ALLIANCE OF FLOOR BROKERS

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Re: File No. S7-27-09

The Alliance of Floor Brokers is a long-standing group of brokers that represents both Direct Market Makers and Floor Brokers that conduct the majority of their business at the New York Stock Exchange. Most recently the organization had written a letter to the SEC describing the strong need to redefine agency. In that letter we stated:

"The investing public knowingly puts money at risk when entering any public marketplace. We can do a better job of regulating our markets so that the public's risk is that of the market only. Agency is the keystone of a fair and orderly marketplace. When an agent represents public investment, it is that responsibility and trust that makes our marketplace work."

The SEC's recent proposal to alter the rules regarding dark pools begins to address the critical need to separate the roles of exchanges and ATS's from the role of the agent. This separation fosters a fair marketplace.

Agents make decisions during the course of the trading day to fulfill the best execution needs of their clients. Exchanges, ATS's, ECN's and other trading venues exist today in a competitive environment to facilitate the investing public and the agents that represent them. Innovation and technology have been key components of the success of a trading venue, but trading venues must remain fair to all in the marketplace. Transparency, Efficiency, and Integrity are the three important components that must exist in each venue to remain consistent with the ideals of Regulation NMS.

Regulation NMS was created to promote better order protection and equal access for all market participants. It is clear from the recent SEC proposal S7-27-09 that both transparency and the integrity of dark pools are in question. The SEC's proposal can be broken down into three distinct components.

1. To reduce the functionality of Actionable IOI's except in the case of block transactions, which are defined as $200,000 or more.

2. To increase pre-trade transparency of dark pools by requiring ATS's that trade more than .25% of the average daily volume to display their quotes in the consolidated market. This would replace the current rule threshold of 5%.

3. To increase post-trade transparency of dark pools by adopting real time trade reporting identifying the market center in which the trade took place.

The Alliance of Floor Brokers would like to comment on each component of the proposal.

Proposal 1

Actionable Indications of Interest (IOI's) derived their name from an old exception of not having to display the interest of a party to buy or sell a stock within the public quote. Indications of interest were never included in the quote in both the floor of the NYSE, or by market makers from the old phone networks of the NASDAQ. Customers or market makers would just express a desire to either purchase or sell stock, without making a firm bid or offer. **Interest never had to be included in the quote because it had no standing.** While the SEC's proposal does not specifically define actionable IOI's, the AFB would like to offer a more specific definition for the term.

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.

Any bid or offer that is not exposed to public risk, especially when that bid or offer can improve the quality of the public market creates a two-tiered market. This situation is not dissimilar to the logic concerning the recent SEC ban on "flash orders". A true indication of interest is one that is best left in the hands of an agent. Agents are market professionals who need to gather market information that best meets their client's needs in achieving best execution.

The AFB, as does the SEC, recognizes the institutional need for block discovery. Regulation NMS created some unintended consequences such as fragmentation of the market place and a more difficult environment to find blocks of stock. Institutional order flow represents the same public that retail order flow does. It is just on a much larger scale. This larger scale creates the need for a block exception. The AFB thinks that the $200,000 exception is too stringent for every type of stock available in the market place. Perhaps a three tiered rule that offers a choice of the minimum of $200,000 or 10,000 shares, or 1% of a stocks average daily volume would better address the various securities that trade.

Proposal 2

The AFB applauds the SEC's attempt to shed some light on dark pools accessible quotes. Currently under Regulation ATS, dark pools are only required to publish their quotes when they are consistently over 5% of the volume. The SEC proposes to reduce the percentage to .25%. As agents we believe that any time stock is bid or offered to the public it is a firm quote that should be disseminated. The SEC's recommendation moves the market towards a stronger National Best Bid & Offer (NBBO). The market place would benefit greatly from these changes. However, one must display something (the current minimum is 100 shares) if one wants their order to have standing within the market. There are many different types of orders that are available to the investing public at various exchanges, but they should have to display a minimum to have standing. Again, agents are the ones who should make the decisions as to when an order should be displayed for execution, not exchanges or ATSs.

Proposal 3

The AFB agrees with the SEC that there is a great need for post-trade transparency for dark pools. The proposal would require all exchanges and ATS's to post in real time and disclose the venue in which it traded to the consolidated tape. Too often there are trades that print in dark pools in which all but two market participants were disadvantaged by not having access to them. A standard for reporting of dark pools will drive order flow to the market centers that provide liquidity and block volume. This would be a scenario in which all market participants can benefit.

The AFB is in general agreement with the SEC proposal with small exceptions in definition of terms and a better-structured block exception rule. These proposals will begin to remove the role of agency from dark pools and place that into the hands of agents. The AFB recognizes the need to constantly innovate our market structure, but never at the expense of the public investor. The proposal is on the right road to maintain the transparency, efficiency and integrity our American markets deserve.