

FINANCIAL INFORMATION FORUM

January 19, 2024

By electronic mail

Financial Industry Regulatory Authority, Inc.
1735 K Street, NW
Attn: Robert McNamee, Associate General Counsel,
Office of General Counsel

Re: Applicability of FINRA Rule 4590 (Synchronization of Member Business Clocks) to a Non-Executing Member for a TRACE-Reportable Transaction

Dear Mr. McNamee,

Financial Information Forum (“FIF”) is submitting this letter on behalf of our members. FIF members request that the Financial Industry Regulatory Association, Inc. (“FINRA”) provide written confirmation that the requirements of FINRA Rule 4590 (Synchronization of Member Business Clocks) are not applicable to a non-executing FINRA member firm when reporting the Time of Execution to the Trade Reporting and Compliance Engine system operated by FINRA (“TRACE”).

Applicable FINRA regulatory provisions

FINRA Rule 6730(b)(1) (part of FINRA Rule 6730, Transaction Reporting) provides that “In transactions between two members, both members shall submit a trade report to TRACE...” Under FINRA Rule 6730(c)(8), each FINRA member must report the Time of Execution. Under FINRA Rule 4590(a),

Each member shall synchronize its business clocks, including computer system clocks and mechanical time stamping devices, that are used for purposes of recording the date and time of any event that must be recorded pursuant to the FINRA By-Laws or other FINRA rules, with reference to a time source as designated by FINRA, and shall maintain the synchronization of such business clocks in conformity with such procedures as are prescribed by FINRA.

FINRA Rule 4590.02 provides, “Members must comply with the provisions of this Rule 4590 only to the extent that Rule 6820 (Clock Synchronization) under the Rule 6800 Series (Consolidated Audit Trail Compliance Rule) does not apply, e.g., to business clocks that record events in debt securities.”

Request for written confirmation

This request for confirmation relates to a trading scenario between two FINRA member firms where one FINRA member is the executing party. More specifically, this request for confirmation relates to the scenario where one FINRA member firm (the executing member) generates the timestamp that represents the timestamp for the trade.

In this scenario, the non-executing FINRA member reports to TRACE the timestamp that the executing FINRA member provides to the non-executing FINRA member. Since the non-executing FINRA member is not using its business clocks to record the execution date and time, and Rule 4590(a) only applies to a firm when it uses its business clocks to record the date and time of an event, FIF members assume that Rule 4590 does not apply to the non-executing member. FIF members request confirmation on this point.

If we consider a broker-dealer that routes an order for an equity security to an exchange for execution, FINRA does not impose a clock synchronization requirement on the routing broker-dealer with respect to the timestamp generated by the equity exchange. The same approach should apply for fixed income.

In this scenario, FIF members also do not consider it necessary or appropriate for the non-executing FINRA member to surveil the timestamp provided by the executing FINRA member (for example, by obtaining clock synchronization logs from the executing FINRA member¹). Since the executing member is already subject to FINRA Rule 4590, the executing member's synchronization log reviews and other processes are already being reviewed by FINRA directly. This type of surveillance is not a requirement for a broker-dealer that routes an equity order to an exchange for execution, and the same approach should apply for fixed income. FIF members request that FINRA also provide written confirmation on this point.

If FINRA were to require FINRA member firms to surveil each other's clock synchronization procedures and logs in the scenario above the same way that they do their own systems, the resultant web of checking would be highly duplicative and constitute a novel and burdensome new standard for little benefit.

FIF and our members appreciate FINRA's consideration of this request for confirmation. Please contact me at howard.meyerson@fif.com with any questions or comments.

Very truly yours,

/s/ Howard Meyerson

Howard Meyerson
Managing Director, Financial Information Forum

¹ See FINRA Rule 4590.01.