

FINANCIAL INFORMATION FORUM

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Via Electronic Delivery

February 20, 2015

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K St. NW
Washington, DC 20006-1506

Re: Regulatory Notice 14-51 - Identification of Non-Member Broker-Dealers in OATS and the Reporting of Additional Order Information by ATSS

Dear Ms. Asquith,

The Financial Information Forum (FIF)¹ would like to take this opportunity to comment on Regulatory Notice 14-51 - Identification of Non-Member Broker-Dealers in OATS and the Reporting of Additional Order Information by ATSS (the "proposal"). We appreciate the extension of the comment period which has allowed for a thorough review of the proposal. As written, we believe the proposal will have a significant impact on implementation and we look forward to continued conversations with FINRA to achieve their regulatory goals in a more efficient manner.

Identification of Non-Member Broker-Dealers in OATS

In order to facilitate the identification of non-member broker dealers in OATS, FIF recommends that FINRA augment existing MPID directories² to include MPIDs for non-member broker dealers. We understand that not all non-FINRA members have MPIDs but believe that the FINRA MPID program could be expanded in a manner similar to the provision of MPIDs for NYSE floor brokers as part of the OATS for NMS expansion. Firms would look to this list in order to validate whether an MPID would be required for OATS identification processes.

FIF also evaluated the use of the CRD number, recognizing that all U.S. registered broker dealers have a CRD number. We believe an MPID-based approach is better because current OATS

¹ FIF (www.fif.com) was formed in 1996 to provide a centralized source of information on the implementation issues that impact the financial technology industry across the order lifecycle. Our participants include trading and back office service bureaus, broker-dealers, market data vendors and exchanges. Through topic-oriented working groups, FIF participants focus on critical issues and productive solutions to technology developments, regulatory initiatives, and other industry changes.

² Specifically many firms rely on the MPID list available here:
<ftp://ftp.nasdaqtrader.com/symboldirectory/mpidlist.txt>

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identification is based on the MPID. Implementation using an existing MPID directory would allow firms to leverage existing workflows and ease implementation costs. Additionally, CRD numbers may be associated with multiple firm names for the same firm. Reconciling firm names with CRD numbers may prove challenging. It is worth noting that with the implementation of CAT and the corresponding CAT Reporter ID, this issue will be addressed. Rather than interim measures to improve OATS, FIF respectfully suggests that FINRA work diligently with the other SROs towards driving CAT forward.

Reporting of Additional Order Information by ATSS

The proposal states that “ATSS exceeding the volume requirement would be required to report all events and order attributes that would change the ATSS’s system quantity (the number of shares of an order, whether displayed or undisplayed, that can currently execute within the ATSS), the displayed quantity, the highest (buy orders) or lowest (sell orders) price at which the order can currently execute within the ATSS, and the displayed price for an order.” In the proposal, the volume requirement is set at thresholds based on SEC proposal, [S7-27-09](#), that was never adopted. Rather than introduce new thresholds for ATSS to monitor, FIF recommends using an existing threshold based on either the fair access threshold of Reg ATSS or the SCI ATSS thresholds established in Reg SCI.

For those ATSS that would be subject to the proposal, FIF has several concerns about the implementation impact if the proposal were adopted in its current form. The implementation concerns are as follows:

- The proposal would require ATSS to log events that they do not currently log. The logging of such events may impact the latency of ATSS matching engines, and would require significant reengineering of trading infrastructure to comply. It would be very difficult for firms to develop separate processes to re-run market data against ATSS order information in order to produce these records. It is questionable if such an approach would produce reliable results since it would require re-sequencing market data against an order stream retroactively. Additionally, this would likely be a more cumbersome process.
- The number of additional OATS records would be significant; depending on implementation specifics FIF members estimate this would range from 10 to 100 times what is sent to OATS today. Many firms that currently generate OATS via an end of day batch process may be required to create a real-time OATS generation process given the sheer volume of submissions that would be required. Additionally, FIF members are concerned with the costs associated with accommodating this volume on the OATS platform and the downstream impact this would have on industry costs associated with supporting OATS.
- If FINRA is looking for ATSS to generate the equivalent of an order book feed, OATS is not suited for this purpose.
- Unlike exchanges, ATSS may not re-price orders with every movement in market data. Often, re-pricing occurs only if there is a contra-order in the ATSS. Other times, re-pricing is dependent on whether the order is marketable, e.g., a pegged limit order that is not

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marketable will not generate any re-pricing events. FINRA has indicated that they are not looking for ATSs to manufacture events but it is unclear under what circumstances an OATS submission would be required for an ATS that does not re-price all orders.

FIF believes that further discussions between FINRA and ATSs are required in order to ensure that FINRA has an in-depth understanding of the relevance of their regulatory objectives especially with respect to ATSs that do not route out and do not display orders. It is our understanding that surveillance objectives as they relate to identifying spoofing or layering activity depend on orders being displayed and routable which is not the case in many ATSs. The proposal assumes that ATSs operate in a manner similar to exchanges which may not be true for all ATSs. ATSs, in conformance with their Form ATS, may offer different execution models and client functionality including priority that is not strictly based on price/time and options for subscribers to opt-out of trading with certain counterparties. Additionally, ATSs may enhance their functionality on a regular basis. Without a thorough evaluation of an ATS's Form ATS, FINRA will not have a complete picture of an ATS's order/execution model even with the additional order information that the proposal is requesting.

While FIF questions the benefits of providing the additional order information requested in the proposal, we do believe there are benefits to ATS transparency. The recent implementation of the MPID amendments along with the associated ATS OATS and Trade Reporting guidance³ will provide new trade reporting and order audit trail information to FINRA to support their regulatory goals. Additionally, FINRA could explore additional special handling codes to capture various pegging and other market data-dependent order types. To this end, FIF members have expressed a willingness to continue the dialogue with FINRA to determine how best to capture additional data as part of the order audit trail.

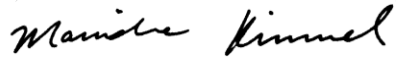
Given that OATS will be retired as part of the Consolidated Audit Trail (CAT), FIF recommends that rather than enhancing OATS for the short-term, any requirements to come out of further discussions should become functional requirements of CAT. Requiring significant changes at both firms and FINRA to accommodate this proposal would be short-sighted in light of CAT. We acknowledge FINRA's concerns with the timing of CAT but believe that given their role as both a member of the SRO CAT consortium as well as a bidder for the CAT processor, they are uniquely positioned to drive CAT forward in a timely manner. In its current form, a significant effort will be required on the part of impacted firms to implement this proposal. The implementation time required for the re-engineering efforts described above is not trivial. Requiring firms to make enhancements to OATS in parallel with CAT implementation will drain internal resources and strain CAT implementation timelines. We are hopeful that FINRA will amend this proposal and consider CAT as part of any future rule-making in this area.

³ Available at http://www.finra.org/web/idcplg?IdcService=SS_GET_PAGE&ssDocName=P598513

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We appreciate the opportunity to comment on these impactful proposals and look forward to identifying solutions that better meet FINRA's interest in achieving their regulatory goals in an effective and efficient manner.

Regards,



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Managing Director
Financial Information Forum

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