

The International Association of Small Broker Dealers and Advisors

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The International Association of Small Broker-Dealers and Advisors www.iasbda.com submits the following comment on one important aspect of the above referenced rule. We believe that the discussion of **knowledge of block transactions** could be significantly expanded/clarified. The pertinent text is included below. We believe it is well accepted that this applies when the transaction is being effected by one's own firm. However it has always been unclear as to how it applies when the knowledge is of another firm's transaction. Thus when a trading desk receives an inquiry about a block of stock, we believe that is not enough to prohibit a trade of the same securities. We can envision circumstances when a trader receives enough information to trigger this restriction but a simple inquiry would not do so. Thus the commentary on the rule could make this very clear without denigrating its original purpose.

Front running can also occur with firm research and we believe there is one other aspect of it that should be covered. Hedge funds have been accused of trading ahead of broker dealer research reports in return for commission business. We believe it would be a good time for FINRA to further explore this issue and make clear its position on it. While it is clear that the bd cannot trade ahead of its own report(See [FINRA - SR-FINRA-2008-054](#)) we believe that all of its customers and potential customers should also be so prohibited and that all customers and potential customers should get the report at the same time. Whether the public should simultaneously get it, should be explored and addressed.

Finally, there is a recurring suggestion in the news that the Madoff customers believed they were getting something special from his market maker status. If no one at the firm was checking the discretionary account business how could they or the examiners be sure there were no front running conflicts? There is therefore a compelling reason for FINRA to examine this entire area of favored status to insure that everyone understands who can and cannot be favored and what more specifically is knowledge of a block transaction or an upcoming research report.

.01 Knowledge of Block Transactions. The violative practices in Rule 5270 [noted above] may include transactions [which] that are executed based upon knowledge of less than all of the terms of the block transaction, so long as there is knowledge that all of the material terms of the transaction have been or will be agreed upon imminently. [The general prohibitions stated above shall not apply to transactions executed by member participants in automatic execution systems in those instances where participants must accept automatic executions.]

[These prohibitions also do not include situations in which a member or person associated with a member receives a customer's order of block size relating to both an option and the underlying security or both a security future and the underlying security. In such cases, the member and person associated with a member may position the other side of one or both components of the order. However, in these instances, the member and person associated with a member would not be able to cover any resulting proprietary position(s) by entering an offsetting order until information concerning the block transaction involved has been made publicly available.]

[The application of this front running policy is limited to transactions that are required to be reported on the last sale reporting systems administered by Nasdaq, Consolidated Tape Association (CTA), or Option Price Reporting Authority (OPRA). The front running policy also applies to security futures transactions regardless of whether such products are reported pursuant to such systems.]

.02 Publicly Available Information. Information as to a block transaction shall be considered to be publicly available when it has been disseminated via a last sale reporting system [the tape] or high speed communications line of one of those systems, a similar system of a national securities exchange under Section 6 of the Exchange Act, an alternative trading system under SEC Regulation ATS, or by a third-party news wire service. The requirement that information concerning the block transaction be made publicly available will not be satisfied

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