

Notice to Members

APRIL 2006

SUGGESTED ROUTING

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

KEY TOPICS

OATS
Rules 6950 - 6958
Rule 9610(a)

GUIDANCE

OATS Reporting Requirements

NASD Extends Compliance Date for Recent Amendments to NASD's Order Audit Trail System Rules; **Compliance Date: July 10, 2006**

Executive Summary

In November 2005, NASD issued *Notice to Members (NTM) 05-78* announcing Securities and Exchange Commission (SEC) approval of amendments to Rules 6950 through 6957 (OATS Rules) relating to the Order Audit Trail System (OATS), as well as questions and answers regarding the application of the amended OATS reporting requirements. In April 2006, NASD issued *NTM 06-15* announcing SEC approval of further amendments to the OATS Rules that expanded NASD's exemptive authority relating to manual orders to include the OATS electronic recording requirements. The compliance date of these amendments was May 8, 2006. NASD is issuing this *Notice* to advise members that on April 20, 2006, NASD filed a rule change for immediate effectiveness to extend the compliance date of these recent amendments to **July 10, 2006**.¹ The text of Rules 6957(c) and 6958(c), as amended, is set forth in Attachment A.

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. Detailed information relating to OATS may be found on NASD's OATS Web site at www.nasd.com/oats.

Discussion

On September 28, 2005, the SEC approved amendments to the OATS Rules.² 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 for manual orders to members that meet specified criteria.

On March 30, 2006, the SEC approved further amendments to the OATS Rules that expand NASD's OATS exemptive authority relating to manual orders to include electronic recording requirements.³ As amended, NASD has the authority to grant exemptive relief from the OATS electronic recording and reporting requirements for manual orders to members that meet specified criteria.

As described in *NTMs 05-78* and *06-15*, the compliance date of these amendments was scheduled for May 8, 2006. Since approval of these amendments, certain firms and service bureaus have requested that the compliance date of the amended OATS requirements be delayed, noting the significant technological changes required to implement the OATS requirements for manual orders, in particular. In response to the concerns raised by firms and service bureaus, on April 20, 2006, NASD filed a rule change for immediate effectiveness to extend the compliance date to July 10, 2006. NASD believes that the extended effective date will assist firms by providing additional time to ensure that all the necessary system changes can be tested and implemented, thereby helping to ensure the integrity and accuracy of OATS data.

In addition, as described in *NTM 06-15*, NASD has granted exemptions from the OATS requirements for a period of six months to those members that meet the specified criteria set forth in Rule 6958. Exemptions granted thus far were scheduled to begin on May 8, 2006 and expire on November 8, 2006. Given the delayed compliance date, all exemptions granted to date will commence on July 10, 2006 and expire on January 10, 2007. Members already granted exemptions need not resubmit an exemption request to extend their exemption to January 10, 2007.

Endnotes

- 1 See File No. SR-NASD-2006-052.
- 2 See Securities Exchange Act Release No. 52521 (September 28, 2005), 70 FR 57909 (October 4, 2005) (File No. SR-NASD-00-23). See also *NTM 05-78* (November 2005).
- 3 See Securities Exchange Act Release No. 53580 (March 30, 2006), 71 FR 17529 (April 6, 2006) (File No. SR-NASD-2006-040). See also *NTM 06-15* (April 2006).

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ATTACHMENT A

New language is underlined; deletions are in brackets.

6950. Order Audit Trail System

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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 on July 10, 2006[six months after publication of the revised *OATS Reporting Technical Specifications*] relating to 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.

(d) No Change.

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6958. Exemption to the Order Recording and Data Transmission Requirements

(a) through (b) No Change.

(c) This Rule shall be in effect until July 10, 2011[May 8, 2011].