

## Order Audit Trail System (OATS)

### SEC Approves OATS Amendments to Require Identification of Non-FINRA Member Broker-Dealers

Effective Date: August 1, 2016

#### Summary

Beginning August 1, 2016, firms that report information to OATS will be required to include on their reports the identity of U.S.-registered broker-dealers that are not FINRA members and broker-dealers that are not registered in the U.S. but have received an SRO-assigned identifier. The identities may be reported using either the broker-dealer's Central Registration Depository (CRD®) number or an SRO-assigned identifier. FINRA will provide a list of all acceptable CRD numbers for firms to use to facilitate compliance with the new requirements.

Questions concerning this *Notice* should be directed to:

- ▶ OATS Helpdesk at (800) 321-6273; or
- ▶ For legal and interpretive questions, Brant Brown, Associate General Counsel, Office of General Counsel, at (202) 728-6927 or by email at [brant.brown@finra.org](mailto:brant.brown@finra.org).

#### Background & Discussion

On April 5, 2016, the SEC approved amendments to FINRA Rules 7410 and 7440 to require firms that report order information to OATS (reporting members)<sup>1</sup> to identify on their OATS reports certain broker-dealers that are not FINRA members when the reporting members have received an order from such a broker-dealer.<sup>2</sup> Beginning August 1, 2016, reporting members must specifically identify two types of non-FINRA member broker-dealers as part of the OATS report when they receive orders from these firms: (1) U.S.-registered broker-dealers that are not FINRA members; and (2) broker-dealers that are not registered in the U.S. but have received an SRO-assigned identifier to access certain FINRA trade reporting facilities.<sup>3</sup>

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#### Notice Type

- ▶ Rule Amendment

#### Suggested Routing

- ▶ Compliance
- ▶ Institutional
- ▶ Legal
- ▶ Operations
- ▶ Registered Representatives
- ▶ Senior Management
- ▶ Systems
- ▶ Trading

#### Key Topics

- ▶ OATS

#### Referenced Rules & Notices

- ▶ FINRA Rule 7410
- ▶ FINRA Rule 7440

Under either of these circumstances, reporting members may report any one of the following: the firm's CRD number;<sup>4</sup> an SRO-assigned identifier assigned to the broker-dealer (e.g., a market participant identifier (MPID) assigned by a national securities exchange); or, if the broker-dealer does not have a CRD number or an SRO-assigned identifier (e.g., a foreign broker-dealer), a value indicating that the firm has no CRD number or SRO-assigned identifier.<sup>5</sup> FINRA will provide on its public website a list of CRD numbers for reporting members to use to aid in implementing the rule amendments.

The rule does not mandate which identifier reporting members must use. If a broker-dealer that must be identified does not have an SRO-assigned identifier that is available to FINRA, the reporting member receiving the order must report the firm's CRD number.<sup>6</sup> Similarly, for a non-U.S.-registered broker-dealer that has been provided with an SRO-assigned identifier to access a FINRA trade reporting facility pursuant to FINRA Rule 7220A or 7320 but does not have a CRD number, the reporting member receiving the order must report the SRO-assigned identifier for the broker-dealer.

In conjunction with the implementation of this rule change, FINRA is updating the *OATS Reporting Technical Specifications* to require that OATS reports specifically identify a non-FINRA member broker-dealer to which an order is routed. For orders routed from a reporting member to a non-FINRA member, including both non-FINRA member broker-dealers and national securities exchanges, FINRA Rule 7440(c)(6)(I) requires the reporting of the identity of the non-FINRA member to which the order was routed. Although the *OATS Reporting Technical Specifications* have required that OATS reports include a specific identifier for each national securities exchange to which an order is routed, only a generic identifier for non-FINRA member broker-dealers previously was required.<sup>7</sup> To conform the reporting of orders received from and orders routed to non-FINRA member broker-dealers, in addition to the rule amendments described above, FINRA is updating the *OATS Reporting Technical Specifications* to require that reporting members provide either an SRO-assigned identifier or a CRD number when routing an order to a non-FINRA member broker-dealer.<sup>8</sup> These updates to the *OATS Reporting Technical Specifications* will also be implemented on August 1, 2016.

## Endnotes

1. Rule 7410(o) defines a reporting member as “a member that receives or originates an order and has an obligation to report information under Rules 7440 and 7450.” The rule also contains exceptions from the definition. See Rule 7410(o) (1) and (2).
2. See Securities Exchange Act Release No. 77523 (April 5, 2016), 81 FR 21427 (April 11, 2016) (Order Approving SR-FINRA-2016-006).
3. The amendment to Rule 7410 defines an “SRO-assigned identifier” as “a unique identifier assigned to a broker or dealer by a national securities exchange or national securities association for use by such broker or dealer when accessing the exchange or a facility of the association.” For purposes of the definition, the identifier is “unique” provided the identifier assigned by the exchange or association is used to identify only a single broker-dealer.
4. To register as a broker-dealer and have a CRD number, firms are required to file a Form BD with CRD. See 17 CFR 240.15b1-1(b). Consequently, all U.S.-registered broker-dealers have a CRD number.
5. Because non-U.S. broker-dealers generally do not have SRO-assigned identifiers or CRD numbers, the amendments do not require specific identification of non-U.S. broker-dealers when those firms do not have SRO-assigned identifiers or CRD numbers. In these cases, FINRA intends to permit a value whereby the reporting member can indicate that the order was received from a non-U.S. broker-dealer without a CRD number or SRO-assigned identifier.
6. Currently, all U.S.-registered broker-dealers have at least one SRO-assigned identifier that is available to FINRA through publicly-available information or by contractual arrangement.
7. See *OATS Reporting Technical Specifications*, at 4-4, and A-4 to A-5 (January 11, 2016 ed.).
8. As noted above, in the case of a non-U.S. broker-dealer that does not have a CRD number or an SRO-assigned identifier, FINRA will provide an indicator for “non-U.S. broker-dealer” for use in the destination code field (for routes to a non-member broker-dealer) and as a member type code (for orders received from a non-member broker-dealer).