

FINANCIAL INFORMATION FORUM

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Via Electronic Delivery

December 21, 2016

Mr. Robert W. Errett
Deputy Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-1090

Re: File Number SR-FINRA-2016-042

Dear Mr. Errett,

On behalf of Financial Information Forum (“FIF”)¹ non-exchange industry members (for purposes of this letter, referred to as “FIF members” or “members”), I am writing to express our concerns regarding publication of Tick Size Pilot B.I and B.II Statistics on FINRA’s website.

As stated within the SEC’s Approval Order² as well as various provisions under FINRA Rule 6191³, “The publicly available data would not identify the trading center that generated the data.” Our members believe that current plans to publish this transactional data in a disaggregated format, which will be thinly veiled in an attempt to mask the identity of the Trading Center, does not meet the requirements of the approved Plan⁴ or FINRA’s Rule 6191. The current plan for masking does little to protect the identity of the trading center.

FIF had previously expressed these concerns to Commission staff⁵, and as a result, an additional 90-day delay is reflected in this more recent filing. While our members do appreciate the additional delay to further age the data, the postponement of publication does not address the underlying issue of the ease with which trading centers can be identified, and their intellectual property and customers’ trading strategies can be exposed. We have urged our members to

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 Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27514 (May 13, 2015).

³ “Pursuant to Section VII and Appendices B and C to the Plan, FINRA Rule 6191(b)(2)(B) provides, among other things, that FINRA shall make the data required by Items I and II of Appendix B to the Plan, and collected pursuant to paragraph (b)(2)(A) of Rule 6191, publicly available on the FINRA Web site on a monthly basis at no charge and shall not identify the Trading Center that generated the data.”

⁴ Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27514 (May 13, 2015). p. 19. Further, Release No. 34-76382; File No. 4-657 (November 6, 2015) stated: “The collected data will be publicly available in an aggregated form.” p 3.

⁵ [Letter](#) to David Shillman, Associate Director, Division of Trading and Markets, Securities and Exchange Commission.

contact Commission staff directly to demonstrate their concerns and provide specific examples of the harm that may result from trade-by-trade reporting of Tick Size Pilot securities, if made available in the public domain.

FIF strongly encourages the regulators to reconsider plans set forth in this filing SR-FINRA-2016-042 to publish B.I. and B.II. calculations for Tick Size Pilot securities' orders and executions; and, in our letter of August 16, 2016, we offered several alternatives we believe will thwart attempts at reverse-engineering, while fulfilling the goals of the Pilot. The following is an extract of that letter:⁶

"FIF members offer for consideration what we believe to be practical alternatives to the current plan to publicly disclose complete order-by-order, symbol-by-symbol transaction information, that still achieve what we believe to be the goals of the Pilot:

- FIF members' first preference is for FINRA to publish only aggregated data, without attribution (no ID of any kind, masked or otherwise), and without a timestamp. The combination of trading center ID and timestamp provides key information that will easily allow the identification of a trading center and determination of a trading strategy.
- Given the illiquid nature of the pilot securities, a timestamp on each transaction, even without a trading center ID, will provide sufficient information to allow an algorithmic strategy to be discovered. Alternatively, to prevent information leakage and maintain the integrity of the Pilot program, FIF members suggest that only aggregated reports be widely published; and, the disaggregated data (properly masked) may be provided only to those who sign a non-disclosure agreement or offer similar protection of confidentiality, and submit an application with a description of how the data will be applied.
- Use of different IDs on a daily basis rather than consistent use of a dummy ID to identify a trading center could reduce the negative effects, although not entirely as a trading strategy could be discerned over the course of a single trading day. Similarly, changing IDs from symbol to symbol could also help mask a trading center's identity, but will not prevent reverse-engineering of an investor's trading strategy.
- Decoupling the use of a dummy ID in the transaction level statistics from the aggregate statistics will make it slightly more difficult to identify a trading center.
- Knowledge of the specific trading center should not be required to analyze trading behavior and the effects of quoting and trading restrictions on the securities in the various test groups. If the *type* of trading center is considered a factor for analytic purposes, then categories of trading centers (e.g. exchange, ATS, broker-dealer, etc.) could be established with an indication of a trading center's category code on each transaction, rather than a unique identifier linked to a specific trading center."

FIF's conversations with Commission staff subsequent to submission of the letter cited above have indicated a strong desire on the part of the Commission to support academic analysis by providing a high degree of granularity and detailed transactional information, including consistent references to trading centers, which they feel is necessary to establish behavioral

⁶ See *id.*

patterns and outcomes. If this is truly the intent, we believe this can be accomplished without making all of the transactional data publicly available as proposed, but limiting its availability to selected entities that have agreed in writing to stipulations of confidentiality and other terms and conditions.

Prior to approving this proposal SR-FINRA-2016-042, FIF strongly urges the Commission to carefully weigh the benefit of disaggregated, thinly-veiled public disclosures against the potential costs. We also ask that you seriously consider the alternatives outlined above, which we believe will both satisfy the need for thorough analysis and meet the objectives of the Tick Size Pilot program.

Thank you in advance for carefully considering our members' concerns. Please do not hesitate to contact me with questions or to arrange follow-up discussions.

Regards,

A handwritten signature in black ink, reading "William A. Hebert". The signature is written in a cursive, flowing style.

William Hebert
Managing Director
Financial Information Forum

cc: The Honorable Mary Jo White, Chair, SEC
The Honorable Kara M. Stein, Commissioner, SEC
The Honorable Michael S. Piwowar, Commissioner, SEC

Mr. Stephen Luparello, Director, Division of Trading and Markets, SEC
Mr. David Shillman, Associate Director, Division of Trading and Markets, SEC
Ms. Kelly Riley, Assistant Director, Division of Market Regulation, SEC