

# FINANCIAL INFORMATION FORUM

5 Hanover Square  
New York, New York 10004

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212-422-8568

September 17, 2010

Elizabeth M. Murphy, Secretary  
Securities and Exchange Commission  
100 F Street, NE,  
Washington, DC 20549-1090

Re: File Number SR-FINRA-2010-043

The Financial Information Forum (FIF)<sup>1</sup> would like to take this opportunity to comment on the proposed expansion of OATS to include Routed Price and Short Sale Exempt Identifier to OATS Route Reports as discussed in File Number SR-FINRA-2010-043. In addition, FINRA's technical specifications, published on August 30, 2010, note two additional newly required fields on OATS Route Reports, the Routed Order Type Indicator and the ISO Indicator. While we applaud FINRA's efforts to work with the industry on achieving the November 10, 2010 Regulation SHO amendments deadline, there is concern surrounding the less than usual industry implementation timeframe particularly considering the complexity introduced by the changes introduced in this filing, especially those which do not appear to be required for Regulation SHO compliance by November 10.

An example of some of the complexity surrounding this change can be seen in certain OATS requirements, which call for the creation of route reports for certain post trade agency allocations. In such instances, the required information is not part of the underlying order and must be derived from other activity. As mentioned earlier, not all of the outlined changes to the technical specifications are required for Regulation SHO including the addition of the ISO indicator field to the Route Report as well as the new Originating Broker/Dealer Number to the Cancel/Replace Report. Every change requires planning, development and testing time. FIF members are concerned that adding new requirements that appear to be non-critical (to the Regulation SHO rule) at a time when a number of other regulatory initiatives, discussed further below, are being simultaneously implemented, imposes unnecessary risk of software defects considering the short time period to do the work. Additionally, FINRA is not allowing for testing

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<sup>1</sup> FIF ([www.fif.com](http://www.fif.com)) was formed in 1996 to provide a centralized source of information on the implementation issues that impact the financial technology industry across the order lifecycle. Our participants include trading and back office service bureaus, broker-dealers, market data vendors and exchanges. Through topic-oriented working groups, FIF participants focus on critical issues and productive solutions to technology developments, regulatory initiatives, and other industry changes.

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until October 20, 2010 which FIF members feel may not be enough time given the November 10 deadline.

FIF Members understand that FINRA needs to have adequate information to surveil for compliance with amended Regulation SHO but believe that such surveillance can be accomplished, at least initially, through their routine and special examination programs.

It is also important to note that the same technology resources are also working on the following regulatory projects which have implementation dates close to the Regulation SHO changes deadline:

1. Rule 201 (November 10, 2010)
  - a. FINRA requirements to re-instate the Short Exempt code in OATS
  - b. FINRA requirements to re-instate the Short Exempt code in ACT
  - c. Trading systems & workflow changes for Rule 201
  - d. Industry-testing Regulation SHO test (late October)
  - e. FINRA proposal to expand OATS requirements (the latest requirement per August 30 tech spec)
2. Additional FINRA Changes
  1. FINRA 90 sec to 30 sec trade reporting change (November 1, 2010)
  2. FINRA expanding trade reporting requirement for non-NMS securities (November 1, 2010)
  3. FINRA Weighted-Average Price/Special Pricing Formula Trade Modifier (October 18, 2010)
3. New Exchanges
  1. NASDAQ PSX going live (October 8, 2010)
  2. BATS BYX going live (October 15, 2010)
  3. CBOE C2 going live (October 19, 2010)
4. Industry-testing BCP test (October 23, 2010)
5. NASDAQ Volatility Guard (expected Q3, 2010)

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Further, FIF members believe certain industry participants may be confused about the effective date of the new OATS requirements. The industry is very focused on meeting amended Regulation SHO requirements which have an effective date of November 10, 2010. FINRA's rule proposal, referred to above, states that "the implementation date will be November 10, 2010." FINRA Technical Specification document, however, states that "all changes will be available in the OATS Production environment on November 8, 2010." Accordingly, FIF members are concerned that some industry participants will not transmit the newly formatted OATS reports until November 10, 2010, resulting in a very large number of rejects.

Given the other regulatory initiatives with similar implementation timeframes, as noted above, and the lack of sufficient time for planning, coding and testing for the new FINRA OATS requirements, and the confusion regarding the implementation date, FIF members respectfully ask that FINRA consider postponing the effective date to at least 3 months from the approval of this proposal. Alternatively, if FINRA determines that it is critical to have available relevant information immediately upon effectiveness of amended Regulation SHO, FIF members respectfully request that FINRA consider removing the requirement for the ISO indicator field and the Routed Order Type Indicator field, for the reasons noted herein. FIF would ask that any changes to the requirements whereby non-critical fields are removed be published immediately; changing requirements after software has already been changed would only add to the concerns noted above.

Sincerely,



Manisha Kimmel  
Executive Director  
Financial Information Forum