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

RE: Proposed expansion of pilot program to establish trading pauses during periods of elevated volatility (file numbers SR-BATS-2010-018, SR-BX-2010-044, SR-CBOE-2010-065, SR-CHX-2010-04, SR-EDGA-2010-04, SR-EDGX-2010-04, SR-ISE-2010-066, SR-NASDAQ-2010-079, SR-NSX-2010-08, SR-NYSE-2010-049, SR-NYSEAmex-2010-063, and SR-NYSEArca-2010-061)

Dear Ms Murphy,

We welcome the opportunity to comment on the proposal by the above listed exchanges to expand the list of securities covered by the pilot program to establish trading halts during periods of higher volatility. We believe that expanding the pilot at this early stage is premature, and will compromise the ability of the Commission, the exchanges and the trading public to evaluate the effectiveness of the pilot program.

When the initial proposed rule changes were published, the Commission received many comments questioning the appropriateness of certain elements of the proposals: some argued that they went too far in some respects, others argued that they did not go far enough. A few commenters noted that there is a risk that the new rules may exacerbate volatility and uncertainty instead of attenuating it. In granting accelerated approval to the proposed pilot program, the Commission noted that it 'will continue to consider these comments in evaluating the impact of the pilot'[1].

The reason that it is so difficult to determine what the most appropriate response to to the volatility of May 6 should be is that it is impossible to answer counterfactual questions about market behavior retrospectively. Would the volatility of May 6 have been attenuated by a temporary pause? Would a longer halt have worked better? Would a pause have made matters worse? We can never know the answers to these questions, but the six month pilot trading pause program may give both the Commission and the exchanges an opportunity to gather data to address these and similar questions.

In order to adequately evaluate the pilot, however, it is necessary to have a 'control group' of instruments not covered by the program. Consider the hypothetical case where all exchange traded instruments were covered by the program, and a 'May 6-like' event caused mass invocation of the trading pause rule. We would be left with just

[1] SEC release 34-62252, 'Order Granting Accelerated Approval to Proposed Rule Change Relating to Trading Pauses Due to Extraordinary Market Volatility', pp10-11, note 27

as many unanswerable counterfactual questions about whether or not the rule improved the situation or exacerbated it, and if it did improve the situation, whether it had done so optimally.

As things stand, there is a group of instruments covered by the pilot program (the 'affected group'), and a group of instruments not covered by the program (the 'control group'). If a broad volatility event occurs again in during the six month effective period of the pilot program, the Commission and the exchanges will be able to compare the behavior of instruments in these two groups; this data would be invaluable in either validating the effectiveness of the rule or suggesting improvements or alterations to it.

If the rule were to be expanded to cover those equities in the Russell 1000 index, the value of the control group would be significantly diminished. Granted, the size of the control group would still be large, but it would become significantly less similar to the affected group. The instruments remaining in the control group would have lower average market capitalization and very different volatility profiles to the instruments in the affected group. This would significantly degrade the quality of any data used to evaluate the effectiveness of the pilot.

A useful analogy can be drawn with the pilot program to price certain option series in penny increments. The pilot was initially instituted on a limited number of option series; this allowed extensive data to be gathered comparing the behavior of those option series in the pilot with very similar option series not in the pilot. The Commission, the option exchanges, and several third commenters were able to generate extensive reports grounded in solid data relating to the effect of the pilot on liquidity, bid/ask spreads, order routing and numerous other factors.

In a similar way, a properly conducted pilot of the trading pause program could produce invaluable data on the effects of the program on market volatility and structure – provided that there is an opportunity to compare the effects of the pilot rule with the behavior or a sufficiently similar control group.

Expanding the pilot to include some ETPs does appear to make sense: these products were some of the more heavily affected instruments on May 6, and there is thus a strong argument for gathering data on how trading pauses affect these products. In addition, for those ETPs based on indexes, there are many open questions about the effect of trading pauses in constituent securities of the relevant indexes.

Here again, however, care should be taken not to include too many ETPs in the initial pilot, thereby reducing the usefulness of the control group of ETPs not covered by the program. The exchanges have taken some care to request that many ETPs that track similar benchmarks be added to the program, but care should be taken not to be *too* inclusive at this stage or the control group will cease to resemble the affected group.

While the desire to be as broad and inclusive as possible is understandable, we need to remember that this is a *pilot* program. The new regime of trading pauses has a significant, as yet unknown, effect on market dynamics and structure, so it is essential to evaluate it properly over a reasonable period of time to determine whether it in fact accomplishes its objective and that it does so without undesirable side effects. The only way do so effectively is to continue to allow a representative control group of securities similar to the ones in the program to operate outside the pilot.

Sincerely yours,

Gpatz

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