

Notice to Members

NOVEMBER 2005

SUGGESTED ROUTING

Internal Audit
Legal & Compliance
Operations
Registered Representatives
Senior Management
Systems
Trading
Training

KEY TOPICS

OATS
Rules 6950–6957

GUIDANCE

OATS Reporting Requirements

SEC Approves Amendments to the OATS Rules;
Effective Date: May 8, 2006

Executive Summary

On September 28, 2005, the Securities and Exchange Commission (SEC) approved amendments to Rules 6950 through 6957 (OATS Rules) relating to the Order Audit Trail System (OATS).¹ The amendments to the OATS Rules: (1) implement the OATS reporting requirements for manual orders (OATS Phase III); (2) provide that members are required to capture and report the time the order is received by the member from the customer for all orders; (3) expand the order transmittal requirements to include orders routed to a member's trading desk or trading department; (4) exclude certain members from the definition of "Reporting Member" for those orders that meet specified conditions and are recorded and reported to OATS by another member; and (5) permit NASD to grant exemptive relief from the OATS reporting requirements in certain circumstances to members that meet specified criteria.

The OATS Rules, as amended, are set forth in Attachment A of this *Notice*. In this *Notice*, NASD also is publishing information regarding the registration requirements for OATS reporting, as well as questions and answers regarding the application of the amended OATS reporting requirements. The amended OATS reporting requirements and OATS Phase III become effective May 8, 2006. In addition, NASD is publishing revised *OATS Reporting Technical Specifications*, incorporating the amendments described herein. The *OATS Reporting Technical Specifications* can be found on NASD's Web site at Regulatory Systems>OATS>Technical Specifications.

Questions/Further Information

Questions regarding this *Notice* may be directed to the Legal Section, Market Regulation, at (240) 386-5126; or 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

On March 6, 1998, the SEC approved the OATS Rules.² OATS provides a substantially enhanced body of information regarding orders and transactions that improves NASD's ability to conduct surveillance and investigations of member firms for potential violations of NASD rules and the federal securities laws. OATS is designed, at a minimum, to: (1) provide an accurate, time-sequenced record of orders and transactions, beginning with the receipt of an order at the first point of contact between the broker-dealer and the customer or counterparty and further documenting the life of the order through the process of execution; and (2) provide for market-wide synchronization of clocks used in connection with the recording of market events.

The OATS Rules generally impose obligations on member firms to record in electronic form and report to NASD on a daily basis certain information with respect to orders originated or received by NASD members relating to securities listed on NASDAQ. OATS captures this order information reported by NASD members and integrates it with quote and transaction information to create a time-sequenced record of orders and transactions. This information is critical to NASD staff in conducting surveillance and investigations of member firms for violations of federal securities laws and NASD rules.

The OATS requirements were implemented in three phases. All members were required to synchronize their computer system clocks and all mechanical clocks that record times for regulatory purposes by August 7, 1998, and July 1, 1999, respectively. In addition, in Phase I, electronic orders received at the trading department of a market maker and those received by electronic communication networks (ECNs) were required to be reported to OATS as of March 1, 1999. In Phase II, additional information relating to market maker and ECN electronic orders and all other electronic orders were required to be reported to OATS starting on August 1, 1999. As described in more detail below, the OATS Rules will apply to all manual orders (Phase III) as of May 8, 2006.³

Since the implementation of OATS, NASD staff has reviewed OATS activities with the goal of identifying ways in which to improve OATS and enhance its effectiveness as a regulatory tool. In this regard, NASD staff identified several changes to OATS that it believed would enhance NASD's automated surveillance for compliance with trading and market making rules such as Interpretive Material (IM) 2110-2, (commonly referred to as the "Manning Rule"), the SEC's Order Handling Rules and a member firm's best execution obligations. NASD proposed these changes in SR-NASD-00-23, which the SEC recently approved.

Specifically, on September 28, 2005, the SEC approved amendments to the OATS Rules to: (1) implement the OATS reporting requirements for manual orders (OATS Phase III); (2) provide that members are required to capture and report the time orders are received by the member from the customer for all orders; (3) expand the order transmittal requirements to include orders routed to a member's trading desk or trading department; (4) exclude certain members from the definition of "Reporting Member" for those orders that meet specified conditions and are recorded and reported to OATS by another member; and (5) permit NASD to grant exemptive relief from the OATS reporting requirements in certain circumstances to members that meet specified criteria.⁴

Implementation of OATS Phase III for Manual Orders

During Phase II, the OATS Rules apply only to orders in NASDAQ-listed securities that are captured in an electronic order routing or execution system. Upon implementation of Phase III, pursuant to Rule 6957(c), the OATS Rules will apply to all orders for NASDAQ securities received or originated by an OATS Reporting Member. This includes orders received via telephone, email or any other method. Accordingly, OATS reporting requirements will now apply equally to electronic orders and manual orders upon implementation of Phase III with two exceptions: (1) members will not be required to pass a routed order identifier for manually transmitted orders; and (2) members will be required to report the type of account⁵ for which the order is submitted only to the extent that information is available. NASD anticipates, however, that this account type information should be readily available for most OATS reportable orders.

Definition of Time of Receipt

Rule 6954 requires certain identifying information be recorded at various critical points during the life of an order, thereby assisting NASD in carrying out its regulatory responsibilities. In particular, Rule 6954(b)(16) requires that members record and report the date and time the order is originated or received by a Reporting Member ("time of receipt"). During OATS Phase II, which only applies to electronic orders, the time of receipt for an electronic order has been interpreted as the time an order is captured by a firm's electronic order handling or execution system. Upon the implementation of Phase III, the time of receipt for all orders, whether electronic or manual, will be the time the order is received by the member from the customer. As such, depending on the specific facts and circumstances, the time an order is captured in a member's electronic order handling or execution system may not be the time of receipt for OATS purposes.

Expansion of Order Transmittal Requirements

In addition to the time that an order is received by the customer, it also is critical to NASD automated surveillance systems that OATS capture the time that an order is received by the trading desk or department.⁶ Given that orders may be routed to multiple locations within a firm prior to reaching the trading desk, the amendments require firms to capture the various receipt times (customer receipt time, trading desk receipt time, etc.) by expanding the OATS order transmittal requirements that apply to intra-firm routes to include orders routed to the trading department.⁷ Specifically, if an order is not received immediately at the trading desk or department, members are required to capture information relating to the transfer of that order to the trading department under the order transmittal requirements of Rule 6954(c). The amended OATS Rules also require that members provide information on the nature of the department to which an order was transmitted, the number of shares to which the transmission applies, and any special handling requests. As with other technical requirements relating to OATS, NASD has specified in the *OATS Reporting Technical Specifications* how firms should report this information.

Exclusion from the Definition of "Reporting Member"

Certain members engage in non-discretionary order routing processes whereby, immediately after receipt of a customer order, the member routes the order, by electronic or other means, to another member ("receiving Reporting Member") for further routing or execution at the receiving Reporting Member's discretion. Currently, the OATS Rules generally require both the member with which the order originated and the receiving Reporting Member to create and report new order reports and possibly route reports.⁸ Because this may result in the receipt of duplicative information by OATS, the OATS Rules have been amended to require, in such instances, that only the receiving Reporting Member report OATS data. Accordingly, pursuant to Rule 6951(n), a member would not be required to report OATS data regarding an order, if the following conditions are met:

- (1) The member engages in a non-discretionary order routing process, pursuant to which it immediately routes, by electronic or other means, all of its orders to a single receiving Reporting Member;⁹
- (2) The member does not direct or maintain control over subsequent routing or execution by the receiving Reporting Member;
- (3) The receiving Reporting Member records and reports all information required under Rules 6954 and 6955 with respect to the order; and
- (4) The member has a written agreement with the receiving Reporting Member specifying the respective functions and responsibilities of each party to effect full compliance with the requirements of Rules 6954 and 6955.

In addition to eliminating the reporting of duplicative information to OATS, the amended rule will reduce the regulatory burdens on members, particularly smaller members, that route all their orders to another receiving Reporting Member by means of a non-discretionary order routing process, for execution or further routing purposes.¹⁰

Exemptive Relief from the OATS Reporting Requirements

New paragraph (d) of Rule 6955 and amended Rule 9610(a) permit NASD to grant exemptive relief to certain members from the reporting requirements of the OATS Rules under the procedures set forth in the Rule 9600 Series. Specifically, members that meet the following criteria would be eligible to request an exemption to the OATS reporting requirements for manual orders:

- (1) The member and current control affiliates and associated persons of the member have not been subject within the last five years to any final disciplinary action, and within the last 10 years to any disciplinary action involving fraud;
- (2) The member has annual revenues of less than \$2 million;
- (3) The member does not conduct any market making activities in NASDAQ equity securities;
- (4) The member does not execute principal transactions with its customers (with limited exceptions for error corrections); and
- (5) The member does not conduct clearing or carrying activities for other firms.

Any exemptive relief granted would expire no later than two years from the date the member receives the exemptive relief. At or prior to the expiration of a grant of exemptive relief, members meeting the specified criteria may request a subsequent exemption. In addition, NASD's exemptive authority will be in effect for five years from May 8, 2006.

The exemptive authority will provide NASD the ability to grant relief to members meeting the specified criteria in situations where, for example, reporting of such information would be unduly burdensome for the member or where temporary relief from the rules (in the form of additional time to achieve compliance) would permit the member to avoid unnecessary expense or hardship.

Members should note that this exemption is available only for manual orders and only relieves the member of its obligation to transmit to OATS all information required to be recorded under Rule 6954. Members that are granted an exemption still must record all information as required under Rule 6954 and be prepared to submit that information to NASD on an as-requested basis.

Implementation of the Amendments to the OATS Rules

In recognition of the technological burdens that may be imposed on members as a result of the new requirements, the implementation date for the amendments to the OATS Rules is six months from the date of this *Notice*, which coincides with the publication of the revised *OATS Reporting Technical Specifications* relating to SR-NASD-00-23. The revised *OATS Reporting Technical Specifications* can be found on NASD's Web site at Regulatory Systems>OATS>Technical Specifications. In addition, NASD will ensure that adequate time for testing is incorporated into the implementation schedule and will make the testing environment available as of March 27, 2006.

Registration for OATS Reporting

Members that have not previously been subject to the OATS Rules that now meet the definition of an OATS Reporting Member, and do not otherwise qualify for, and receive, an exemption from the OATS Rules, must register for OATS by completing a Subscriber Initiation and Registration Form (SIRF) and obtaining an OATS user ID and password. Firms may obtain a SIRF, along with detailed instructions for completing and submitting the form, on NASD's OATS Web site. Information on how to obtain the appropriate user IDs and passwords is also available on NASD's OATS Web site. Members must complete and submit a SIRF, as well as request a user ID and password by no later than April 24, 2006. Members that fail to complete and return a SIRF, as well as obtain a user ID and password by April 24, 2006, will be unable to report OATS data to NASD beginning May 8, 2006.

If a member qualifies for the exclusion from the definition of a Reporting Member under Rule 6951(n), that member must ensure that a valid written agreement, as required under Rule 6951(n)(4), is in place with the receiving Reporting Member by May 8, 2006. NASD will be monitoring firms' use of this exclusion closely and may periodically request a copy of written agreements as part of its routine OATS surveillance activities.

If a member chooses to request an exemption from the OATS Rules pursuant to Rule 6955(d), a written request must be submitted to NASD's Market Regulation Department by no later than February 1, 2006 to ensure that the request can be processed by May 8, 2006. NASD will make every effort to expeditiously review each request so that exemptions will be in place beginning May 8, 2006. NASD notes that members meeting the requirements for an exemption from the OATS Rules must formally request and obtain approval from NASD before the exemption becomes effective. Firms meeting the requirements for exemption, but that do not formally request such exemption, are not automatically exempted and will be in violation of the OATS Rules if they do not begin reporting OATS data on May 8, 2006.

Questions and Answers

To help members implement the amendments to the OATS Rules and OATS Phase III, NASD staff is publishing the following questions and answers relating to the OATS Rules.

- Q1. What types of orders in NASDAQ equity securities have to be reported to OATS under the new requirements?**
- A. All orders, including manual orders, in NASDAQ equity securities must be reported to OATS as of May 8, 2006, including, without limitation, orders received telephonically, orders received via email, orders received via the Internet, orders received at branch offices and orders received via Instant Messenger.
- Q2. Upon implementation of the new requirements, will all of the OATS reporting requirements for manual orders be the same as for electronic orders?**
- A. Yes, subject to two exceptions. First, although Routed Order Identifiers have been required for orders routed electronically to other members since March 1, 1999 and for orders routed electronically to ECNs since February 14, 2005, Routed Order Identifiers will not be required to be captured or passed for manually transmitted orders. Second, the account-type code (e.g., proprietary, retail, wholesale) is required for manual orders only if available.
- Q3. Are convertible securities and preferred securities subject to the OATS reporting requirements?**
- A. Yes. The OATS Rules apply to orders in all NASDAQ equity securities. There is no exclusion in the OATS Rules for convertible securities or preferred securities.
- Q4. My firm uses a third-party Internet service provider to capture orders. These orders sometimes are captured after trading hours and submitted in batch the next trading day. Further, the order receipt data is not transmitted by the third-party Internet service provider as part of the order data. Do I still have the responsibility to report order receipt time to OATS?**
- A. Yes. As with any requirement under the OATS Rules, the decision by a member to use a third-party provider does not change the member's obligation under the rules. As such, the member is required to capture order receipt time on all orders. The batching or other transmittal practices of a third-party provider would not change this requirement.

Q5. My firm receives an order via the Internet then reviews and releases the order to the routing system. What is the order receipt time?

A. The firm is required to capture order receipt time on all orders. The time of receipt is the time the order is received by the member from the customer. The review or other release practices of a firm would not change this requirement.

Q6. Customers type orders directly into my system and my firm does not take any calls. Does the order-received timestamp remain the time it is captured in my system?

A. In Phase II, the time of receipt for an electronic order is the time an order is captured by a firm's electronic order routing or execution system. In Phase III, the time of receipt, for both electronic and manual orders, is the time the order is received from the customer. If the firm's order-received timestamp captures the time the order is received from the customer, then no changes are required. If, however, the order-received timestamp captures the time the order is captured by the firm's order routing or execution system and such time differs from the customer order receipt time, then the firm will be required to record and report the order receipt time from the customer.

Q7. If my firm receives an order from its customer and immediately routes the order to the trading desk, is a Desk Report required?

A. If the time of receipt from the customer and time of transmittal to the trading desk occurs within the same second, no separate Desk Report will be required. A New Order Report is sufficient. However, if the time of receipt from the customer and the time of transmittal to the trading desk is greater than one second, a New Order Report and a Desk Report would be required.

Q8. How does the term "trading desk" or "trading department" apply, particularly for firms that do not have a trading desk?

A. NASD previously has issued guidance that the term "trading department" is intended to refer to the function within the firm that is responsible for executing orders in NASDAQ equity securities. This function includes a trading system where orders are executed automatically without trader intervention; or the trading department where orders are executed with the assistance of traders.¹¹

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- Q9. My firm sends 100 percent of its orders to our clearing firm and, therefore, I believe we meet the requirements of the exclusion to the definition of a Reporting Member. What do we need to have in our agreement with the clearing firm? Does this change how our clearing firm reports to OATS?**
- A. A member can qualify for an exclusion from the definition of Reporting Member if it meets the conditions set forth in Rule 6951(n). Your firm must ensure that it meets and continues to meet each of the conditions necessary for the exclusion. All written documents evidencing the agreement between your firm and the clearing firm must be maintained by each party to the agreement. The receiving Reporting Member responsible for OATS reporting will be required to identify the sending member in each New Order Report and include a code indicating the sending member is a member that qualifies for exclusion from the definition of OATS Reporting Member under Rule 6951(n). This code indicating the exclusion should be included in the Member Type Code Field on the New Order, Combined Order/Route and Combined Order/Execution Reports.
- Q10. My firm meets only one of the conditions to the exclusion from the definition of Reporting Member set forth in Rule 6951(n). Am I subject to the OATS reporting requirements for manual orders?**
- A. Yes. Your firm must meet and continue to meet all of the conditions necessary for the exclusion, not just one. As such, to the extent a member does not meet any or all of the conditions for the exclusion, the member would then be deemed a Reporting Member.
- Q11. My firm uses our clearing firm's system and sends 100 percent of our orders to the clearing firm. However, we maintain the capability to route orders to other destinations. Does my firm still have the responsibility to report to OATS?**
- A. Pursuant to Rule 6951(n), one of the conditions for a firm not to be considered a "Reporting Member" for purposes of OATS is that the firm engage in a non-discretionary order routing process pursuant to which it immediately routes, by electronic or other means, all of its orders to a single receiving Reporting Member. As such, 100 percent of the firm's orders must be routed to the same reporting member. If the member accepts and routes an order to another venue, or executes an order internally, that member would no longer meet the exclusion to the definition of Reporting Member and would be required to report OATS data for all of its orders, including those sent to its clearing firm on a non-discretionary basis.

Q12. My firm is a correspondent of a clearing firm to which I send 100 percent of our orders. On occasion, my firm receives a directed order from a customer with instructions to send to a venue other than our clearing firm. Although I enter the order into my clearing firm's system, neither our firm nor our clearing firm has discretion over the order. Would my firm have an OATS reporting responsibility for these orders?

A. Yes. One of the primary reasons for including an exclusion to the definition of Reporting Member under Rule 6951(n) is to reduce duplicative reporting. If your firm routes orders to multiple venues, as in this example, away from your clearing firm, NASD no longer is assured it will receive all information regarding your orders required by the OATS Rules from a single Reporting Member. Consequently, to ensure NASD has a complete audit trail, once even a single order is directed away from your clearing firm, either based on your own discretion or at the instruction of a customer, your firm no longer qualifies for the exclusion to Reporting Member under Rule 6951(n) and must begin reporting to OATS.

Q13. What does it mean that a member does not direct or maintain control over subsequent routing or execution by the receiving Reporting Member in the context of the exclusion to Reporting Member under Rule 6951(n)?

A. To qualify for the exclusion under Rule 6951(n), all orders must be routed to the receiving Reporting Member on a non-discretionary basis. If the receiving Reporting Member provides the ability for the member to direct an order to a venue other than the receiving Reporting Member for execution and the member directs any orders away from the receiving Reporting Member, the member would not qualify for the exclusion. If the member relies on the receiving Reporting Member, or a system provided by the receiving Reporting Member, to determine where the order is routed for execution, the member will not be viewed as directing or maintaining control over subsequent routing or execution by the receiving Reporting Member for purposes of Rule 6951(n).

Q14. How does my firm apply for an exemption to the OATS Rules pursuant to Rule 6955(d)?

A. NASD Rule 9600 Series details the procedures for submitting an exemption request to NASD. Specifically, the Rule 9600 Series requires that exemption requests include the member's name and address, the name of a person associated with the member who will serve as the primary contact for the application, the rule from which the member is seeking an exemption, and a detailed statement of the grounds for granting the exemption. Further, if the member does not want the application or the decision on the application to be publicly available in whole or in part, the member must include a detailed statement, including supporting facts, showing good cause for treating the application or decision as confidential in whole or in part.

Detailed exemption request procedures, including a list of all required supporting documentation, will be published shortly on NASD's OATS Web site. To ensure that exemption requests can be processed prior to the May 8, 2006 implementation date, exemption requests must be submitted to NASD no later than February 1, 2006.

Q15. If granted an exemption pursuant to Rule 6955(d), will I be exempt from all OATS requirements?

A. No. Exemptions will be granted only for members' order transmission requirements under Rule 6955 related to manual orders. Even if an exemption is granted, members will still be required to record and maintain OATS data as required under Rule 6954.

Q16. My firm meets all of the exemption criteria set forth in Rule 6955(d), but we do execute a principal transaction once every six months. Can I still apply for an exemption?

A. No. One criterion for the exemptive relief is that the member does not execute principal transactions with its customers, other than limited exceptions for error corrections. As such, a member that executes a principal transaction with its customer, even if infrequently, will not be eligible for exemptive relief.

Q17. Does an exemption expire immediately if one of the criteria for exemption is no longer true?

A. Yes. Members are required to continuously meet each of the criteria set forth in Rule 6955(d) to qualify for the exemption. As such, to the extent that a member no longer meets all of the threshold exemption criteria, the member would not be eligible for exemptive relief and, thus, would be required to immediately report to OATS.

Endnotes

- 1 See Securities Exchange Act Release No. 52521 (September 28, 2005), 70 FR 57909 (October 4, 2005) (File No. SR-NASD-00-23).
- 2 See Securities Exchange Act Release No. 39729 (March 6, 1998), 63 FR 12559 (March 13, 1998).
- 3 See Rule 6957(c).
- 4 See *supra* note 1.
- 5 The account type code reflects whether the order was received for the account of an investor, received from another broker-dealer, originated by the member for a proprietary account, or received for the account of an employee.
- 6 For purposes of the OATS Rules, the term "trading department" refers to the function within the firm that is responsible for executing orders in NASDAQ equity securities. For an ECN, for example, this may be interpreted as either the trading system (where orders are executed automatically without trader intervention) or the trading department (where orders are executed with the assistance of traders). See Letter from NASD Regulation to Charles R. Hood, dated July 30, 1998.
- 7 See amendments to Rule 6954(c). In furtherance of this provision, the *OATS Reporting Technical Specifications* require that this information be reported to OATS via a "Desk Report" or by populating desk information on the New Order, Combined Order/Route or Combined Order/Execution Reports.
- 8 OATS Frequently Asked Questions C29 provides that in instances where a member uses another member firm's electronic order routing or execution system to route orders for execution by that same member firm, the originating member would not be required to report OATS data until Phase III.
- 9 If any delay results in the routing of an order due to systems problems or other reasons, the member with which the order originated would be required to report OATS data.
- 10 This exclusion does not change a member's requirement to capture and retain the time an order was received from a customer under SEC Rule 17a-3(a)(6).
- 11 See Letter from NASD Regulation to Charles R. Hood, dated July 30, 1998.

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ATTACHMENT A

New language is underlined; deletions are in brackets.

6951. Definitions

For purposes of Rules 6950 through 6957:

(a) through (m) No Change.

(n) "Reporting Member" shall mean a member that receives or originates an order and has an obligation to record and report information under Rules 6954 and 6955. A member shall not be considered a Reporting Member in connection with an order, if the following conditions are met:

(1) the member engages in a non-discretionary order routing process, pursuant to which it immediately routes, by electronic or other means, all of its orders to a single receiving Reporting Member;

(2) the member does not direct and does not maintain control over subsequent routing or execution by the receiving Reporting Member;

(3) the receiving Reporting Member records and reports all information required under Rules 6954 and 6955 with respect to the order; and

(4) the member has a written agreement with the receiving Reporting Member specifying the respective functions and responsibilities of each party to effect full compliance with the requirements of Rules 6954 and 6955.

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6954. Recording of Order Information

(a) No Change.

(b) Order Origination and Receipt

Unless otherwise indicated, the following order information must be recorded under this Rule when an order is received or originated. For purposes of this Rule, the order origination or receipt time is the time the order is received from the customer.

(1) through (18) No Change.

(c) Order Transmittal

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

(1) When a Reporting Member transmits an order to a[nother] department within the member, [other than to the trading department,] the Reporting Member shall record:

(A) through (C) No Change.

(D) an identification of the department and nature of the department to which the order was transmitted, [and]

(E) the date and time the order was received by that department,

(F) the number of shares to which the transmission applies, and

(G) any special handling requests.[:]

(2) through (6) No Change.

(d) No Change.

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6955. Order Data Transmission Requirements

(a) through (c) No Change.

(d) Exemptions

(1) Pursuant to the Rule 9600 Series, the staff, for good cause shown after taking into consideration all relevant factors, may exempt, subject to specified terms and conditions, a member from the order data transmission requirements of this Rule for manual orders, if such exemption is consistent with the protection of investors and the public interest, and the member meets the following criteria:

(A) the member and current control affiliates and associated persons of the member have not been subject within the last five years to any final disciplinary action, and within the last ten years to any disciplinary action involving fraud;

(B) the member has annual revenues of less than \$2 million;

(C) the member does not conduct any market making activities in Nasdaq Stock Market equity securities;

(D) the member does not execute principal transactions with its customers (with limited exception for principal transactions executed pursuant to error corrections); and

(E) the member does not conduct clearing or carrying activities for other firms.

(2) An exemption provided pursuant to this paragraph (d) shall not exceed a period of two years. At or prior to the expiration of a grant of exemptive relief under this paragraph (d), a member meeting the criteria set forth in paragraph (d)(1) may request, pursuant to the Rule 9600 Series, a subsequent exemption, which will be considered at the time of the request, consistent with the protection of investors and the public interest.

(3) This paragraph shall be in effect until May 8, 2011.

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6957. Effective Date

The requirements of the Order Audit Trail System shall be effective in accordance with the following schedule:

(a) and (b) No Change.

(c) Manual Orders

The requirements of the Order Audit Trail System shall be effective six months after publication of the revised *OATS Reporting Technical Specifications* relating to [120 days after SEC approval of] SR-NASD-00-23, for all manual orders, provided that firms shall be required to report information item (18) specified in Rule 6954(b) only to the extent such item is available to them [and shall not be required to record and report information items (4) and (5) specified in Rule 6954(b) and information item (1) specified in Rule 6954(c)].

(d) No Change.

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9600. Procedures For Exemptions

9610. Application

(a) Where to File

A member seeking an exemption from Rule 1021, 1022, 1070, 2210, 2320, 2340, 2520, 2710, 2720, 2810, 2850, 2851, 2860, Interpretive Material 2860-1, 3010(b)(2), 3020, 3210, 3230, 3350, 6955, 8211, 8212, 8213, 11870, or 11900, Interpretive Material 2110-1, or Municipal Securities Rulemaking Board Rule G-37 shall file a written application with the appropriate department or staff of NASD and provide a copy of the application to the Office of General Counsel of NASD.

(b) and (c) No Change.