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<u>Via Electronic Delivery</u>

November 7, 2016

Mr. Brent J. Fields
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-1090

Re: Release No. 34-78309; File No. S7-14-16; Disclosure of Order Handling Information

Dear Mr. Fields,

On behalf of the members of the Financial Information Forum ("FIF")[1], we wish to submit this letter as an addendum to the FIF comment letter[2] originally submitted to the Securities and Exchange Commission ("Commission" or "SEC") on September 26, 2016. As discussed in our previous letter, FIF members are proponents of enhanced disclosure to both institutional and retail customers; however, our members are concerned with key aspects of the Order Handling Information Disclosure report formats included by the Commission in its filing of S7-14-16.

Three of our primary concerns specifically related to the content and format of the reports as proposed are highlighted below:

1. **Determination of retail and institutional customers and associated report formats based on order size will not provide customers with a comprehensive view of the way their orders were handled.**
2. **Quantifying the fees/payments passed to/from trading centers in a data field is subject to misunderstanding and misinterpretation by retail investors.**
3. **Assignment of a "strategy" (aggressive, passive, neutral) is subjective and will vary widely across the industry, producing a result counter to one of the primary objectives of the rule; that is, to provide consistency for purposes of comparison.**

With the objective of providing *meaningful* disclosure to their customers, FIF members have constructed a template for reporting that will address these fundamental issues, more appropriately fill the need for disclosure of detailed order handling information, and support comparative analysis.

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[1] FIF (www.fif.com) was formed in 1996 to provide a centralized source of information on the implementation issues that impact financial services and technology firms. 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 to arrive at productive solutions to meet the requirements of new regulations, technology developments, and other industry changes.

[2] FIF Comments to the Commission re: S7-14-16.

Overview of FIF Proposed Template

FIF's comment letter outlined the various reasons why it is not appropriate to identify customers using order size as the basis for reporting, but for purposes of this addendum, we will focus on the implications of this approach with respect to the report format. The proposed approach could ultimately create much confusion, as there are two scenarios that would cause investors to receive incomplete information: 1) many orders submitted by retail investors will exceed $200,000, and therefore be omitted from the "retail" report, yet be included in the "institutional" report; and, 2) because many institutions split their orders into smaller pieces (less than $200,000) before submitting to multiple broker-dealers, those orders will be omitted from the institutional report yet be included on retail reports. Thus, a customer must receive both sets of reports. Because the proposed reports are presented in very different formats with dissimilar fields, a customer receiving both report formats would not have a consistent nor comprehensive view, since depending on the size of the order, some orders would be in reported in one format, and others in an entirely different format. Furthermore, a large "held" order placed by a retail client would receive a report containing numerous fields that are not applicable to the way the order was handled.

As a logical alternative to the proposed delineation between "retail" and "institutional" orders based on number of shares or notional value, FIF strongly recommends using "held" or "not-held" orders[3] as the criteria for determining the content and format of the information customers receive. Held orders are most often submitted by "retail" investors, while not-held orders that often utilize algorithms to determine optimal routing, would incorporate more expansive concepts of interest to "institutional" customers.

FIF recommends use of a consistent report format to provide a complete and comparable view of the way customers' orders have been handled. The report should be segregated by "held" and "not-held" orders. Firms whose clients only place held orders would format their reports to present only those fields that are applicable to held orders.[4] Firms whose clients only place not-held orders would format their reports to present the fields that are applicable to not-held orders. Firms whose clients place both held and not-held orders would format their "combined" report accordingly, populating the fields that apply to held orders, and separately those that apply to not-held orders. Furthermore, directed orders should be excluded from the reports; or, if included must be unmistakably segregated from non-directed orders. This would allow broker-dealers to target their disclosures appropriately, while achieving the goal of consistency highlighted in the rule filing.

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[3] A 'Not-Held Order' may generally be described as a market or limit order that gives the broker or floor trader both time and price discretion to attempt to get the best possible price. Investopedia defines a 'Held Order' as a market order that must be promptly executed so that the request is immediately filled.

[4] FIF comment letter p 5. "A single report prepared for a "retail" customer describing how all "held" orders were handled, would be more self-explanatory, all-inclusive and easier to consume. Including all held orders in a single report would also preclude the need for retail-oriented brokers to produce the broader set of institutional statistics that are not relevant to their customer base of retail investors. The requirement to generate the additional statistics in cases where the client has submitted a not-held order would be an onerous task for retail broker-dealers who receive very few not-held orders to which the additional information fields would apply. It would introduce a wholesale change to the current 606-methodology with significant added expense, and the expanded statistics would provide no added benefit to the retail client. Therefore, FIF recommends that broker-dealers be exempted from the "institutional" level of reporting where their customers' "not-held" orders are de minimis to the total number of orders received."

The FIF proposed template also removes the fields from the held order (retail) section that reflect fees and payments made and received by the broker-dealer by order type, and instead suggests that the financial arrangements broker-dealers have with various execution destinations be more explicitly explained in the form of a clear and concise narrative. FIF proposes language that will provide a consistent description of material relationships, which are often complex and cannot be adequately described in a data field. The narrative should also include the net fees paid/payments received in cents per share, for each execution destination.

Another key recommendation reflected in the FIF proposed template is the more granular categorization of information based on intent of the orders at the time they are routed. FIF members are particularly concerned that assignment of a "strategy" to the parent order will lead to inaccuracies in describing the way child orders were handled at the time they are routed. Therefore, instead of aggressive, passive or neutral, routing details should be reported based on the order type: market orders, marketable limit orders, non-marketable limit orders, and other orders.

A sample template is provided in an excel file to accompany this letter. Details to describe the Excel workbook are provided below.[5]

Report Format and Content

The first tab on the sample template labeled "Consolidated Format" presents FIF's recommendations for the full set of data fields that should be included in the enhanced report format when both held and not-held orders are being reported. The second tab labeled "Held-only De minimus Exception" provides a view of the abbreviated version that is designed for retail clients that place only held orders, and would be produced by firms that have received the de minimus exception recommended for those that handle a negligible number of not-held orders. The third tab labeled "Material Relationships" provides the language that FIF suggests be used to describe the nature of material relationships as well as payments and fees, including net cents per share. Although the fee-related columns have been removed from the FIF "Held-only" template, FIF considers the information provided as more client-centric than that in the SEC-proposed template as a result of the narrative described in the "Material Relationships" section.

Organization of Template

Retail-oriented broker-dealers who are focused on the customer experience emphasize the importance of providing information that is easily understandable. Given that retail customers typically submit "held" orders, FIF members believe the targeted metrics illustrated in the FIF proposed template are the most suitable. In contrast to the rule filing, the "held" orders section of the report would incorporate odd-lot orders[6] as well as large orders ($200,000+), placing orders in their respective buckets based on order type (market, marketable/non-marketable limit, other), and reported in a single report format.

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[5] **Please note: all execution destinations, share numbers and percentage calculations presented in this sample template are *provided for purposes of illustration only* and do not represent actual reporting statistics for any specific reporting firm.**

[6] Odd-lot orders previously included in "Other" should instead be included in calculations of the applicable "Order Type". Stop/Stop on Quote, Qualified Orders, Fill or Kill, All or None, Market on Open/Close, or orders entered outside of market hours remain in "Other".

While institutional customers are more apt to place “not-held” orders, they may also place a small number of “held” orders. Utilizing the combined template, held orders should be grouped separately from the not-held orders, and only those fields that are applicable to held orders, or not-held orders, need to be populated.

Directed orders, including orders from customers who have customized routing configurations or have otherwise given instructions that go against the broker’s default order routing behavior, should be excluded from the reports; or, if included, must be unmistakably segregated from orders that were routed pursuant to the broker’s default routing behavior. This is especially important for the aggregate public report, where the inclusion of customized order flows could misrepresent the broker’s normal routing behavior.

Summary Section

A summary section at the top of the Consolidated Format template (see rows 2 and 3) that provides total percentages for Market, Marketable Limit, Non-Marketable Limit and Other orders is only needed when a combined report is being produced; as totals for each section (Held Market, Marketable Limit, Non-marketable Limit and Other; or Not-Held Market, Marketable Limit, Non-marketable Limit and Other) are provided in their respective rows.

Total Not-Held Orders Shares Sent to the Broker/Dealer, % Not-Held Orders Shares Executed, % Not-Held Orders Executed as Principal and Total Orders Exposed (Actionable IOIs)[7] should be populated whenever not-held activity is being reported.

Arrangement of Rows and Columns

The Non-Directed totals listed by venue is only necessary if the Consolidated Format is being used, showing both Held and Not-Held activity (illustrated in rows 12-26) in a single report.

To be consistent with the SEC-proposal for the retail report, the FIF template has applied the same filtering methodology for routing destinations to both the held and not-held sections, which would limit the market centers being displayed to only the top ten, plus those receiving over 5% of the routed order volume (illustrated in rows 27-37 and rows 62-72).

For ease of use and consistency, the FIF template has deviated from SEC proposed “retail” format by changing Order %, Market Order %, Marketable Limit Order % and Non-Marketable Limit Order % from columns, to rows (see column B in “Consolidated Format” and “Held-only” tabs).

The SEC proposal presented calculations in percentages, and also indicated notional shares for institutional orders. The FIF template provides consistency across held (retail) and not-held (institutional) by expressing all calculations in percentages.

Also, in reference to not-held orders, the following columns have been enhanced/added:

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[7] FIF recommends that the Commission add another element to the definition of an Actionable IOI; specifically, that the IOI is electronically communicated and capable of resulting in an automated, electronic execution. Furthermore, the rule should explicitly state that this disclosure is limited to “market centers”, defined in Rule 11Ac1-5(a)(14) as "any exchange market maker, OTC market maker, alternative trading system, national securities exchange, or national securities association."

- expanded the calculation of average duration of orders to include *all* orders, not just those providing liquidity (see column I)
- the percentage of total shares executed that were priced within the spread but not at the mid-point (see column M)
- the percentage of total shares that were priced at another price point (see column N)

Description of Fee Arrangements and Material Relationships

For held orders, FIF recommends removing all columns related to fees and payments and instead suggests including a clear, concise narrative to describe fee arrangements and highlight material relationships. This may be accomplished using footnotes to indicate the relationship with each routing destination listed in column C. The third tab in the sample template provides specific language related to the terms of payment for order flow arrangements or profit-sharing relationships that may influence a broker-dealer's order routing decisions and would be required to be disclosed under the proposal. We believe that by eliminating the columns and replacing them with the narrative language FIF has proposed, we will more likely avoid the misunderstanding that may result from including fees and rebates in the data fields, and instead more completely address the Commission's requirement for information regarding:

- incentives for equaling or exceeding an agreed upon order flow volume threshold, such as additional payments or a higher rate of payment;
- disincentives for failing to meet an agreed upon minimum order flow threshold, such as lower payments or the requirement to pay a fee;
- volume-based tiered payment schedules; and
- agreements regarding the minimum amount of order flow that the broker-dealer would send to a venue.

We encourage the Commission to carefully consider the FIF proposed template, as these are complex issues that require thorough examination before regulations are finalized. Our members would welcome an opportunity to meet in person to discuss the specifics of our recommendations. Please do not hesitate to contact me with questions or to arrange follow-up discussions.

Regards,

Mary Lou Von Kaenel

Mary Lou Von Kaenel
Managing Director
Financial Information Forum

cc: Stephen Luparello, Director, SEC Division of Trading and Markets
David Shillman, Associate Director, SEC Division of Trading and Markets