

MEMORANDUM

TO: File No. S7-14-16

FROM: Andrew Sherman
Attorney-Adviser
Office of Market Supervision, Division of Trading and Markets
U.S. Securities and Exchange Commission

DATE: February 28, 2018

SUBJECT: Meeting with Representatives of Morgan Stanley

On February 26, 2018, Brett Redfearn, David Shillman, Theodore Venuti, Tyler Raimo, Jennifer Dodd, Steve Kuan, Derek James, Marsha Dixon, Amir Katz, Matthew Cursio, Andrew Sherman, Megan Mitchell, and Emerald Greywoode, from the Division of Trading and Markets, met with the following individuals.

Sapna Patel
Bill Neuberger
Paul O'Donnell
Marc Rosenthal
Joyce Tavoulaareas

The discussion concerned, among other things, the proposed rulemaking relating to disclosure of order handling information [Release No. 34-78309], including the attached presentation.

Attachment

MEMORANDUM

TO: File No. S7-02-10

FROM: Chris Grobbel
Division of Trading and Markets

DATE: October 1, 2015

RE: Meeting with Representatives of Morgan Stanley

On October 1, 2015, David Shillman, Theodore Venuti, Arisa Tinaves, Steve Kuan, Christopher Grobbel, and Andrew Sioson met with Andrew Silverman (Managing Director and Global Co-Head of Electronic Trading), Bill Neuberger (Managing Director and Global Co-Head of Electronic Trading), Sapna Patel (Executive Director and Head of Americas Market Structure and Liquidity Strategy) and Joyce Tavoulaareas (Executive Director and Counsel) to discuss market structure issues, including the attached presentation.

Attachment

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Order Handling Transparency

October 2015

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- I. Standardized Client Specific Venue Analysis Template
- II. Public Disclosure of Routing and Execution of Non-Directed Institutional Orders
- III. Public U.S. Equity Order Handling and Routing Practices
Frequently Asked Questions
- IV. Appendix – relevant slides from past presentations
 - Update on Equity Market Structure (May 2013)
<http://www.sec.gov/comments/s7-02-10/s70210-401.pdf>
 - Discussion of Order Handling Practices and Disclosures (March 2011)
<http://www.sec.gov/comments/s7-02-10/s70210-328.pdf>

Considerations

- Provide institutional clients with mandated transparency around order handling practices in today's environment
- Provide institutional clients with an objective and meaningful standardized venue analysis template
- Provide high-level, mandated public disclosure related to order routing practices beyond current Rule 606 – to allow institutional clients to make informed decisions based on transparency around aggressive order handling practices
- Provide mandated public disclosure of order handling practices through standardized frequently asked questions
- Goal is to (1) reduce subjectivity that could hide certain practices; (2) provide mandated public transparency around order routing practices; and (3) potentially decrease the number of different venue analysis template and questionnaire requests

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Standardized Client Specific Venue Analysis Template

[Firm Name] Venue Analysis Report
 [Client Name]
 [Data Range for Data]

Routing and Execution Breakdown

| Venue Name | MIC | Notional Executed | Shares Executed | Take Shares Sent | Take Shares Executed | Provide Shares Sent | Provide Shares Executed | Routed Shares Executed | Average Trade Size | Electronic IOI Shares Sent | Electronic IOI Shares Executed | % of Executions at Near | % of Executions between Near and Mid | % of Executions at Mid | % of Executions between Mid and Far | % of Executions at Far |
|------------|-----|-------------------|-----------------|------------------|----------------------|---------------------|-------------------------|------------------------|--------------------|----------------------------|--------------------------------|-------------------------|--------------------------------------|------------------------|-------------------------------------|------------------------|
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Definition:
Electronic IOI = outbound IOIs from anywhere within the electronic trading infrastructure (*i.e.*, from the dark pools, smart order routers or algorithms); does not include traditional high touch IOIs

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Public Disclosure of Routing and Execution of Non-Directed Institutional Orders

Public Disclosure of Routing and Execution of Non Directed Institutional Orders

Q1 2016

[Firm Name]

| Venue Name | % of Total Shares Sent | Fill Rate | % of Total Electronic IOI Shares Sent | Electronic IOI Fill Rate |
|------------|------------------------|-----------|---------------------------------------|--------------------------|
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There should be separate tables for marketable orders and non-marketable orders.

Definitions:

% of Total Shares Sent = number of shares routed to the venue divided by total number of shares routed to all venues

Fill Rate = number of shares executed by the venue divided by the total number of shares sent to the venue

% of Total Electronic IOI Shares Sent = number of IOI shares routed to the venue divided by total number of IOI shares routed to all venues

Electronic IOI Fill Rate = number of IOI shares executed by the venue divided by the total number of IOI shares sent to the venue

Public U.S. Equity Order Handling and Routing Practices Frequently Asked Questions

[Firm Name] U.S. Equity Order Handling & Routing Practices Frequently Asked Questions

(Last Updated: [Date])

I. Equity Order Handling and Routing Practices

1. Please describe the Firm's general approach to order handling and routing of its clients' orders.
2. Please provide a list of all sources of liquidity that the Firm's smart order router(s) may access for client orders.
3. Does the Firm receive payment for routing to external venues?
4. In which U.S. equity trading venues does the Firm have a strategic ownership stake?
5. Is the Firm directly connected to all the exchanges or does it use other exchanges or broker-dealers to access certain exchanges?
6. Can clients opt out of any U.S. equity venues?
7. What market data feeds does the Firm use to route orders to the displayed markets?
8. Does the Firm use a single smart order router to access both displayed and non-displayed venues or does it use separate routers?
9. How does the Firm's smart order router(s) operate?
10. What anti-gaming controls does the Firm have in place?

Public U.S. Equity Order Handling and Routing Practices Frequently Asked Questions (cont'd)

11. Does the Firm's smart order router(s) have the ability to monitor fill rates to exclude venues not providing fills?
12. Does the Firm send outbound IOIs from anywhere within its electronic trading infrastructure (i.e., from its dark pools, smart order routers or algorithms) or messages similar to an IOI, including an RFQ, RFL, SOI, SOQ or SOL?
13. Does the Firm send any orders (e.g., IOCs) related to client orders in response to inbound IOIs (or messages similar to an IOI, including an RFQ, RFL, SOI, SOQ or SOL) from external liquidity providers?
14. Does the Firm send blind IOCs (i.e., blind ping) to external liquidity providers prior to routing orders to the displayed markets?
15. Does the Firm allow re-routing of client orders by external venues (i.e., does the Firm send routable orders)?
16. Can clients opt out of interacting with the Firm's principal liquidity?
17. Does the Firm identify the capacity in which it acted on fills?
18. Does the Firm provide the actual execution venue on fills?
19. Does the Firm provide MIC codes on fills?
20. Can the Firm provide liquidity tags on fills to indicate whether orders took or provided liquidity?
21. Can the Firm show a liquidity map for a client's order flow that shows venues and the percentage of liquidity provided versus taken at each venue?
22. Can the Firm's algorithmic and routing strategies be customized?
23. Who can see client order information?

Public U.S. Equity Order Handling and Routing Practices Frequently Asked Questions (cont'd)

II. Internal Dark Pool(s)

(Firms that operate more than one dark pool must provide responses for each dark pool that they operate.)

24. Please describe the Firm's internal dark pool.
25. How can the Firm's dark pool be accessed?
26. What market data feeds does the Firm's dark pool use?
27. Describe the types of participants in the Firm's dark pool.
28. Does the Firm allow participants to opt out of interacting with certain flow in its dark pool?
29. Does the Firm classify or categorize participants in its dark pool?
30. How does the Firm's dark pool prioritize orders?
31. What order types are supported by the Firm's dark pool?
32. Can clients specify a minimum fill quantity in the Firm's dark pool? If so, will the dark pool aggregate orders to satisfy the minimum fill quantity?
33. Does the minimum fill quantity constraint apply to just the first execution or to every execution?
34. Does the Firm's dark pool send outbound IOIs (or messages similar to an IOI, including an RFQ, RFL, SOI, SOQ or SOL) to solicit order flow?

Public U.S. Equity Order Handling and Routing Practices Frequently Asked Questions (cont'd)

35. During which hours does the Firm's dark pool execute?
36. Does the Firm provide preferential access to its dark pool or to categories of flow in its dark pool for a fee? Do orders in the Firm's dark pool from other brokers with which the Firm has a mutual access agreement receive preferential treatment?
37. Where is the Firm's dark pool server located and does the Firm permit participants to cross-connect?
38. Does the Firm offer co-location in its dark pool's cage?
39. How does the Firm's dark pool handle odd lot and mixed lot orders?
40. Does the Firm execute in a locked or crossed market?
41. What are the MPID, the MIC code and the clearing number for the Firm's dark pool?
42. Does the Firm's dark pool employ a maker-taker pricing model or provide rebates to solicit order flow?
43. Does the Firm's dark pool charge different rates for access to different types of order flow?
44. What is the average daily volume of the Firm's dark pool?
45. What anti-gaming controls does the Firm have in place for its dark pool?
46. Does the Firm's dark pool execute orders for symbols that may be suspended for purposes of the 5% volume threshold of Regulation ATS, restricted and/or halted?

Public U.S. Equity Order Handling and Routing Practices Frequently Asked Questions (cont'd)

III. External Dark Pools

47. What external dark pools does the Firm currently access?
48. How does the Firm evaluate new dark pools for addition to its dark pool router?
49. Do the external dark pools that the Firm accesses aggregate orders to fulfill minimum quantity, as opposed to fulfilling minimum quantity with a single order?
50. Do the external dark pools that the Firm accesses execute at prices other than mid-point?
51. Do the external dark pools that the Firm accesses allow executions to take place prior to a stock's opening print on the primary exchange?
52. Has the Firm stopped routing to any external dark pools?
53. What is the average daily volume of the external dark pools that the Firm accesses?
54. What anti-gaming controls does the Firm have in place for external dark pools?

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Appendix

Key Considerations – Disclosures to the Order Placer

- Consideration 1: Attribution/Actual Execution Venue Disclosure
 - Order Placer is entitled to know where its order was ultimately executed → there is no clear practice around disclosure
- Consideration 2: Customer Choice (Opt In)
 - Order Placer should have the ability to explicitly “opt in” to any external routing strategies outside of a direct route to an exchange to execute against a protected quotation
- Consideration 3: Routing Disclosure (IOI Solicitations & Blind Pings)
 - Order Placer is entitled to know what happened to its order from the time of order entry to order execution (i.e., every “hop” of its order; who got a “free” look; what the fill rates were for that “free” look; and where the order was ultimately executed) → entire lifecycle
- Consideration 4: Advertised Volume
 - Advertised volume is being double, triple and quadrupled counted, and is misleading to order placers; there should be ramifications for publicly claiming an execution as your own if you did not actually execute the order

Addressing Aggressive Order Handling Practices

Open Issue Being Discussed Since 2008

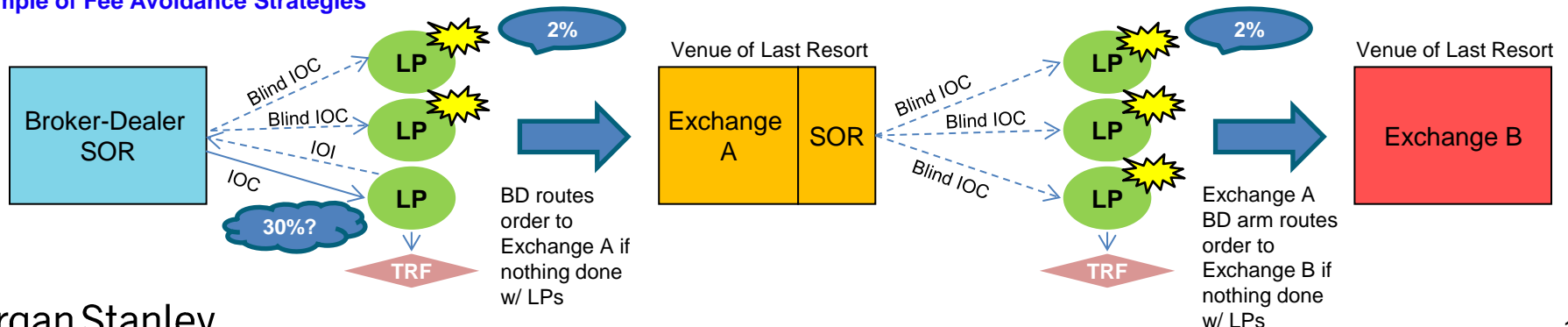
Current State

- Order Handling & Execution Disclosure Rules **have not been updated** to address technological advances and economic driven behaviors that emerged post Reg NMS
- **Broker dealers** and **exchanges** engage in economically driven routing of orders to external dark liquidity providers to reduce expense – **how much of TRF does this represent?**
 - Solicitation of order flow / actionable IOIs
 - Blind pinging of external dark venues for orders otherwise en route to the lit market, resulting in relatively low fill rates
- Customers trying to obtain full audit trail of their orders – where routed / shown / touched and ultimately executed
 - “Swing and miss” reports – no industry standard
 - Detailed questionnaires about order handling practices due to concerns about **information leakage**

Recommendations

- Finalize ban on actionable IOIs from 2009 SEC Proposal
- Address fiscal, external “blind pinging” practices for orders that would otherwise interact with the lit market and participate in public price discovery
- Mandate real-time disclosure of actual execution venue on fill
- Consider impact of outdated Rule 605 / 606 requirements on current routing of order flow
 - Require standardized reports providing an order life cycle audit trail, not just ultimate execution or first route venue
 - Mandate an exchange’s own routing broker to provide the same transparency as all other BDs – to the end customer
- Accurate, regulator-mandated disclosure of dark liquidity volume – for any execution venue, even if not an ATS

Example of Fee Avoidance Strategies



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