

Securities and Exchange Commission

§ 240.11Ab2-1

(e) *Appeals.* The Commission may, in its discretion, entertain appeals in connection with the implementation or operation of any effective national market system plan as follows:

(1) Any action taken or failure to act by any person in connection with an effective national market system plan (other than a prohibition or limitation of access reviewable by the Commission pursuant to section 11A(b)(5) or section 19(d) of the Act) shall be subject to review by the Commission, on its own motion or upon application by any person aggrieved thereby (including, but not limited to, self-regulatory organizations, brokers, dealers, issuers, and vendors), filed not later than 30 days after notice of such action or failure to act or within such longer period as the Commission may determine.

(2) Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of any such action unless the Commission determines otherwise, after notice and opportunity for hearing on the question of a stay (which hearing may consist only of affidavits or oral arguments).

(3) In any proceedings for review, if the Commission, after appropriate notice and opportunity for hearing (which hearing may consist solely of consideration of the record of any proceedings conducted in connection with such action or failure to act and an opportunity for the presentation of reasons supporting or opposing such action or failure to act) and upon consideration of such other data, views and arguments as it deems relevant, finds that the action or failure to act is in accordance with the applicable provisions of such plan and that the applicable provisions are, and were, applied in a manner consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system, the Commission, by order, shall dismiss the proceeding. If the Commission does not make any such finding, or if it finds that such action or failure to act imposes any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, the Commission, by

order, shall set aside such action and/or require such action with respect to the matter reviewed as the Commission deems necessary or appropriate in the public interest, for the protection of investors, and the maintenance of fair and orderly markets, or to remove impediments to, and perfect the mechanisms of, a national market system.

(f) *Exemptions.* The Commission may exempt from the provisions of this section, either unconditionally or on specified terms and conditions, any self-regulatory organization, member thereof, or specified security, if the Commission determines that such exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system.

(Secs. 2, 3, 6, 9, 10, 15, 17, and 23, Pub. L. 78-291, 48 Stat. 881, 882, 885, 889, 891, 895, 897, and 901, as amended by secs. 2, 3, 4, 11, 14, and 18, Pub. L. 94-29, 89 Stat. 97, 104, 121, 137, and 155 (15 U.S.C. 78b, 78c, 78f, 78i, 78j, 78o, 78q, and 78w); sec. 15A, as added by sec. 1, Pub. L. 75-719, 52 Stat. 1070, as amended by sec. 12, Pub. L. 94-29, 89 Stat. 127 (15 U.S.C. 78-3); sec. 11A, as added by sec. 7, Pub. L. 94-29, 89 Stat. 111 (15 U.S.C. 78k-1); 15 U.S.C. 78a *et seq.*, as amended by Pub. L. 84-29 (June 4, 1975) and by Pub. L. 98-38 (June 6, 1983), particularly secs. 11A, 15, 19 and 23 thereof (15 U.S.C. 78k-1, 78o, 78s and 78w))

[46 FR 15870, Mar. 10, 1981, as amended at 48 FR 53690, Nov. 29, 1983]

§ 240.11Ab2-1 Registration of securities information processors: Form of application and amendments.

(a) An application for the registration of a securities information processor shall be filed on Form SIP in accordance with the instructions contained therein.

(b) If any information reported in items 1-13 or item 21 of Form SIP or in any amendment thereto is or becomes inaccurate for any reason, whether before or after the registration has been granted, the securities information processor shall promptly file an amendment on Form SIP correcting such information.

(c) The Commission, upon its own motion or upon application by any securities information processor, may

conditionally or unconditionally exempt any securities information processor from any provision of the rules or regulations adopted under section 11A(b).

(d) Every amendment filed pursuant to this section shall constitute a “report” within the meaning of sections 17(a), 18(a) and 32(a) of the Act.

[40 FR 45424, Oct. 2, 1975]

§ 240.11Ac1-1 Dissemination of quotations.

(a) *Definitions.* For the purposes of this section:

(1) The term *aggregate quotation size* shall mean the sum of the quotation sizes of all responsible brokers or dealers who have communicated on any exchange bids or offers for a covered security at the same price.

(2) The term *association* shall mean any association of brokers and dealers registered pursuant to Section 15A of the Act (15 U.S.C. 78o-3).

(3) The terms *best bid* and *best offer* shall mean the highest priced bid and the lowest priced offer.

(4) The terms *bid* and *offer* shall mean the bid price and the offer price communicated by an exchange member or OTC market maker to any broker or dealer, or to any customer, at which it is willing to buy or sell one or more round lots of a covered security, as either principal or agent, but shall not include indications of interest.

(5) The term *consolidated system* means the consolidated transaction reporting system, including a transaction reporting system operating pursuant to an effective national market system plan.

(6) The term *covered security* shall mean any reported security and any other security for which a transaction report, last sale data or quotation information is disseminated through an automated quotation system as described in Section 3(a)(51)(A)(ii) of the Act (15 U.S.C. 78c(a)(51)(A)(ii)).

(7) The term *effective transaction reporting plan* shall have the meaning provided in § 240.11Aa3-1(a)(3).

(8) The term *electronic communications network*, for the purposes of § 240.11Ac1-1(c)(5), shall mean any electronic system that widely disseminates to third parties orders entered therein by an ex-

change market maker or OTC market maker, and permits such orders to be executed against in whole or in part; except that the term electronic communications network shall not include:

(i) Any system that crosses multiple orders at one or more specified times at a single price set by the ECN (by algorithm or by any derivative pricing mechanism) and does not allow orders to be crossed or executed against directly by participants outside of such times; or

(ii) Any system operated by, or on behalf of, an OTC market maker or exchange market maker that executes customer orders primarily against the account of such market maker as principal, other than riskless principal.

(9) The term *exchange market maker* shall mean any member of a national securities exchange (“exchange”) who is registered as a specialist or market maker pursuant to the rules of such exchange.

(10) The term *exchange-traded security* shall mean any covered security or class of covered securities listed and registered, or admitted to unlisted trading privileges, on an exchange; *provided, however*, That securities not listed on any exchange that are traded pursuant to unlisted trading privileges are excluded.

(11) The term *make available*, when used with respect to bids, offers, quotation sizes and aggregate quotation sizes supplied to quotation vendors by an exchange or association, shall mean to provide circuit connections at the premises of the exchange or association supplying such data, or at a common location determined by mutual agreement of the exchanges and associations, for the delivery of such data to quotation vendors.

(12) The term *odd-lot* shall mean an order for the purchase or sale of a covered security in an amount less than a round lot.

(13) The term *OTC market maker* shall mean any dealer who holds itself out as being willing to buy from and sell to its customers, or otherwise, a covered security for its own account on a regular or continuous basis otherwise than on an exchange in amounts of less than block size.