

Trade Reporting

SEC Approves Amendments to FINRA Rules on Reporting Cancellations of Previously Reported OTC Trades in Equity Securities

Effective Date: April 12, 2010

Executive Summary

Effective Monday, April 12, 2010, firms are no longer prohibited from reporting trade cancellations to the FINRA/NASDAQ Trade Reporting Facility and the OTC Reporting Facility after 5:15 p.m. Eastern Time on trade date, as described more fully in this *Notice*. Firms are reminded that they must report the cancellation of any previously reported over-the-counter transaction in an equity security to FINRA, in accordance with FINRA trade reporting rules.

The text of the amendments is available at www.finra.org/rulefilings/2009-082.

Questions regarding this *Notice* may be directed to:

- FINRA Operations at (866) 776-0800; or
- The Office of General Counsel at (202) 728-8071.

January 2010

Notice Type

- Rule Amendment

Suggested Routing

- Compliance
- Executive Representatives
- Legal
- Operations
- Senior Management
- Systems
- Trading
- Training

Key Topic(s)

- Alternative Display Facility
- NMS Stocks
- OTC Equity Securities
- OTC Reporting Facility
- Trade Cancellations
- Trade Reporting
- Trade Reporting Facilities

Referenced Rules & Notices

- FINRA Rule 6282
- FINRA Rule 6380A
- FINRA Rule 6380B
- FINRA Rule 6622

Background and Discussion

FINRA rules require firms to report the cancellation of any over-the-counter (OTC) trade that was previously submitted to a FINRA trade reporting facility within certain prescribed time periods.¹ On January 14, 2010, the SEC approved amendments to the rules to (1) allow firms to submit reports of trade cancellations on trade date until the close of the FINRA/NASDAQ Trade Reporting Facility (FINRA/NASDAQ TRF) and the OTC Reporting Facility (ORF) at 8 p.m. Eastern Time (ET); and (2) make certain changes to the requirements applicable to reporting trade cancellations to the Alternative Display Facility (ADF) to conform to the rules relating to the other FINRA trade reporting facilities.²

Thus, for example, in accordance with the amendments, if a trade executed during normal market hours (*i.e.*, 9:30 a.m. to 4 p.m. ET) is canceled on trade date, the firm must report the cancellation to FINRA as follows:

- 1) if the trade is canceled during normal market hours, the firm must report the cancellation within 90 seconds;
- 2) if the trade is canceled after 4 p.m. and before the FINRA facility closes, the firm shall use its best efforts to report the cancellation on the date of execution, and otherwise it shall report on the following business day; and
- 3) if the trade is canceled after the FINRA facility closes, the firm must report the cancellation on the following business day.³

Prior to the amendments, the rules governing the reporting of trade cancellations to the FINRA/NASDAQ TRF and ORF were based on the traditional 5:15 p.m. ET “media” cut-off time (*i.e.*, for the submission of trades for public dissemination purposes) and prohibited the reporting of trade cancellations after 5:15 p.m. on trade date; if a firm did not report a trade cancellation by 5:15 p.m. on trade date, then it was required—by rule and systems limitations—to wait until the next day to report the cancellation. The amendments eliminate this prohibition.

As a result, trade cancellations will be submitted to the Securities Information Processors (SIPs) by the FINRA/NASDAQ TRF and to the Trade Data Dissemination Service (TDDS) feed by the ORF after 5:15 p.m. on trade date, and the SIP high price/low price/last sale price calculations for the day will be updated after 5:15 p.m. FINRA notes that the current rules governing the reporting of cancellations to the ADF and FINRA/NYSE Trade Reporting Facility (FINRA/NYSE TRF) are not based on the 5:15 p.m. media cut-off, and, as such, cancellations of trades submitted to the ADF and FINRA/NYSE TRF after 5:15 p.m. update the SIP high/low/last calculations today.

Firms are reminded that they are required to report the cancellation of a trade to the same FINRA facility to which the trade was originally reported.⁴

Endnotes

- 1 See Rules 6282(j), 6380A(g), 6380B(f) and 6622(f).
- 2 See Securities Exchange Act Release No. 61359 (January 14, 2010), 75 FR 3772 (January 22, 2010) (Order Approving SR-FINRA-2009-082).
- 3 FINRA notes that, as a technical matter, the firm would reverse the trade on any date other than trade date (if on trade date, the firm would cancel the trade). See, e.g., *Trade Reporting Frequently Asked Questions*, #305.6. The rules apply uniformly to cancellations and reversals.
- 4 See Rules 6282(j), 6380A(g), 6380B(f) and 6622(f).