

ATTACHMENT B

§ 240.11Ac1-5 Disclosure of order execution information.

Preliminary Note

§240.11Ac1-5 requires market centers to make available standardized, monthly reports of statistical information concerning their order executions. This information is presented in accordance with uniform standards that are based on broad assumptions about order execution and routing practices. The information will provide a starting point to promote visibility and competition on the part of market centers and broker-dealers, particularly on the factors of execution price and speed. The disclosures required by this Section do not encompass all of the factors that may be important to investors in evaluating the order routing services of a broker-dealer. In addition, any particular market center's statistics will encompass varying types of orders routed by different broker-dealers on behalf of customers with a wide range of objectives. Accordingly, the statistical information required by this Section alone does not create a reliable basis to address whether any particular broker-dealer failed to obtain the most favorable terms reasonably available under the circumstances for customer orders.

(a) Definitions. For the purposes of this section:

(1) The term alternative trading system shall have the meaning provided in §242.300(c) of this chapter.

(2) The term average effective spread shall mean the share-weighted average of effective spreads for order executions calculated, for buy orders, as double the amount of difference between the execution price and the midpoint of the consolidated best bid and offer at the time of order receipt and, for sell orders, as double the amount of difference between the midpoint of the consolidated best bid and offer at the time of order receipt and the execution price.

(3) The term average realized spread shall mean the share-weighted average of realized spreads for order executions calculated, for buy orders, as double the amount of difference between the execution price and the midpoint of the consolidated best bid and offer five minutes after the time of order execution and, for sell orders, as double the amount of difference between the midpoint of the consolidated best bid and offer five minutes after the time of order execution and the execution price; provided, however, that the midpoint of the final consolidated best bid and offer disseminated for regular trading hours shall be used to calculate a realized spread if it is disseminated less than five minutes after the time of order execution.

(4) The term categorized by order size shall mean dividing orders into separate categories for sizes from 100 to 499 shares, from 500 to 1999 shares, from 2000 to 4999 shares, and 5000 or greater shares.

(5) The term categorized by order type shall mean dividing orders into separate categories for market orders, marketable limit orders, inside-the-quote limit orders, at-the-quote limit orders, and near-the-quote limit orders.

(6) The term categorized by security shall mean dividing orders into separate categories for each national market system security that is included in a report.

(7) The term consolidated best bid and offer shall mean the highest firm bid and the lowest firm offer for a security that is calculated and disseminated on a current and continuous basis pursuant to an effective national market system plan.

(8) The term covered order shall mean any market order or any limit order (including immediate-or-cancel orders) received by a market center during regular trading hours at a time when a consolidated best bid and offer is being disseminated, and, if executed, is executed during regular trading hours, but shall exclude any order for which the customer requests special handling for execution, including, but not limited to, orders to be executed at a market opening price or a market closing price, orders submitted with stop prices, orders to be executed only at their full size, orders to be executed on a particular type of tick or bid, orders submitted on a "not held" basis, orders for other than regular settlement, and orders to be executed at prices unrelated to the market price of the security at the time of execution.

(9) The term exchange market maker shall mean any member of a national securities exchange that is registered as a specialist or market maker pursuant to the rules of such exchange.

(10) The term executed at the quote shall mean, for buy orders, execution at a price equal to the consolidated best offer at the time of order receipt and, for sell orders, execution at a price equal to the consolidated best bid at the time of order receipt.

(11) The term executed outside the quote shall mean, for buy orders, execution at a price higher than the consolidated best offer at the time of order receipt and, for sell orders, execution at a price lower than the consolidated best bid at the time of order receipt.

(12) The term executed with price improvement shall mean, for buy orders, execution at a price lower than the consolidated best offer at the time of order receipt and, for sell orders, execution at a price higher than the consolidated best bid at the time of order receipt.

(13) The terms inside-the-quote limit order, at-the-quote limit order, and near-the-quote limit order shall mean non-marketable buy orders with limit prices that are, respectively, higher than, equal to, and lower by \$0.10 or less than the consolidated best bid at the time of order receipt, and non-marketable sell orders with limit prices that are, respectively, lower than, equal to, and higher by \$0.10 or less than the consolidated best offer at the time of order receipt.

(14) The term market center shall mean any exchange market maker, OTC market maker, alternative trading system, national securities exchange, or national securities association.

(15) The term marketable limit order shall mean any buy order with a limit price equal to or greater than the consolidated best offer at the time of order receipt, and any sell order with a limit price equal to or less than the consolidated best bid at the time of order receipt.

(16) The term effective national market system plan shall have the meaning provided in §240.11Aa3-2(a)(2).

(17) The term national market system security shall have the meaning provided in §240.11Aa2-1.

(18) The term OTC market maker shall mean any dealer that holds itself out as being willing to buy from and sell to its customers, or others, in the United States, a national market system security for its own account on a regular or continuous basis otherwise than on a national securities exchange in amounts of less than block size.

(19) The term regular trading hours shall mean the time between 9:30 a.m. and 4:00 p.m. Eastern Time, or such other time as is set forth in the procedures established pursuant to paragraph (c)(2) of this section.

(20) The term time of order execution shall mean the time (to the second) that an order was executed at any venue.

(21) The term time of order receipt shall mean the time (to the second) that an order was received by a market center for execution.

(b) Monthly electronic reports by market centers.

(1) Every market center shall make available for each calendar month, in accordance with the procedures established pursuant to paragraph (b)(2) of this section, a report on the covered orders in national market system securities that it received for execution from any person. Such report shall be in electronic form; shall be categorized by security, order type, and order size; and shall include the following columns of information:

(i) For market orders, marketable limit orders, inside-the-quote limit orders, at-the-quote limit orders, and near-the-quote limit orders:

(A) The number of covered orders;

(B) The cumulative number of shares of covered orders;

- (C) The cumulative number of shares of covered orders cancelled prior to execution;
- (D) The cumulative number of shares of covered orders executed at the receiving market center;
- (E) The cumulative number of shares of covered orders executed at any other venue;
- (F) The cumulative number of shares of covered orders executed from 0 to 9 seconds after the time of order receipt;
- (G) The cumulative number of shares of covered orders executed from 10 to 29 seconds after the time of order receipt;
- (H) The cumulative number of shares of covered orders executed from 30 seconds to 59 seconds after the time of order receipt;
- (I) The cumulative number of shares of covered orders executed from 60 seconds to 299 seconds after the time of order receipt;
- (J) The cumulative number of shares of covered orders executed from 5 minutes to 30 minutes after the time of order receipt; and
- (K) The average realized spread for executions of covered orders; and
- (ii) For market orders and marketable limit orders:
 - (A) The average effective spread for executions of covered orders;
 - (B) The cumulative number of shares of covered orders executed with price improvement;
 - (C) For shares executed with price improvement, the share-weighted average amount per share that prices were improved;
 - (D) For shares executed with price improvement, the share-weighted average period from the time of order receipt to the time of order execution;
 - (E) The cumulative number of shares of covered orders executed at the quote;
 - (F) For shares executed at the quote, the share-weighted average period from the time of order receipt to the time of order execution;
 - (G) The cumulative number of shares of covered orders executed outside the quote;
 - (H) For shares executed outside the quote, the share-weighted average amount per share that prices were outside the quote; and

(1) For shares executed outside the quote, the share-weighted average period from the time of order receipt to the time of order execution.

(2) Every national securities exchange on which national market system securities are traded and national securities association shall act jointly in establishing procedures for market centers to follow in making available to the public the reports required by paragraph (b)(1) of this section in a uniform, readily accessible, and usable electronic form. In the event there is no effective national market system plan establishing such procedures, market centers shall prepare their reports in a consistent, usable, and machine-readable electronic format, and make such reports available for downloading from an Internet web site that is free and readily accessible to the public.

(3) A market center shall make available the report required by paragraph (b)(1) of this section within one month after the end of the month addressed in the report.

(c) Exemptions. The Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of this section, if the Commission determines that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.