

**VIA ELECTRONIC MAIL**

Mr. Jonathan G. Katz  
Secretary  
United States Securities and Exchange Commission  
100 Fifth Street, N.E.  
Washington, DC 20549-9303

Re: *Expansion of OATS Reporting Requirements to OTC Equity Securities, File No. SR-NASD-2005-101, SEC Rel. No. 34-52581 (Oct. 11, 2005), 70 FR 60592 (Oct. 18, 2005)*

Dear Mr. Katz:

Ameritrade, Inc.<sup>1</sup> (“Ameritrade” or “the Firm”) appreciates the opportunity to provide comments on the NASD’s proposal to expand OATS reporting requirements to OTC equity securities. This letter supplements our earlier comments with respect to the Commission’s November, 2004 Proposed Changes to the OATS Rules.<sup>2</sup>

Ameritrade generally supports the proposal to amend NASD Rules 6951 and 6952 to require members to record and report to the Order Audit Trail System (“OATS”) order information relating to OTC equity securities as long as this extension of OATS to OTC securities requires only minimal enhancements to current reporting systems and NASD provide members with a reportable OATS securities list rather than leaving to firms the responsibility to ascertain this information from third party vendors. Ameritrade believes that the technical specifications for OATS reporting of OTC equity securities should be the same as the current OATS technical requirements. Requiring OATS reporting for OTC equity securities in a variety of formats would certainly result in significant and costly technological enhancements including, without limitation, database redesign, application development, interface development, system architecture changes, extensive testing and a significant diversion of resources that may otherwise enhance the client trading experience.

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<sup>1</sup> Ameritrade Holding Corporation (“Ameritrade Holding”) has a 29-year history of providing financial services to self-directed investors. Ameritrade Holding’s wholly owned subsidiary, Ameritrade, Inc., acts as a self-directed broker serving an investor base comprised of over 3.6 million client accounts. Ameritrade does not solicit orders, make discretionary investments on behalf of its clients, or provide proprietary research or advice regarding securities. Rather, Ameritrade empowers the individual investor by providing them with the tools they need to make their own investment decisions. In exchange for a low commission, we accept and deliver orders to buy or sell securities to the appropriate exchange, market maker, electronic communications network or other alternative market for execution. Ameritrade does not trade for its own account or make a market in security.

<sup>2</sup> See Commentary from Caroline F. Langner, Ameritrade, Inc., dated Jan. 18, 2005, responding to NASD Notice to Member 04-80, NASD Seeks Comment on Proposed Changes to the OATS Rules, Nov. 2004.

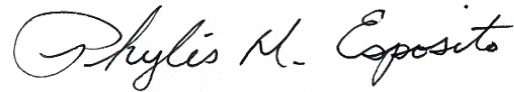
In addition, Ameritrade believes the current OATS system should not be enhanced or modified to specify the reporting of security classes in such a manner as to prescribe that these securities be distinguished from other securities such as Nasdaq NMS. Specifically, Ameritrade believes that the OATS report should not include a required field that characterizes trades by security type such as NASDAQ, OTCBB or Pink Sheet. Adding a securities type designation on the OATS report would require NASD member firms to distinguish between NASDAQ and OTC equity securities on OATS reporting and to verify the type of security for each entry in the audit trail system. In the event the security type designation did not match as between the order entry firm and the executing firm and / or as between these firms and the NASD OATS database, for any reason, including but not limited to the next day changes that occur when securities are delisted, each ROE route report (and corresponding ROE execution) would result in a reject. Subsequently, member firms would be forced to invest potentially significant resources to research and correct the security type in their systems and to accurately report the entry into the system. Not only would this create a costly and undue burden for member firms, but Ameritrade believes it would further frustrate the purpose of the OATS reporting system by increasing the likelihood of errors in the reporting process and rejects on OATS reporting. If member firms were required to report the type of security for each symbol, the NASD should provide each firm with a list that includes all OATS reportable securities and that list would have to include whether that security is NASDAQ, OTCBB, or Pink Sheet.

Further, Ameritrade believes the OATS reporting system should have the ability to recognize stocks that have experienced symbol changes. Member firms should not be burdened with adding or deleting stock symbols for OTC stocks that have changed. A sensitivity to symbol changes in OATS could result in numerous rejects and cancels on OATS reporting. Therefore, OATS should be able to identify stocks by any variation of the stock's symbol in order to reduce the hardship to member firms to track symbol changes and incorporate the changes into their systems through third party vendors. Recognizing stocks by their unique CUSIP is one suggested manner by which NASD could eliminate the necessity of exact matching of stock symbols between reporting firms, execution firms and the OATS system. Regardless of the number of changes made to a stock's trading symbol the CUSIP remains constant. Ameritrade believes this consistency would reduce ROE rejections and further the utility of the OATS system.

As stated in our previous comments, Ameritrade believes it would be prudent provide, at a minimum, six months for firms to implement the changes required to report OTC equity securities using OATS technical specifications. Such a time period would be necessary for development and testing. Ameritrade believes the OATS reporting should be as simple and seamless as possible to reduce the incidences of failures in reporting and to ensure increased regulatory efficiency and provide for uniform reporting specifications thereby allowing for the accuracy of collection of data while minimizing the risk of increased expenses which may be passed on to the investing public. To promote a simplified process, Ameritrade believes the NASD should provide to all member firms a master list that includes every stock that firms are expected to know and report.

Ameritrade commends the Commission and the NASD on its attempts to investigate compliance with NASD Trading Rules and violations of other trading rules, but Ameritrade believes that until limit order display, trade through protection and consolidated quotes are extended to OTC equity securities, the purpose espoused by NASD as to monitoring and investigation compliance with NASD Trading Rules will not be fulfilled. Until that time, best execution standards for NMS stocks and OTC stocks will remain unequal.<sup>3</sup> Ameritrade encourages NASD to implement operational / procedural regulations to the market place for OTC equities prior to implementation of the OATS reporting requirements.

Sincerely,

A handwritten signature in black ink that reads "Phylis M. Esposito". The signature is written in a cursive style with a large initial "P" and a distinct "E".

Phylis M. Esposito  
Executive Vice President, Chief Strategy Officer

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<sup>3</sup> See Letter from Phylis M. Esposito, Executive Vice President, Chief Strategy Officer, Ameritrade Holding, to Jonathan G. Katz, Secretary, Commission, dated October 31, 2005.