

Commentary to NTM 04-80 by Ameritrade, Inc.

1. **Do you support the proposal that would require that members record and report OATS information for exchange-listed and OTC equity securities?**

Yes. Ameritrade supports the proposal so long as firms are allowed to report all equities in the same format. Firms with OTS and OATS reporting obligations should be given the option of selecting either the OTS or OATS reporting format. Firms should also be permitted to transmit all equity reports to a single repository and not be burdened with duplicate reporting obligations. The cost to support dual reporting systems would be extraordinary and would create an undue burden on firms to support the ever-changing technology enhancements inherent to such systems.

Ameritrade believes a single repository for the collection of OATS, OTS, COATS and other audit trail information would best serve the industry. It is the Firm's belief that a single repository would allow for increased regulatory efficiency and provide for uniform reporting specifications thereby allowing for the accurate collection of data while minimizing the risk of increased expenses which may be passed on to the investing public.

2. **What are the technological implications and burdens associated with this proposal?**

If OATS reporting for exchange-listed and OTC securities follow the same technical specifications as the current OATS technology requirements and firms are required to report transactions to NASD alone, only minimal enhancements would be necessary. If listed and OTC securities are required to be reported in a different format significant and costly technological enhancements would be required. These enhancements would include but not be limited to database redesign, application development, interface development, system architecture changes, extensive testing and a significant diversion of resources that may otherwise enhance the client trading experience.

3. **Is the data you record and Maintain to comply with NYSE's OTS requirements in a similar form as the data you maintain for NASD OATS purposes? What additional changes would be necessary to enable members to submit to the NYSE OTS data to NASD OATS?**

NASD should not burden members with unnecessarily redundant and costly reporting responsibilities. If members have OTS and OATS reporting responsibilities, NASD and NYSE

should coordinate their efforts and develop a method of exchanging member data in order to mitigate the unnecessary expense that would be borne by the entire broker-dealer community and ultimately passed on to individual investors through increased commissions and fees. In the event that such coordination is not possible, NASD and NYSE should modify their systems to accept both formats in order to reduce the burden on broker-dealers and individual investors. However, the point cannot be lost that duplicative systems reporting information in multiple formats is labor intensive and resource negligent. Regulatory agencies must bear in mind the most appropriate use of member firms' technology resources.

4. **Do you support the proposal that would require that members record and report OATS order events relating to orders routed to non-members or exchanges?** No. Although member firms currently report NW and RT reports for non-members, the reliance on a member to collect and further disseminate all aspects of reporting essentially turns the member into the repository. This places an undue regulatory burden on Members and exposes Members to potential regulatory violations in circumstances that extend far beyond their reasonable control while providing no impetus for non-members to agree and implement an industry standard. While Ameritrade appreciates NASD's sensitivity to SRO jurisdictional issues, until the industry can define a single reporting standard and a single repository, the increased burden posed by this question should not be considered.
5. **Describe the scope and type of order-related information that a member currently has access to when it has routed an order to a non-member or exchange. For example, if an order is routed to and then executed by a non-member, what execution information is provided to the member that routed the order? Does the member typically have knowledge of whether the order was further routed by the non-member or exchange, and if so, what level of detail is provided to the member?** Typically, non-Members provide a minimal level of information consisting of the number of shares executed and execution price. Additional message traffic consisting of UR Out messages, UR Stopped Messages and other administrative messages are received, however, we do not receive any information regarding whether a non-member or exchange further routed an order.
6. **What are the technological implications and burdens associated with this proposal, including requirements that potential could expand the scope of information provided by non-members and exchanges to members that have routed orders to them?** Imposing reporting obligations for non-Members on Members would represent an overwhelming technical challenge resulting in extraordinary expenses to the broker dealer community. Numerous enhancements would be required to support such a change including but not limited to the following. 1) Our Order Management System and the Order Management Systems of the non-Member destinations to which we route orders would have to be rewritten to transmit and capture data currently not being reported or captured.

2) Routing interfaces and communication standards such as FIX Protocol and CMS would have to be redesigned to include data not currently being reported. 3) OATS reporting applications would have to be reprogrammed to capture and report information currently not being captured or reported. 4) Databases and storage devices would have to be reprogrammed and expanded to capture the additional data. 5) Extensive testing of all applications and complete regression testing of all affected systems would be required. 6) Numerous technology resources would have to be redirected from client experience enhancing and efficiency generating projects. 7) Extraordinary development expenses associated with such an endeavor would ultimately be passed on to individual investors through higher commissions and fees or through the inability to gain efficiencies that could lower commissions and fees.

Ameritrade recognizes the potential benefits of a complete audit trail that includes non-Member information, however the burden of making such changes would be extraordinary and we ask that serious consideration be given to the industry-wide financial consequences of meeting such an objective.

7. **Do you support the proposal that would require that members record and report OATS information for OATS proprietary orders generated during the course of market-making?** No commentary provided.
8. **What are the technological implications and burdens associated with this proposal?** Please refer to commentary provided above as it relates to technological implications.
9. **NASD anticipates proposing a “phase-in” period for implementation of any of the proposals described herein to provide members with adequate time for necessary system and procedural modifications. What amount of time do you believe is adequate for implementation of the proposals?** Ameritrade believes it would be prudent to provide at least six months for firms to implement the changes required to report Exchange-Listed and OTC securities using OATS technical specifications. Such a time period would provide adequate time for development and testing.

Ameritrade also believes it would take at least 36 months to make the necessary system enhancements and adequately test the changes necessary to report non-Member information to OATS.

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Are you:

An NASD Member YES

An Investor

A Registered Representative YES

Other: