Securities Industry Association
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June 16, 2006

Nancy M. Morris
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: File No. SR-NYSE-2005-90

Dear Ms. Morris:

The Operations Committee (the "Committee") of the Securities Industry Association ("SIA") appreciates the opportunity to comment on the New York Stock Exchange, Inc. ("NYSE") proposed rule change that would allow institutional customers conducting a Delivery versus Payment and Receive versus Payment ("DVP/RVP") business to elect not to receive account statements.[1] The Committee strongly supports this proposal and we urge the Commission to grant prompt approval. This Committee, as well as the Securities Operations Division ("SOD") of the SIA (collectively, the "SIA"), has petitioned the NYSE for such a rule change.[2] In fact, in anticipation of a proposed rule change, we have requested that Omgeo, LLC[3] provide a new indicator on its master files that institutions can populate indicating whether or not statements are required.[4]

[1] NYSE Rule 409(a) requires NYSE member firms, at least quarterly, to send statements of account showing security and money positions and entries to their customers having an entry, money or security position during the preceding quarter.

[2] *See* Letter to Don van Weezel, NYSE, from Lawrence Morillo, President, SOD, dated May 22, 2003, and letter to Don van Weezel, NYSE, from Lawrence Morillo, Chairman, SIA STP Legal & Regulatory Subcommittee, dated October 24, 2004.

[3] Omgeo, LLC is a for-profit provider of institutional processing services.

[4] Letter to Richard L. Wood, Omgeo, LLC, from Lawrence Morillo, Chairman, SIA STP Legal & Regulatory Subcommittee, dated March 11, 2005 (requesting that Omgeo add a new indicator on its master files that institutions populate indicating "yes, statements are required" or "no, statements are not required." Omgeo currently is the leading industry provider for institutional processing services but other vendors, such as TradeWeb and FMC Net, would be required to provide the new indicator as well).

The proposed rule change would relieve NYSE members of the obligation to send quarterly statements to customers with DVP/RVP accounts[5] if: (1) the customer's account is carried solely for the purpose of execution on a DVP/RVP basis; (2) all transactions effected for the account are done on a DVP/RVP basis in conformity with NYSE Rule 387; (3) the account does not show security or money positions at the end of the quarter;[6] (4) the customer consents to the suspension of such statements in writing and such consents are maintained by the member organization in a manner consistent with Exchange Rule 440 and Rule 17a-4 under the Securities Exchange Act of 1934 ("SEA"); (5) the member organization undertakes to provide any particular statement or statements to the customer promptly upon request; and (6) the member organization undertakes to promptly reinstate the delivery of such statements to the customer upon request. The Committee believes the proposal generally provides the flexibility to allow those customers who prefer not to receive statements to decline them, while preserving the ability of customers to receive such statements if they so choose.

As proposed, however, the rule change imposes a requirement that is unnecessary and impractical. According to the proposed rule change, individual firms would be required to retain a record that reflects each institution's consent to the suspension of statements. Based on conversations with NYSE staff, we understand that through interpretation of the Rule, NYSE will make it clear that the institution's notification to Omgeo and Omgeo's population of their database will be sufficient for recordkeeping purposes. Such universal instructions suffice in the context of Institutional Delivery ("ID") confirmations, *i.e.*, an institution notifies Omgeo that it wants only the ID confirmation and paper confirmations are suppressed, and should be acceptable for quarterly statements as well.

As the SIA has previously indicated, due to the nature of DVP/RVP accounts, such accounts generally do not reflect any cash balance or security positions at the end of a quarter because funds or securities are transferred to the clearing firm, prime broker or custodian on the settlement date of the transaction. Rather, it is the customer confirmation issued pursuant to SEA Rule 10b-10 that provides meaningful information in connection with DVP/RVP accounts and the quarterly statement is of little or no use. Institutions, the primary users of DVP/RVP accounts, have indicated that they discard statements sent by firms. They will continue, however, to receive statements from their custodians that in essence contain the same information.

At the time of the SIA's most recent petition, firms estimated cost savings of $100,000 per firm in statement production and mailing costs if such a rule were adopted. Although many firms have obtained an exemption on a one-off basis, the proposal will allow all firms that transact

[5] DVP/RVP accounts are those in which payment for securities purchased is made to the selling customer's agent and/or delivery of securities sold is made to the buying customer's agent in exchange for payment at the time of settlement, usually in the form of cash. NYSE Rule 387 sets out the prerequisites for the acceptance of such orders.

[6] For a variety of reasons, such as unsettled items or a DK on the last day of the quarter, DVP/RVP accounts could have money or security balances that, although brief, may carryover at the end of a quarter. Such accounts should not be disqualified from statement suppression.

business on a DVP/RVP basis to enjoy substantial cost savings. Customers would also benefit because they would no longer be required to receive voluminous quarterly statements that are unwanted and unnecessary. At the same time, by requiring affirmative consent, the ability of a customer to receive quarterly statements is preserved, and the member organization is precluded from unilaterally terminating delivery of such statements.

The Committee appreciates the NYSE's responsiveness in proposing this important rule change. We urge the Commission to grant prompt approval. If you have questions, or would like to discuss our views further, please contact the undersigned or Richard Bommer, SIA Director of Operations, at 212.608.1500.

Sincerely,

Noland Cheng
Chairman
SIA Operations Committee

CC: Operations Committee