

February 26, 2016

Brent J. Fields
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Via Email to rule-comments@sec.gov

**Re: Comment Letter on Securities Exchange Act Release No. 76474 –
Proposed Regulation of NMS Stock Alternative Trading Systems
(File No. S7-23-15)**

Dear Mr. Fields:

The Financial Industry Regulatory Authority, Inc. (“FINRA”)¹ appreciates this opportunity to comment on the Securities and Exchange Commission’s (“Commission” or “SEC”) proposed amendments to Regulation ATS under the Securities Exchange Act of 1934 (“Act”) as published in the *Federal Register* on December 28, 2015 (“ATS Proposal”).²

FINRA fully supports the main objective of the ATS Proposal; namely, enhanced transparency in the alternative trading system (“ATS”) marketplace. FINRA is interested in the transparency and operation of the ATS marketplace from multiple perspectives. First, FINRA’s mission is to provide investor protection and promote market integrity, and an important element of that mission is a transparent market where trading costs are clear and quantifiable. FINRA agrees with the Commission that transparency is a hallmark of the U.S. securities markets and a primary tool by which investors protect their own interests.³

¹ The comments provided in this letter are solely those of the staff of FINRA; they have not been reviewed or endorsed by the FINRA Board of Governors. For ease of reference, this letter may use “we” and “FINRA” interchangeably, but these terms all refer only to FINRA staff.

² See Securities Exchange Act Release No. 76474 (November 18, 2015), 80 FR 80998 (December 28, 2015) (File No. S7-23-15).

³ See ATS Proposal, 80 FR at 81001.

To this end, as the Commission discusses in the ATS Proposal, FINRA has undertaken significant efforts to promote transparency in the over-the-counter market, including expanding transparency into ATS trading activity. Beginning in 2014, with Commission approval, FINRA began an initiative to collect and publish ATS equity trading volume on an aggregate, weekly, security-by-security basis for each ATS.⁴ Since then, FINRA has expanded the initiative to provide for the future publication of trading volume for non-ATS over-the-counter trades, including internalized trades,⁵ and most recently, information on block trades that occur on ATSS.⁶

In addition, FINRA is interested in the operation of the ATS marketplace as a direct regulator of ATSS. ATSS must register as broker-dealers with the Commission, which in turn requires registering as a member of a self-regulatory organization like FINRA. Currently, all ATSS are registered with FINRA.⁷

In its capacity as an ATS regulator, FINRA requests that the Commission consider one change to the ATS Proposal which we believe to be technical in nature and not burdensome to ATSS, yet of significant importance to our regulatory oversight of ATSS. Today, Regulation ATS requires ATSS to provide FINRA with duplicate copies of their Form ATS filings, including Initial Operations Reports and Amendments to Initial Operations Reports, when they submit those filings to the Commission.⁸ The ATS Proposal, however, does not appear to require that ATSS subject to the proposal (*i.e.*, ATSS that trade national market system stocks, or NMS Stock ATSS) file duplicate copies of analogous Form ATS-N submissions with FINRA.

FINRA understands that Form ATS-N filings would generally become public under the ATS Proposal. However, under the proposal, initial Form ATS-N filings would not become public until they are reviewed and declared effective. In addition, initial Form ATS-N filings and Form ATS-N amendments may be rejected if they are deemed “technically deficient,” in which case they may never be made public.

⁴ See Securities Exchange Act Release No. 71341 (January 17, 2014), 79 FR 4213 (January 24, 2014) (Order Approving File No. SR-FINRA-2013-042).

⁵ See Securities Exchange Act Release No. 76078 (October 15, 2015), 80 FR 61246 (Order Approving File No. SR-FINRA-2015-020).

⁶ See Securities Exchange Act Release No. 79631 (January 19, 2016), 81 FR 4076 (January 25, 2016) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2016-002).

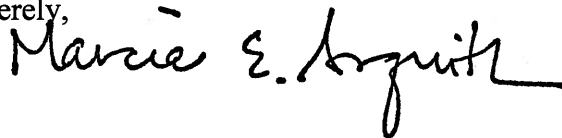
⁷ See ATS Proposal, 80 FR at 8110.

⁸ See Rule 301(b)(2)(vii) of Regulation ATS, 17 CFR 242.301(b)(2)(vii). See also Form ATS Instructions, General Instruction number five.

FINRA believes it is important to receive and maintain the information contained in these Form ATS-N filings, even if they are deemed “technically deficient” and never public or effective.⁹ FINRA believes such information is necessary to compile a complete regulatory record for its own purposes, and also to respond when asked to requests for information from Commission staff. Importantly, FINRA believes this minor change could be accomplished with very little added burden. ATSS already operate under a regulatory framework that requires them to submit Form ATS filings both to the Commission and FINRA. Accordingly, they would not have to dramatically change their filing process to ensure that they file Form ATS-N with FINRA as well. Moreover, FINRA accepts Form ATS filings today in electronic form; since the ATS Proposal would require electronic filing of Form ATS-N through the SEC’s EFTS portal, FINRA believes it would not require significant additional effort for NMS Stock ATSS to then forward a duplicate copy of their electronic filing to FINRA by electronic mail, as they mostly do today for Form ATS filings.

FINRA is appreciative of the Commission’s efforts and its consideration of this request. Please contact Robert Colby, Chief Legal Officer, at (202) 728-8484, Stephanie Dumont, Senior Vice President and Director of Capital Markets Policy, at (202) 728-8176, or Alex Ellenberg, Assistant General Counsel, at (202) 728-8152, if you would like to discuss FINRA’s comments or have any questions.

Sincerely,

A handwritten signature in black ink that reads "Marcia E. Asquith". The signature is written in a cursive, flowing style.

Marcia E. Asquith
Senior Vice President and Corporate Secretary

⁹ To the extent FINRA would be in possession of Form ATS-N information that has not yet become public or will not become public, FINRA would protect such information using the same processes and procedures it uses today to protect the confidential Form ATS information it receives.