

# FINANCIAL INFORMATION FORUM

5 Hanover Square  
New York, New York 10004

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212-422-8568

September 17, 2010

Elizabeth M. Murphy, Secretary  
Securities and Exchange Commission  
100 F Street, NE,  
Washington, DC 20549-1090

Re: File Number SR-FINRA-2010-044

Dear Ms. Murphy,

The Financial Information Forum (FIF)<sup>1</sup> would like to take this opportunity to comment on the proposed expansion of OATS to include all NMS stocks as discussed in File Number SR-FINRA-2010-044. Since the creation of FINRA from NASD and the member regulation, enforcement and arbitration functions of the New York Stock Exchange, FIF members have advocated the expansion of OATS to include NYSE-listed securities in conjunction with the elimination of OTS reporting. Specifically, we support the following:

- The elimination of OTS in favor of expanding OATS to include all NMS stocks. The phase-in of OATS should be done concurrently with the phase-out of OTS in order to eliminate duplicative/parallel processing.
- Harmonization of NYSE Rule 123 required information with current OATS values/reports. Particular attention should be paid to the harmonization of account types as these are treated differently by NYSE and FINRA. There should be no distinction between account type indicators for NMS stocks listed on NYSE or NASDAQ. Wherever possible, the FIX protocol should be leveraged to ensure standardization.
- At least six months implementation time, followed by a phased in approach for a manageable list of securities versus all securities at one time, from the release of specifications is sufficient for development, testing and deployment of an expanded OATS. In addition, we recommend FINRA wait until the successful implementation of

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<sup>1</sup> FIF ([www.fif.com](http://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.

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Reg SHO amendments before finalizing requirements for the OATS expansion into NMS securities. In addition, we urge FINRA to consider all the other regulatory requirements that are being contemplated and going into effect in the same time period when determining implementation dates.

- FIF members specifically request for an exemption or additional time for both convertible and non convertible Preferred Stock listed on NYSE. These are treated and “managed” by most firms in the Fixed Income Desks and systems and may not be easily reportable on existing platforms. Furthermore, the SEC exempted Non Convertible Preferred from Regulation NMS since they are considered essentially as bond instruments, therefore these instruments may require additional time to implement. FIF members also request that FINRA configure OATS to accept symbols under the different NASDAQ and NYSE Symbology plans as well as consider that certain FINRA member firms trading in NYSE securities don’t have MPIDs which are required for OATS Reporting.
- As the number of records increase firms will need relief from the requirement to submit reports by 5:00 a.m. on T+1. Internally at firms, multiple systems are involved in the process of reporting by the required deadline. In light of the increased volume on each of the systems, firms will need sufficient time to report and fix systems issues. In addition, FINRA currently posts statistics on subsequent days after T+1. FIF members would like to request submission of reports to OATS by 5:00 p.m. on T+1.
- Firms today are required to repair and resubmit OATS rejections within 5 days after a related reportable order event is submitted which is typically trade date. However FINRA typically posts rejections two days after trade date which allows only 3 days to repair rejections. Considering the significant increase in volume that will occur, FIF members would at a minimum like to request flexibility to have the 5 day repair window begin on the date firms receive the rejections.
- With the expansion of all NMS securities to OATS, firms will be submitting millions of additional OATS records via FTP to FINRA. FIF members recommend FINRA enhance its capacity and processing bandwidth for its test and production sites to ensure timely processing of files and error free testing especially during market events such as May 6<sup>th</sup>.

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- The enhanced surveillance capability of OATS, post-expansion, should be evaluated before proceeding with the consolidated audit trail proposed by the SEC in File number S7-11-10

FIF believes that the expansion of OATS to include all NMS stocks will achieve the objectives identified in the Proposal:

“extending the OATS recording and reporting requirements to NMS stocks listed on markets other than NASDAQ will greatly enhance its audit trail and its ability to identify illicit trading activity in a more effective and efficient manner.”

Once the Proposal is approved, we look forward to working with FINRA and other industry participants on addressing implementation issues in order for the industry to efficiently implement an expanded OATS system in the established timeframe.

Sincerely,



Manisha Kimmel  
Executive Director  
Financial Information Forum