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October 26, 2007

By e-mail to [pubcom@finra.org](mailto:pubcom@finra.org)

Office of the Corporate Secretary  
FINRA  
1735 K Street, N.W.  
Washington, DC 20006-1506  
Attn: Barbara Z. Sweeney

Re: FINRA Regulatory Notice 07-46, OTC Trade Reporting

Ladies and Gentlemen,

We would like to thank the Financial Industry Regulatory Authority ("FINRA") for providing Liquidnet, Inc. the opportunity to comment on FINRA Regulatory Notice 07-46. We fully support FINRA's objective of creating a simpler, more uniform trade reporting structure. We further support FINRA raising the two specific issues identified in the notice, as we believe resolution of these two issues will support the objective of simplifying the trade reporting structure.

#### **Reporting party proposal**

We agree with FINRA that with recent market developments market-maker status could be unclear in certain cases and, therefore, that market-maker status is not the best criteria for determining the reporting party to a trade. We are similarly concerned that the distinction between an executing broker and an introducing broker could be unclear in certain cases. We support the sell-side reporting proposal because it should be clear in all cases as to which broker is the selling broker and which broker is the buying broker.

We agree that when a trade is executed between a broker and a non-broker, the broker should have the responsibility as the reporting party. When a trade is executed between two brokers, absent an agreement to the contrary, the selling broker should be the reporting party, but the brokers should have full flexibility to override this default rule and designate the buyer as the reporting party.

In connection with this proposed change, we would request that FINRA clarify the reporting requirement for each party's capacity (i.e., agent, principal or riskless principal). Our understanding today is that, as a reporting party, we are required to report our capacity. We also are required to report the counter-party's capacity when the

counter-party is the seller but not when the counter-party is the buyer. We are unclear as to the reason for this distinction. From an operational standpoint it can be difficult to report the counter-party's capacity, so we would urge FINRA to provide guidance that a reporting party need only report its own capacity and not the capacity of the counter-party.

### **Linking proposal**

We support FINRA's linking proposal. We would suggest that when a broker executes a trade, the broker should designate an ID for that trade that is unique for that broker for that trading day. Any trade or clearing report submitted relating to that trade should include a field with the trade ID. This would allow FINRA to link multiple trade and clearing reports relating to the same trade.

In a situation where a tape report is sent to one FINRA trade reporting facility ("TRF") and a clearing report for the same trade is sent to a different TRF, the reports would include the same trade ID, allowing FINRA to link the reports. For applicable trades in NASDAQ securities, the trade ID should be the same as the trade ID for the related OATS execution report.

This solution is preferable to an alternative proposal in the FINRA notice that would mandate a one-to-one ratio between tape and non-tape reports because a tape report could be associated with two clearing reports. We also are concerned about an alternative proposal for the TRF to assign a control number. In the situation where we cross a trade between two other brokers, we would generally submit a tape/clearing report and a second clearing report simultaneously, and it would be less efficient for us to wait for a clearing number from the TRF prior to submitting the second clearing report. We also are concerned that requiring a control number would increase the opportunity for errors resulting from the TRF's failure or delay in generating the control number, errors in transmission of the control number from the TRF to the broker, or the broker's failure or delay in properly receiving the control number.

FINRA's proposed change could assist in addressing an issue that we are currently facing. We have institutional clients that trade on behalf of multiple accounts. After executing a block trade through our system, the institution sends us the accounts to which the trade should be allocated, including the number of shares to be allocated to each account. Today, we are unclear how to report a sale when an institution trades for multiple accounts, and some accounts are selling long and some are selling short on the same trade, so we do not permit these trades. With a common trade ID, we could submit a tape report for the full trade and separate clearing reports for the shares sold long and the shares sold short. We would like to discuss this issue further with FINRA.

In connection with this proposed change, we would request that FINRA clarify the purpose of three distinct FIX tags -- ExecID (Tag 17), OrderID (Tag 37) and TradeReportID (Tag 571) -- and consider whether all three tags would still be necessary.



**Implementation time**

We recommend that FINRA provide brokers a period of six months to implement the proposed changes. The six-month period should run from the date that the applicable TRF publishes technical specifications for the change. We would also suggest that brokers be permitted to implement the changes during the six-month period.

**Conclusion**

We appreciate the opportunity to comment on this proposal. If you have any questions or require any additional information, please contact me at (646) 674-2044.

Very truly yours,



Howard Meyerson  
General Counsel

