



Liquidnet, Inc.
498 Seventh Avenue, 12th Floor
New York, NY 10018
T 646 674 2000 F 646 674 2003
www.liquidnet.com

August 30, 2007

Sent via rules-comment@sec.gov

Ms. Nancy M. Morris
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549

**Re: Comments by Liquidnet, Inc. in Response to Release No. 34-56096
File Number SR-NASDAQ-2007-037**

Dear Ms. Morris:

Liquidnet, Inc. appreciates the opportunity to submit this comment letter in response to Securities and Exchange Commission ("Commission") Release Number 34-56096 (the "Release"). In the Release, the Commission approved a proposed rule change by The Nasdaq Stock Market LLC ("NASDAQ") to exempt proprietary trading firms from order audit trail system ("OATS") transmission requirements.

We disagree with the disparate treatment of principal and agency trading firms for OATS reporting purposes. Our understanding is that the National Association of Securities Dealers, Inc. adopted the OATS rules to comply with an undertaking mandated by the Commission. That mandated undertaking resulted from a Commission finding of misconduct by market makers, including that market makers had "coordinated price quotations, transactions and transaction reports in order to protect or advance their proprietary interests, to the detriment of investors and other market participants."¹

Since OATS was a response to market makers engaging in wrongful activity to advance their "proprietary interests," we could justifiably argue that agency-only firms like Liquidnet should not be subject to OATS reporting. However, we believe the fairest solution for all broker-dealers would be to make the OATS reporting process more efficient, as opposed to issuing exemptions for only specific categories of broker-dealers.

¹ "NASD Rulemaking: Various Orders Relating to the Creation of an Order Audit Trail System", Commission Release No. 34-39729, March 6, 1998, Section II. "In the Matter of National Association of Securities Dealers, Inc.", Commission Release No. 34-37538, August 8, 1996.

We cannot evaluate the regulatory benefits of OATS, but we have experienced first hand the significant costs of OATS compliance. We currently have personnel in our legal, compliance, operations, development, testing and product groups who devote significant time to OATS compliance. More importantly, we often have had to delay the implementation of new products and functionality to ensure proper OATS compliance.

We believe the complexity of the OATS reporting process can be reduced without in any way minimizing the regulatory benefits that OATS provides. As an example, combined order event reports, which are mandated under OATS in various situations, greatly increase the complexity of OATS; yet, we are not aware of any regulatory benefit to the Financial Institutions Regulatory Authority (“FINRA”) in mandating such reports.²

We would like to recommend that FINRA establish a working group to review and provide recommendations on how to make the OATS reporting process more efficient. The working group could consist of FINRA and industry representatives, including personnel from large and small broker-dealers who work in the compliance, operations and technology areas. Our firm would welcome the opportunity to participate in such a working group.

We would also encourage the participation of the leading sell-side order management system (“OMS”) vendors in this process. While use of a third-party vendor does not relieve a firm from its regulatory obligations, the reality today is that many broker-dealers are reliant on third-party OMS vendors for their trading activity, and, as a result, they are dependent on the OMS vendors for either generating the OATS reports on their behalf or making available to the broker-dealer the data required for OATS reporting. We believe that the OMS vendors as a group also struggle with meeting the OATS reporting requirements of their broker-dealer clients. One vendor has informed us that different customers provide different (and sometimes conflicting) instructions relating to OATS reporting, so the vendor must develop and support a separate reporting module for each customer. The OMS vendors could provide valuable input for streamlining the OATS reporting process.

As indicated above, we believe simplifying the OATS reporting process would be a fairer solution for all broker-dealers than issuing exemptions for specific categories of broker-dealers, and we are willing to assist in this process. There would be a cost involved in this effort, but this cost would be recovered in a relatively short period of time if the reporting process were made more efficient. Another benefit of this effort would be reduced costs for FINRA in monitoring for OATS compliance, day-to-day support of OATS and enforcement for OATS non-compliance.

² An example of a combined order event report would be a combined order route report, where the order and route must be included in one report. Since OATS requires a route report to cross-reference the ID of the related new order report, we do not see why a combined report would be required as opposed to separate order and route reports.



We appreciate the opportunity to comment on the Release and would hope that the Commission and FINRA would consider our suggestions above. If you have any questions concerning this letter, please contact me at (646) 674-2044.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Howard Meyerson', with a stylized flourish at the end.

Howard Meyerson

