

## Short Interest Reporting Requirements

### FINRA Collection of Short Interest Data for BATS Exchange-Listed Securities

Effective Date: December 15, 2011

#### Executive Summary

Effective December 15, 2011, FINRA's Web-based Regulation Filing Applications (RFA) system will include a new exchange/market code "H" for reporting short interest positions in securities for which the BATS Exchange is the primary exchange or market in the United States on which the security is listed as of the designated settlement date.

Questions regarding this *Notice* may be directed to:

- ▶ Legal Section, Market Regulation at (240) 386-5126;
- ▶ Office of General Counsel at (202) 728-8071;
- ▶ Jocelyn Mello-Gibbon, Market Regulation at (240) 386-5091; or
- ▶ Lauren Zito, Market Regulation at (240) 386-5432.

#### Background and Discussion

##### Short Interest Reporting

FINRA Rule 4560 requires firms to report short interest positions<sup>1</sup> in all customer and proprietary accounts in all equity securities to FINRA twice a month. The mid-month short interest report is based on short positions a firm holds on the settlement date of the 15th of each month. If the 15th falls on a weekend or another non-settlement date, the designated settlement date is the previous business day on which transactions settled. The end-of-month short interest report is based on short positions a firm holds on the last business day of the month on which transactions settle. FINRA must receive short interest reports no later than the second business day after each reporting settlement date.

#### December 2011

##### Suggested Routing

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

##### Key Topics

- ▶ Short Interest Reporting

##### Referenced Rules & Notices

- ▶ FINRA Rule 4560
- ▶ NTM 06-20
- ▶ Regulatory Notice 08-13

## Exchange/Market Codes in Short Interest Reports

As discussed in [Regulatory Notice 08-13](#) and [Notice to Members 06-20](#), the use of accurate exchange/market codes is mandatory in a firm's short interest filing, and firms must include an exchange/market code for every security and short position in each filing.

In light of the approval of the BATS Exchange's rule change to adopt rules for the qualification, listing and delisting of companies,<sup>2</sup> FINRA is adding a new exchange/market code "H" for member firms' use in reporting short positions in securities for which the BATS Exchange is the primary exchange or market in the United States on which the security is listed as of the designated settlement date.<sup>3</sup> If a firm appends an exchange/market code other than "H" for a short position in a security for which the BATS Exchange is the primary U.S. market, the RFA system will reject the short position and remove it from the firm's short interest filing. As a result, the firm will be required to resubmit the symbol with the proper exchange/market code. Failure to do so will cause the position to be omitted from the firm's short interest filing with FINRA and may result in a violation of FINRA Rule 4560. The following chart reflects the exchanges that currently have primary listings and the corresponding exchange/market code accepted by the RFA system for short interest reporting purposes.

Exchange/Market Code	Exchange/Market
A	New York Stock Exchange
B	American Stock Exchange
E	NYSE Arca
H	BATS Exchange
R	NASDAQ
S	Over-the-Counter

## Endnotes

1. Firms must report short positions that result from short sales as the term is defined in SEC Rule 200(a) of Regulation SHO, subject to certain limited exceptions.
2. Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011)(Order Approving File No. SR-BATS-2011-018).
3. The exchange/market code must reflect the primary exchange or market in the United States on which the security is listed as of the designated settlement date. The exchanges or markets on which the short sale transactions that gave rise to the short interest positions were executed is not relevant and should not be considered.

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