (Jan. 14, 2010) (the "Concept Release").

[4] Proposing Release at 7.

altogether. Eliminating the display threshold would further the Commission's policy objectives of pre-trade transparency without unduly impinging on the efforts of institutional traders to maintain the confidentiality of their larger orders. Institutions could still send non-displayed orders to an ATS or an exchange despite the elimination of the quoting display threshold. Elimination of the display threshold would only require ATSs to choose whether to display orders to all market participants or at most one market participant at a time.

Moreover, elimination of the quote display threshold would eliminate unjustified differences in the quote display obligations of ATSs and exchanges. The quote display obligations of ATSs and exchanges should be comparable. An ATS is acting as an exchange and would be classified as an exchange for regulatory purposes but for the special exemption provided by Regulation ATS.

The Commission did not propose eliminating the display threshold altogether to keep barriers to entry low for ATSs.[5] We believe that the elimination of the quote display threshold would not unduly increase barriers to entry for ATSs because the linkage and other costs associated with the requirement to provide order display and execution access are not disproportionate to the costs of establishing an ATS. Moreover, an ATS could, in any case, launch without displaying orders simultaneously to more than one person. As the Commission's proposal notes, operating in this manner as a dark ATS is a viable business strategy, as evidenced by the fact that many ATSs operate in this way today.[6] In addition, Regulation ATS would still provide ATSs significant relief from the regulatory obligations applicable to exchanges and would thus still encourage the development and operation of alternative trading systems.

Block Orders Should Not be Exempt. We do not believe the Commission should exempt block orders from the ATS quote display threshold. The Commission proposed to exempt from the reduced display threshold quotes for $200,000 or more communicated only to those who are reasonably believed to represent current contra-side trading interest of equally large size. This proposed exemption would reduce the availability of information in ways that were never deemed necessary with regard to orders displayed on exchanges, and would unfairly advantage ATSs over exchanges. Moreover, as the Commission notes in the Proposal, many block orders ("parent" orders) are split among multiple "child" orders. In this way, market participants are able to execute large orders without a disproportionate market impact even when the child orders are publicly displayed.

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[5] Proposing Release at 27-28.

[6] Proposing Release at 31 and 55.

III. Fair Access

The Commission has not proposed lowering the ATS fair access threshold to parallel the proposed lower order display threshold, although the Commission requested comment on this step in its concept release on equity market structure.[7] Thus, if an ATS crossed the applicable order display threshold, the ATS only would be required to provide access to the order that is required to be displayed—*i.e.* the best priced order for the stock in which the ATS has crossed the threshold—and not to other orders in the stock resident in the ATS.

We believe that splitting the order display and fair access thresholds is undesirable. If access is available only to the best displayed quote and not to the ATSs' other orders, traders not offered full access to an ATS may find their orders unnecessarily rejected because of quote changes in the publicly displayed orders at the top of the book. As a result, traders may be forced to route orders repetitively to the ATSs' displayed quotes as inaccessible hidden reserve orders pop back into the displayed quote. The Commission's intent to provide an efficiently linked market would be frustrated for little larger purpose.

IV. Post Trade Reporting

We support the Commission's proposal to increase post-trade transparency for ATSs. In mandating a national market system through the 1975 amendments to the Securities Exchange Act, Congress noted that markets should be "designed to assure that public investors are able to obtain the best price for securities ***regardless of the type or physical location*** of the market upon which his transaction may be executed."[8] Identification of ATSs on their trade reports in the public data stream would further this statutory objective by providing public investors, and broker-dealers acting on their behalf, with information that will help them more effectively find liquidity and achieve best execution, regardless of whether the information emanates from an exchange or ATS.

The Commission requested comment on whether end-of-day reporting of this information would be preferable. End-of-day statistics would not provide comparable benefits to market participants because investors and broker-dealers executing trades need real-time information to find the best sources of liquidity during the current trading day. The best trading venue for a particular stock changes on an intraday basis, thus rendering end-of-day information stale for most trading purposes.

As explained above, we do not believe the exemption for block sized trades is warranted. The Commission proposed exempting block sized orders from the proposed new ATS trade

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[7] Concept Release at 72-74.

[8] H.R. Rep. 94-123, 94th Cong., 1st Sess. 50 (1975) (emphasis added).

reporting obligations. The proposed block order trade reporting exemption would impair market transparency and reduce the availability of information in ways that were never deemed necessary with regard to exchanges, and would unfairly advantage ATSs over exchanges.

V. Conclusion

There is always a balance between the desire of a particular investor or market to restrict the dissemination of their quote and trade information, and the benefit to the market as a whole that comes from the rapid public dissemination of quote and trade information. The Commission has a strong record of ensuring that market information is readily available to the public, in accord with its belief that transparent markets help all investors achieve efficient execution of their orders. The Proposal represents an appropriate further step in this direction in light of changes in technology and market practices. For these reasons, we urge the Commission to adopt the Proposal with the modifications discussed above.

Sincerely yours,

John C. Nagel
Managing Director and General Counsel
Asset Management and Markets

cc: Hon. Mary Schapiro, Chairman
Hon. Luis A. Aguilar, Commissioner
Hon. Kathleen L. Casey, Commissioner
Hon. Troy A. Paredes, Commissioner
Hon. Elisse B. Walter, Commissioner
Robert W. Cook, Director, Trading and Markets
James Brigagliano, Deputy Director, Trading and Markets
David Shillman, Associate Director, Trading and Markets