



February 26, 2009

Marcia E. Asquith
Office of the Corporate Secretary
Financial Industry Regulatory Authority
1735 K Street, NW
Washington, DC 20006-1506

Re: **FINRA Regulatory Notice 08-80; Best Execution**

Dear Ms. Asquith:

The Securities Industry and Financial Markets Association (“SIFMA”)¹ appreciates the opportunity to comment on the Financial Industry Regulatory Authority’s (“FINRA”) Regulatory Notice 08-80 (the “Notice”). In connection with its ongoing effort to develop a consolidated rule book, FINRA is proposing to adopt a new best execution rule, Rule 5310, and related Supplementary Material that together would replace current NASD Rule 2320, and to amend the rule in several respects. With this Notice, FINRA requests comments specifically on four primary proposed amendments, which would (1) address best execution of orders for foreign securities with no U.S. market, (2) replace the current “Three-Quote Rule” with a more flexible standard, (3) codify well-known and understood Securities and Exchange Commission (“SEC”) and FINRA guidance concerning the “regular and rigorous review of execution quality,” and (4) address best execution of orders in circumstances where customers direct the routing of such orders to particular markets. As currently drafted, these proposed amendments are not limited in scope to the best execution of orders for equity securities (collectively, the “Proposals”).

The first two of the Proposals relate to customer orders for securities that are either not traded in the U.S. or trade in illiquid, dealer-driven and non-transparent markets. While such orders encompass a relatively minute percentage of the overall volume of orders for equity securities, they comprise most of the orders for the millions of fixed income securities currently outstanding. As described more fully in this letter, such markets are typically characterized by their limited transparency, real-time data and firm quotes, questions about the accessibility of quotes or indications that do exist, and highly circumstantial customer expectations. Therefore, SIFMA strongly believes that rules and standards regarding best execution in

¹ The Securities Industry and Financial Markets Association brings together the shared interests of more than 650 securities firms, banks and asset managers. SIFMA’s mission is to promote policies and practices that work to expand and perfect markets, foster the development of new products and services and create efficiencies for member firms, while preserving and enhancing the public’s trust and confidence in the markets and the industry. SIFMA works to represent its members’ interests locally and globally. It has offices in New York, Washington, DC and London, and its associated firm, the Asia Securities Industry and Financial Markets Association, is based in Hong Kong.

these markets must reflect their fundamental limitations, and object to rules that implicitly or explicitly import notions of best execution more appropriately applied to markets for more liquid equity securities.

As applied to equity securities, while firms do appreciate the additional deference the Proposals afford to them in developing order routing and execution protocols in certain respects, the firms would appreciate additional guidance from FINRA in order to arrive at a consistent industry standard or framework for these procedures. In addition, we have concerns about certain ambient requirements associated with the Proposals that may be burdensome, impracticable or unnecessary.

On the other hand, SIFMA has more fundamental concerns about the Proposals as they may be applied to fixed income securities. While SIFMA does not necessarily challenge the notion that member firms owe a duty of best execution to their clients where orders in fixed income securities are concerned, the scope of the duty and the methods of demonstrating satisfaction diverge substantially from the traditional notions of best execution for equity securities, and simply overlaying an equity-centric set of standards on top of fixed income securities is akin to fitting a round peg into a square hole. As discussed more fully below, we respectfully disagree with applying equity-based best execution standards to the fixed income market, and would welcome an opportunity to initiate a larger dialogue concerning best execution in corporate and government bonds with FINRA and the SEC to develop more appropriate and tailored standards for satisfying a duty of best execution where fixed income securities are concerned.

Comments Specific to Equity Securities

I. Foreign Securities with No U.S. Market

FINRA proposes to include in new Rule 5310 a provision that would consider a member firm to have satisfied its duty of best execution in the context of customer orders for foreign securities for which there is no U.S. trading market at the time of order receipt if the member (1) has developed written policies and procedures regarding the handling of such orders that are reasonably designed to obtain the most favorable terms available, (2) reviews those procedures at least annually to assess the quality of execution venues, (3) obtains its customers' consent to the policies and procedures, and (4) in fact handles such orders in compliance with such procedures. In contrast, current Rule 2320 imposes the same standard – in essence, the Three-Quote Rule – on all securities, domestic or foreign, that have little or no U.S. trading market.

In general, SIFMA supports the proposed rule change, albeit with concerns over several provisions. Fundamentally, the rule is a rational approach that recognizes that offshore markets have varying methods and standards for executing orders, which argues for a more flexible set of expectations for member firms handling such orders. These differences concern, for example, pre- and post-trade transparency, centralized versus fragmented liquidity and ease of access, and call for an approach that allows member firms to take into account the complexities of these markets. FINRA's Proposals effectively defer to the judgment of member firms that handle such orders to develop appropriate execution protocols that can be customized to take into account different types of securities and offshore markets and the extent to which the member will employ other brokers, either domestically or offshore, to obtain the requisite access needed to fulfill their clients' instructions.

This same flexibility and deference which firms find appealing comes, however, with certain concerns. Some firms believe that the standard – policies and procedures that are reasonably designed to obtain the most favorable terms available – may be too amorphous, and therefore invite a dialogue with FINRA staff concerning their expectations where such policies and procedures are concerned. The consensus among member firms is that their policies and procedures will need to be fairly high level and dynamic, as the

range of possibilities in terms of the kinds of orders, the characteristics and accessibility of the myriad local trading markets, the customer's instructions, and the relative liquidity of the security in question is too broad to adopt rigid protocols. Simply stated, the lack of uniformity in these markets does not lend itself to a one-size-fits-all approach. Nonetheless, the firms believe that an agreed-upon framework that suggests a non-exclusive list of elements for what a typical set of execution protocols might cover would provide useful guidance. Such a framework might include, for example, and without limitation, (1) identifying and perhaps differentiating between situations when orders are simply routed to the member's foreign affiliate, as opposed to an independent local broker, (2) establishing a protocol for routing and/or executing away from the foreign market (*e.g.*, when the foreign market is not open for trading, when there is an inadequate price discovery mechanism in the foreign market, when alternatives to the foreign market might be more appropriate under the circumstances), (3) identifying when heightened scrutiny of executions on an immediate, post-trade basis may be appropriate, as opposed to more routine post-trade checks and less frequent, holistic evaluations of execution quality (including specification of frequency, individuals responsible for conducting reviews, etc.), and (4) periodically assessing the performance of local brokers, and the member's own affiliates, to the extent that data exist to facilitate such an assessment.

SIFMA also has a concern with the proposed requirements that members draft and implement policies and procedures for orders in foreign securities (as well as for non-exchange listed securities with limited available pricing information) and that members obtain their clients' consent to their policies and procedures. In this regard, the proposed rule requires members to draft and implement two separate sets of procedures (both for foreign securities and for illiquid securities, including fixed income instruments). We believe that it would impose a burden on members to develop specific policies and procedures for both of these order types, especially in light of the fact that these order types are typically a small percentage of the overall order flow handled by U.S. member firms. Further, in addition to having to draft additional policies and procedures, the proposed rule places the obligation on the broker to disclose and obtain client consent to the procedures. FINRA did not articulate a reason why these particular procedures, as opposed to the many other sets of procedures maintained by member firms, would need to be disclosed to clients for their consent (negative or otherwise). Based on the administrative burdens associated with initially drafting and sending out the procedures and subsequent updates to those procedures (and triggering the separate transmittal of procedures for new clients), the firms believe strongly that the costs of the proposed drafting and consent requirements far outweigh any benefit that might be gained.

II. Non-Exchange Listed Securities with Limited Available Pricing Information

FINRA proposes to eliminate the current Three-Quote Rule in favor of a rule, which would be included in Supplementary Material .06, that would require member firms to implement written policies and procedures that address how the firm will ascertain the best inter-dealer market for a non-exchange listed security for which limited pricing information is available (reflected by the absence of multiple quotations), and to "document its compliance with those policies and procedures." While the Supplementary Material includes commentary on factors that "should" be considered by the member in its policies and procedures, it leaves enough flexibility for the member firm to apply different standards depending on the particular circumstances.

Like the proposed amendment concerning foreign securities, SIFMA supports the fact that this provision, at least in the context of equity securities, removes the rigidity of the Three-Quote Rule and allows member firms more flexibility in the manner in which they ascertain the best inter-dealer market for OTC securities and ultimately execute customer orders. This is an appropriate recognition of the structural

differences between the markets for illiquid securities and more traditional equities. While FINRA notes that members “should generally seek out other sources of liquidity, which may include contacting and obtaining quotations from other dealers,” they recognize that such actions may in some cases hinder achieving best execution for a customer’s order, particularly in the event that the customer prefers a more timely execution or where contacting multiple dealers for quotations might send signals into the marketplace and impact the market to the detriment of the customer. In addition, the added flexibility would allow a member to carry over previously obtained quotations to subsequent orders in appropriate circumstances (*e.g.*, orders are reasonably close in time and there is an absence of any intervening reported transactions in the security). Notwithstanding their general support for this provision, the firms nonetheless request a more specific description from FINRA with respect to the “more general documentation requirements” associated with it, as contrasted with the more specific order ticket marking provisions of the Three-Quote Rule. The firms are unclear as to what FINRA contemplates with such documentation requirements, and therefore are constrained in their ability to react in any meaningful way to that part of the Proposal.

III. Regular and Rigorous Reviews of Execution Quality

FINRA proposes to add Supplementary Material .08 to new Rule 5310 that would “codify” previously published SEC and FINRA guidance regarding member firms’ obligations to regularly and rigorously review the quality of executions likely to be obtained from different market centers. SIFMA acknowledges that the guidance proposed to be codified is well understood in the industry and has become standard operating procedure for broker-dealers handling held, retail-sized orders in equity securities for their customers. Indeed, a veritable cottage industry has emerged in the years since this standard was first articulated by the SEC – including market centers providing not merely the execution quality statistics required by Rule 605 of Regulation NMS, but also more robust analyses of their execution quality; and vendors that have developed technological tools to assist order routing broker-dealers in analyzing the extensive execution quality statistics at their disposal. Firms formed best execution committees, evaluate and discuss execution quality statistics, have at times altered routing tables where appropriate, and draft minutes to memorialize their analyses and deliberations. SEC and FINRA examiners routinely assess the quality of member firms’ processes in this regard. The “regular and rigorous” standard has largely been embraced by market participants handling and executing transactions in equity securities. It is therefore not clear to us why it needs to be codified in the consolidated FINRA rule book and we question whether codifying what has been a fluid and evolving standard is the best course to take. As a “standard” or “guidance,” it is more easily altered as market and regulatory structures evolve than it would be as a rule subject to the SRO rule filing process under the Securities Exchange Act of 1934. We believe that is something FINRA should consider.

With respect to the “regular and rigorous review” requirement, we believe that this is an attempt to impose traditional equity markets principles on transactions that do not easily lend themselves to these principles. FINRA explains that the Supplementary Material “would not alter existing requirements” and that “it would merely codify previously published . . . guidance on the subject.” The “regular and rigorous review” requirement, and all the considerations that are included in the guidance, grew out of and evolved in the context of held, retail-sized market, marketable limit and limit orders for equity securities (in other words, “covered securities” as defined by Regulation NMS Rule 605). In other words, the context has been orders for stocks that naturally lend themselves to apples-to-apples comparisons on an aggregate, retrospective basis given their relative fungibility and the precise nature of the regulatory requirements governing their handling and execution. The text of the Supplementary Material suggests this to be the case. For example, subparagraph (a) refers to conducting “reviews of the quality of the executions of customers’ orders (as opposed to an order-by-order review),” the latter being in our view

more appropriately done in connection with non-fungible order types. In addition, the examples given for the types of orders to be included in the review are limit orders, market orders and market on open orders. Subparagraph (b)(1) and (2) speak to differences between execution prices and the prevailing quotes at time of receipt, which would typically be relevant only in connection with held market orders for which executions are required to be done “fully and promptly” upon order receipt. Subparagraph (b)(3) refers explicitly to limit orders. Subparagraph (b)(4) refers to the speed of execution, which is not typically a factor in connection with “not held” orders (in which case the broker-dealer is “not held” to time and price). Subparagraph (b)(8) refers to internalization and payment for order flow, which practices typically arise in the context of held, retail-sized orders.

We do not mean to suggest that members do not owe a duty of best execution in connection with not held orders. What we do mean is that assessment of execution quality for not held orders is quite different than that which would be done in connection with a regular and rigorous review. Such orders are simply not fungible enough to be assessed on any kind of apples-to-apples basis. With respect to not held orders, a plethora of factors enters into the manner in which a particular order is executed, including the size of the order relative to the liquidity in the market, the client’s relative urgency for execution, special instructions relating to representing a certain percentage of volume in the market, benchmarking agency executions to the market volume weighted average price, and requests for capital commitment, among others – all of which will bear on best execution. Indeed, while regular and rigorous reviews are typically done periodically on a retrospective basis (where the impact of decisions made is prospective), the assessment of execution quality for not held orders is effectively done on an individual, order-by-order basis, in real-time and/or on a post-trade basis. Executing broker-dealers, their customers and third party vendors have developed and continue to refine tools that assist in evaluating a broker-dealer’s performance in meeting clients’ objectives.

We therefore request that FINRA state, whether in the text of the Supplementary Material or associated commentary, that the specific context in which regular and rigorous reviews are required is with respect to “covered orders,” *i.e.*, the types and sizes of retail-sized, held orders in equity securities for which execution quality statistics are required to be published by market centers pursuant to Rule 605 of Regulation NMS. We would understand, however, if FINRA were reluctant to “box” itself into a rules-based standard that is limited in context to covered securities.² Because standards of best execution, and the means of verifying that best execution has been provided, are an evolving and dynamic concept, we are sympathetic to the notion that some form of regular and rigorous review, as described in the proposed rule, could someday be implemented in a context other than covered orders. Therefore, an alternative approach FINRA might take would be to include in associated commentary to a final rule that the regular and rigorous standard is most appropriately applied at the current time to covered securities and leave open the possibility that it could be extended to other situations depending on advancements in retrospective executive quality assessment techniques down the road.

Another aspect of Supplementary Material .08 that appears confusing is to whom it is intended to apply. Subparagraph (a) states clearly that a “member that routes customer orders to other broker-dealers for execution on an automated, non-discretionary basis, as well as a member that internalizes customer order flow, must have procedures in place to ensure the member periodically conducts regular and rigorous reviews.” This makes sense, as the obligation to conduct the review should be on the broker acting as the agent for the customer, consistent with its duties owed to the customer. However, subparagraph (c) suggests that an “introducing firm” (as such term might be construed or defined) can rely on the “clearing

² This is essentially why we question the wisdom of codifying what has heretofore been a fluid guideline.

or executing firm's regular and rigorous review," subject to certain conditions. If what this is intended to cover is the situation where a clearing/executing broker has consciously undertaken to assume the agency duties of an introducing broker in terms of the handling and routing of the introducing firm's order flow, as distinguished from the situation where an executing firm is merely a destination of another firm (whether an introducing firm or otherwise, in which situation the introducing firm made the decision to route to the executing firm and did not delegate that decision to its clearing broker, for example), then we do not believe that distinction would be inconsistent with subparagraph (a). We believe, however, that this point needs to be clarified in subparagraph (c) to avoid confusion.

IV. Directed Orders

FINRA proposes adding Supplementary Material .07 to new Rule 5310 that would clarify that a member firm that receives an unsolicited instruction from a customer to route that customer's order to a particular market for execution is not required to make a best execution determination beyond that instruction. SIFMA supports this proposal as a sensible approach for dealing with customer-directed orders, although we question whether it is too limited in its scope. Specifically, the provision would effectively relieve the member of its best execution obligation with respect to the performance of the destination market center, provided the member promptly followed the client's instruction. But why is this relief limited solely to a routing instruction? We believe FINRA should consider a more expansive conceptualization of what should be considered a client directed order.

For example, over the past several years, institutional orders have become so laden with instructions as to take much of the time and price discretion out of the hands of the broker. As noted previously, such orders often include instructions to represent a certain percentage of the overall market volume over a specified time period, or to use reasonable efforts to execute as close to the VWAP as possible for a particular security over a specified time period. These instructions do not relate to routing destinations *per se*, but nonetheless weigh heavily on, and considerably restrict the brokerage judgment and discretion of, the member.

Comments Specific to Fixed Income Securities

SIFMA and its members unequivocally endorse principles of customer protection in the bond markets. However, the special characteristics of debt instruments and the differing structures in the fixed income markets require that rules be tailored specifically for these markets. Rules designed for the paradigm of the equities markets should not be imposed on the bond markets.³ Doing so will only create problems of interpretation, application and enforcement. Much of the Proposals appears to have been developed solely in the context of the equity market and, as a result, creates issues for the fixed income securities markets.

³ The Bond Market Association ("TBMA") previously expressed concerns about the application of the Best Execution Rule to fixed income instruments at the time that NASD proposed to expand Rule 2320 in 2005 to include fixed income instruments. We wish to direct attention to our previous comments that we believe continue to remain issues today despite the fact that we do not raise all of the issues contained in these letters in this current letter. Following are the comment letters that BMA filed with respect to those proposals:

http://www.sifma.org/regulatory/comment_letters/comment_letter_archives/111605.pdf

http://www.sifma.org/regulatory/comment_letters/comment_letter_archives/090705B.pdf

http://www.sifma.org/regulatory/comment_letters/comment_letter_archives/040505.pdf

We note that the SEC recently acknowledged that fundamental differences exist between the fixed income and equities markets. When the NASD Rule 2320 was last amended in 2006, the NASD stated: “At the time NASD adopted [Rule 2320], the equities markets operated in a framework similar to the current framework for bond trading.” However, the SEC took issue with this point, and in its approval order stated that it “expects that the NASD will take into account the structure and operation of the debt markets when applying the rule to debt market participants”⁴ Further, best execution concepts in the equities markets have changed over time, and applying those concepts to the bond markets raises difficulties. As a result, we respectfully request that FINRA take into account the differences between these markets, as they currently exist and function.

The equities-based notion of best execution is largely time and price centric. Complexities in the fixed income markets introduce several additional factors that may not be considerations for best execution in the equities markets. For example, in the fixed income markets, the manner in which the position is executed may be as significant as price in achieving optimal execution. A dealer may well minimize the cost of execution by “working” a large trade as smaller but still institutional size increments to minimize price impact in the marketplace. Alternatively, best execution could be achieved when the dealer executes a transaction in a security that includes all of the attributes (such as yield, maturity, call features, etc.) sought by the client. These facets of fixed income best execution imply an optimal result for the client can exist nearly independent of the outright price achieved in the execution.

From a structural perspective, in the equities markets the broker-dealer will often receive a firm order from its client which the broker-dealer then works in order to obtain the most beneficial execution reasonably available under the circumstances. This generally implies that an optimal price range or timeframe of execution was achieved for the client by the broker-dealer. Conversely, the OTC fixed income market, which consists largely of institutional market participants, is not an order-driven market. Instead, executions result primarily from negotiations between market participants that may culminate in an agreement to execute a quantity of a specific instrument at an agreed-upon price, but just as frequently do not. Firm orders are exceedingly rare in this marketplace. There are over 10 million fixed income CUSIPs, compared to about 5000 for equities, meaning that far more fixed income CUSIPs are not traded actively than the number of equity securities in aggregate. Given this, the bond markets are likely to remain negotiated markets and not change to a more order driven market.

Another important distinction between the equity and fixed income markets relates to pre-trade price discovery mechanisms. In equity markets, market makers, exchanges, and alternative trading systems are electronically integrated into trading systems that are accessible to all market center participants. The consolidated quotes published in this market integrated structure can be truly consolidated into a National Best Bid and Offer (“NBBO”). Equity dealers who publish such quotes are required to honor them pursuant to firm quote rules and trade through rules prevent other dealers from executing at prices less desirable than those quotes. Executions are reported to consolidated tapes which provide transparency as to current market conditions.

In contrast, fixed income markets are not integrated and quotes are ordinarily firm only while the customer is “on the wire.” Indeed, while equity market makers are required to maintain continuous, two-sided markets and can thus be depended upon to be a trading center for a security, there are no such requirements for fixed income dealers. Thus, publication of a trade at a price provides no assurance that such price will be available to others upon inquiry and the execution of a trade by one dealer provides no assurance that other trades can or will be executed at comparable prices. There are no consolidated trade

⁴ Securities Exchange Act Release No. 54339, 71 Fed. Reg. 50959, 50960 (August 21, 2006).

reporting systems for fixed income transactions. The facts that the bond markets are negotiated, not order driven, lack robust pre-trade price discovery mechanisms, and lack electronic access to firm quotes, assessing best execution in real time, let alone after the fact, is a much different process for a bond dealer than for an equity dealer. A bond dealer does not have the same pre-trade point of reference that an equity dealer has in seeking to obtain best execution and in reviewing executions after the fact to determine if, in fact, best execution was achieved. In developing best execution requirements for bond dealers, these differences must be taken into account.

Furthermore, the integration of equity markets and the requirements relating to market making and order execution have enabled the SEC to adopt provisions within Regulation NMS that have required equity market centers to compile detailed information relating to order routing and execution and to make this information available to the investing public. This information is an important tool in analyzing order execution quality.

However, since fixed income markets lack the features of equities markets, it is not possible for comparable data to be transmitted, compiled and analyzed. And, many fixed income transactions are of a size or involve special handling instructions that would exclude them from the requirements of many of these equity rules.

Under the Proposals, a firm would be required to maintain policies and procedures that would document the steps that it has taken to determine the best inter-dealer market for the security. Without a consolidated quote as a reference point, it is not clear what the dealer is expected to document. For example, a bond trader may seek quotes from other dealers, but depending on the facts and circumstances, doing so may not be in the interest of the customer as it would permit market participants to become aware of interest in a bond, which could have the effect of moving the market away from the customer. Further, unlike equity markets, there is no direct trading market between bond dealers in many fixed income markets, so the sheer act of contacting other dealers for quotes on fixed income securities does not necessarily result in a more timely or beneficial execution. Accordingly, we strongly disagree with any suggestion that the act of contacting other dealers would be the implicit or requisite procedure to evidence best execution.

Although some information about pricing is available through the TRACE System, execution data is often sporadic, stale and usually relevant only to orders of a certain size. In addition, the quality and the reliability of the information is not uniform and may not exist with respect to a particular bond, thus often making it difficult to obtain pricing information through that mechanism. As a result, we believe that there is no uniform way to determine how to obtain best execution for fixed income trades and, accordingly, we request that FINRA provide additional guidance.

The first two Proposals – the first relating to foreign securities with no U.S. trading market and the second relating to securities for which limited pricing information is available in the U.S. – address a comparatively small percentage of the overall orders with respect to equity securities. For those relatively small number of equity orders involving securities that do not trade on exchanges and for which there is very little publicly available quotation information available, FINRA is proposing that member firms develop special procedures to address how firms will ascertain the best price reasonably available under the circumstances, including, without limitation, by reaching out to other dealers for quotes/indications. In contrast to the equity markets, a preponderance of fixed income instruments are thinly or rarely traded securities for which limited or no quotation information is available. For the reasons stated above, it is extremely difficult for fixed income dealers to create and implement best execution procedures for fixed income securities. In particular, as discussed above, the delays involved in contacting other dealers for

quotes often operates to the detriment of customers. The Proposal's requirement to specifically document compliance against such procedures simply exacerbates the question as to how such a procedure should actually work. As a result, because we believe that there is no simple way to determine, for purposes of developing policies and procedures that our firms' traders will be required to follow, how to obtain best execution for fixed income trades and, accordingly, we request that FINRA provide additional guidance. For instance, the guidance provided by FINRA in its Interpretive Material 2440-2 represents a more tailored treatment for debt securities as it relates to ascertaining prevailing market prices.

The third Proposal, relating to "regular and rigorous" evaluations of execution quality on a look-back basis, is also inappropriately applied to fixed income securities, and indeed was never intended by the SEC or FINRA to apply in that context. In the Notice requesting comment on this rule, FINRA stated that "regular and rigorous" review is a longstanding obligation and cited the Exchange Act release which implemented changes to the Quote Rule and promulgated the Limit Order Display Rule. Borrowing from these rules, which apply strictly to pre-trade price discovery and order handling of Reg NMS securities (largely equities) and not to fixed income instruments, is an example of how this aspect of the proposed rule seeks to impose, without discussion or analysis, equity market best execution concepts onto the fixed income markets. Moreover, post-trade information is not readily disseminated for many fixed income securities and, as a result, it is difficult, if not impossible, to conduct any meaningful post trade review for trades that are done away from the dealer. Consequently, SIFMA respectfully requests that FINRA make clear, whether in the text of the Supplementary Material or associated commentary, that regular and rigorous reviews are specifically required only in the context of Reg NMS securities. Given the lack of available statistical information, it is not clear how a regular and rigorous review of bond market executions could be done at all.

As a general matter, we strongly believe that the issues raised in this letter with respect to fixed income securities would benefit from discussion with FINRA's Fixed Income Committee, to the extent such Committee has not already provided input or been consulted on the Proposals.

Displaying Priced Quotations in Multiple Quotation Mediums

On a separate but related issue, we wish to take this opportunity to raise certain concerns with Rule 6480. As drafted, Rule 6480 adopts the requirements previously codified in NASD Rule 2320 (g)(2) and (g)(4), including the requirement to display the same priced quotation for a non-exchange listed security when displaying a priced quotation on a real-time basis in two or more quotation mediums. Even though many members are contractually obligated to and do provide each electronic communications network ("ECN") with the same yield or price net of fees for a particular security, the priced quotations displayed by a firm for a particular security may differ. Priced quotations may differ due to (1) different underlying Treasury prices to which many corporate bonds are spread; (2) fees and/or settlement charges added by the ECN to the displayed priced quotation; (3) the need for members to charge different prices for different trade sizes in order to recoup their costs (*e.g.*, odd-lots); and (4) technical issues and errors associated with updating priced quotations (*i.e.*, timing, system outages, etc.). This is an issue with respect to non-exchange listed equity securities as well, particularly foreign securities where prices may be displayed in different currencies, different trade sizes may necessitate different prices, and the possibility that the ECN (or, in a foreign market, a multilateral trading facility (MTF)) might reflect fees and transaction charges in displayed prices. In recognition of these factors, most of which are beyond a member's control, SIFMA recommends that Rule 6480 be amended to require members to display "similar" priced quotations rather than the "same" priced quotation.

Furthermore, Rule 6480 requires that each "member" display the same priced quotation for a non-exchange listed security when displaying a priced quotation on a real time basis in two or more quotation

mediums. Since some members have separate institutional, middle market and retail liaison trading desks using quotation mediums, the rule as drafted forces traders at different desks to offer a security at the same price. These different desks within a given firm may have different views on the context of the market for a particular security, may be differently positioned to trade on that security (long vs. short) or may have different sizes (very small positions are sometimes offered very cheaply to clean up an inventory line item). They may not be able to use the same bid or offer price across the firm for practical/coordination reasons (*e.g.*, information wall restrictions) and, even if technology or business unit coordination hurdles were overcome such that different desks could align all prices, it would undoubtedly be at a price that was least advantageous to clients. In light of the issues raised above, SIFMA would request the opportunity to work with FINRA to revise Rule 6480.

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We would be pleased to discuss these comments in greater detail with the FINRA staff. We can be reached in this regard at 202-962-7300 or 212-313-1000.

Sincerely,



Ann Vlcek
Managing Director and Associate General Counsel



Sean Davy
Managing Director

cc: Stephen Luparello, Acting Chief Executive Officer, FINRA
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