KOR TRADING LLC

October 1st, 2012

Via Electronic Submission

Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

RE: File No. 4-652; Market Technology Roundtable

Dear Ms. Murphy:

KOR Trading LLC ("KOR")[1] appreciates the opportunity to comment on the above Securities and Exchange Commission "Commission" Market Technology Roundtable entitled: "Promoting Stability in Today's Markets" which seeks to promote stability, prevent errors and achieve and best practices in today's highly automated trading environment.

KOR summarizes below the following recommendations the Commission, Congress and Regulatory agencies should undertake to bolster the safety and security of our National Market System:

- Strengthen compliance and oversight of Rule 15c3-5.
- That FINRA update rule 3130 requiring Brokers and Dealers to certify Compliance and Supervisory systems to no less than quarterly.
- Expand rule 15c3-5 to Self Regulatory Organizations.
- SRO's should seek to institute position or credit limits
- The need to slow down the rule making process and to allow participants more time to comment.
- Remove language from Section 19(b) of the Exchange Act allowing SRO's to file immediately effective rulemaking.
- Repeal of Section 916 of Dodd-Frank.
- Commission should act quickly to institute a Retro-respective review existing rulemaking.
- Reviews should be conducted utilizing empirical evidence.

[1] KOR Trading LLC brings over 26 years of experience helping retail investors with market-structure related issues and serves to consult retail investors, Exchanges, Alternative trading systems, broker-dealers and advisors on structural, regulatory and political issues. Further information about KOR Trading LLC can be found on the company website: www.kortrading.com .

Tactical Measures – *Ensure Pre-Trade and Post-Trade risk analysis*

KOR met with members of the Commission's division of Trading and Markets on August 3rd, 2012 shortly after the events of August 1st which caused a broker-dealer to lose more than $440 million dollars in 30 minutes. Among other items, KOR discussed tactical measures the Commission could consider undertaking to strengthen pre-trade and post-trade risk management. In particular, KOR recommended;

1. That the Commission Strengthen compliance and oversight of Rule 15c3-5 - Risk Management Controls for Brokers or Dealers with Market Access[2]. Rule 15c3-5 should have provided sufficient pre-trade compliance that the event of August 1st, could have been avoided, or should have been significantly smaller in scope. Additionally, the immediate post-trade execution reports required under the rule should have served to alert surveillance and compliance personnel of the impending issue.

   > "Rule 15c3-5 requires Brokers or Dealers with market access to establish, document and maintain a system of risk management controls and supervisory procedures that among other things, are reasonably designed to (1) systematically limit the financial exposure of the broker or dealer that could arise as a result of market access and (2) to ensure compliance with all regulatory requirements that are applicable in connection with market access." Namely the rule requires brokers or dealers to:
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   > - prevent the entry of orders unless there has been compliance with all regulatory requirements that must be satisfied on a pre-order entry basis; and
   >
   > - Prevent the entry of orders that the broker-dealer or customer is restricted from trading, restrict market access technology and systems to authorized persons, and assure appropriate surveillance personnel receive immediate post-trade execution reports.

As previously indicated, KOR believes the Commission should seek to bolster oversight and compliance of rule 15c3-5. KOR also recommends that FINRA update rule 3130[3] moving the requirement of Brokers and Dealers to certify Compliance and Supervisory systems to no less than quarterly.

2. Implementation of Position limits or credit limits by exchanges – Trading errors like the one of August 1st are fairly common to the markets which was one of the considerations of the Commission when drafting the proposing release of 15c3-5[4]. Among other items noted above, Rule 15c3-5 also requires brokers and dealers to "prevent the entry of orders that exceed appropriate pre-set credit or capital thresholds." 15c3-5 again should have prevented the issue; however, in this regard the rule is vague and does not place emphasis on what is an appropriate level of capital commitment. Additionally, the rule only applies to brokers and dealers such as ATS systems.

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[2] See final rule of adopting release: http://www.sec.gov/rules/final/2010/34-63241.pdf
[3] See: http://finra.complinet.com/en/display/display_main.html?rbid=2403&element_id=6286
[4] See http://www.sec.gov/rules/proposed/2010/34-61379.pdf page 9.

KOR therefore recommends that the Commission seek to expand rule 15c3-5 to Self Regulatory Organizations. At the very least, KOR believes that SRO's should seek to institute position or credit limits that would serve not to deter trading but act as a backstop to the broker or dealers systems. KOR suggests that credit or position limits could be based on the overall capital level of the broker or dealer.

Fundamental Measures – *SRO Rulemaking is outdated and in need of reform*

KOR believes that the SRO rulemaking process is outdated and in need of reform and should be at the center of the debate. Today, SRO's file rules under Section 19(b) of Exchange Act of 1934 and more specifically under rule 19(b)(7)(c) which has changed little since adopted over 78 years ago[5]. When those rules were adopted, Exchanges were mutually owned "not-for-profit" organizations whose goal was to serve the public and their associated members. Fast forward 78 years and virtually all registered exchanges trade as "for-profit" publically traded companies. By transforming to public companies exchanges have inserted a inherent conflict of interest as rather than serving their members and the investing public, exchange goals have morphed to appease their public shareholders who in-turn seek value from the risk of their equity investment.

In no other industry can a for-profit publically traded organization create and enforce industry regulations and market standards which, in many instances are immediately effective[6]. Moreover, Section 916 of the Dodd-Frank Wall Street Reform and Consumer Protection Act[7] has introduced a dangerous precedence by forcing expedited filings from the "for-profit" SRO's. The combination has led to an unprecedented amount of SRO rule filings which have put significant strain on an already fragile market-structure.

KOR reviewed the recent notable and publicized market events such as the BATS Trading IPO issue, The Nasdaq Facebook IPO and the Knight Capital Markets trading issue. Not surprisingly, all three issues can be traced back to coding and order-type changes pursuant to SRO filings and most were filed with immediate effectiveness.

- In the case of the BATS Exchange failed IPO of March 23rd, 2012, BATS notes the issue was caused by a line of code that was updated in anticipation of the IPO[8]. While BATS did institute rule filings which required expedited processing for commission approval under

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[5] Because Section 19(b)(7)(C) of the Act states that filings abrogated pursuant to this Section should be re-filed pursuant to paragraph (b)(1) of Section 19 of the Act, SROs are required to file electronically such proposed rule changes in accordance with form 19b-4. See about form 19b-4: http://www.sec.gov/about/forms/form19b-4.pdf

[6] Securities Act of 1934 Section 19(F)(ii) NOTICE AND COMMENT NOT REQUIRED.—The rules promulgated by the commission under clause (i) are not required to include republication of proposed rule changes or solicitation of public comment. (3)(A) Notwithstanding the provisions of paragraph (2) of this subsection, a proposed rule change shall take effect upon filing with the Commission if designated by the self-regulatory organization as (i) constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization, (ii) establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization, or (iii) concerned solely with the administration of the self-regulatory organization or other matters which the Commission, by rule, consistent with the public interest and the purposes of this subsection, may specify as without the provisions of such paragraph (2). (B) Notwithstanding any other provision of this subsection, a proposed rule change may be put into effect summarily if it appears to the Commission that such action is necessary for the protection of investors, the maintenance of fair and orderly markets, or the safeguarding of securities or funds. Any proposed rule change so put into effect shall be filed promptly thereafter in accordance with the provisions of paragraph.

[7] See H.R. 4173, 111th Congress passed July 15th 2010

[8] See http://www.sec.gov/comments/4-652/4652-15.pdf

Section 916 of Dodd-Frank[9], BATS subsequently submitted a filing and immediate effectiveness of a proposed rule change to modify exchange rule 11.23 relating to auctions of Exchange-Listed Securities on February 10th, 2012[10]; just 26 business days's prior to the launch of their failed IPO offering.

- In the case of Nasdaq's botched Facebook IPO, Nasdaq submitted many filings prior to the Facebook IPO[11] but two particular stand out. While not specific that the filings were at the root of the issue Facebook IPO, they no doubt played a part in the overall scheme and in particular, Nasdaq's Filing and Immediate effectiveness of Rule 4120 to adopt a modification in the process for initiating trading of a security that is the subject of an initial public offering (an "IPO"). The change, filed on March 19th, 2012 required coding changes with Nasdaq from brokers and dealers to a specific order type who route to Nasdaq. Neither of the rules described above, nor Nasdaq's filing on Rule 4753 in January 27th [12] which was also filed as immediate effectiveness, received any comment.

- In the case of Knight Capital Markets trading issue, the cause appears that it can be traced to coding changes required as a result of NYSE's new order-type entitled, Retail Liquidity Program filing[13]. While the original filing required expedited approval under Section 916 of Dodd-Frank, The Commission duly realized the complex nature of the program and delayed approval two times (the maximum allowed) until its final approval on July 3rd, 2012. While one would surmise that there was ample time for testing and coding changes, consider that the rule was adopted on July 3rd and NYSE implemented the program on August 1st, just 19 business days post approval. Moreover, the fee structure of the program was not filed until July 18th, 2012 as immediately effective to commence August 1, 2012, just 9 business days prior to implementation. Without a doubt there was little time for the industry to comprehend and program the code necessary to interact with the new order-type.

KOR believes the above issues demonstrate the clear need to slow down the rule making process and to allow participants and the public more time to comment. KOR recommends that the Commission seek remove language from Section 19(b) of the Exchange Act allowing SRO's to file immediately effective rulemaking. KOR also recommends the repeal of Section 916 of Dodd-Frank which has created undue strain on the ability to study, review and recommend responsible rules.

Finally, KOR believes that the Commission act quickly to institute a Retro-respective review existing rulemaking as was proposed on July 11, 2011 as a result of Presidential Executive Order 13579[14]. KOR believes the reviews should be conducted utilizing empirical evidence and should be conducted on a regular basis as was noted in the SEC memorandum from Division of Risk, Strategy, and Financial Innovation and the Office of General Council[15].

[9] See Release No. 34-65266; File No. SR-BATS-2011-032
[10] Release No. 34-66380; File No. SR-BATS-2012-009
[11] Release No. 34-66652; File No. SR-NASDAQ-2012-038, Release No. 34-67024; File No. SR-NASDAQ-2012-060
[12] Release No. 34-66275; File No. SR-NASDAQ-2012-019
[13] Release No. 34-67347; File Nos. SR-NYSE-2011-55; SR-NYSEAmex-2011-84
[14] Release Nos. 33-9257; 34-65262; 39-2479; IA-3271; IC-29781; File No. S7-36-11
[15] See Memorandum from the office of RFSI and OGC to the staff of Rule writing Divisions and Offices dated March 16, 2012.

KOR Trading appreciates the opportunity to comment on the Commissions Technology Roundtable and commends the Commission for their prompt attention to promote stability, prevent errors and achieve and best practices in today's highly automated trading environment. Should you have any questions or require further information, please do not hesitate to contact Christopher Nagy at 402-312-7918.

Sincerely,

Christopher Nagy
President
KOR Trading LLC