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SEC Reopens Comment Period on Elimination of Flash Order Exception for Listed Options

The Securities and Exchange Commission has reopened the period for public comment on its proposal to eliminate the flash order exception set out in Rule 602 of Regulation NMS, solely as it relates to listed options. Flash orders generally are orders that are exposed to market participants for a very brief period (typically less than a second) and are immediately executable at prices that "lock" the best displayed quote on the opposite side of the market (without such order being routed away to another market for execution). In September 2009, the SEC previously proposed to amend Rule 602 of Regulation NMS to eliminate the exception which allows exchanges to permit the use of flash orders for trading both NMS stocks and listed options without including such orders in the exchange's consolidated quotation data.

In reopening the comment period on the proposed rule change with respect to listed options, the SEC has specifically requested comment on a number of issues, including the relationship between flash orders and access fees charged by options exchanges (including the advisability of a cap on such access fees), the relative quality of execution received by flash and non-flash orders in listed options, how brokers assess whether flashed orders receive "best execution" and whether the elimination of the flash order exception would lead to more aggressive quoting by options exchanges (and corresponding narrowing of "national best bid and offer" spreads for listed options).

The comment period closes on August 9.

A copy of the SEC release is available here.

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