



Securities Industry Association

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December 6, 2001

The Honorable Harvey Pitt
Chairman
U.S. Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549

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

Dear Chairman Pitt,

The Securities Industry Association¹ (“SIA”) is writing in support of your efforts to establish an options market linkage and to clarify its position with respect to Rule 11Ac1-7 (the trade-through disclosure rule for options).² As you know, on September 26, the Securities and Exchange Commission (SEC) again postponed the implementation date of this rule, which 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. SIA wishes to thank the Commission for once again extending the compliance deadline for this rule. SIA has long been a strong supporter of intermarket linkage because it will improve the quality of markets for investors. However, if the exchanges fail to build this linkage by April 1, 2002, brokerage firms should not be burdened with an unfair and unworkable disclosure rule.

In approving the latest extension, you wisely urged the staff to ascertain the status of the effort to build a linkage among options markets. SIA shares the concern and our firms have been major proponents of previous and current attempts to provide a linkage for this market.³ Not only does delay diminish competition and the opportunity for

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 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).

³ See letters dated February 21, 2001, from SIA President Marc Lackritz, to CEO’s of options exchanges (available at http://www.sia.com/options_markets/html/sia_resources.html).

investors to obtain better prices, but it also effectively denies brokerage firms the use of the exemption created for them under the disclosure rule. Linking the trade-through disclosure obligation to the status of the exchanges' progress on linkage unfairly punishes brokers for a linkage problem they did not create and, ultimately, 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 its occurrence, the timing of linkage implementation, or what might constitute substantial progress in building a linkage.

If the linkage on which the exemption depends is not operational by April 1, 2002, and the SEC does not act to amend, extend or repeal the rule, 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. Of course, once the exchanges build the linkage and firms can route to a linked exchange, the exemption will become operational, and all the expense and effort of building a disclosure apparatus will have been wasted.

Thus, SIA encourages the SEC to concentrate its efforts on achieving the linkage that it has long sought. At the same time, the SEC should 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 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 the progress that has been made to date, but we are concerned by reports that the exchanges will not complete the linkage before the SEC's new deadline of April 1. We commend your leadership in focusing the options

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.

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exchanges on the real issue at hand, i.e. building an effective linkage among those exchanges. We urge the Commission to address the problem now before brokerage firms are again faced with an unworkable deadline in March.

The SIA stands ready to assist you in your pursuit of the goal of linkage. If SIA can be of any assistance, please do not hesitate to contact me at 202-296-9410. With best wishes, I am

Sincerely yours,

Marc E. Lackritz
President

Enclosure

cc: 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