FINANCIAL INFORMATION FORUM

11 Hanover Square
New York, New York 10005
_____

212-422-8568

February 20, 2019

Theodore S. Venuti
Assistant Director
Division of Trading and Markets
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: File No. S7-14-16 – Disclosure of Order Handling Information

Dear Ted,

On behalf of the members of the Financial Information Forum's ("FIF")[1] SEC Rule 606 Working
Group ("Working Group"), FIF would like to thank the Securities and Exchange Commission ("SEC"
or "Commission") Trading and Markets Staff for scheduling the February 5th in-person meeting so
soon after the reopening of SEC operations. As a follow-up to that meeting, FIF is respectfully
submitting this letter, which includes additional information pertaining to: 1) challenges of an
Introducing Broker ("IB") providing downstream[2] "look-through" information on 606(a) and 606(b)
reports; 2) a proposed alternative solution should the reporting of downstream order execution
data be required; 3) FIF requests for FAQs/additional guidance pertaining to several common
business scenarios intended to clarifying the scope of Broker-Dealer ("BD") discretion (*see* Appendix
A); and 4) additional requests for clarification/guidance that supplement Appendix A of FIF's letter[3]
dated January 30th (*see* Appendix B).

Scope of an IB's Requirement to Provide Look-Through Information

Following the February 5, 2019 in-person meeting with Trading and Markets Staff, FIF member firms
remain unclear of the degree and scope of the Amended Rule 606 requirement of IBs to report
downstream order execution data on 606(b) reports.[4] Therefore, FIF is seeking additional guidance

---

[1] FIF (www.fif.com) was formed in 1996 to provide a centralized source of information on the implementation issues that
impact the securities 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] For the purposes of all descriptions below, please assume this scenario and terminology: A *customer* submits an initial order
to an *IB;* the IB routes the order or part of the order to an Executing Broker *"EB";* and the EB executes a trade(s), or takes
further actions to split and/or route orders to further venues. Using this scenario, we use the term "downstream" to indicate
the perspective of the IB looking toward the EB; and "upstream" to mean the opposite.

[3] Letter to Mr. Theodore Venuti, Assistant Director, SEC from Mr. Christopher Bok and Ms. Son-Mi Lee, *Re: File No. S7-14-16-
Disclosure of Order Handing Information*, at Appendix A, (January 30, 2019).

[4] *See* SEC Release No. 34-84528 (November 2, 2018) at 331-332 (FIF believes much of the data required to be reported as part
of 606(b)(3)(ii)-(iv) on-demand customer reports, including 1) average net execution fees or rebates; 2) fill rate; and 3) average
net execution rebate (or fee paid) for shares that provided liquidity cannot be derived without access to order-by-order
execution detail that is not commonly provided to IBs in a format that is easily transferrable to 606(b)(3) reports today).

concerning whether the scope of 606(b)(3) applies to orders where the IB did not directly control the ultimate execution of the order.

FIF continues to believe that the plain text of the Amended Rule implies that the scope of an IB's reporting obligations is limited to how a BD handles <u>its</u> (the IB's) orders for its client (customer).[5] Specifically, the Commission notes that "[because] Rule 606(b)(3) requires a broker-dealer to provide the required information only with respect to 'its' order handling, an introducing broker-dealer's obligation under Rule 606(b)(3) *does not extend to the order handling activities of another broker-dealer*."[6] Additionally, the Commission notes that because a BD is only required to report to the customer that places an order with the BD, Executing Brokers ("EBs") are not required to report Rule 606(b)(3) information to the IB's customer nor is an EB required to provide order-by-order data upstream to the IB.[7]

While the Adopting Release seems to limit the scope of an IBs 606(b)(3) reporting obligations[8], there appears to be an inherent conflict between this limiting language and the Amended Rule's requirement of reporting data mandated in sections 606(b)(3)(ii)-(iv). FIF believes that under the current construct of the Amended Rule, IBs would logically be required to derive and report downstream order execution data to meet 606(b)(3)(ii)-(iv) obligations (*i.e.* average net execution rebate/fee paid for shares that provided/removed liquidity, total shares routed that were further routable, etc.…). In most IB-to-EB arrangements today, this information does not exist in a manner that is transferable to the 606(a) public nor the 606(b)(3) customer on-demand reports. Therefore, in order to meet all 606(b)(3)(ii)-(iv) requirements, most industry stakeholders will be required to undergo significant business process changes/development work in order to support compliance with the Amended Rule.

Challenges – Deriving and Reporting Downstream Order Execution Data

Should the Amended Rule require IBs to report "look-through" information pertaining to execution data beyond the IB's direct control, the development of a systematic and automated means of deriving and reporting all downstream information would be necessitated. For IBs to report all required 606(b)(3) downstream execution data to the end customer, the IB will need information from the EB(s), Exchange(s) and ATS(s) linked either by an Order or Execution ID.[9] In most cases, this information is not provided to IBs today on an order-by-order basis and will therefore require stakeholders (*i.e.* IBs, EBs, Execution Venues, and Vendors) to engage in a mapping exercise that will allow EBs to derive all applicable 606(a) and 606(b)(3) information at the Order or Execution ID level by each venue. The IB would then need to match each Order ID to individual executions passed

---

[5] *Id.* at 75.
[6] *Id.*
[7] *Id.* at 72-73.
[8] *Id.*
[9] Data required to be reported which would need to be tied to each Order ID includes: 1) total shares routed, 2) total shares routed as IOC; 3) total shares routed that were further routable; 4) Total shares executed; 5) Aggregate net fee/Rebate for shares executed; 6) Total shares executed at the midpoint; 7) Total shares executed that were priced at the near side; 8) Total shares executed that were priced at the far side; 9) Total shares that provided liquidity; 10) Duration of routes that provided liquidity; 11) Aggregate execution rebate/Fees for shares providing liquidity; 12) Total shares that removed liquidity; 13) aggregate net execution rebate/Fees for shares that removed liquidity.

back from the EB in order to accurately report criteria such as payments/rebates, fill rate, etc.… specific to the customer's original order.

FIF agrees with the Commission that competitive forces in the market will ultimately dictate whether EBs provide this detailed order execution data to the IB. However, the business process and systems changes required to provide IBs with order-by-order execution detail will involve significant time, resources and coordination between the IB, EB, Execution Venues, OMS/EMS systems and Vendors. FIF believes the development effort required to provide all 606(b) reportable information in a format that is transferrable to end-customers will take, *at minimum*, 4-to-8 man months.[10] Accordingly, FIF believes such significant systems re-designs and coordinated industry-wide efforts are not possible to be achieved by the May 20th Compliance Date.

Alternate Approach

FIF recognizes that the intent of Rule 606(b)(3) (*i.e.* inform the Commission/customers on potential conflicts of interest) cannot be fully achieved based <u>solely</u> on the requirements of 606(b)(3)(i). However, FIF does not believe the solution to provide greater transparency to the customer pursuant to 606(b)(3)(ii)-(iv) rests upon requiring the IB to "look-through" to the child-order routes and executions. This is because the economics reported in these sections are between the EB and other trading centers, and not the between the IB and the EB. Furthermore, FIF does not believe data on child-order routes by the EB should supplant the facts of the initial route from the IB to the EB, which would necessarily be the case since both the rule's structure and XML format required by the rule exclude the ability to simultaneously report on both the IB-to-EB parent-order route and the EB child-order routes. Given the choice between the two, FIF believes data on the initial IB-to-EB route would more meaningfully inform the IB's customer on the IB's routing practices and potential conflicts of interest while alleviating the need for many IBs, EBs, and their vendors to re-engineer the means by which that information is passed.

As an alternative to providing "look-through" data and thereby alleviating the challenges outlined above, FIF recommends that the Commission instead consider using similar data required for held orders in 606(a) to augment the 606(b)(3)(i) disclosures for not-held orders routed by an IB to an EB. Specifically, in addition to reporting the total shares routed, average order size, etc..., for each venue (in this case the EBs), the IB will report <u>its</u> economic relationship with the EB. This can be accomplished through a combination of data provided from the EB to the IB that is based upon aggregate total dollars as well as per-share amounts in fees paid to, or rebates received from, each EB for the month based upon the specific client's activity. FIF believes that in most cases, this information is available today and therefore the transfer of data directly from the EB to the IB is achievable more quickly and should alleviate the inherent challenges in linking executions on an order-by-order basis.

FIF believes this this method should be equally valid whether or not the EB has a cost-plus relationship with the IB. If the fees and rebates the EB pays or collects from executing child-orders

---

[10] Depending on the level of information an EB provides an IB today, as well as the degree to which OMS/EMS systems will be required pass Order/Execution ID information, FIF believes that technology and process changes could exceed 8 months should the Amended Rule require firms to derive look-through information.

are passed back to the IB, the IB would have that information and can include it in its customer disclosures. However, if instead the EB retains all fees and rebates from the trading centers it accesses, and provides a separate fee/rebate schedule to the IB, the IB would have that information and can likewise include it in its customer disclosures. In either case, the IB would be reporting information to its customer on how "it" (the IB) handled the customer's orders in terms of where it was routed and the fees "it" (the IB) may have paid or received.   FIF believes this is a much more meaningful, as well as practical, approach for 606(b)(3) reporting in the case of an IB-to-EB work flow compared to requiring the IB to "look-through" to the ultimate execution of EB child orders and routes.

Amended Rule 606 Go-Live Date

While FIF believes that the alternate implementation approach outlined above will reduce much of the challenges of deriving and reporting 606(b)(3)(ii)-(iv) data, several challenges remain. Notably, IBs will still be required to undergo significant work to normalize and report 606(b)(ii)-(iv) data in a format that complies with the intent of the Amended Rule. Additionally, some development work cannot be completed until the Commission provides required guidance concerning the scope of BD discretion and "look-through" as required by the Amended Rule. The industry's dependency on Commission-provided guidance also applies to the other critical questions posed by the industry including: 1) reporting riskless principal transactions and aggregated orders; 2) options reporting; 3) actionable IOIs; and 4) several field specific attributes,[11] all of which will impact the ability of firms to comply with ultimate implementation date.

To allow the requisite time for industry stakeholders to implement the full scope of Amended Rule 606 obligations, FIF recommends that the Commission consider aligning the start of the Amended Rule's data collection period with the start of the 4th quarter (2019). This recommended approach assumes 1) the transfer of order execution data is limited to the IB-to-EB relationship (*see* FIF's alternate approach); and 2) that the Commission will provide the industry with the above-mentioned critical guidance within the next couple of months. FIF believes that the data collection period beginning on October 1, 2019 will provide time for 1) the Commission to provide the industry with required guidance/FAQs[12]; 2) allow the industry to review and incorporate that guidance; and 3) perform most of the systems and business process changes[13] required by the rule. Should the Commission agree with FIF's proposed 'go-live' date, firms subject to the Amended Rule would begin publishing the 606(a) public reports and as well as be subject to providing their customers with 606(b)(3) reports on February 1st, 2020.

Conclusion

FIF wishes to thank the Commission for the opportunity to provide additional feedback on Amended Rule 606 following our in-person discussion on February 5, 2019. FIF continues to

---

[11] *See e.g. supra* note 3 at Appendix A.

[12] *Id*. at Appendix A.

[13] FIF emphasizes that some firms may not be able to fully comply with the full scope of Amended Rule 606 prior to the proposed go-live date. For example, in cases in which 1) omnibus average price accounts are utilized; 2) firms engage in riskless principal/aggregated order business flow; and 3) IOIs are required to be normalized and reported, the systems changes and development effort could go beyond proposed February 1st "go-live" date

support the benefits of additional transparency that Amended Rule 606 will ultimately provide investors. We believe that our alternate solution will provide investors with greater transparency of an IB's order routing behavior while relieving the industry of the inherent challenges of deriving and reporting downstream "look-through" information.

Additionally, FIF respectfully requests that the Commission assess and provide answers to several common discretionary scenarios outlined in Appendix A as well as the questions raised in Appendix B of this letter and Appendix A of FIF's letter dated January 30th[14]. FIF believes that answers to these questions and scenarios represent critical guidance that will educate firms as to the scope of their Amended Rule 606 obligations.

Finally, FIF requests a follow-up in-person meeting with SEC Trading and Markets Staff to further discuss our alternate solution as well as the remaining identified challenges with respect to the implementation of the Amended Rule. Please feel free to contact the undersigned at 212-652-4485 with any follow-up questions.

Regards,
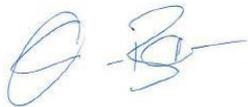
Christopher Bok, Esq.
Director, FIF

CC: John Roeser, Associate Director, Division of Trading and Markets, SEC
David Shillman, Associate Director, Division of Trading and Markets, SEC

---

[14] *See supra* note, 3 at Appendix A.

Appendix A – Discretionary/Look-Through Scenarios

Are Broker-Dealers deemed to have exercised discretion under the following scenarios:

1. A client[15] sends an order to an IB (BD1). BD1 then sends the order to an EB (BD2) with instructions telling BD2 to use BD2's SOR with no other qualifications, parameters, or instructions.
2. A client sends an order to an IB (BD1). BD1 then sends the order to an EB (BD2) with instructions telling BD2 to execute the order using BD2's algo engine with specific instructions to use a VWAP strategy and specific instructions telling BD2 to use its "Aggressive" VWAP configuration.
3. A client sends an order to an IB (BD1). BD1 then sends the order to an EB (BD2) with instructions telling BD2 to use BD2's SOR with no other instructions. However, in this case, BD1 and BD2 have an agreement that when BD1 targets BD2's SOR strategy, BD2 should never send a child order to BD3.
4. A client sends an order to an IB (BD1). BD1 then sends the order to an EB (BD2) with instructions telling BD2 to use BD2's SOR with instructions telling BD2 to only interact with a "lit" venue when executing the order.
5. A client sends an order to an IB (BD1). BD1 then sends the order to an EB (BD2) a "Directed ISO" order targeting an NMS exchange.
6. A client sends an order to an IB (BD1). BD1 then sends the order to an EB (BD2) with instructions telling BD2 to execute the order using BD2's algo engine with no specific instructions regarding which algo strategy or parameters to use.
7. A client sends an order to an IB (BD1). BD1 then sends the order to an EB (BD2) with instructions telling BD2 to execute the order using BD2's algo engine with specific instructions to use a VWAP strategy.
8. A client sends an order to an IB (BD1). BD1 then sends the order to an EB (BD2) with instructions telling BD2 to execute the order using BD2's algo engine with specific instructions to use a VWAP strategy and specific instructions telling BD2 to use its "Passive" VWAP configuration. In this scenario, BD1 and BD2 further have an agreement in place that when BD1 targets BD2's SMOR strategy, BD2 should never send a child order to BD3.
9. A client sends an order to an IB (BD1). BD1 then sends the order to an EB (BD2) with instructions telling BD2 to execute the order using BD2's algo engine with specific instructions to use a "Custom" strategy that 1) BD2 build exclusively for BD1; and 2) BD2 build based on feedback and instructions from BD1.
10. A client requests execution only on a primary and/or listing market but the BD (BD1) receiving the client order is a FINRA-only member. To satisfy the client's instructions, the receiving BD (BD1) routes the client's order to one or more of its executing BDs that offers a specific primary/listing market strategy. (Here, FIF believes the BD is not exercising discretion as it is simply executing upon their client's instructions).

---

[15] In each scenario, "client" refers to the entity or "customer" placing an order with an introducing broker-dealer. Examples include Asset Managers, Investment Managers, Pension Plan, Hedge Funds.

11. An IB requests that their clearing firm modify their profile in terms of urgency when taking liquidity for algorithms.

What information is the introducing broker (BD1) required to report on 1) 606(a) and 2) 606 (b) reports in the following scenarios?

1. An IB (BD1) white labels a VWAP algorithm from an EB (BD2). A client sends an order of 100,000 shares of EFG choosing the VWAP white labeled algorithm and sends the order to BD1). BD1 receives the order (from the client) and is then forwarded to BD2 without any human interaction. BD2's algorithm slices the order and sends various orders to various exchanges. Fills from the exchanges are sent to the customer from BD2.

How are Broker-Dealers expected to report the following scenarios?

1. A client (Customer A) sends an order to an IB (BD1) to sell 50,000 shares of EFG. BD1 finds a natural buyer (Customer B) for 40,000 shares at $0.03 below the bid. The two customers agree on the price and BD1 agrees to facilitate Customer A's sell order through buying the balance at the same price, less applicable ISO executions, which are executed through BD2 via a DMA (Direct Market Access) arrangement. BD1 then executes a cross. How are executions for Customers A and B reported with respect to liquidity taken/provided for the sell order of 40,000 shares and the ISO?
2. An IB (BD1) calls a clearing firm (BD2) trading desk with a not held order. The IB then adds an instruction to use VWAP over two hours. If the clearing firm or vendor is assisting the IB in preparing 606(b) disclosures, clearing firms/vendors may not be able to ascertain if the VWAP instruction was passed from the IB's client or if the VWAP instruction was initiated by the IB.
3. How are IBs expected to handle orders that are partially filled and then cancelled in terms of timestamp for average time in the market before a fill?
   a. For example: 1) an IB receives a passive order and routes 1000 shares; 2) 100 shares are filled in 1 second; 3) 100 additional shares are filled at the 10 second point; and 4) 800 shares are cancelled after 1 minute.

What degree of look-through information is required in the following scenarios?

Not Held Orders

1. A client sends a not-held, directed order to an IB (BD1) with an instruction to use a particular 3rd party algorithm (BD2). On the customer requested, directed order section of the report:
   a. Does BD1 only report the routing of the order to BD2?
   b. Does BD1 report the routing of the order to BD2 plus any commissions/fees paid to BD2 for handling the order?
   c. Does BD1 report routing of the order to BD2, commissions/fees paid to BD2 and all fees/costs/rebates and liquidity details incurred by BD2 in executing the order on multiple venues?

d. Will the answers scenario 1 remain the same if the order is non-directed and BD1 selects the 3rd party algorithm to use?

e. In the above scenario where the order is non-directed and BD1 selects the algorithm, has BD1 exercised discretion by simply choosing the algorithm to use? If not, is discretion exercised by customizing the criteria for an algorithm (passive/aggressive, VWAP/TWAP, etc..) where the criteria are not connected to the ultimate routing destination? Is discretion exercised by limiting the destinations to which an algorithm can route orders?

f. In this scenario where BD1 routes a client's non-directed, not held order to a 3rd party algorithm (BD2), and BD2 then routes the order to multiple venues and receives executions and BD1 is deemed to have exercised discretion:

    i. Would BD1 associate that order to BD2 as the venue on its 606(b) report and simply aggregate all of the associated "look-through" fees under that venue?

    ii. Is BD1 expected to assess all of the fills coming back on the order and assign the order to the venue that had the largest number of fills or use other reasonable criteria as discussed in Question 10 of the 606 FAQs.

g. For orders where discretion is not exercised and the order is routed by BD1 to a 3rd party (BD2) for execution, is BD1 required to provide details around liquidity for executions passed back by BD2?

Held Orders

1. A client sends a held, non-directed order to BD1. BD1 routes the order to a 3rd party (BD2) and BD2 receives executions from multiple venues with associated fees/rebates and passes them back to BD1.

    a. Does BD1 solely report any commissions/fees paid to BD2 for handing an order on 606(a)(1) report or is BD1 required to "look-through" BD2 to obtain all associated fees/rebates received by BD2 for individual executions?

Appendix B – Additional Requested Guidance

1. Shares Routed that are Further Routable
    a. Would a route to a wholesale broker be considered further routable?
    b. Would a route to an affiliate entity for the purposes of using their technology be considered further routable?
    c. Was this field intended to capture orders routed to an exchange that could leverage their routing functionality?
2. Orders that do not provide/remove liquidity
    a. How are orders that don't facially provide/remove liquidity to be reported?
        i. For example, some ATSs cross at the midpoint. In these cases, it seems that neither the buy or the sell order provide/remove liquidity. How should this scenario be reported for the purpose of 606(b)?
3. Directed v. Non-Directed Order Flow
    a. If a customer sends an instruction to post passively on a specific destination, but to route normally if the order is marketable, is this considered directed or non-directed order flow?
4. Synthetic Hedges
    a. Would synthetic hedges used to provide price formation of a client's OTC trade be considered in scope for 606 reporting?
5. Marketability v. Non-Marketability
    a. Are marketable limit orders in Short Sale Restricted securities considered marketable?
    b. Is a marketable limit order outside of Limit-Up/Limit Down considered marketable?
    c. What metrics should firms use in determining whether auction orders are considered marketable/non-marketable?
6. Error Correction
    a. What is the Commission's expectation in terms of repairing errors in reports that have been published/submitted to customers? Does the Commission expect the IB to correct the error and if so, is there a process firms should follow to alert the Commission/customers of the error? Is there a materiality threshold which applies to any requirement to fix errors?