

## Trade Reporting

### SEC Approves Amendments to Rules on Reporting Transactions to the OTC Reporting Facility

Effective Date: November 1, 2010

#### Executive Summary

Effective Monday, November 1, 2010, firms must comply with amended rules on applicable trade report modifiers when reporting OTC transactions in non-NMS stocks to the OTC Reporting Facility.

The text of the amendments can be found at [www.finra.org/rulefilings/2009-061](http://www.finra.org/rulefilings/2009-061).

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.

#### Background and Discussion

The SEC recently approved amendments to FINRA Rule 6622(a) (When and How Transactions are Reported) relating to the reporting of over-the-counter (OTC) transactions in non-NMS stocks<sup>1</sup> to the OTC Reporting Facility (ORF).<sup>2</sup>

The amendments reorganize the format and structure of FINRA Rule 6622(a) so that it conforms generally to the trade reporting rules of the Alternative Display Facility (ADF) and Trade Reporting Facilities (TRFs).<sup>3</sup> Rule 6622(a) identifies the types of transactions (*e.g.*, Stop Stock) that must have a unique trade report modifier associated with them; the specific modifiers are labeled in the ORF technical specifications and not in the rule.<sup>4</sup> Firms must use such modifiers on all trade reports submitted to the ORF, including reports of “as/of” trades. In the event that the rules require multiple modifiers on any given trade report, firms must report in accordance with guidance FINRA has published regarding priorities among modifiers.<sup>5</sup>

#### June 2010

##### Type of Notice

- Rule Amendment

##### Suggested Routing

- Compliance
- Executive Representatives
- Legal
- Operations
- Senior Management
- Systems
- Trading
- Training

##### Key Topics

- Direct Participation Program Securities
- Non-NMS Stocks
- OTC Equity Securities
- OTC Reporting Facility
- Restricted Equity Securities
- Stop Stock Transactions
- Trade Reporting

##### Referenced Rules & Notices

- FINRA Rule 6420
- FINRA Rule 6622

Additionally, the amendments require that firms now use:

- ▶ modifiers that denote Seller's Option, Cash and Next Day settlement options;
- ▶ a modifier for trade pricing based on an average weighting or another special pricing formula; and
- ▶ a modifier for Stop Stock transactions, as defined in FINRA Rule 6420 (firms currently are required to report such transactions with the ".W" modifier).<sup>6</sup>

Although not required under current FINRA Rule 6622(a), firms can use the above-referenced modifiers when reporting to the ORF today.

## Endnotes

- 1 Reportable transactions in non-NMS stocks include, for example, OTC equity securities (such as OTC Bulletin Board and Pink Sheets securities), direct participation program securities (See *Regulatory Notice 10-24*) and restricted equity securities sold pursuant to Securities Act Rule 144A (See *Regulatory Notice 10-26*).
- 2 See Securities Exchange Act Release No. 61819 (March 31, 2010), 75 FR 17806 (April 7, 2010) (Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of File No. SR-FINRA-2009-061).
- 3 See generally FINRA Rules 6282(a), 6380A(a) and 6380B(a).
- 4 See [www.nasdaqtrader.com/content/technicalsupport/specifications/TradingProducts/ctci\\_act.pdf](http://www.nasdaqtrader.com/content/technicalsupport/specifications/TradingProducts/ctci_act.pdf) and [www.nasdaqtrader.com/content/technicalsupport/specifications/TradingProducts/fixactspec.pdf](http://www.nasdaqtrader.com/content/technicalsupport/specifications/TradingProducts/fixactspec.pdf).
- 5 See, e.g., Section 401, Trade Reporting Frequently Asked Questions, available at [www.finra.org/tradereportingfaq](http://www.finra.org/tradereportingfaq).
- 6 Stop Stock transactions will be disseminated to the public with the weighted average price modifier, which is consistent with the current dissemination policy for Stop Stock transactions that are submitted to the ADF and TRFs.