

Comments regarding proposed rule change SR-NASD-2004-135, item 1(b):

With regard to non-institutional investors, the actions detailed in this proposed rule change would be confusing to the client, costly to the firm and impossible to manage and track on an order-by-order basis.

Both Institutional and Non-institutional investors already receive a “net” trading disclosure when an account is opened, as required in the industry. With today’s technological advances, non-institutional clients can look up a security on hundreds of Internet web sites to verify “bid” and “ask” information. With this transparency in today’s market, the client can easily determine the spread on their trade. Having the client sign a disclosure document prior to each and every trade provides no benefit. It will confuse the client and will provide no additional information that is not available elsewhere. The client can always request detailed information about their trade should questions arise regarding the price and/or sales credit. Furthermore, the order-by-order pre-confirmation process will certainly cause delays in the execution of orders, which in a down or volatile market, may result in best execution failure.

The proposed rule could also result in loss of business for firms that execute a large portion of their transactions on a “net” basis. It is unreasonable to expect a customer to follow these additional requirements immediately prior to the execution of a transaction, especially if there is no means by which to do so, i.e., fax, computer, etc.

The proposed rule would burden the firm with additional time and money spent on record keeping and auditing practices. Having a significant number of orders pending the receipt of a signed document could ironically cause an increase in human error as orders and confirmations get misplaced and/or mismatched. As mentioned above, this rule could create best execution issues. The industry may find an increase in “held” and “not-held” orders as a result. It is ironic that we are in an industry that demands best execution but creates additional procedures and regulations that hinder it.

Comments regarding proposed rule change SR-NASD-2004-135, item 1(c):

With respect to institutional investors, the rule is needless. Institutional investors by nature are accredited and sophisticated.