

[SEC NOTICE, March 04, 2004]

RULES ON ALTERNATIVE TRADING SYSTEMS

In recognition of the development of innovative securities trading and other trading markets in the local financial sector brought about by the continuous advancement of information and communication technology and the globalization of financial markets, the Commission has formulated the following rules on alternative trading systems in accordance with Section 37 of the Securities Regulation Code (SRC).

The provisions in the following rules are based and premised on the Securities Regulation Code and international best practices gathered as part of the research effort behind their development.

Nothing in these rules shall be construed as amending the rules and regulations adopted by the Bangko Sentral ng Pilipinas on derivatives and foreign exchange transactions in pursuance of the provisions of its Charter and other banking laws.

RULES AND REGULATIONS ON ALTERNATIVE TRADING SYSTEM

PREAMBLE

WHEREAS, the continuous advancement of information and communication technology and the globalization of financial markets is expected to facilitate the development of innovative securities trading and other trading markets in the local financial industry, which include alternative trading systems, among others;

WHEREAS, alternative trading systems have become integral to the modern securities markets, providing investors with enhanced flexibility, security, transparency, and reduced trading costs, as well as competition to the established securities exchanges;

WHEREAS, the operation of alternative trading systems would work towards the realization of the objectives of the E-Commerce Act of 2000;

WHEREAS, pursuant to the mandate of the Commission under the Securities Regulation Code, to encourage competitiveness in the market, promote the development of capital market and to ensure the protection of the investors, the Commission hereby promulgates the following rules governing alternative trading systems for the information and guidance of all concerned:

SECTION 1. Definitions - For purposes of these rules, the following definition of terms shall apply unless the context otherwise requires:

A. Alternative trading system (ATS) refers to any organization, association, person, or group of persons, or system:

1. That constitutes, operates, maintains, or provides an electronic market place or facility for bringing together:

1. Primary market issuers of securities of SEC-registered small, medium, growth, venture enterprises, and technology-based ventures, and the investors who wish to purchase those securities;
2. Primary market issuers of innovative registered securities of any kind of SEC-registered enterprise and the buyers of those securities;
3. Secondary market sellers and buyers of securities of SEC-registered small, medium, growth, venture enterprises, and technology-based ventures;
4. Secondary market sellers and buyers of innovative registered securities of any kind of SEC-registered enterprise;
5. Primary issuers and buyers, and secondary sellers and buyers of other securities as may be approved by the Commission;

or for otherwise performing, with respect to securities, the functions commonly performed by a recognized exchange or clearing house; and

2. That does not:

1. Set rules governing the conduct of subscribers other than the conduct of such subscribers' trading on such organization, association, person, group of persons, or system; or

2. Discipline subscribers other than by exclusion from trading.

- **Affiliate** of a subscriber means any person that, directly or indirectly, controls, is under common control with, or is controlled by, the subscriber, including any employee.
- **ATS FORM 1** refers to the prescribed ATS Registration Form.
- **ATS FORM 2** refers to the prescribed ATS Operational Report Form.
- **ATS FORM 2-A** refers to the prescribed ATS Operational Report Amendment Form.
- **ATS FORM 3** refers to the prescribed annual report with audited financial statements.
- **ATS FORM 4** refers to the prescribed ATS Form for filing a cessation of operations report.
- **ATS FORM 5** refers to the prescribed ATS Form for reporting proposed changes on the System.
- **ATS FORM 6** refers to the prescribed report on material system errors/upgrades.
- **Commission** means the Securities and Exchange Commission (SEC).
- **Qualified Investor** refers to an investor defined under Sec. 10.1 (I) of the SRC and SRC Rule 52.1-6 of the Implementing Rules and Regulations (IRR) of the SRC or such other person whose net worth or

financial background would allow him to bear the risk that may arise from participating in an ATS.

- **SRC** means the Securities Regulation Code.
- **Subscriber** means any person, organization or association apart from a recognized exchange company or clearing house that has entered into a contractual agreement with an ATS to access the latter for the purpose of effecting transactions in securities or submitting, disseminating, or displaying orders on such ATS, including a customer, member, user or participant therein.

Section II. Requirements for Alternative Trading System

A. REGISTRATION REQUIREMENTS

No ATS shall be registered/licensed unless it complies with the following requirements:

1. The applicant shall register as a broker-dealer in accordance with the SRC;
2. The applicant shall submit ATS Form 1, together with the following certified documents, to the Commission:
 1. Acceptance procedure for and the description of the type of security that will be offered and/or traded in the system;
 2. Trading and disclosure rules;
 3. Business conduct rules;
 4. A continuing authorization for the Commission's duly authorized representative to verify the applicant's bank accounts;
 5. A written description of the software system or program which shall include a flowchart showing an actual primary and secondary market transaction, and a diagram or matrix showing its applications and functions;
 6. A written description of the hardware component and the communication facility of the system which shall include

configuration, capacity, interconnection with other ATS or other trading markets and extent of communication ability;

7. Description of the custodian or registrar of the proposed financial products to be traded in the system and the related systems to be used;
8. Copy of the Board Resolution approving and authorizing the company's registration as an ATS;
9. Curriculum vitae of all the management and information technology personnel in charge or directly responsible for the system;
10. Copy of any agreement executed or license granted pertaining to the operation of the system and to the product/s proposed to be traded. The copy of all other contracts, MOUs entered into with any party by the ATS and any amendment shall be submitted to the Commission for approval;
11. Risk Disclosure Statement discussing the risk factors involved in the operation of the market and the corresponding risks for each specific product that shall be traded in its market. The statement shall discuss the following:
 - a. Process of Identification of the Risks;
 - b. Description of the Risks Involved;
 - c. Assessment and Valuing of Risks; and
 - d. Risk Management.
12. A description of an independent risk control unit that will be responsible for the design and implementation of the company's risk management system;
13. Business plan which shall include marketing strategies and financial plan for the next twelve months or such