

# Notice to Members

NOVEMBER 2004

## SUGGESTED ROUTING

Internal Audit  
Legal & Compliance  
Operations  
Senior Management  
Systems  
Trading

## KEY TOPICS

OATS  
Rule 6954(c)

## GUIDANCE

### OATS Reporting Requirements

SEC Approves Amendments to Rule 6954(c) Requiring ECNs to Capture and Report Routed Order Identifier Information to OATS; **Effective Date: February 14, 2005**

#### Executive Summary

On September 17, 2004, the Securities and Exchange Commission (SEC) approved amendments to Rule 6954(c) to require that electronic communication networks (ECNs) that electronically receive routed orders capture and report the transmitting member's unique identifier (routed order identifier) to the Order Audit Trail System (OATS).<sup>1</sup> Rule 6954(c), as amended, is set forth in Attachment A. The amendments become effective on **February 14, 2005**.

#### Questions/Further Information

Questions regarding this *Notice* may be directed to the Legal Section, Market Regulation, at (240) 386-5126; or the Office of General Counsel, Regulatory Policy and Oversight, at (202) 728-8071. For technical questions regarding OATS Reporting, please contact the OATS Help Desk at (800) 321-NASD.

#### Background and Discussion

On March 6, 1998, the SEC approved NASD Rules 6950 through 6957 (the OATS Rules).<sup>2</sup> OATS provides comprehensive information regarding orders and transactions that is critical to NASD staff in conducting surveillance and investigations of member firms for potential violations of NASD rules and the federal securities laws.

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The use of a routed order identifier reported through OATS permits NASD to track the history of orders routed between firms on an automated basis. If the order does not contain a routed order identifier, the order cannot be linked on an automated basis to subsequent actions, such as further routing or execution by other firms or NASDAQ systems. OATS Rules previously did not require that ECNs capture routed order identifier information for orders routed electronically to them. Given the current level of participation of ECNs in the trading of NASDAQ securities, the lack of a routed order identifier for these electronic orders results in NASD staff having to recreate manually the lifecycle history for a substantial number of orders.

Accordingly, the new amendments require that ECNs that electronically receive routed orders capture and report the routed order identifier to OATS. The amendments will be effective on February 14, 2005. As such, OATS will reject any OATS Order Reports submitted after February 14, 2005 without the required information. More detailed information on these new requirements, including the technical requirements for submission of the new fields, will be provided in the OATS Reporting Technical Specifications, which are available on NASD's Web site at *Regulatory Systems > OATS > Technical Specifications*.

## Endnotes

- 1 See Securities Exchange Act Release No. 50409 (September 17, 2004), 69 FR 184 (September 23, 2004) (File No. SR-NASD-2004-137) (SEC Approval Order).
- 2 See *Notice to Members 98-33* (March 1998) for a complete description of the OATS Rules.

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## ATTACHMENT A

New language is underlined; deletions are in brackets.

### 6954. Recording of Order Information

(a) and (b) No Change.

(c) Order Transmittal

Order information required to be recorded under this Rule when an order is transmitted includes the following.

(1) and (2) No Change.

(3) When a member electronically transmits an order for execution on an Electronic Communications Network:

(A) No Change.

(B) the receiving Reporting Member operating the Electronic Communications Network shall record:

(i) the fact that the order was received by an Electronic Communications Network,

(ii) the order identifier assigned to the order by the member that transmits the order,

(iii) [(ii)] the market participant symbol assigned by the Association to the transmitting Reporting Member, and

(iv) [(iii)] other information items in Rule 6954(b) that apply with respect to such order, which must include information items (1), (2), (3), (6), (7), (8), (10), (11), (12), (13), (15), and (16).

(4) through (6) No Change.

(d) No Change.