



Securities Industry Association

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December 6, 2001

Mr. William J. Brodsky
Chairman and CEO
Chicago Board Options Exchange
400 South LaSalle Street
Chicago, IL 60605

Re: Status of Intermarket Linkage Plan and SEC Rule 11Ac1-7

Dear Bill:

The Securities Industry Association¹ ("SIA") is writing to urge the options exchanges to implement the approved market linkage as soon as possible.² As you know, on September 26, 2001, the Securities and Exchange Commission (SEC) again postponed the implementation date of SEC Rule 11Ac1-7, the Options Trade-Through Disclosure Rule.³ The rule would require brokers to disclose to customers on a confirmation when a customer's order was executed at a price inferior to a better quote on another exchange. The rule includes an exemption for brokers that route customer orders to an exchange that is part of an intermarket linkage.

In approving the latest extension, SEC Chairman Harvey Pitt wisely urged the staff to ascertain the status of the effort to build a linkage among option markets. SIA is concerned that further delay will not only diminish competition and the opportunities for investors to obtain better prices, but will also effectively deny brokerage firms the use of the exemption described above. Without the exemption, brokers will be burdened with disclosure obligations for trade-throughs that the firm did not cause. Moreover, linking the trade-through disclosure obligation to the status of the exchanges' progress on linkage unfairly punishes brokers for a problem they did not create and cannot solve. Furthermore, notice that a particular exchange may have traded through an unverifiable and unreachable quote on another exchange will prove terribly confusing to investors, and will indiscriminately undermine confidence in all brokers and exchanges. Brokerage firms will suffer the cost and stigma associated with disclosing trade-throughs, even though they have no control over trade-throughs, the timing of linkage implementation, or what may constitute substantial progress.

¹ The Securities Industry Association brings together the shared interests of nearly 700 securities firms to accomplish common goals. SIA member firms (including investment banks, broker-dealers, and mutual fund companies) are active in all U.S. and foreign markets and in all phases of corporate and public finance. The U.S. securities industry manages the accounts of nearly 80 million investors directly and indirectly through corporate, thrift, and pension plans, and generates \$358 billion of revenue. Securities firms employ approximately 760,000 individuals in the United States. (More information about SIA is available on its home page: <http://www.sia.com>).

² Joint Industry Plan; Order Approving Options Intermarket Linkage Plan Submitted by the American Stock Exchange LLC, Chicago Board Options Exchange, Inc., and International Securities Exchange LLC, Securities Exchange Act Release No. 43086 (July 28, 2000).

³ Exchange Act Release No. 44852 (September 26, 2001). The previous compliance date of April 1, 2001 was extended to October 1. See Exchange Act Release No. 44078 (March 15, 2001). The rule was adopted on November 17, 2000. See Exchange Act Release No. 43591 (November 17, 2000).

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If the linkage on which the exemption depends is not operational by April 1, 2002, and the SEC does not act to amend or extend the rule, then brokerage firms will again be faced with an impossible compliance burden. Firms cannot currently disclose trade-throughs on confirmations because exchanges are currently unable to supply firms with the information about trade-throughs in the time frame and format necessary for this information to appear on a confirmation. Significant operational and systems work on the part of brokerage firms and exchanges would be required before trade-through disclosure would be possible. Since there will be no opportunity for exchanges to investigate reported trade-throughs and to eliminate legitimate false positives, investors will be misinformed.

SIA is encouraging the SEC to concentrate its efforts on achieving the linkage that it has long sought. At the same time, SIA is requesting that the SEC repeal the disclosure rule as an unnecessary and expensive interim step.⁴ The linkage and the rules governing its use will be the most effective way to address execution quality in the options markets since only a linkage will permit one exchange professional to access a better quote at another exchange on behalf of a customer order. The linkage will make possible a real trade-through rule that recognizes that the identification and prevention of trade-throughs by exchange specialists and market makers *before* they happen will better serve customers than disclosure of a trade-through *after* the fact.

SIA believes that a linkage will not only resolve this compliance dilemma for brokers, but is also in the best interest of investors and, thus, urges all concerned to complete action quickly. SIA believes that the options exchanges have made progress in selecting OCC as the vendor to build a linkage, and in coming to agreement on some basic rules for the operation of the linkage. SIA commends you for the progress that you have made to date, however, we are very concerned by reports that the exchanges will not complete the linkage before the SEC's new deadline of April 1. We urge you to address the problem now before brokerage firms are again faced with an unworkable deadline in March.

Communications regarding the status of linkage efforts may be directed to Kevin Murphy, Chairman, SIA Options Committee, SIA, 120 Broadway-35th Floor, New York, NY, 10271. If you prefer to address the committee in person or by phone, please contact Scott Kursman, Adviser to the SIA Options Committee, at 212-618-0508 to schedule a mutually convenient time.

Very truly yours,

Marc E. Lackritz
President

⁴ Alternatively, the SEC could link the compliance date with the linkage start date, which would ensure the availability of the exemption to member firms.

cc: The Honorable Harvey Pitt, Chairman, SEC
The Honorable Laura Unger, Commissioner, SEC
The Honorable Isaac Hunt, Commissioner, SEC
Annette Nazareth, Director, Division of Market Regulation
Robert L.D. Colby, Deputy Director, Division of Market Regulation
Elizabeth King, Associate Director, Division of Market Regulation