



Speech by SEC Chairman: Statement on Dark Pool Regulation Before the Commission Open Meeting

by

Chairman Mary L. Schapiro

U.S. Securities and Exchange Commission

Washington, D.C.
October 21, 2009

Good morning. Today we are tackling another item on our agenda to protect investors and bring greater transparency to our markets.

At this open meeting, the Commission will consider proposals that would strengthen our regulation of dark pools of liquidity.

Dark pools are essentially private trading systems in which participants can transact their trades outside of the public markets. The largest dark pools are sponsored by securities firms primarily to execute the orders of their customers and proprietary orders of the firms.

Not all dark pools are the same. Today, we are focused on those dark pools that transmit electronic messages to a limited group of market participants. Those messages signal that the dark pool has an interest in either buying or selling a security. When the messages convey sufficient information to permit others to trade, it is called an actionable indication of interest, or "IOI".

In some cases, the IOI is only communicated within the dark pool itself. In other cases, the IOI is communicated to other dark pools that have joined together to form a private trading network.

What this means is that participants in these private pools have access to information about a trade which other investors are denied. What's more, these participants are able to use and rely upon the prices provided by the publicly displayed markets, without contributing information of their own.

In recent years, a large number of dark pools have entered the markets, and now represent a significant source of liquidity in U.S.-listed stocks. Given the growth of dark pools, this lack of transparency could create a two-tiered market that deprives the public of information about stock prices and liquidity.

Today's recommendations focus on three specific issues related to dark pools. Each focuses on strengthening the regulation of dark pools in a particular respect and on increasing market transparency.

The first proposal would require actionable IOIs – that are after all similar to a typical buy or sell quote – to be treated like other quotes and subject to the same disclosure rules.

The second proposal would lower the trading volume threshold applicable to alternative trading systems for displaying best-priced orders. Currently, if an alternative trading system, or ATS, displays orders to more than one

person, it must display its best-priced orders to the public when its trading volume for a stock is 5% or more. Today's proposal would lower that percentage to 0.25%, for ATSS, including dark pools that use actionable IOIs.

Taken together these changes would help make the information conveyed by actionable IOIs available in the quotation data that is widely disseminated to the public.

Finally, the Commission is considering a third proposal that would create the same level of post-trade transparency for dark pools – and other ATSS – as for registered exchanges. Specifically the proposal would amend existing rules to require real-time disclosure of the identity of the dark pool that executed the trade.

Currently, dark pools and other ATSS must report their trades in the consolidated trade data that is made widely available to the public. However, the identity of the particular dark pool that executed the trade is not disclosed.

Transparency is a cornerstone of the U.S. securities market. That is why I asked the staff earlier this year to begin a comprehensive review of dark pools, as well as other types of dark liquidity.

We should never underestimate or take for granted the wide spectrum of benefits that come from transparency. In particular, transparency plays a vital role in promoting public confidence in the honesty and integrity of financial markets.

Although dark liquidity always has existed in one form or another in the equity markets, the Commission must assure that the public markets and non-public trading venues operate within a balanced regulatory framework. This means that as markets evolve, the Commission must continually seek to preserve the essential role of the public markets in promoting efficient price discovery and investor confidence.

That is why the Commission is undertaking a broad review of equity market structure to assess its performance in recent years and determine whether market structure rules have kept pace with changes in trading technology and practices. This review will address the benefits and drawbacks of all forms of dark liquidity, including dark pools.

Finally, we are also reviewing the rise of high-frequency electronic trading strategies, broker arrangements that can give their customers direct access to the markets, and exchange co-location services that provide speed advantages to customers in obtaining market data and executing trades.

For now, I'll turn the meeting over to Jamie Brigagliano, our Co-Acting Director of the Division of Trading and Markets, to hear more about the Division's recommendation. Before I do that, however, I'd like to thank Jamie Brigagliano, Dave Shillman, Dan Gray, Michael Gaw, Kathy England, Ted Venuti, Arisa Tinaves, Brian Trackman, Ed Cho, Natasha Cowen, Mia Zur and Nick Shwayri from the Division of Trading and Markets for your work on the recommendations. Thank you as well to David Becker, Meridith Mitchell, Jeff Singdahlsen, Janice Mitnick, and Debby Flynn from the Office of the General Counsel, and to Henry Hu, Jim Overdahl, Amy Edwards, Tim McCormick, Daniel Aromi, and Cecelia Caglio from the Division of Risk, Strategy, and Financial Innovation.

<http://www.sec.gov/news/speech/2009/spch102109mls.htm>