Trade Reporting Notice

FINRA Announces Two New Trade Reporting Modifiers Related to Regulation NMS

Effective Date: July 1, 2009

Executive Summary

Effective Wednesday, July 1, 2009, firms are required to use two new trade reporting modifiers when reporting to FINRA facilities the "error correction" and "print protection" exemptions to the Order Protection Rule (Rule 611 of SEC Regulation NMS).

Questions regarding this Notice may be directed to:

- Dave Chapman, Market Regulation, at (240) 386-4995;
- > Scott Trilling, Market Regulation, at (240) 386-5113; or
- ➤ Office of General Counsel, at (202) 728-8071.

Discussion

In Notice to Members 07-23 (May 2007), FINRA announced the adoption of trade reporting modifiers that firms must use to indicate on trade reports submitted to FINRA facilities (the Alternative Display Facility or a Trade Reporting Facility), whether the transaction qualified for an exception or exemption to Rule 611 of SEC Regulation NMS (SEC Rule 611) at the time of the trade and provided guidance on the proper use of those trade reporting modifiers. FINRA stated that, where appropriate, it may prescribe additional modifiers and will provide at least 30-days advance written notice of any such additional modifiers to ensure that firms have sufficient time to make necessary systems changes.

February 24, 2009

Key Topics

- Alternative Display Facility
- ADF Trading Centers
- Order Protection Rule
- Regulation NMS
- Trade Reporting
- Trade Reporting Facilities

Referenced Rules & Notices

- ➤ FINRA Rule 6282
- ➤ FINRA Rule 6380A
- ➤ FINRA Rule 6380B
- ➤ NTM 07-23
- SEC Regulation NMS
- ➤ SEC Rule 611



FINRA is announcing the adoption of two additional trade reporting modifiers for purposes of reporting exemptions from SEC Rule 611 for:

- certain transactions to correct bona fide errors in the execution of customer orders, in accordance with the SEC's Order Exempting Certain Error Correction Transactions from Rule 611 of Regulation NMS (see www.sec.gov/rules/exorders/2007/34-55884.pdf); and
- certain transactions that offer print protection to displayed customer orders when trades are reported at prices inferior to such orders, in accordance with the SEC's Order Exempting Certain Print Protection Transactions from Rule 611 of Regulation NMS (see www.sec.gov/rules/exorders/2007/34-55883.pdf).

Firms must use the new trade reporting modifiers in Trade Modifier Field 2 (Reason for SEC Rule 611 Exception or Exemption) (described more fully in NTM 07-23), in accordance with the applicable technical specifications for the FINRA facility to which the firm is reporting.

The updated Trade Reporting Modifier Chart on page 3 demonstrates generally how firms should use the modifiers when reporting a transaction that meets a recognized SEC Rule 611 exception or exemption. This chart provides the uniform methodology for reporting trade modifiers; however, the specific data entries used to report trades may vary depending upon the specific platform or system used. Therefore, the chart should be read in conjunction with the applicable system specifications.¹

As mentioned in *NTM 07-23*, the facts and circumstances of the particular trade dictate the appropriate modifier that firms must report in each field. Accordingly, the reporting firm must include in the transaction report all of the information that is pertinent to a particular transaction. To determine what modifiers firms must include in a particular transaction report, firms should analyze each column individually in the Trade Reporting Modifier Chart to determine what, if any, modifier is applicable for the transaction that is being reported.

Effective July 1, 2009, use of the "error correction" and "print protection" modifiers is mandatory under FINRA trade reporting rules.² Depending on the facility, firms may be able to begin reporting with the new modifiers prior to the effective date and should check the applicable technical specifications.

	Trade Reporting Information to be Entered by Reporting Firm				
Applicable Regulation NMS Exception/ Exemption	SEC Rule 611 Exception/ Exemption Trade-Through Flag	Settlement Type Field 1 ³	Reason for SEC Rule 611 Exception/ Exemption Field 2	Extended Hours/Sold Field 3 ⁴	SRO Required Detail Field 4 ⁵
SEC Rule 611(b)(1) (Self Help)	If applicable indicate Yes	Enter applicable settlement modifier	Self Help (Note: for SRO audit trail only-will not be disseminated)	Enter modifier if applicable	Enter modifier if applicable
SEC Rule 611(b)(2) (Not Regular Way)	If applicable indicate Yes	Cash, Next Day or Seller	If applicable, enter other SEC Rule 611 exception/exemption modifier for transaction	Enter modifier if applicable	Enter modifier if applicable
SEC Rule 611(b)(4) (Crossed Market)	If applicable indicate Yes	Enter applicable settlement modifier	If applicable, enter other SEC Rule 611 exception/exemption modifier for transaction	Enter modifier if applicable	Enter modifier if applicable
SEC Rule 611(b)(5) (Intermarket Sweep Order (inbound))	If applicable indicate Yes	Enter applicable settlement modifier	Inbound Intermarket Sweep Order (Note: This will be disseminated generically as an ISO)	Enter modifier if applicable	Enter modifier if applicable
SEC Rule 611(b)(6) (Intermarket Sweep Order (outbound))	If applicable indicate Yes	Enter applicable settlement modifier	Outbound Intermarket Sweep Order (Note: This will be disseminated generically as an ISO)	Enter modifier if applicable	Enter modifier if applicable
SEC Rule 611(b)(7) (Benchmark/ Derivatively Priced)	If applicable indicate Yes	Enter applicable settlement modifier	Derivatively Priced	Enter modifier if applicable	Prior Reference Price, Weighted Average Price or other modifier as applicable for transaction
SEC Rule 611(b)(9) (Stopped Stock)	If applicable indicate Yes modifier	Enter applicable settlement	Derivatively Priced	Enter modifier if applicable	Stopped Stock (Note: for SRO audit trail only – this will be disseminated as Weighted Average Price)
SEC Rule 611(d) (Qualified Contingent Trades)	If applicable indicate Yes	Enter applicable settlement modifier	Qualified Contingent Trade (Note: for SRO audit trail only – will not be disseminated)	Enter modifier if applicable	Enter modifier if applicable
SEC Rule 611(d) (Sub-Penny Trade- Throughs)	If applicable indicate Yes	Enter applicable settlement modifier	Sub-Penny Trade Through (Note: for SRO audit trail only – will not be disseminated)	Enter modifier if applicable	Enter modifier if applicable
SEC Rule 611(d) (Error Correction)	If applicable indicate Yes	Enter applicable settlement modifier	Error Correction (Note: for SRO audit trail only – will not be disseminated)	Enter modifier if applicable	Enter modifier if applicable
SEC Rule 611(d) (Print Protection)	If applicable indicate Yes	Enter applicable settlement modifier	Print Protection (Note: for SRO audit trail only – will not be disseminated)	Enter modifier if applicable	Enter modifier if applicable

Endnotes

- 1 ADF and TRF technical specifications are available at: www.finra.org/Industry/ Compliance/MarketTransparency/index.htm.
- 2 See FINRA Rules 6282(a)(4)(K), 6380A(a)(5)(K) and 6380B(a)(5)(K).
- The full universe of settlement type modifiers that can be used, as appropriate, in the "Settlement Type Field 1" are found in the applicable technical specifications.
- The full universe of trade type modifiers that can be used, as appropriate, in the "Extended Hours/Sold Field 3" are found in the applicable technical specifications.
- 5 The full universe of trade type modifiers that can be used, as appropriate, in the "SRO Required Detail – Field 4" are found in the applicable technical specifications.

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