



April 5, 2006

Regulation NMS SRO Committee:

American Stock Exchange LLC, Oscar Onyema
Boston Stock Exchange, Inc., Brian Colby
Chicago Board Options Exchange, Inc., Jennifer Lamie
Chicago Stock Exchange, Inc., Robert Gibson+
International Securities Exchange, Inc., Michael Simon
NASD, Inc., Stephanie Dumont
The Nasdaq Stock Market, Inc., Adam Nunes
National Stock Exchange, Paul Smith
NYSE Arca, Inc., Robert Hill
NYSE LLC, Karen Lorentz
Philadelphia Stock Exchange, Inc., Robert Miller

Re: Regulation NMS Order Protection Rule (Rule 611) and Access Rule (Rule 610):
SIA Member Firm Request for Further Information From SROs to Facilitate the
Regulation NMS Implementation Process

Dear Regulation NMS SRO Committee:

As you know, the Securities Industry Association¹ (“SIA”) formed a Regulation NMS OPR/Access Rule Implementation Working Group (“Working Group”) after the adoption of Regulation NMS to assist broker-dealers in better understanding the components and impact of Rules 610 and 611 on the industry. The Working Group has worked closely with other SIA committees, regulators, and other interested parties to address firms' interpretative questions and to determine the steps necessary for successful implementation of the rules. The Working Group also has met with all of you on occasion, and has sent you in the past our OPR/Access Rule "issues" list for your information and review.² We have appreciated these consultations very much, and look forward to continuing to work with you on this important process.

¹ The Securities Industry Association brings together the shared interests of approximately 600 securities firms to accomplish common goals. SIA's primary mission is to build and maintain public trust and confidence in the securities markets. SIA members (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. According to the Bureau of Labor Statistics, the U.S. securities industry employs nearly 800,000 individuals, and its personnel manage the accounts of nearly 93 million investors directly and indirectly through corporate, thrift and pension plans. In 2004, the industry generated \$236.7 billion in domestic revenue and an estimated \$340 billion in global revenues. (More information about the SIA is available at: www.sia.com.)

² We note that the International Securities Exchange was not a member of the SIA's Regulation NMS SRO Committee in the past, although we welcome their participation and input in the future.

We thought it necessary as the next step in this Regulation NMS implementation process to draw your attention to several areas where broker-dealers still need information from all of you. This information is critical to many Regulation NMS tasks facing broker-dealers, such as drafting certain policies and procedures, reprogramming trading systems, establishing effective surveillance systems, and testing all of these changes. Broker-dealers cannot meet the SEC's Regulation NMS implementation dates without this information. We recognize that many of you are undergoing major changes in your markets, as well as working towards adapting your systems to Regulation NMS; however, your assistance in providing us with this information, or at least some sort of time frame for when we can expect it, is essential to our completing the implementation process on time.

We have attached a list of those issues on which we need further SRO information. Most if not all of these issues will be familiar to you, as we have culled them from our "issues" list. We suggest that, first, we hold a conference call with you to discuss this list after you have had a chance to review it. Specifically, it would be helpful to know what information is already available, what information may be partially available, and the time frame for issuing information on the remaining points. Second, in some cases, it may be helpful to receive from each of you written documentation of the above, so that members of the Working Group can share this information throughout their firms and ensure that the firms act upon accurate information. Finally, we welcome the opportunity to discuss any other OPR or Access Rule implementation issues or concerns that you may have identified.

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We look forward to continuing to work with you on these issues. If you have any comments or questions regarding this request, please do not hesitate to contact me at 212.902.8466 or Ann Vlcek, Vice President and Associate General Counsel, SIA, at 202.216.2000.

Sincerely,

Matthew Lavicka
Chair, Regulation NMS OPR/Access Rule
Implementation Working Group
Managing Director, Goldman Sachs

cc: Robert L.D. Colby, Acting Director, Division of Market Regulation, SEC
David Shillman, Associate Director, Division of Market Regulation, SEC
Stephen L. Williams, Senior Special Advisor, Division of Market Regulation, SEC
Daniel M. Gray, Market Structure Counsel, Division of Market Regulation, SEC
Ann Vlcek, Vice President and Associate General Counsel, SIA
Andre E. Owens, WilmerHale
Cristie L. March, WilmerHale

**Appendix: Regulation NMS Rules 610 and 611:
Outstanding Issues on Which Further Information Is Needed from SROs³**

1. What is your timeline for phasing in new trading systems, quotation and trade identifiers, and order-handling requirements for OPR and Access Rule compliance to allow market participants to gain familiarity with them and to test their own compliance policies and procedures and systems in conjunction with them? In addition, please specify the nature and timing of any required rule filings with the SEC, the development and issuance of final specifications, the anticipated types of testing to be conducted and associated time periods, and the expected final “go live” dates for new trading systems.
2. If you have not yet established the above timelines and are not currently able to inform us of when this information will be available, would you be able to confirm that our estimated time periods for completion of each step in a successful OPR/Access Rule implementation process, as detailed in a letter we provided the SEC staff on March 24, 2006, are reasonable?⁴
3. Are there any other significant initiatives (*e.g.*, the NYSE Hybrid, Nasdaq Exchange/Single Book) that you will be undertaking at the same time as your efforts to meet the Regulation NMS timeline in No. 1? If so, please specify and explain whether any of the Regulation NMS deliverables are dependent on any pieces of these other initiatives.
4. What new trade flags will you use to designate OPR exceptions (as per OPR/Access Rule FAQ # 8⁵)? Can you please specify for us what trade flags used (or to be used) on your systems are required by your own rules and specifications and which are required under the OPR?

³ We recognize that some of you may have posted on your websites or otherwise discussed with us some of the information requested on this list. Nevertheless, we decided to list all areas where broker-dealers are dependent on SRO information in the interest of ensuring that the broker-dealer community secures the latest and most complete information. Also, we recognize that some of these questions may not apply to your organization; if that is the case, it would be helpful if you could make a note of that in your response.

⁴ See letter to Robert L.D. Colby, Acting Director, Division of Market Regulation, SEC, from Matthew Lavicka, Chair, SIA Regulation NMS OPR/Access Rule Implementation Working Group, dated March 24, 2006, available at: http://www.sia.com/comment_letters/11074.pdf. Please note that, as this letter further explains, our expectation is that, if an SRO does not have its systems in place for Regulation NMS compliance according to the new rules and/or specifications it disseminated, or if it does not complete its rule filing and approval process or specification dissemination by the appropriate deadline, then the quotations of such SRO will not be protected until broker-dealers have had the same period of time for systems development and testing that they had for SROs that met the appropriate deadline.

⁵ SEC Division of Market Regulation, Responses to Frequently Asked Questions Concerning Rule 611 and Rule 610 of Regulation NMS (Jan. 27, 2006), available at <http://www.sec.gov/divisions/marketreg/rule611faq.pdf> (“OPR/Access Rule FAQs”).

5. How will you identify protected quotations in the quotation feed, and how will the market participant responsible for those quotations be identified (*i.e.*, which feed) (as per OPR/Access Rule FAQ # 2)?
6. Will an intermarket sweep order (“ISO”) or immediate-or-cancel order (“IOC”) ever trigger a market slowdown requiring a shift from automated to manual quotations (*e.g.*, triggering a liquidity replenishment point (“LRP”) on the NYSE Hybrid)?
7. What, if any, role will ITS play once Regulation NMS is effective, and how do you plan to transition away from ITS?
8. How will block trades and manual trades be handled, and how should broker-dealers create a reliable and sufficient audit trail?
9. Due to timing issues surrounding compliance with the OPR and the ISO exception, how will customer protection rules such as the NASD Manning interpretation and NYSE Rule 92 be interpreted and reconciled when accessing multiple markets to comply with the OPR?
10. Whose time clock and what market data feed will you use to surveil for trade-throughs by your members, and will your time clock be standardized with those of other SROs?
11. How will you receive ISOs, and how will the ISO and IOC fields be supported (*i.e.*, what will the technical specifications be)? How will non-IOC ISOs be handled?
12. How will you access away markets in order to comply with the OPR? What information will you disseminate to broker-dealers with respect to orders that you route out to other trading centers, and what are your policies and procedures for routing out orders? How will you deal with other trading centers posting manual quotations?
13. What policies and procedures have you developed to address locked and crossed markets, and what is your implementation timeline for these policies and procedures?
14. How will you address material delays on your own market, and how will you deal with other trading centers experiencing material delays (*e.g.*, use of the self-help OPR exception, email notification, audit trail expectations, resolution of material delays, and the handling of recurring problems)? How will broker-dealers be informed when you invoke or become the subject of the self-help exception? How should broker-dealers notify you when they invoke the self-help exception against your market, and what documentation will you expect broker-dealers to maintain in order to support their decisions to invoke the self-help exception?

Outstanding Issues Specific to the ADF

15. What will constitute the “level and cost” of access when accessing ADF participants?
16. How will ADF participants be identified in the quotation feed (as per OPR/Access Rule FAQ # 7)?
17. How will manual quotations be treated for purposes of the ADF?