

MEMORANDUM

April 17, 2012

To: File No. S7-11-10

Re: Telephone Conferences with FINRA

On January 23, 2012, staff from the Division of Trading and Markets and the Office of Compliance Inspections and Examinations (David Shillman, Associate Director; Gregg Berman, Senior Advisor to the Director; John Polise, Associate Director; Mark Donohue, Assistant Director) participated in a telephonic conference call with representatives of FINRA (Tom Gira, Executive Vice President, Shelly Bohlin, Director, and Jon Kroeper, Senior Vice President). On February 29, 2012, staff from the Division of Trading and Markets (David Shillman, Associate Director; Gregg Berman, Senior Advisor to the Director; David Hsu, Assistant Director, Rebekah Liu, Special Counsel, Jennifer Colihan, Special Counsel, Carl Tugberk, Special Counsel, Leigh Duffy, Attorney) participated in a follow-up telephonic conference call with representatives of FINRA (Tom Gira, Executive Vice President, Shelly Bohlin, Director, and Jon Kroeper, Senior Vice President, and Paul McKenney, Associate Director).

Meeting Summary:

The participants on the calls discussed generally how OATS handles the data it receives and how it deals with errors in data reported by members. FINRA reported that:

- In the case of a broker-dealer erroneously generating or routing an order to an exchange that it subsequently cancels, both the original erroneous event and the cancellation are reported to OATS.
- FINRA acknowledges the receipt of OATS files sent by a broker-dealer within 1 hour after the broker-dealer transmits those files, absent systems issues.
- FINRA validates the syntax of the OATS files received from a given broker-dealer within 4 hours of receipt of those files, and reports any errors back to the broker-dealer, absent systems issues.
- FINRA validates the context and self-consistency of OATS files received from a given broker-dealer within 24 hours of receipt of those files, and reports any errors back to the broker-dealer by the next business day following receipt of the file.
- Since OATS was expanded to all NMS stocks on November 28, 2011, approximately 0.10% of the intra-firm data reported daily by broker-dealers are rejected for syntax, semantics or context validation errors. However, when considering data over a longer period of time (approximately 26 months), the percentage of the intra-firm data reported daily by broker-dealers rejected for errors was 0.24%.
- Broker-dealers have up to 5 days from the time FINRA has completed rejection processing for a particular OATS processing day to resubmit OATS corrections due to any syntax, context, and self-consistency errors reported above.

- Inter-firm surveillance usually begins 5 business days after receipt of OATS files to allow time for broker-dealers to submit any required corrections.
- FINRA also performs cross-firm validation and consistency checks within two business days of receipt of OATS files from broker-dealers.
- Cross-firm consistency errors are reported back to the broker-dealers, but there is no requirement for broker-dealers to resubmit OATS correction for these types of errors.
- As a result, since OATS was expanded to all NMS stocks on November 28, 2011 approximately .5% of each day's reportable events remain unmatched (i.e. multi-firm events, such as routes, that cannot be reconciled). However, when considering data over a longer period of time (approximately 26 months), the percentage of the cross-firm data reported daily by broker-dealers that remained unmatched was significantly higher, approximately 0.95%. FINRA explained that the decrease in the percent of unmatched reportable events in the near term months was believed to be because FINRA eliminated the requirement that the time stamps on individual reports be the same in order to match the reports. FINRA instead now requires that a unique number be used on each report, which has likely improved matching rates.
- FINRA also collects data from several exchanges pursuant to Regulatory Service Agreements. FINRA links such data with OATS data, to the extent there is routing data required to be reported to OATS with respect to such data, to construct a more complete audit trail. Since OATS was expanded to all NMS stocks on November 28, 2011 approximately 2% of the reportable OATS data related to exchange orders cannot be linked with matching exchange data. When considering data covering approximately 26 months, the percentage of reportable OATS data related to exchange orders that could not be linked with matching exchange data remained at approximately 2%.
- FINRA also links trade report data it receives from its Trade Reporting Facilities with OATS data. Since OATS was expanded to all NMS stocks on November 28, 2011 the error rate for matching such data is approximately .5%. When considering data covering approximately 26 months, the percentage of reportable OATS data that could not be linked with data received from its Trade Reporting Facility remained at approximately .5%.