



17 State Street, 38<sup>th</sup> floor New York, NY 10004

August 1, 2019

Ms. Vanessa Countryman  
Secretary  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549-1090

Re: File No. SR-FINRA-2019-019

Dear Ms. Countryman:

Clearpool Group (“Clearpool”)<sup>1</sup> is writing to provide its views on the FINRA proposal to expand the data relating to over-the-counter (“OTC”) equity trading that FINRA publishes on its website.

As we stated in our previous letters to the Commission,<sup>2</sup> as well as in our Viewpoints paper on trading and market structure issues,<sup>3</sup> as an independent agency broker-dealer, and provider of tools to assist other broker-dealers in routing, execution, pre- and post-trade compliance and risk monitoring, Clearpool has a significant interest in ensuring that the U.S. markets are the most orderly, efficient and competitive markets possible. Consistent with this goal, Clearpool is a strong advocate of efforts to enhance transparency to assist market participants in better assessing trading activity and the markets in general.

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<sup>1</sup> Launched in 2014 and based in New York, Clearpool Group, Inc. offers holistic electronic trading solutions and provides independent agency broker-dealer execution services. With over 120 Algorithmic Management System (AMS) clients and executing between 2-3% of the US equity market volume, Clearpool empowers market participants to achieve better quality executions in an evolving equity market microstructure and competitive landscape. For further information on Clearpool Group, visit [www.clearpoolgroup.com](http://www.clearpoolgroup.com).

<sup>2</sup> See, e.g., Letter from Joe Wald, Chief Executive Officer, Clearpool, to Brent J. Fields, Secretary, SEC (File No. SR-NYSE-2016-45; File No. SR-NYSEMKT-2016-63; and File No. SR-NYSEArca-2016-89), dated December 16, 2016; Letter from Ray Ross, Chief Technology Officer, Clearpool, to Brent J. Fields, Secretary, SEC (File No. SR-BatsBZX-2017-34), dated June 12, 2017 (Bats Market on Close Letter); Letter from Ray Ross, Chief Technology Officer, Clearpool, to Brent J. Fields, Secretary, SEC (File No. SR-NASDAQ-2017-074), dated September 11, 2017 (“Nasdaq MELO Letter”); Letter from Ray Ross, Chief Technology Officer, Clearpool, to Brent J. Fields, Secretary, SEC (File No. S7-05-18), dated May 25, 2018; and Letter from Joe Wald, Chief Executive Officer, Clearpool, to Brent J. Fields, Secretary, SEC (File No. 4-729), dated October 23, 2018 (SEC Roundtable on Market Data and Market Access); and Letter from Ray Ross, Chief Technology Officer, Clearpool, to Vanessa Countryman, Secretary, SEC (File No. SR-CboeEDGA-2019-012), dated July 17, 2019 (Cboe EDGA Speed Bump Letter).

<sup>3</sup> See <http://info.clearpoolgroup.com/blog/2018-viewpoints-on-market-microstructure-from-clearpools-founders>.

## I. Background

FINRA is proposing to (1) publish new monthly aggregate block-size trading data for non-ATS OTC trades in NMS stocks, and (2) eliminate the current *de minimis* exception for publication of aggregate non-ATS trading volume across all NMS stocks and OTC Equity Securities, and publish each firm's aggregate non-ATS volume on an attributed basis. Each of these proposed changes were vetted to market participants last year when FINRA solicited comments on the changes in a FINRA Regulatory Notice.<sup>4</sup>

Clearpool supports the proposals. There have been significant strides made to increase transparency of market information in recent years. Some of the developments that we have seen, such as those undertaken by the SEC to reform Rule 606, ATS-N disclosure, and the consolidated audit trail all have been encouraging. We believe the FINRA proposal is another step in providing important information to investors and other market participants.

As discussed further below, we believe the FINRA proposal can go further, however, and we also support eliminating the *de minimis* exception for purposes of the security-specific non-ATS volume data as well as separately identifying a firm's volume of trading on a single dealer platform ("SDP").

Our specific comments follow.

## II. Non-ATS Block-Size Trading Data

As the Release notes, FINRA currently publishes monthly information on block-size trades in all NMS stocks occurring on ATSS, aggregated across all NMS stocks, for a time period of one month of trading, and publishes that information no earlier than one month following the end of the month for which trading was aggregated. The information is published using share-based thresholds, dollar-based thresholds and thresholds that include both shares and dollar amount.

The proposal would expand the block-size trading data that FINRA publishes to also include monthly aggregate non-ATS block-size trading data for all NMS stocks on the same terms as current ATS block-size data.

Clearpool strongly supports the expansion of the publication of block-size trading data to include non-ATS data. We believe such increased transparency would improve information available about non-ATS venues. In turn, this would assist brokers and other market participants in better understanding and assessing market liquidity, and making better order routing decisions on behalf of their customers.

We are sensitive to concerns that have been expressed regarding the expansion of information in this area, for example, concerns regarding potential information leakage. We believe, however, that concerns around information leakage always exist to some extent regarding the publication of

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<sup>4</sup> FINRA Regulatory Notice 18-28 (September 2018).

market information and in the current instance, we believe these concerns are lessened by the delay of publication of the data.

### III. Elimination of the *De Minimis* Exception

FINRA is proposing to eliminate the current *de minimis* exception from reporting for firms executing fewer than, on average, 200 non-ATS transactions per day during the reporting period. Specifically, under the proposal, FINRA would publish on an attributed basis each firm's aggregate non-ATS volume on a weekly or monthly basis, as applicable. As a result, each individual firm would be identified in the published aggregate data and there would no longer be a *de minimis* exception for published aggregate volume information.

FINRA is not proposing, however, to eliminate the *de minimis* exception for purposes of the security-specific non-ATS volume data. Therefore, if a firm averages fewer than 200 non-ATS transactions per day in a given security during the reporting period, FINRA would continue to aggregate the firm's volume in that security with that of similarly situated firms and there would continue to be a *de minimis* category for published security-by-security volume data.

Clearpool supports the proposal to eliminate the current *de minimis* exception. We believe removing the exception would provide a more complete picture of trading activity in non-ATS venues. From what we have observed, there remains a considerable amount of volume that is being categorized as *de minimis*. We agree with FINRA that since a large number of small trades can add up to significant volume, data at the firm level may be more meaningful if each firm's volume is published, irrespective of size. We therefore welcome the additional transparency surrounding this data, even in the aggregate view.

Clearpool would go further, however, and eliminate the *de minimis* exception for purposes of the security-specific non-ATS volume data as well. There are a significant percentage of stocks that have all, or a significant amount, of their volume categorized as *de minimis*. According to our calculations, in May 2019, of 8,753 securities (non-ATS volumes in Tier 1 and Tier 2 NMS stocks), 82 percent had all of their volume categorized as *de minimis* and 94 percent had *de minimis* volume of greater than 50 percent.<sup>5</sup>

Increasing transparency on a security-specific level would prove beneficial, and would provide valuable information to market participants in assessing market liquidity and making better order routing decisions. We believe concerns relating to publication of information regarding security-specific non-ATS volume data are addressed given the existing delays to publication of the information and that the benefits of publication of the information to investors and other market participants outweigh any perceived costs of such publication.

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<sup>5</sup> Source <https://otctransparency.finra.org/otctransparency/OtcDownload>.

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#### IV. Publication of Single Dealer Platform Trading Information

FINRA's Regulatory Notice requested comment on separately identifying a firm's volume of trading on a SDP by requiring firms to use a unique market participant identifier ("MPID") when reporting their SDP trades to FINRA. The Release states that FINRA, however, is not proposing at this time to require identification of SDP trading volume but continues to consider comments provided in response to the Regulatory Notice.

Clearpool supports the separate identification of a firm's SDP trading volume. As FINRA notes, SDPs are not registered ATSs, and as such, data relating to trades occurring on an SDP currently is published as part of, and therefore indistinguishable from, the firm's OTC volume data.

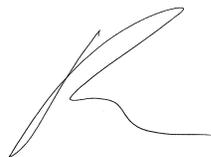
As we stated above, there have been many strides made in improving transparency surrounding information relating to ATS trading. SDPs, like ATSs, are becoming an increasingly important part of the market as firms offer access to their SDPs to brokers and others to provide an additional way to execute trades away from an exchange or ATS. Therefore, similar to the efforts relating to ATS transparency, we believe there is a need to bring additional transparency to this part of the market. As with all types of transparency, facilitating the flow of information about trading volume will help inform routing decisions and the search for liquidity.

We appreciate the concerns expressed regarding separately identifying SDPs raised in the comments provided on the Regulatory Notice. We believe, however, that these concerns can be overcome and the benefits of disclosing such information would be of value to investors and other market participants. In addition, several firms already "self report" and disclose volume information about their SDPs to a number of sources to attract order flow. Much of this information is therefore already being made available to market participants, albeit in a non-centralized and non-standardized manner. We therefore strongly recommend that FINRA continue to examine this issue and propose a change to require the separate identification of a firm's volume of trading on a SDP in a prompt manner.

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We offer our assistance to the Commission as it examines these issues. If you have any questions on our comment letter, please feel free to contact me directly at [REDACTED] or at [REDACTED].

Sincerely,



Ray Ross  
Chief Technology Officer



Ms. Vanessa Countryman

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cc: The Honorable Jay Clayton, Chair  
The Honorable Robert J. Jackson, Jr., Commissioner  
The Honorable Hester M. Peirce, Commissioner  
The Honorable Elad L. Roisman, Commissioner  
The Honorable Allison Herren Lee, Commissioner

Brett Redfearn, Director, Division of Trading and Markets  
David Shillman, Associate Director, Division of Trading & Markets