



Proposed New Rule

4611. Nasdaq Market Center Participant Registration

(a) – (c) No change.

(d) Members may provide "Sponsored Access" to the Nasdaq Market Center in accordance with the provisions below:

(1) Definition. Sponsored Access is the practice by a member firm ("Sponsoring Member") of providing access to Nasdaq to another firm or customer ("Sponsored Participant"). Sponsored Access takes multiple forms, including but not limited to: (a) direct market access, where the Sponsored Participant's orders pass through the Sponsoring Member's systems prior to reaching Nasdaq ("Direct Market Access"), (b) sponsored access, where the Sponsored Participant enters orders directly into Nasdaq via a dedicated port provided by the Sponsoring Member ("Direct Sponsored Access"), and (c) direct access where a service bureau or other third party provides Sponsored Participants with technology to access Nasdaq under the auspices of and via an arrangement with the Sponsoring Member ("Third Party Sponsored Access").

(2) Compliance. Irrespective of the form of Sponsored Access provided, Sponsoring Members are responsible for the conduct of their Sponsored Participants as if the conduct were their own. To ensure that Sponsored Access is consistent with high market quality and the protection of investors, Sponsoring Members shall at a minimum comply with the Contractual Provisions, Financial Controls, and Regulatory Controls set forth in sections (3), (4), and (5) below.

(3) Contractual Provisions. A Sponsoring Member that provides Direct Sponsored Access or Third Party Sponsored Access shall execute and maintain agreements with each Sponsored Participant containing the commitments below. A Sponsoring Member that provides Third Party Sponsored Access must execute and maintain agreements with each service bureau or other entity that facilitates such Third Party Sponsored Access providing that such entity will execute and maintain agreements with each Sponsored Participant containing the commitments below for the benefit of the Sponsoring Member.

(A) All trading activity by the Sponsored Participant shall comply with all applicable federal securities laws and rules and Exchange rules, including but not limited to the Nasdaq Certificate of Incorporation, Bylaws, Rules and procedures with regard to the Nasdaq Market Center ("Regulatory Requirements").

(B) Sponsored Participant shall provide Sponsoring Member with access to its books and records promptly upon request, and otherwise cooperate with the Sponsoring Member in furtherance of Sponsoring Member's compliance with applicable Regulatory Requirements.

(C) Sponsored Participant shall maintain its trading activity within the credit, product or other financial limits specified by the Sponsoring Member.

(D) Sponsored Participant shall maintain all technology permitting sponsored access to Nasdaq in a physically secure manner and may not permit unauthorized individuals to use or obtain access to Nasdaq.

Sponsored Participant shall familiarize its authorized individuals with the Regulatory Requirements and will provide appropriate training prior to use or access to Nasdaq.

(E) Sponsored Participant shall provide the Sponsoring Member complete and current corporate and financial information about the Sponsored Participant.

(F) Sponsored Participant shall agree that the Sponsoring Member or Nasdaq may immediately terminate the Sponsored Access if the Sponsored Participant or third party access provider fails to abide by its commitments.

(4) Financial Controls. Each Sponsoring Member shall establish adequate procedures and controls that permit it to effectively monitor and control the Sponsored Access to systemically limit the Sponsoring Member's financial exposure. At minimum, the Sponsored Access system shall:

(A) Prevent each Sponsored Participant from entering orders that in aggregate exceed appropriate pre-set credit thresholds. Sponsoring Members may also set finely-tuned credit thresholds by sector, security or otherwise.

(B) Prevent Sponsored Participants from trading products that the Sponsored Participant or Sponsoring Member is restricted from trading.

(C) Prevent Sponsored Participants from submitting erroneous orders by providing for the rejection of orders that exceed certain price or size parameters, on an order-by-order basis or over a short period of time, or that indicate duplicative orders.

(5) Regulatory Controls.

(A) Each Sponsoring Member shall have systemic controls to ensure compliance by the Sponsored Participant with applicable Regulatory Requirements, including but not limited to compliance with rules relating to short selling; trading halts; proper uses of order types; proper use of Intermarket Sweep Orders; trading ahead of customer limit orders; prohibitions against manipulative trading practices, including wash sales and marking the close; restricted lists of securities for purposes of SEC Rule 10b-18; and applicable margin rules.

(B) Each Sponsoring Member shall ensure that compliance personnel receive timely reports of all trading activity by its Sponsored Participants sufficient to permit the Sponsoring Member to comply with applicable Regulatory Requirements, and to monitor for illegal activity such as market manipulation or insider trading. At minimum, the member firm's compliance unit should receive immediate post-trade execution reports of trading activity of its Sponsored Participants, including their identities; all required audit trail information by no later than the end of the trading day; all information necessary to create and maintain the trading records required by Regulatory Requirements by no later than the end of the trading day.