

Indications of Interest

FINRA Reminds Firms of Their Obligation to Provide Accurate Information in Disseminating, or Using Services to Disseminate, Indications of Interest

Executive Summary

FINRA is issuing this *Notice* to remind firms of their obligation to communicate accurate information when disseminating, or using services to disseminate, indications of interest to the marketplace.

Questions regarding this *Notice* may be directed to: Quality of Markets, Market Regulation, (240) 386-2500; The Legal Section, Market Regulation, at (240) 386-5126; or The Office of General Counsel at (202) 728-8071.

Background and Discussion

Indications of interest are expressions of trading interest that contain one or more of the following elements: security name, side of the market, size, capacity, and/or price. Firms have the ability to communicate or advertise proprietary or customer trading interest in the form of indications of interest to the marketplace through their own systems or several service providers that disseminate the information to subscribers and/or the marketplace.

A firm may choose to disseminate indications of interest to inform other market participants that it seeks to, or represents trading interest that seeks to, interact with other order flow in the security. While there is no prohibition on the dissemination of such indications of interest for this or other proper, lawful purposes, firms are reminded that, to the extent that they disseminate or use such services to communicate indications of interest, such indications must be truthful, accurate and not misleading.¹

One attribute that is often associated with an indication of interest is whether it is what is commonly referred to as a “natural” indication of interest. However, the meaning of the term “natural” may differ across firms and service providers.² In this regard, a “natural” indication of interest may be considered to solely refer to interest a firm represents on an agency

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Notice Type

- Guidance

Suggested Routing

- Compliance
- Legal
- Trading

Key Topic(s)

- Indications of Interest

Referenced Rules & Notices

- FINRA Rule 2010
- FINRA Rule 2020
- NASD Rule 2210
- NASD Rule 3010
- NASD Rule 3310
- NTM 06-50
- IM-3310

basis or refer not only to agency interest but also proprietary interest in certain specific contexts (e.g., proprietary interest that was established as the result of the facilitation of a customer order or the execution of a customer order on a riskless principal basis).

Accordingly, FINRA could view as untruthful, inaccurate, or misleading a firm's representation of firm proprietary interest as a "natural" indication of interest in a manner that is inconsistent with disclosures made by a firm with respect to the content of its indications, or alternatively through a service provider's system in a manner contrary to a service provider's guidelines. Depending on the circumstances, FINRA also could view as untruthful, inaccurate or misleading a firm's continuing dissemination of a "natural" indication of interest to the marketplace when the firm no longer represents or has any such interest.

The communication of untruthful, inaccurate or misleading information relating to indications of interest would be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade.³ In addition, depending on the nature and content of the communication, such communications may also violate NASD Rule 3310 (Publication of Transactions and Quotations) and IM-3310 (Manipulative and Deceptive Quotations) as well as FINRA Rule 2020 (Use of Manipulative, Deceptive or Other Fraudulent Devices), NASD Rule 2210 (Communications with the Public) and the anti-fraud provisions of the federal securities laws.

FINRA also reminds firms that directly disseminate or use services to disseminate indications of interest that they must establish, maintain and enforce written supervisory procedures and supervisory systems that are reasonably designed to ensure, among other things, that the information disseminated by or on behalf of the firm or its associated persons is truthful, accurate and not misleading.⁴

Endnotes

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| <p>1 FINRA also reminds firms that advertising a firm's trading activity or interest in contexts other than indications of interest is also subject to FINRA rules and the anti-fraud provisions of the federal securities laws. See <i>NASD Notice to Members 06-50</i> (Sept. 2006).</p> <p>2 Each service provider typically provides policies and user guidelines relating to the manner in which firms should characterize system</p> | <p>entries, including the input of "natural" indications of interest. Firms must familiarize themselves with these policies and guidelines to ensure that indications of interest or any other information submitted are consistent with the applicable service provider guidelines.</p> <p>3 See FINRA Rule 2010.</p> <p>4 See NASD Rule 3010.</p> |
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