

Trade Reporting Notice

FINRA Extends Implementation of Amendments Requiring Related Market Center Indicator in Non-Tape Reports Submitted to FINRA

Revised Effective Date: May 3, 2010

Executive Summary

FINRA is extending to Monday, May 3, 2010, the effective date of rule amendments that require firms to identify the Related Market Center in non-tape reports submitted to a FINRA trade reporting facility. This *Notice* supplements, and should be read in conjunction with, *Regulatory Notice 09-54* (September 2009).

Questions regarding this *Notice* may be directed to:

- The Legal Section, Market Regulation, at (240) 386-5126; or
- The Office of General Counsel at (202) 728-8071.

Discussion

In *Regulatory Notice 09-54*, FINRA announced SEC approval of amendments to FINRA trade reporting rules to require that firms submitting a non-tape report (either a non-tape, non-clearing report or clearing-only report) to the Alternative Display Facility (ADF), a Trade Reporting Facility (TRF) or the OTC Reporting Facility (ORF) (referred to herein as the “FINRA Facilities”) associated with a previously executed trade that was not reported to that same FINRA Facility identify the facility or market where the associated trade was reported for dissemination purposes (the “Related Market Center”).¹ Firms should refer to *Regulatory Notice 09-54* for a discussion of the amendments and guidance on populating the Related Market Center field.

In response to requests by the industry, FINRA is extending the effective date of the amendments to afford firms additional time to implement and test the systems changes necessary to comply with the new rules.

February 8, 2010

Key Topic(s)

- Agency Trades
- Alternative Display Facility
- NMS Stocks
- Non-Tape Reports
- OTC Equity Securities
- OTC Reporting Facility
- Related Market Center
- Riskless Principal Trades
- Trade Reporting
- Trade Reporting Facilities

Referenced Rules & Notices

- FINRA Rule 7130
- FINRA Rule 7230A
- FINRA Rule 7230B
- FINRA Rule 7330
- Regulatory Notice 09-54

FINRA also is taking this opportunity to reiterate and clarify several points made in *Regulatory Notice 09-54*.

- If a firm does not know or have a reasonable basis to identify where the trade was ultimately executed or, in the case of OTC trades, where the trade was ultimately reported, the firm must populate the Related Market Center field with a standard indicator representing “unknown venue.” Firms should not guess the execution/reporting venue and should not identify the venue to which the order was routed as the Related Market Center.

For example, a firm routes an order to Exchange A and knows that orders routed to Exchange A can be either executed on and reported through Exchange A or routed away. If the firm does not receive a confirmation of execution venue or does not otherwise know with certainty that the trade was executed on Exchange A, the firm must use the “unknown venue” indicator and not identify Exchange A as the Related Market Center. However, if, by way of further example, the firm used an order type that does not permit the exchange to route the order away, it would have a reasonable basis to identify Exchange A as the Related Market Center.

- Where a firm has a reasonable basis for identifying a FINRA Facility as the Related Market Center (*e.g.*, the firm has a give-up agreement with another firm that generally reports all trades to TRF A), FINRA would not consider it a violation if, unbeknownst to the firm, the trade is ultimately reported to a different FINRA Facility. Moreover, FINRA would not expect the firm to submit a new non-tape report to correct the Related Market Center information if it subsequently is advised that, due to unforeseen circumstances, the tape report was submitted to TRF B (*e.g.*, because TRF A was down at the time the trade was reported).
- FINRA does not expect the “unknown venue” indicator to be used where the “executing party,” as defined in the trade reporting rules, submits both the tape and non-tape report(s). For example, an alternative trading system (ATS) that executes and reports a cross for publication purposes can identify, with certainty, the FINRA Facility to which the original tape report was submitted. Thus, use of the “unknown venue” indicator in related non-tape report(s) would be unacceptable in this instance.
- Where the tape and non-tape reports are submitted to the same FINRA Facility, the firm can either leave the Related Market Center field blank or populate the Related Market Center field with the indicator for that facility. The Related Market Center chart, which was included in *Regulatory Notice 09-54*, has been updated below to reflect that firms have this option.

| Tape Report | Populate Related Market Center Field in Associated Non-Tape Report With Indicator for... |
|---|--|
| Single tape report through a single exchange or FINRA Facility | Specific exchange or facility |
| Single tape report through a single foreign exchange | "Foreign exchange" |
| Multiple tape reports through a single exchange or FINRA Facility | Specific exchange or facility |
| Multiple tape reports through one or more foreign exchanges | "Foreign exchange" |
| Multiple tape reports through different exchanges and/or FINRA Facilities | "Multiple venues" |
| Routed venue provides information about where the trade was ultimately executed and/or reported | Specific exchange or facility |
| Routed venue does not provide information about where the trade was ultimately executed and/or reported | "Unknown venue" |
| Multiple tape reports through different exchanges and/or FINRA Facilities and one or more are unknown to the firm | "Multiple venues" |
| Non-tape report and associated tape report(s) submitted to the same FINRA Facility | Specific facility <i>or</i> leave Related MarketCenter field blank (only instance this field is permitted to be blank) |

Endnotes

- 1 See FINRA Rules 7130(d), 7230A(i), 7230B(h) and 7330(h).

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