Notice to Members

MARCH 2006

SUGGESTED ROUTING

Executive Representatives

Legal & Compliance

Operations

Senior Management

Systems

KEY TOPICS

NASD Sanction Guidelines

GUIDANCE

Sanction Guidelines

NASD Revises Sanction Guidelines;

Effective Date: March 31, 2006

Executive Summary

This *Notice* advises NASD members of modifications to the *NASD Sanction Guidelines* (Guidelines). NASD is amending the quality of markets guidelines and the guidelines for violations of Municipal Securities Rulemaking Board (MSRB) Rules G-36 and G-37. The new guidelines are effective as of March 31, 2006, and apply to all actions as of that date, including pending disciplinary cases.

The revised guidelines can be read in their entirety in Attachment A to this *Notice*. The revised guidelines are also available on NASD's Web site (*www.nasd.com*).

Questions/Further Information

Questions concerning this *Notice* may be directed to Carla Carloni, Office of General Counsel, Regulatory Policy and Oversight, at (202) 728-8019.

Discussion

NASD initially published the Guidelines in 1993 to promote consistency and uniformity in the imposition of sanctions in disciplinary matters. Over the years, NASD has revised and updated the Guidelines and has adopted new individual guidelines in order to reflect changes in and additions to NASD's rules. NASD adjudicators rely on the Guidelines to determine appropriately remedial sanctions in disciplinary actions. NASD's Departments of Enforcement and Market Regulation and the defense bar also rely on the Guidelines in negotiating settlements in disciplinary matters. NASD therefore endeavors to maintain up-to-date and inclusive Guidelines that are designed to address a wide variety of potential violations of NASD's rules and provide fact-specific guidance for crafting appropriately remedial sanctions.

With these revisions, NASD seeks to increase the level of flexibility built into individual guidelines and to provide additional guidance as to mitigating and aggravating circumstances for individual violations. For example, NASD's trade reporting and other quality of markets guidelines previously grouped certain misconduct solely by whether it was a first, second or subsequent action. Under this prior structure, the recommended monetary sanction for *first* actions involving large numbers of violations or otherwise egregious misconduct tended to be at the low end of possible monetary sanctions. Similarly, the prior Guidelines categorized less egregious misconduct that happened to be a second or subsequent violation by recommending sanction ranges at the high end, regardless of whether other mitigating factors were present. In order to enhance flexibility, these revisions enable adjudicators and settling parties to take into account other important factors in addition to whether the respondent has a history of similar violations. The revisions refocus the analysis on important aggravating and mitigating factors in addition to disciplinary history and provide significant flexibility in sanction ranges.

NASD also is revising the monetary sanction ranges for many of the guidelines. NASD staff addresses less serious misconduct, misconduct that does not warrant a formal disciplinary proceeding, through letters of caution, compliance conferences and other informal means. Further, in certain situations, matters that warrant formal action may be handled through the Minor Rule Violation (MRV) plan. The Guidelines are intended to address misconduct that rises to the level of warranting formal action. The revisions conform the Guidelines to this concept by increasing the low end of recommended sanction ranges for first violations to $5,000. An increase to $5,000 of the low end of monetary sanction ranges will preserve the deterrent effect of NASD's sanctions and ensure that the guidelines are "significant enough to prevent and discourage future misconduct by a respondent, to deter others from engaging in similar misconduct, and to modify and improve business practices." –*NASD Sanction Guidelines*, General Principal No. 1. Similarly, the recommended fine range for a second action should send a clear message about the need for improvement after settling a first action. By recommending $10,000 as the starting point of the fine range for a second action, the revised guidelines seek to deter repeat violations. Additionally, the revised guidelines indicate that, in cases involving egregious misconduct and multiple violations that harm the investing public, adjudicators (or settling parties) may consider imposing a fine on a per violation basis.

With these revisions, NASD aims to clarify for the membership the numerous considerations that directly affect the dollar amount of monetary sanctions imposed in disciplinary actions. NASD also seeks to provide additional guidance by modifying monetary sanction ranges and expanding monetary sanction options.[1]

Effective Date

The amendments to the Guidelines are effective as of **March 31, 2006**, and apply to all actions as of that date, including pending disciplinary cases.

Endnotes

1 The revisions also include ministerial changes. For instance, NASD deleted from certain individual guidelines the statement that adjudicators may increase the recommended fine amount by adding the amount of a respondent's financial benefit. NASD did not delete this statement because it no longer applies to the determination of monetary sanctions for the violations at issue. Rather, NASD deleted the statement solely because it already is included in General Principle No. 6 in the introductory section of the Guidelines. Like all General Principles, General Principle No. 6 applies to the determination of monetary sanctions for all violations.

ATTACHMENT A

Additions are underlined and deletions are in brackets.

Anti-Intimidation/Coordination—Failure to Comply with Rule Requirements

NASD Conduct Rule 2110 and IM-2110-5

Principal Considerations in Determining Sanctions	Monetary Sanction	Suspension, Bar, or Other Sanctions
See Principal Considerations In Introductory Section 1. Whether the behavior was collusive or part of a larger manipulation. 2. Whether the behavior attempted to affect or actually affected publicly disseminated quotes or otherwise inhibited market transparency. 3. Whether the behavior attempted to or actually resulted in late or inaccurate trade reporting. 4. Whether the behavior attempted to or actually altered market prices. 5. In the case of intimidation or harassment, nature and content of respondent's speech, communications, and/or harassing behavior. 6. The general effect of the behavior on the fair and efficient operation of the securities markets. 7. Whether the behavior was repetitive or a single impulsive action.	***Intimidation/ Harassment*** Fine of $5,000 [$1,000] to $50,000. In egregious cases, consider a fine in excess of $50,000. ***Coordination*** Fine of $10,000 to $100,000. In egregious cases, consider a fine in excess of $100,000.	***Intimidation/Harassment*** In egregious cases, suspend individual respondent in any or all capacities and/or member firm respondent with respect to any or all activities or functions for a period of 10 business days to two years. In egregious cases involving intimidation, consider barring individual respondent. ***Coordination*** Suspend individual respondent in any or all capacities and/or member firm respondent with respect to any or all activities or functions for a period of 30 business days to two years. In egregious cases, consider expelling the member firm and/or barring individual respondent.

Backing Away

NASD Conduct Rules 2110 and 3320, and IM-3320[1]

Principal Considerations in Determining Sanctions	Monetary Sanction[2]	Suspension, Bar, or Other Sanctions
See Principal Considerations in Introductory Section 1. Whether respondent offered contemporaneous trades or otherwise remediated the failures to execute. 2. While respondents are responsible for the systems that they use and the third-party vendors that they employ, the appropriate level of sanctions will depend on whether the respondent diligently chose, installed, and tested a system that nevertheless malfunctioned; the frequency and thoroughness with which the respondent ensured that the system was operating in compliance with applicable rules; and the care that the respondent exercised in undertaking all necessary steps to correct systems-related malfunctions. The same considerations apply to a respondent that has relied on a third-party vendor's products or services.	***First Action***[3][2] Fine of $5,000 [1,000] to $10,000 [2,000]. ***Second Action*** Fine of $10,000 [2,000] to $50,000 [10,000]. ***Subsequent Actions*** Fine of $10,000 [5,000] to $100,000.[4]	In egregious cases, consider suspending the firm with respect to any or all activities or functions and/or suspending the responsible individual in any or all capacities for up to two years.

1 This guideline also is appropriate for violations of MSRB Rule G-13.

2 In cases in which the violations: (1) involve a pattern or patterns of misconduct; (2) can be quantified by number or percentage; or (3) can be compared to the standard maintained by industry peers, Adjudicators may consider deviating from the fine structure recommended in this guideline for first, second, or subsequent actions. Imposition of monetary sanctions greater than those recommended in this guideline may be particularly appropriate in cases involving violations that occurred during two or more examination or review periods or violations that occurred over an extended period of time. Similarly, in cases in which the respondent acted intentionally or recklessly, and in cases in which the respondent's compliance rate is significantly lower than that of its peers, Adjudicators may impose a monetary sanction in excess of the recommended range.

3 [2] Adjudicators should consider actions concerning violative events that occurred within the three years prior to the misconduct at issue. Events that are more recent in time, however, should be given more weight than less recent events.

4 If respondent's second or subsequent action involves a violation that is less serious than a prior violation, includes conduct that demonstrates that respondent is improving its compliance rate, or involves mitigation that did not exist in a prior action, Adjudicators may consider imposing a fine that is less than the fine imposed in the prior action.

Best Execution—Failure to Comply with Requirements for Best Execution

NASD Conduct Rules 2110 and 2320[1]

Principal Considerations in Determining Sanctions	Monetary Sanction[2][1]	Suspension, Bar, or Other Sanctions
See Principal Considerations in Introductory Section 1. Nature of the best execution violation, i.e., whether the execution was at an inferior price or was untimely. 2. While respondents are responsible for the systems that they use and the third-party vendors that they employ, the appropriate level of sanctions will depend on whether the respondent diligently chose, installed, and tested a system that nevertheless malfunctioned; the frequency and thoroughness with which the respondent ensured that the system was operating in compliance with applicable rules; and the care that the respondent exercised in undertaking all necessary steps to correct systems-related malfunctions. The same considerations apply to a respondent that has relied on a third-party vendor's products or services.	***Negligent Misconduct*** ***First Action***[3] Fine of $5,000 [2,500] to $50,000. ***Second Action*** Fine of $10,000 [5,000] to $100,000 [75,000]. ***Subsequent Actions*** Fine of $10,000 [7,500] to $200,000 [100,000] [4][3] ***Intentional Or Reckless Misconduct*** Fine of $20,000 [10,000] to $200,000 [100,000]. In egregious cases, consider a fine in excess of $200,000.	***Negligent Misconduct*** In egregious cases, consider suspending the responsible individual in any or all capacities and/or the firm with respect to any or all activities or functions for up to 30 business days. ***Intentional or Reckless Misconduct*** Suspend responsible individual in any or all capacities and/or suspend firm with respect to any or all activities or functions for a period of 10 business days to two years. In egregious cases, consider barring the individual and/or expelling the firm.

1 This guideline may also be appropriate for violations of MSRB Rules G-18 and G-30 that do not involve a dealer's excessive profit, but do involve unfair pricing based on an inattention to market value. *See MSRB Notice 2004-3* (Review of Dealer Pricing Responsibilities) (Jan. 26, 2004).

2 In cases in which the violations: (1) involve a pattern or patterns of misconduct; (2) can be quantified by number or percentage; or (3) can be compared to the standard maintained by industry peers, Adjudicators may consider deviating from the fine structure recommended in this guideline for first, second, or subsequent actions. Imposition of monetary sanctions greater than those recommended in this guideline may be particularly appropriate in cases involving violations that occurred during two or more examination or review periods or violations that occurred over an extended period of time. Similarly, in cases in which the respondent acted intentionally or recklessly, and in cases in which the respondent's compliance rate is significantly lower than that of its peers, Adjudicators may impose a monetary sanction in excess of the recommended range. Adjudicators should order restitution or increase the recommended fine amount by adding the amount of a respondent's financial benefit. In cases involving best execution violations that arose from intentional or reckless misconduct, Adjudicators may consider imposing a set fine amount per violation rather than in the aggregate.

3 Adjudicators should consider actions concerning violative events that occurred within the three years prior to the misconduct at issue. Events that are more recent in time, however, should be given more weight than less recent events.

4 If respondent's second or subsequent action involves a violation that is less serious than a prior violation, includes conduct that demonstrates that respondent is improving its compliance rate, or involves mitigation that did not exist in a prior action, Adjudicators may consider imposing a fine that is less than the fine imposed in the prior action.

ECN Display Rule—Failure to Comply with Rule Requirements

NASD Conduct Rule 2110 and Regulation NMS, Rule 602 [SEC Request 11Ac1-1]

Principal Considerations in Determining Sanctions	Monetary Sanction[1]	Suspension, Bar, or Other Sanctions
See Principal Considerations in Introductory Section 1. Whether the priced order was a customer order, rather than an order entered for the account of the market maker. 2. Whether the priced customer order was executed during the period of non-compliance, while other transactions were executed in the marketplace at prices equal to or better than that priced order. 3. Evidence of significant adverse impact on market-price discovery or transparency that occurred because the order was not displayed at all, was displayed only after long delay, or was displayed in a grossly incorrect manner. 4. While respondents are responsible for the systems that they use and the third-party vendors that they employ, the appropriate level of sanctions will depend on whether the respondent diligently chose, installed, and tested a system that nevertheless malfunctioned; the frequency and thoroughness with which the respondent ensured that the system was operating in compliance with applicable rules; and the care that the respondent exercised in undertaking all necessary steps to correct systems-related malfunctions. The same considerations apply to a respondent that has relied on a third-party vendor's products or services.	***First Action***[2][1] Fine of $5,000 [1,000] to $10,000 [2,000]. ***Second Action*** Fine of $10,000 [2,000] to $50,000 [10,000]. ***Subsequent Actions*** Fine of $10,000 [5,000] to $100,000.[3]	In egregious cases, consider suspending the firm with respect to any or all activities or functions and/or suspending the responsible individual in any or all capacities for up to two years or expelling the firm and/or barring the responsible individual.

1 In cases in which the violations: (1) involve a pattern or patterns of misconduct; (2) can be quantified by number or percentage; or (3) can be compared to the standard maintained by industry peers, Adjudicators may consider deviating from the fine structure recommended in this guideline for first, second, or subsequent actions. Imposition of monetary sanctions greater than those recommended in this guideline may be particularly appropriate in cases involving violations that occurred during two or more examination or review periods or violations that occurred over an extended period of time. Similarly, in cases in which the respondent acted intentionally or recklessly, and in cases in which the respondent's compliance rate is significantly lower than that of its peers, Adjudicators may impose a monetary sanction in excess of the recommended range.

2[1] Adjudicators should consider actions concerning violative events that occurred within the three years prior to the misconduct at issue. Events that are more recent in time, however, should be given more weight than less recent events.

3 If respondent's second or subsequent action involves a violation that is less serious than a prior violation, includes conduct that demonstrates that respondent is improving its compliance rate, or involves mitigation that did not exist in a prior action, Adjudicators may consider imposing a fine that is less than the fine imposed in the prior action.

Failure to Display Minimum Size in NASDAQ Securities, CQS Securities and OTC Bulletin Board® Securities

NASD Conduct Rule 2110 and Marketplace Rules 4613 and 6750

Principal Considerations in Determining Sanctions	Monetary Sanction[1]	Suspension, Bar, or Other Sanctions
See Principal Considerations in Introductory Section	***First Action***[2[1]] Fine of $5,000 [1,000] to $10,000 [2,000]. ***Second Action*** Fine of $10,000 [2,000] to $50,000 [5,000]. ***Subsequent Actions*** Fine of $10,000 [5,000] to $100,000 [25,000].[3]	In egregious cases, consider suspending the firm with respect to any or all activities or functions for up to 20 business days and/or suspending the responsible individual in any or all capacities for up to 20 business days.

1 In cases in which the violations: (1) involve a pattern or patterns of misconduct; (2) can be quantified by number or percentage; or (3) can be compared to the standard maintained by industry peers, Adjudicators may consider deviating from the fine structure recommended in this guideline for first, second, or subsequent actions. Imposition of monetary sanctions greater than those recommended in this guideline may be particularly appropriate in cases involving violations that occurred during two or more examination or review periods or violations that occurred over an extended period of time. Similarly, in cases in which the respondent acted intentionally or recklessly, and in cases in which the respondent's compliance rate is significantly lower than that of its peers, Adjudicators may impose a monetary sanction in excess of the recommended range.

2[1] Adjudicators should consider actions concerning violative events that occurred within the three years prior to the misconduct at issue. Events that are more recent in time, however, should be given more weight than less recent events.

3 If respondent's second or subsequent action involves a violation that is less serious than a prior violation, includes conduct that demonstrates that respondent is improving its compliance rate, or involves mitigation that did not exist in a prior action, Adjudicators may consider imposing a fine that is less than the fine imposed in the prior action.

New Guideline
Guideline for Fixed Income Pricing System deleted.

Trade Reporting and Compliance Engine (TRACE)—Late Reporting; Failing to Report; False, Inaccurate or Incomplete Reporting

NASD Systems & Programs Rules 6230; Conduct Rule 2110[1]

Principal Considerations in Determining Sanctions	Monetary Sanction[2]	Suspension, Bar, or Other Sanctions
See Principal Considerations in Introductory Section[3] Extent to which violative conduct affected market transparency, the dissemination of trade information, or the regulatory audit trail. While respondents are responsible for the systems that they use and the third-party vendors that they employ, the appropriate level of sanctions will depend on whether the respondent diligently chose, installed, and tested a system that nevertheless malfunctioned; the frequency and thoroughness with which the respondent ensured that the system was operating in compliance with applicable rules; and the care that the respondent exercised in undertaking all necessary steps to correct systems-related malfunctions. The same considerations apply to a respondent that has relied on a third-party vendor's products or services. Whether respondent violated rule requirements during an extended period of days. (Adjudicators should treat as aggravating the fact that a respondent's failure to report or incorrect reporting occurred for more than one week. Adjudicators should treat as egregious misconduct a respondent's failing to report for several weeks.) Whether a reporting violation was readily apparent from a review of NASD's TRACE website (or MSRB's website for violations of MSRB Rule G-14).[6]	***For All Types of Violations*** ***First Action***[4] Fine of $5,000 to $10,000. ***Second Action*** Fine of $10,000 to $50,000. ***Subsequent Actions*** Fine of $10,000 to $100,000.[5] In all egregious cases, whether a first, second, or subsequent action, consider a fine greater than or equal to the high end of the range for a first, second, or subsequent action. Also consider imposing the fine on a "per violation" basis.	***For All Types of Violations*** ***Firm*** In egregious cases, consider a suspension (of up to two years) or expulsion of the firm. ***Responsible Individual*** Consider suspending the responsible individual in any or all capacities for up to 30 business days. In egregious cases, consider a lengthier suspension (of up to two years) or a bar.

1 This Guideline also is appropriate for violations of MSRB Rule G-14 AND G-17.

2 In cases in which the violations: (1) involve a pattern or patterns of misconduct; (2) can be quantified by number or percentage; or (3) can be compared to the standard maintained by industry peers, Adjudicators may consider deviating from the fine structure recommended in this guideline for first, second, or subsequent actions. Imposition of monetary sanctions greater than those recommended in this guideline may be particularly appropriate in cases involving violations that occurred during two or more examination or review periods or violations that occurred over an extended period of time. Similarly, in cases in which the respondent acted intentionally or recklessly, and in cases in which the respondent's compliance rate is significantly lower than that of its peers, Adjudicators may impose a monetary sanction in excess of the recommended range.

3 A respondent's delegation of its reporting responsibilities to a third party who caused or contributed to respondent's violation is not an independent basis for mitigation.

4 Adjudicators should consider actions concerning violative events that occurred within the three years prior to the misconduct at issue. Events that are more recent in time, however, should be given more weight than less recent events.

5 If respondent's second or subsequent action involves a violation that is less serious than a prior violation, includes conduct that demonstrates that respondent is improving its compliance rate, or involves mitigation that did not exist in a prior action, Adjudicators may consider imposing a fine that is less than the fine imposed in the prior action.

6 In cases in which the respondent does not detect a reporting failure or violation that would have been apparent from a routine review of data such as, for example, transaction reporting cards on NASD's TRACE website or MSRB's website, Adjudicators should consider the respondent's violations to be egregious.

Limit Order Display Rule—Failure to Comply with Rule Requirements

NASD Conduct Rule 2110 and Regulation NMS, Rule 604 [SEC Rule 11Ac1-4]

Principal Considerations in Determining Sanctions	Monetary Sanction[1]	Suspension, Bar, or Other Sanctions
See Principal Considerations in Introductory Section 1. Whether customer limit order was executed during the period of non-compliance and whether other transactions were executed at prices equal to or better than that customer limit order. 2. Whether misconduct had a significant adverse impact on market-price discovery or transparency. 3. While respondents are responsible for the systems that they use and the third-party vendors that they employ, the appropriate level of sanctions will depend on whether the respondent diligently chose, installed, and tested a system that nevertheless malfunctioned; the frequency and thoroughness with which the respondent ensured that the system was operating in compliance with applicable rules; and the care that the respondent exercised in undertaking all necessary steps to correct systems-related malfunctions. The same considerations apply to a respondent that has relied on a third-party vendor's products or services.	***First Action***[2][1] Fine of $5,000 [1,000] to $10,000 [2,000]. ***Second Action*** Fine of $10,000 [2,000] to $50,000 [10,000]. ***Subsequent Actions*** Fine of $10,000 [5,000] to $100,00.[3]	In egregious cases, consider suspending the firm with respect to any or all activities or functions and/or suspending the responsible individual in any or all capacities for up to two years or expelling the firm and/or barring the responsible individual.

1 In cases in which the violations: (1) involve a pattern or patterns of misconduct; (2) can be quantified by number or percentage; or (3) can be compared to the standard maintained by industry peers, Adjudicators may consider deviating from the fine structure recommended in this guideline for first, second, or subsequent actions. Imposition of monetary sanctions greater than those recommended in this guideline may be particularly appropriate in cases involving violations that occurred during two or more examination or review periods or violations that occurred over an extended period of time. Similarly, in cases in which the respondent acted intentionally or recklessly, and in cases in which the respondent's compliance rate is significantly lower than that of its peers, Adjudicators may impose a monetary sanction in excess of the recommended range.

2[1] Adjudicators should consider actions concerning violative events that occurred within the three years prior to the misconduct at issue. Events that are more recent in time, however, should be given more weight than less recent events.

3 If respondent's second or subsequent action involves a violation that is less serious than a prior violation, includes conduct that demonstrates that respondent is improving its compliance rate, or involves mitigation that did not exist in a prior action, Adjudicators may consider imposing a fine that is less than the fine imposed in the prior action.

Limit Order Protection Rule—Failure to Comply with Rule Requirements

NASD Conduct Rule 2110 And IM 2110-2

Principal Considerations in Determining Sanctions	Monetary Sanction[1]	Suspension, Bar, or Other Sanctions
See Principal Considerations In Introductory Section 1. Whether respondent traded ahead of and/or failed to execute a customer limit order. 2. While respondents are responsible for the systems that they use and the third-party vendors that they employ, the appropriate level of sanctions will depend on whether the respondent diligently chose, installed, and tested a system that nevertheless malfunctioned; the frequency and thoroughness with which the respondent ensured that the system was operating in compliance with applicable rules; and the care that the respondent exercised in undertaking all necessary steps to correct systems-related malfunctions. The same considerations apply to a respondent that has relied on a third-party vendor's products or services.	***First Action***[2][1] Fine of $5,000 [1,000] to $10,000 [2,000]. ***Second Action*** Fine of $10,000 [2,000] to $50,000 [10,000]. ***Subsequent Actions*** Fine of $10,000 [5,000] to $100,000.[3]	In egregious cases, consider suspending the firm with respect to any or all activities or functions and/or suspending the responsible individual in any or all capacities for up to two years.

1 In cases in which the violations: (1) involve a pattern or patterns of misconduct; (2) can be quantified by number or percentage; or (3) can be compared to the standard maintained by industry peers, Adjudicators may consider deviating from the fine structure recommended in this guideline for first, second, or subsequent actions. Imposition of monetary sanctions greater than those recommended in this guideline may be particularly appropriate in cases involving violations that occurred during two or more examination or review periods or violations that occurred over an extended period of time. Similarly, in cases in which the respondent acted intentionally or recklessly, and in cases in which the respondent's compliance rate is significantly lower than that of its peers, Adjudicators may impose a monetary sanction in excess of the recommended range.

2[1] Adjudicators should consider actions concerning violative events that occurred within the three years prior to the misconduct at issue. Events that are more recent in time, however, should be given more weight than less recent events.

3 If respondent's second or subsequent action involves a violation that is less serious than a prior violation, includes conduct that demonstrates that respondent is improving its compliance rate, or involves mitigation that did not exist in a prior action, Adjudicators may consider imposing a fine that is less than the fine imposed in the prior action.

Locked/Crossed Market—Failure to Comply with Rule Requirements

NASD Conduct Rule 2110 and Marketplace Rule 4613

Principal Considerations in Determining Sanctions	Monetary Sanction[1]	Suspension, Bar, or Other Sanctions
See Principal Considerations in Introductory Section 1. Whether the locked/crossed market affected the market at a particularly sensitive time, such as at the market open, at commencement of secondary trading, or on an expiration date. 2. While respondents are responsible for the systems that they use and the third-party vendors that they employ, the appropriate level of sanctions will depend on whether the respondent diligently chose, installed, and tested a system that nevertheless malfunctioned; the frequency and thoroughness with which the respondent ensured that the system was operating in compliance with applicable rules; and the care that the respondent exercised in undertaking all necessary steps to correct systems-related malfunctions. The same considerations apply to a respondent that has relied on a third-party vendor's products or services.	***First Action***[[1]2] Fine of $5,000 [1,000] to $10,000 [2,000]. ***Second Action*** Fine of $10,000 [2,000] to $50,000 [10,000]. ***Subsequent Actions*** Fine of $10,000 [5,000] to $100,000.[3]	In egregious cases, consider suspending the firm with respect to any or all activities or functions and/or suspending the responsible individual in any or all capacities for up to two years or expelling the firm and/or barring the responsible individual.

1 In cases in which the violations: (1) involve a pattern or patterns of misconduct; (2) can be quantified by number or percentage; or (3) can be compared to the standard maintained by industry peers, Adjudicators may consider deviating from the fine structure recommended in this guideline for first, second, or subsequent actions. Imposition of monetary sanctions greater than those recommended in this guideline may be particularly appropriate in cases involving violations that occurred during two or more examination or review periods or violations that occurred over an extended period of time. Similarly, in cases in which the respondent acted intentionally or recklessly, and in cases in which the respondent's compliance rate is significantly lower than that of its peers, Adjudicators may impose a monetary sanction in excess of the recommended range.

2[1] Adjudicators should consider actions concerning violative events that occurred within the three years prior to the misconduct at issue. Events that are more recent in time, however, should be given more weight than less recent events.

3 If respondent's second or subsequent action involves a violation that is less serious than a prior violation, includes conduct that demonstrates that respondent is improving its compliance rate, or involves mitigation that did not exist in a prior action, Adjudicators may consider imposing a fine that is less than the fine imposed in the prior action.

Marking the Close or Open

NASD Conduct Rules 2110 and 3310

Principal Considerations in Determining Sanctions	Monetary Sanction	Suspension, Bar, or Other Sanctions
See Principal Considerations In Introductory Section 1. Whether the misconduct resulted in protecting[ed] a securities position or enhancing[ed] size. 2. Whether respondent received a benefit from the misconduct, including but not limited to increased valuation of inventory, avoidance of margin calls, or affecting month-end performance. 3. Whether the activity affected the market at a particularly sensitive time, such as on an expiration date. 4. Whether the misconduct was an isolated incident involving one stock or a systemic pattern of behavior involving multiple stocks.	Fine of $25,000 to $200,000 [100,000]. In egregious cases, consider a fine in excess of $200,000.	***Negligent Misconduct*** Suspend individual in any or all capacities and/or suspend firm with respect to any or all activities or functions for up to 30 business days. ***Intentional Or Reckless Misconduct*** Suspend individual in any or all capacities and/or suspend firm with respect to any or all activities or functions for up to two years. In egregious cases, consider barring the individual and/or expelling the firm.

Options Exercise and Positions Limits—Failure to Comply with Rule Requirements

NASD Conduct Rules 2110 and 2860

Principal Considerations in Determining Sanctions	Monetary Sanction[1]	Suspension, Bar, or Other Sanctions
See Principal Considerations in Introductory Section	***First Action***[2] Fine of $5,000 [1,000] to $10,000 [2,000]. ***Second Action*** Fine of $10,000 [2,000] to $50,000 [10,000]. ***Subsequent Actions*** Fine of $10,000 [5,000] to $100,000.[3]	In egregious cases, consider suspending the firm with respect to any or all activities or functions and/or suspending the responsible individual in any or all capacities for up to two years or prohibiting the firm from conducting options transactions.

1 In cases in which the violations: (1) involve a pattern or patterns of misconduct; (2) can be quantified by number or percentage; or (3) can be compared to the standard maintained by industry peers, Adjudicators may consider deviating from the fine structure recommended in this guideline for first, second, or subsequent actions. Imposition of monetary sanctions greater than those recommended in this guideline may be particularly appropriate in cases involving violations that occurred during two or more examination or review periods or violations that occurred over an extended period of time. Similarly, in cases in which the respondent acted intentionally or recklessly, and in cases in which the respondent's compliance rate is significantly lower than that of its peers, Adjudicators may impose a monetary sanction in excess of the recommended range. [As set forth in General Principle No. 6, Adjudicators may increase the recommended fine amount by adding the amount of a respondent's financial benefit.]

2 Adjudicators should consider actions concerning violative events that occurred within the three years prior to the misconduct at issue. Events that are more recent in time, however, should be given more weight than less recent events.

3 If respondent's second or subsequent action involves a violation that is less serious than a prior violation, includes conduct that demonstrates that respondent is improving its compliance rate, or involves mitigation that did not exist in a prior action, Adjudicators may consider imposing a fine that is less than the fine imposed in the prior action.

Options Positions Reporting—Late Reporting and Failing to Report

NASD Conduct Rules 2110 and 2860(b)(5)

Principal Considerations in Determining Sanctions[1]	Monetary Sanction[2]	Suspension, Bar, or Other Sanctions
See <u>Principal Considerations in Introductory Section</u> 1. Size of the positions not reported. 2. [Number of days the positions were not reported.] <u>Whether respondent violated rule requirements during an extended period of days. (Adjudicators should treat as aggravating the fact that a respondent's failure to report or incorrect reporting occurred for more than one week. Adjudicators should treat as egregious misconduct a respondent's failure to report for several weeks.)</u> 3. Evidence of respondent's potential for benefit or monetary gain.	***Late Reporting and Failing to Report*** [Late Reporting] [First Action[1] Fine of $1,000 to $2,000.] [Second Action Fine of $2,000 to $10,000.] [Subsequent Actions Fine of $ 5,000 to $25,000.] [Failure of Report] ***First Action[3]*** Fine of <u>$5,000</u> [2,000] to $10,000. <u>***Second Action***</u> <u>Fine of $10,000 to $50,000.</u> ***Subsequent Actions*** Fine of <u>$10,000</u> [5,000] to <u>$100,000</u> [25,000].[4] <u>In all egregious cases, whether a first, second, or subsequent action, consider a fine greater than or equal to the high end of the range for a first, second, or subsequent action. Also consider imposing the fine on a "per violation" basis.</u>	***Failure to Report*** In egregious cases, consider suspending the responsible individual in any or all capacities for up to two years or barring the individual. Also consider suspending the firm from conducting options transactions for up to two years or barring the firm from conducting options transactions.

1 A respondent's delegation of its reporting responsibilities to a third party who caused or contributed to respondent's violation is not an independent basis for mitigation.

2 In cases in which the violations: (1) involve a pattern or patterns of misconduct; (2) can be quantified by number or percentage; or (3) can be compared to the standard maintained by industry peers, Adjudicators may consider deviating from the fine structure recommended in this guideline for first, second, or subsequent actions. Imposition of monetary sanctions greater than those recommended in this guideline may be particularly appropriate in cases involving violations that occurred during two or more examination or review periods or violations that occurred over an extended period of time. Similarly, in cases in which the respondent acted intentionally or recklessly, and in cases in which the respondent's compliance rate is significantly lower than that of its peers, Adjudicators may impose a monetary sanction in excess of the recommended range.

3[1] Adjudicators should consider actions concerning violative events that occurred within the three years prior to the misconduct at issue. Events that are more recent in time, however, should be given more weight than less recent events.

4 If respondent's second or subsequent action involves a violation that is less serious than a prior violation, includes conduct that demonstrates that respondent is improving its compliance rate, or involves mitigation that did not exist in a prior action, Adjudicators may consider imposing a fine that is less than the fine imposed in the prior action.

Order Audit Trail System (OATS)—Late Reporting; Failing to Report; False, Inaccurate or Misleading Reporting; and Clock Synchronization Failure

NASD Systems and Programs Rules 6950 through 6957

Principal Considerations in Determining Sanctions[2]	Monetary Sanction[1]
See Principal Considerations in Introductory Section 1. Nature of OATS reporting violation. 2. Extent to which violative conduct affected the regulatory audit trail. 3. Whether violation occurred over an extended period of days. 4. Whether reporting violation was readily apparent from a review of NASD's OATS Website.[4] 5. While respondents are responsible for the systems that they use and the third-party vendors that they employ, the appropriate level of sanctions will depend on whether the respondent diligently chose, installed, and tested a system that nevertheless malfunctioned; the frequency and thoroughness with which the respondent ensured that the system was operating in compliance with applicable rules; and the care that the respondent exercised in undertaking all necessary steps to correct systems-related malfunctions. The same considerations apply to a respondent that has relied on a third-party vendor's products or services.	***Late Reporting, Failing to Report, False, Inaccurate or Misleading Reporting*** ***First Action***[3][1] Fine of $5,000 [1,000] to $10,000 [2,000]. ***Second Action*** Fine of $10,000 [2,000] to $50,000 [10,000]. ***Subsequent Actions*** Fine of $10,000 [5,000] to $100,000.[5] In all egregious cases, whether a first, second, or subsequent action, consider a fine [of $10,000 to $150,000] greater than or equal to the high end of the range for a first, second, or subsequent action. [Failure to Report and Inaccurate or Misleading Reporting] [First Action Fine of $5,000 to $10,000.] [Subsequent Actions Fine of $10,000 to $100,000.] [In egregious cases, fine of $15,000 to $150,000.] ***Failure to Synchronize Clocks*** ***First Action*** Fine of $5,000 [1,000] to $10,000 [5,000]. ***Subsequent Actions*** Fine of $10,000 [5,000] to $50,000.[5]

Suspension, Bar, or Other Sanctions

For All Types of Violations

Firm

Consider suspending the firm with respect to any or all activities or functions for up to 30 business days. In egregious cases, consider a [lengthier] suspension (of up to two years) or expulsion of the firm.

Individual

Subsequent Actions

Consider suspending the responsible individual in any or all capacities for up to 30 business days.

In egregious cases, consider a lengthier suspension (of up to two years) or a bar.

1 In cases in which the violations: (1) involve a pattern or patterns of misconduct; (2) can be quantified by number or percentage; or (3) can be compared to the standard maintained by industry peers, Adjudicators may consider deviating from the fine structure recommended in this guideline for first, second, or subsequent actions. Imposition of monetary sanctions greater than those recommended in this guideline may be particularly appropriate in cases involving violations that occurred during two or more examination or review periods or violations that occurred over an extended period of time. Similarly, in cases in which the respondent acted intentionally or recklessly, and in cases in which the respondent's compliance rate is significantly lower than that of its peers, Adjudicators may impose a monetary sanction in excess of the recommended range.

2 A respondent's delegation of its reporting responsibilities to a third party who caused or contributed to respondent's violation is not an independent basis for mitigation.

3[1] Adjudicators should consider actions concerning violative events that occurred within the three years prior to the misconduct at issue. Events that are more recent in time, however, should be given more weight than less recent events.

4 In cases in which the respondent fails for more than one week to detect a failure to report that would have been apparent from a review of data on the OATS Website, Adjudicators should consider the respondent's violations to be egregious.

5 If respondent's second or subsequent action involves a violation that is less serious than a prior violation, includes conduct that demonstrates that respondent is improving its compliance rate, or involves mitigation that did not exist in a prior action, Adjudicators may consider imposing a fine that is less than the fine imposed in the prior action.

Passive Market Making Violations

NASD Conduct Rule 2110 and Regulation M

Principal Considerations in Determining Sanctions	Monetary Sanction[1]	Suspension, Bar, or Other Sanctions
See Principal Considerations in Introductory Section.	***First Action***[2][1] Fine of $5,000 [1,000] to $10,000 [2,000]. ***Second Action*** Fine of $10,000 [2,000] to $50,000 [10,000]. ***Subsequent Actions*** Fine of $10,000 [5,000] to $100,000.[3]	In egregious cases, consider suspending responsible individual in any or all capacities for up to two years or barring responsible individual. Also consider suspending the firm with respect to any or all activities or functions for up to two years.

1 In cases in which the violations: (1) involve a pattern or patterns of misconduct; (2) can be quantified by number or percentage; or (3) can be compared to the standard maintained by industry peers, Adjudicators may consider deviating from the fine structure recommended in this guideline for first, second, or subsequent actions. Imposition of monetary sanctions greater than those recommended in this guideline may be particularly appropriate in cases involving violations that occurred during two or more examination or review periods or violations that occurred over an extended period of time. Similarly, in cases in which the respondent acted intentionally or recklessly, and in cases in which the respondent's compliance rate is significantly lower than that of its peers, Adjudicators may impose a monetary sanction in excess of the recommended range.

2[1] Adjudicators should consider actions concerning violative events that occurred within the three years prior to the misconduct at issue. Events that are more recent in time, however, should be given more weight than less recent events.

3 If respondent's second or subsequent action involves a violation that is less serious than a prior violation, includes conduct that demonstrates that respondent is improving its compliance rate, or involves mitigation that did not exist in a prior action, Adjudicators may consider imposing a fine that is less than the fine imposed in the prior action.

Short Sale Violations

Conduct Rules 3350 (Short Sale Rule), 3360 (Short-Interest Reporting), [3370 (Prompt Receipt and Delivery of Securities] Marketplace Rule 6130(d)(6) (Trade Report Input); IM-3350 (Short Sale Rule); and Regulation SHO

Principal Considerations in Determining Sanctions	Monetary Sanction[1]	Suspension, Bar, or Other Sanctions
See Principal Considerations in Introductory Section 1. In cases involving short interest reporting, consider the number of months during which the respondent failed to report short interest or reported short interest incorrectly.[4] 2. While respondents are responsible for the systems that they use and the third-party vendors that they employ, the appropriate level of sanctions will depend on whether the respondent diligently chose, installed, and tested a system that nevertheless malfunctioned; the frequency and thoroughness with which the respondent ensured that the system was operating in compliance with applicable rules; and the care that the respondent exercised in undertaking all necessary steps to correct systems-related malfunctions. The same considerations apply to a respondent that has relied on a third-party vendor's products or services.	***First Action***[2] Fine of $5,000 [1,000] to $10,000 [2,000]. ***Second Action*** Fine of $10,000 [2,000] to $50,000 [10,000]. ***Subsequent Actions*** Fine of $10,000 [5,000] to $100,000.[5] In all egregious cases, whether a first, second, or subsequent action, consider a fine greater than or equal to the high end of the range for a first, second, or subsequent action. Also consider imposing the fine on a "per violation" basis.	If the short-selling customer is not subject to NASD jurisdiction, in egregious cases or those with evidence of willful misconduct, consider adding the amount of the short-selling customer's "transaction profit"[3] to the fine for the executing member and/or associated person. In egregious cases, consider suspending the firm with respect to any or all activities or functions and/or suspending the responsible Individual in any or all capacities for up to two years or expelling the firm and/or barring the responsible individual.

1 In cases in which the violations: (1) involve a pattern or patterns of misconduct; (2) can be quantified by number or percentage; or (3) can be compared to the standard maintained by industry peers, Adjudicators may consider deviating from the fine structure recommended in this guideline for first, second, or subsequent actions. Imposition of monetary sanctions greater than those recommended in this guideline may be particularly appropriate in cases involving violations that occurred during two or more examination or review periods or violations that occurred over an extended period of time. Similarly, in cases in which the respondent acted intentionally or recklessly, and in cases in which the respondent's compliance rate is significantly lower than its peers, Adjudicators may impose a monetary sanction in excess of the recommended range.

[As set forth in General Principle No. 6, Adjudicators may increase the recommended fine amount by adding the amount of a respondent's financial benefit.]

2 Adjudicators should consider actions concerning violative events that occurred within the three years prior to the misconduct at issue. Events that are more recent in time, however, should be given more weight than less recent events.

3 "Transaction profit" means the profit that the short-selling customer realized. This amount is separate and distinct from the respondent's financial benefit, as described in General Principle No. 6.

4 Adjudicators should treat as aggravating the fact that a respondent's failure to report or incorrect reporting of short interest occurred for more than one month. A respondent's delegation of its reporting responsibilities to a third party who caused or contributed to respondent's violation is not an independent basis for mitigation.

5 If respondent's second or subsequent action involves a violation that is less serious than a prior violation, includes conduct that demonstrates that respondent is improving its compliance rate, or involves mitigation that did not exist in a prior action, Adjudicators may consider imposing a fine that is less than the fine imposed in the prior action.

Trade Reporting—Late Reporting; Failing to Report; False, Inaccurate or Misleading Reporting

NASD Conduct Rule 2110 and Equity Trade Reporting Rules [Marketplace Rules 4630 through 4652, 6130, 6400 through 6420, 6600 through 6620, and 6700 through 6750[1]]

Principal Considerations in Determining Sanctions	Monetary Sanction[1]	Suspension, Bar, or Other Sanctions
See Principal Considerations In Introductory Section 1. Nature of trade reporting violation. 2. Whether violative conduct affected market-price discovery data. 3. Whether operational problems caused delayed reports. 4. Whether respondent violated rule requirements over an extended period of days. 5. While respondents are responsible for the systems that they use and the third-party vendors that they employ, the appropriate level of sanctions will depend on whether the respondent diligently chose, installed, and tested a system that nevertheless malfunctioned; the frequency and thoroughness with which the respondent ensured that the system was operating in compliance with applicable rules; and the care that the respondent exercised in undertaking all necessary steps to correct systems-related malfunctions. The same considerations apply to a respondent that has relied on a third-party vendor's products or services.	***First Action***[2] Fine of $5,000 [1,000] to $10,000 [2,000]. ***Second Action*** Fine of $10,000 [2,000] to $50,000 [10,000]. ***Subsequent Actions*** Fine of $10,000 [5,000] to $100,000.[3] In all egregious cases, whether a first, second, or subsequent action, consider a fine greater than or equal to the high end of the range for a first, second, or subsequent action.	In egregious cases, consider suspending the firm with respect to any or all activities or functions and/or suspending responsible individual in any or all capacities for up to two years. Also consider expelling the firm and/or barring the responsible individual.

1 This guideline also is appropriate for violations of MSRB Rule G-14. In cases in which the violations: (1) involve a pattern or patterns of misconduct; (2) can be quantified by number or percentage; or (3) can be compared to the standard maintained by industry peers, Adjudicators my consider deviating from the fine structure recommended in this guideline for first, second, or subsequent actions. Imposition of monetary sanctions greater than those recommended in this guideline may be particularly appropriate in cases involving violations that occurred during two or more examination or review periods or violations that occurred over an extended period of time. Similarly, in cases in which the respondent acted intentionally or recklessly, and in cases in which the respondent's compliance rate is significantly lower than that of its peers, Adjudicators may impose a monetary sanction in excess of the recommended range.

[1]2 Adjudicators should consider actions concerning violative events that occurred within the three years prior to the misconduct at issue. Events that are more recent in time should be given more weight than less recent events.

3 If respondent's second or subsequent action involves a violation that is less serious than a prior violation, includes conduct that demonstrates that respondent is improving its compliance rate, or involves mitigation that did not exist in a prior action, Adjudicators may consider imposing a fine that is less than the fine imposed in the prior action.

Prohibition on Transactions, Publication of Quotations or Publication of Indications of Interest [Trades Executed] During Trading Halts

NASD Conduct Rules 2110 And 3340[1]

Principal Considerations in Determining Sanctions	Monetary Sanction	Suspension, Bar, or Other Sanctions
See Principal Considerations in Introductory Section 1. Whether respondent knew of the trading halt.	Fine of $5,000 [1,000] to $50,000 [10,000].[2] In egregious cases, consider a fine in excess of $50,000 [10,000-100,000].	In egregious cases, consider suspending the firm with respect to any or all activities or functions and/or suspending the responsible individual in any or all capacities for up to two years or expelling the firm and/or barring the responsible individual.

1 This Guideline also is appropriate for violations of MSRB Rule G-13.

[2 As set forth in General Principle No. 6, Adjudicators may increase the recommended fine amount by adding the amount of a respondent's financial benefit.]

Reports of Execution Quality and Order Routing

Regulation NMS, Rules 605 & 606

Principal Considerations in Determining Sanctions	Monetary Sanction[1]	Suspension, Bar, or Other Sanctions
See Principal Considerations in Introductory Section[3] 1. Whether respondent violated rule requirements during a period of months.[4] 2. While respondents are responsible for the systems that they use and the third-party vendors that they employ, the appropriate level of sanctions will depend on whether the respondent diligently chose, installed, and tested a system that nevertheless malfunctioned; the frequency and thoroughness with which the respondent ensured that the system was operating in compliance with applicable rules; and the care that the respondent exercised in undertaking all necessary steps to correct systems-related malfunctions. The same considerations apply to a respondent that has relied on a third-party vendor's products or services.	***First Action***[2] Fine of $10,000 to $20,000. ***Second Action*** Fine of $20,000 to $50,000. ***Subsequent Actions*** Fine of $20,000 to $100,000.[5] In all egregious cases, whether a first, second, or subsequent action, consider a fine greater than or equal to the high end of the range for a first, second, or subsequent action. Also consider imposing the fine on a "per violation" basis.	

1 In cases in which the violations: (1) involve a pattern or patterns of misconduct; (2) can be quantified by number or percentage; or (3) can be compared to the standard maintained by industry peers, Adjudicators may consider deviating from the fine structure recommended in this guideline for first, second, or subsequent actions. Imposition of monetary sanctions greater than those recommended in this guideline may be particularly appropriate in cases involving violations that occurred during two or more examination or review periods or violations that occurred over an extended period of time. Similarly, in cases in which the respondent acted intentionally or recklessly, and in cases in which the respondent's compliance rate is significantly lower than that of its peers, Adjudicators may impose a monetary sanction in excess of the recommended range.

2 Adjudicators should consider actions concerning violative events that occurred within the three years prior to the misconduct at issue. Events that are more recent in time should be given more weight than less recent events.

3 A respondent's delegation of its reporting responsibilities to a third party who caused or contributed to respondent's violation is not an independent basis for mitigation.

4 Adjudicators should treat as aggravating the fact that a respondent's failure to report or incorrect reporting occurred for more than one month.

5 If respondent's second or subsequent action involves a violation that is less serious than a prior violation, includes conduct that demonstrates that respondent is improving its compliance rate, or involves mitigation that did not exist in a prior action, Adjudicators may consider imposing a fine that is less than the fine imposed in the prior action.

MSRB Rule G-36 (Timely Filing of Offering Documents with the MSRB)—
Late Filing and Failing to File

MSRB Rule G-36

Principal Considerations in Determining Sanctions	Monetary Sanction	Suspension, Bar, or Other Sanctions
See Principal Considerations in Introductory Section 1. Average number of days late. 2. Whether respondent also failed to comply with the recordkeeping requirements of MSRB Rule G-8 concerning the delivery to the MSRB of Official Statements and Advance Refunding Documents. 3. Evidence of improper mailing, i.e., by means that do not provide a record of sending. 4. Extent to which violative conduct deprived the investors or other market participants of publicly available information regarding the issuer.	***Late Filing*** Fine of $5,000 [1,000] to $10,000 [$3,000]. Consider imposing a fine on a per violation basis. ***Failure to File*** Fine of $5,000 [1,000] to $20,000 [5,000]. Consider imposing a fine on a per violation basis.	***Late Filing*** In egregious cases, consider suspending the firm from engaging in all municipal underwriting activities for up to 30 business days. Also consider suspending the responsible individual in any or all capacities for up to 30 business days. ***Failure to File*** In egregious cases, consider suspending the firm from engaging in all municipal underwriting activities for up to 30 business days. Also consider suspending the responsible individual in any or all capacities for up to 30 business days.

MSRB Rules G-37 [G-38] Reporting—Late Filing; Failing to File; Filing False or Misleading Reports

MSRB Rules G-37 and G-38

Principal Considerations in Determining Sanctions	Monetary Sanction[2]	Suspension, Bar, or Other Sanctions
See Principal Considerations in Introductory Section 1. Whether the report is inaccurate, outdated, or both. 2. Whether respondent is active in the municipal underwriting business and generally makes political contributions. 3. Whether respondent eventually filed report, albeit late. 4. Whether violation involved failing to report political contributions or failing to report participation in an underwriting. 5. Extent to which violative conduct deprived the investing public or other market participants of information regarding the issuer. 6. With respect to false or misleading reports, whether misconduct was intentional or reckless.	***Late Filing*** Fine of $5,000 [1,000] to $10,000 [$3,000]. Consider imposing a fine on a per violation basis. ***Failure to File*** Fine of $5,000 [1,000] to $20,000 [5,000]. Consider imposing a fine on a per violation basis. ***Filing False or Misleading Reports*** Fine of $10,000 [5,000] to $100,000 per violation.	***Late Filing*** In egregious cases, consider suspending the firm from engaging in all municipal underwriting activities for up to 30 business days. Also consider suspending the responsible individual in any or all capacities for up to 30 business days. ***Failure to File*** In egregious cases, consider suspending the firm from engaging in all municipal underwriting activities for up to 30 business days and thereafter until the firm files accurate reports, as required by the rules. Also consider suspending the responsible individual in any or all capacities for up to 30 business days. ***Filing False or Misleading Reports*** Consider suspending the firm from engaging in all municipal underwriting activities for up to two years. Also consider suspending the responsible individual in any or all capacities for up to two years or barring the individual.

[NASD Regulation enforces MSRB Rules G-37 and G-38, as interpreted by the MSRB.]