sharing revenues. Both the SIA and STA said the plan falls short.

In its letter, the STA said the formula should emphasize that market data revenues should be allocated to reward true, quality quotes that are tradable and that better the NBBO—national best bid and offer. The STA said this means the quotes should receive allocation credit only if they are accessible for automated trading.

The letter said the present SEC draft appears to favor inaccessible quotes of manual markets.

The assault on the SEC's market data plan by the SIA was even more severe and hinted that the present draft had few redeeming qualities.

The SIA said fees charged for consolidated market data are a critical market structure problem that was passed over by Reg NMS.

"SIA is deeply concerned that the SEC's exclusive focus on the allocation of market data revenues...represents a lost opportunity to address the true problems caused by current market data fees," the SIA letter added.

The SIA said fees have been too high for too long, and are generated by non-transparent processes administered by opaque and anti-competitive governance systems. It said the SEC needs to amend Reg NMS to address this alleged distortion.

The SIA homed in on claims that SROs need the market data sales profits—estimated by some as 1,000% after costs—to pay for exchange regulatory programs. "We believe that it is inappropriate to use market data fees as camouflage for regulatory fees," the letter said. It said regulatory fees should be separately charged and accounted for.

The SIA said the commission should amend Reg NMS to propose a new direct cost-based system for determining the level of market data fees to be charged. It said the new system should require more transparent fee setting, along with open governance structures in which all parties participate.

Don Kittell, SIA executive vp, said during a press briefing on the organization's comment letter that the more important issue is how market data is priced and what kind of activity is covered by that market data revenue. "Just dealing with the formula for allocating market data revenue among market centers misses the larger point."—***JH***

## SEC APPROVES CHANGES TO NASD ARBITRATOR RULES

The SEC approved rule amendments last week that had been put forward by the NASD regarding who may be considered an arbitrator—an effort to ensure that people with too-close ties to the securities industry are not considered "public" arbitrators.

The new amendments to the rules will take effect July 19.

Arbitration panels have one public arbitrator, one "non-public" arbitrator, who typically is meant to present the securities industry's side of things, and a chairman.

According to the NASD, public arbitrators are neither personally engaged in certain activities that would make them non-public, nor are family members of that arbitrator engaged in such activities.

Non-public arbitrators, on the other hand, do have a connection with the securities industry, NASD documents say.

For non-public arbitrators the new rules: increase from three to five years the period of transition from a non-public to a public arbitrator after leaving the securities industry; clarify that the term "retired" from the industry includes anyone who spent a substantial part of their career in the industry; and prohibit anyone who has been associated with the industry in the past 20 years from ever being a public arbitrator, regardless of how long ago the association was.

The rule changes also exclude from the public arbitrator roster attorneys, accountants, and other professionals whose firms receive 10% or more of their annual revenue in the previous two years from clients in securities-related areas and provides that investment advisers may not be public arbitrators.

Also changed under the new rules would be the definition of who an immediate family member is. It will now include parents, stepparents, children, and stepchildren, or anyone who is the member of a household of a non-public arbitrator whether related or not.

Jenice Malecki, a securities attorney in New York, thinks that the changes are a step in the right direction, but do not go far enough. She said what she really thinks would help would be if the NASD opened up the arbitration roles to include more peers of investors.

"Until we do more to recruit peers of actual investors we will not have true neutrality on panels," she said.

To reach these peers, Malecki believes one thing theNASD could try is to make penalized firms pay for outreach to average investors to become arbitrators as part of the fines levied against them by the regulators.

"A mailing (to solicit arbitrators) after all the regulatory and sales practice violations we have seen over the past five years could be a great thing for regulators, as part of how they discipline firms," she said. "It could be a sanction."

David Robbins, partner at Kaufmann, Feiner, Yamin, Gildin & Robbins, on the other hand, applauded the NASD for what it is trying to accomplish with the new rules.

"It's another example of the NASD trying to adapt to the needs of its constituency," he said.

Robbins added that this issue addresses perceptions more than reality as, in his experience, most arbitrators who have taken the arbitrator's oath to be fair have been so.

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and the Italian regulator CONSOB.

Market participants from 14 countries can now access Eurex US: Austria, Belgium, Denmark, Finland, Germany, Gibraltar, Ireland, Italy, Spain, Sweden, Switzerland, the Netherlands, U.S. and the United Kingdom. Spanish market participants are required to apply for authorization with the CNMV before commencing trading. Currently, a total of 33 European member firms are connected to Eurex US.

As previously announced, Eurex US has introduced a new market maker program during European trading hours. The European market making program will incentivize participants to provide liquidity during European trading hours and will further connect the European and U.S. customer bases in U.S. Treasury futures.

Trading on Eurex US began on February 8, 2004. The exchange currently lists futures and options on 2-, 5- and 10-year Treasury notes and on 30-year Treasury bonds; pending approval of international regulatory authorities, Eurex US will expand its offering to include futures and options on euro-denominated interest rates and indices as well as U.S. indices.

## MACDONALD, CONNAMARA SYSTEMS TO PROVIDE QUICKFIX SUPPORT IN EUROPE AND NORTH AMERICA

Macdonald Associates and Connamara Systems announced a cross-border agreement June 29 to collaborate on the first formal customer support initiative for the increasingly popular QuickFIX FIX engine.

QuickFIX, an "open source" FIX engine, was designed to enable individuals and firms of all sizes to easily and inexpensively adopt the FIX protocol technology commonly required for connectivity in the securities and derivatives industries.

Under the agreement, European-based Macdonald and Chicago-based Connamara will offer a variety of support services throughout Europe and North America ranging from developer assistance to operational support, as well as test and support tools.

"The adoption rate of QuickFIX in the U.S. and European financial markets has greatly outpaced our expectations," said Jim Downs, founder and managing member of Connamara Systems. "The demand for a formal support program is growing, as large and small financial institutions alike are turning to QuickFIX as an alternative to commercial FIX engines. We are proud to join forces with Macdonald Associates—a proven, customer-oriented firm—to offer these valuable services to the rapidly growing QuickFIX community."

"This collaboration is really good news for the QuickFIX community," said Oren Miller, author and maintainer of the QuickFIX project. "In addition to being able to lean on each other through the QuickFIX user forums, QuickFIX adopters can now enjoy the same level of formal support and service offerings provided by commercial FIX engine vendors."

"We believe that there will be considerable expansion of the use of FIX in the European equity and fixed income markets," said George Macdonald, head of Business Development at Macdonald Associates. "As the leading open source FIX engine, QuickFIX has the potential to play a significant part in this change. When we integrated QuickFIX into our existing range of products, we were very impressed with its performance and reliability. Now we are pleased to be able to offer local support together with Connamara Systems to other QuickFIX users throughout Europe and North America."

Open source products provide source code free of charge, allowing individuals the ability to submit recommended changes to the program.

As applied to QuickFIX, the changes are controlled and tested by a small, well-organized group to ensure that they are appropriate and consistent with the high quality standards of the QuickFIX engine.

With offices in Chicago and New Delhi, Connamara Systems, LLC provides FIX consulting, QuickFIX support and custom trading systems development service to the equities and derivatives trading industries. Connamara was an initial collaborator in the creation of QuickFIX and continues to contribute to the enhancements and maintenance of the engine.

Macdonald Associates Ltd., founded in 1983, has a pan-European presence covering the UK, Switzerland and Germany.

The company has a range of trading products in the equity and fixed income markets and also offers training and consulting to financial institutions.

## SEC APPROVES CHANGES TO NASD ARBITRATOR RULES

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"But the people who use the process must truly feel they are," he said. "(The rules) improve the perception issues a number of public customers and attorneys have in the fairness of the process."

One industry observer said that in his opinion these changes are probably meaningless in the long run.

"Claimant's attorneys always think the system is rigged in favor of the firms," the observer said. "But I think you can get good awards out of people who have been industry arbitrators, or people who aren't industry arbitrators. You can (also) get bad awards out of both of them."—***DS***