

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 2156/December 19, 2014

ADMINISTRATIVE PROCEEDING
File No. 3-15350

In the Matter of the Application of

SECURITIES INDUSTRY AND FINANCIAL
MARKETS ASSOCIATION

For Review of Actions Taken by
Self-Regulatory Organizations

ORDER FOLLOWING
PREHEARING CONFERENCE
AND ORDER FOR ANOTHER
PREHEARING CONFERENCE ON
SUBPOENAS

On May 16, 2014, the Securities and Exchange Commission (Commission) issued an Order Establishing Procedures and Referring Applications for Review to Administrative Law Judge for Additional Proceedings. *Sec. Indus. & Fin. Mkts. Ass'n*, Securities Exchange Act of 1934 Release No. 72182, 2014 SEC LEXIS 1686. A prehearing conference was held on June 23, 2014. A procedural schedule was put in place and modified on November 21, 2014, and a hearing is scheduled to begin on April 20, 2015. *Sec. Indus. & Fin. Mkts. Ass'n*, Admin. Proc. Rulings Release No. 2042, 2014 SEC LEXIS 4435.

On December 18, 2014, I held a prehearing conference to consider the Securities Industry and Financial Markets Association's (SIFMA) request filed December 5, 2014, for two subpoenas duces tecum (subpoenas) to the NASDAQ Stock Market LLC (NASDAQ) and the NYSE Arca, Inc. (NYSE Arca, collectively the Exchanges), each including ten document requests. The Exchanges submitted a letter stating their position on the subpoenas on December 17, 2014.

At the prehearing conference, I ruled that: (1) the first and second document requests should be granted as modified below, as agreed upon at the prehearing conference; (2) the third request was denied because the Exchanges agreed to produce documents responsive to that request on January 20, 2015; (3) the tenth document request was withdrawn; and (4) the Exchanges agreed to provide the materials called for in the fifth request to SIFMA by February 9, 2015. Finally, SIFMA will file on December 19, 2014, a revised subpoena for requests four and six through nine. The Exchanges will file written oppositions on December 29, 2014.

The subpoenas are modified¹ as follows:

¹ These modifications are entered for the sake of timeliness, without access to the prehearing conference transcript. If the transcript is different, I will make corrections. If the parties believe

1. The NASDAQ subpoena, document request #1, is modified to read that NASDAQ shall produce, “Documents sufficient to identify the total number of subscribers to each and all of Your depth-of-book products and any changes in the number of subscribers on a monthly basis from August 1, 2006 to the present.”
2. The NYSE Arca subpoena, document request #1, is modified to read that NYSE Arca shall produce, “Documents sufficient to identify the total number of subscribers to each and all of Your depth-of-book products and any changes in the number of subscribers on a monthly basis from August 1, 2006 to the present.”
3. The NASDAQ subpoena, document request #2, is modified to read that NASDAQ shall produce, “All Documents sufficient to identify the fees paid by subscribers for each and all of Your depth-of-book data products that are at issue in this proceeding on a monthly basis from August 1, 2006 to the present.”
4. The NYSE Arca subpoena, document request #2, is modified to read that NYSE Arca shall produce, “All Documents sufficient to identify the fees paid by subscribers for each and all of Your depth-of-book data products that are at issue in this proceeding on a monthly basis from August 1, 2006 to the present.”

The subpoenas are returnable on January 27, 2015.²

I ORDER a telephonic prehearing conference on Tuesday, December 30, 2014, at 10:00 a.m. EST unless the parties can resolve the dispute over document requests four and six through nine of the subpoenas.

Brenda P. Murray
Chief Administrative Law Judge

these modifications do not reflect the substance of what was agreed to they should file proposed modifications ASAP.

² The return date for documents #1 and #2 was not discussed at the prehearing conference. I have chosen January 27, 2015, so that the Exchanges can concentrate on their presentation due January 20, 2015 and SIFMA will receive the data well before its February 23, 2015, due date.