



Regulatory Circular 06-007

DATE: July 17, 2006
TO: ETP Holders
FROM: Regulatory Services Division
RE: Automated Submission of Trading Data

Attached is the Intermarket Surveillance Group (“ISG”) Regulatory Memorandum 2006-02 (“Notice”) that was issued by the self-regulatory organizations acting jointly as members of ISG¹ concerning the automated submission of trading information via the Electronic Blue Sheet (“EBS”) System.

The Notice addresses Frequently Asked Questions regarding EBS submissions and provides additional information on the validation and remediation requirements of certain data fields in a Firm’s EBS submission.

Additionally, the ISG grants two extensions of time for remediation. With regard to the Account Type Identifier and the Exchange Code fields, ETP Holders will be given a remediation extension until December 31, 2006. With regard to all other EBS fields, ETP Holders will be given a remediation extension until September 30, 2006. Please refer to the Notice for additional details.

Questions concerning this circular should be directed to Nicole Guiffra, Assistant Vice President of Surveillance at (312) 786-8809.

¹ American Stock Exchange, LLC (AMEX), Boston Stock Exchange, Inc. (BSE), Chicago Board Options Exchange, Inc. (CBOE), Chicago Stock Exchange, Inc. (CHX), International Securities Exchange (ISE), NASD Inc. (NASD), NASDAQ Stock Market LLC (NASDAQ), National Stock Exchange, Inc. (NSX), New York Stock Exchange, LLC (NYSE), NYSE Arca (NYSE Arca) and Philadelphia Stock Exchange, Inc. (PHLX).



REGULATORY MEMORANDUM ISG 2006-02

ATTENTION: Chief Executive Officer, Managing Partner, Chief Operations Officer, Compliance Officer, Legal and Compliance Departments

TO: All Members and Member Organizations

FROM: Intermarket Surveillance Group

DATE: June 30, 2006

SUBJECT: Frequently Asked Questions re: Electronic Blue Sheet Submissions / Intermarket Surveillance Group (“ISG”) ¹

On September 7, 2005, self-regulatory organizations (“SROs”), acting jointly as members of the Intermarket Surveillance Group, issued ISG Regulatory Memorandum 2005-01 (the “2005-01 ISG Notice”) concerning the automated submission of trading information via the Electronic Blue Sheet (“EBS”) System. The 2005-01 ISG Notice reiterated requirements for accurate and timely EBS reporting. The 2005-01 ISG Notice also required that by no later than March 31, 2006, members and member organizations conduct and complete a validation of certain required EBS data to ensure that EBS transmissions are consistent with current standards and accurately reflect members’ books and records. Attachment A of the 2005-01 ISG Notice, *Record Layout for Submission of Trading Information*, indicated those layout records that required validation.

Recently, the SROs and the Securities Industry Association (“SIA”) engaged in a series of discussions with respect to the EBS requirements. This Regulatory Memorandum addresses specific questions raised in those discussions. The responses reflect a consensus of the ISG members.

¹ This ISG Notice was prepared by the following self-regulatory organizations as members of the ISG: American Stock Exchange LLC (AMEX), Boston Stock Exchange, Inc. (BSE), Chicago Board Options Exchange, Inc. (CBOE), Chicago Stock Exchange, Inc. (CHX), International Securities Exchange (ISE), NASD Inc. (NASD), NASDAQ Stock Market LLC (NASDAQ), National Stock Exchange (NSX), New York Stock Exchange LLC (NYSE), NYSE Arca (NYSEArca) and Philadelphia Stock Exchange, Inc. (PHLX).

With regard to the Account Type Identifier and the Exchange Code fields, members and member organizations will be given a remediation extension until December 31, 2006. Members and member organizations are not required to remediate historical data for these two fields for trade dates on or before December 31, 2006. All members and member organizations that are correcting inconsistencies in these two fields shall provide written confirmation by electronic mail to their designated SRO that remediation has been completed on or before December 31, 2006.

With regard to all other EBS fields, members and member organizations will be given a remediation extension until September 30, 2006. Members and member organizations are not required to remediate historical data for trade dates on or before September 30, 2006. All members and member organizations that are correcting inconsistencies in any other EBS fields shall provide written confirmation by electronic mail to their designated SRO that remediation has been completed on or before September 30, 2006.

Questions regarding this ISG Notice may be addressed to any of the following self-regulatory staff:

SRO	Individual	Telephone No.	E-Mail
AMEX	Robert Ulmer	212-306-1283	robert.ulmer@nasd.com
BSE	Bruce Goodhue	617-235-2022	bruce.goodhue@bostonstock.com
CBOE	Pat Sizemore	312-786-7752	sizemore@cboe.com
CHX	Marguerite Donovan	312-663-2548	mdonovan@chx.com
ISE	Willie Wong	212-897-8126	wwong@iseoptions.com
NASD	Rose Braisted	240-386-4987	rose.braisted@nasd.com
NASDAQ	John Zecca	301-978-8498	john.zecca@nasdaq.com
NSX	Nicole Guiffra	312-786-8809	guiffra@nsx.com
NYSE	John Kroog	212-656-6532	jkroog@nyse.com
NYSEArca	John Chapin	312-442-7790	jchapin@nyse.com
PHLX	Christopher Swisher	215-496-5680	chris.swisher@phlx.com

Any questions concerning the interpretation of SEC Rule 17a-25 under Section 17 of the Securities Exchange Act of 1934 or need to report problems concerning EBS submissions to the SEC, should be brought to the attention of:

Individual	Telephone No.	E-Mail
Joseph Cella	202-551-4951	cellaj@sec.gov
Alton Harvey	202-551-5691	harveya@sec.gov

Frequently Asked Questions²

Electronic Blue Sheet System

Field Name: Opposing Broker Number

Question 1: If the executing broker does not give the clearing firm the opposing broker information, can the clearing firm leave the opposing broker field blank, or is the clearing firm obligated to obtain and report that information?

Answer 1: If the clearing firm has the information related to the opposing broker, then it should report the information. If the clearing firm does not have the information, then the field may be left blank.

Question 2: If a foreign affiliate does not reveal the opposing broker in a trade involving foreign securities executed in a foreign market, is it acceptable to leave this field blank?

Answer 2: Yes, it is acceptable to leave this field blank if the foreign affiliate does not provide information regarding the opposing broker on the trade.

Question 3: For “anonymous” trading exchanges, the exchange trading system does not identify the contra-broker. Should firms report the omnibus clearing number associated with the exchange in the opposing broker field?

Answer 3: Yes, however, if the market or exchange does not provide the opposing broker, it is acceptable to leave the field blank.

Question 4: How do firms report the opposing broker for an average price trade?

Answer 4: For the individual market executions, the specific opposing broker should be reported for each trade. For the allocation trades into an average price recipient account, firms may leave the opposing broker field blank.

Question 5: Suppose a firm executes a trade with a contra-party that does not have a National Securities Clearing Corp. (“NSCC”)

² It should be noted that the SIA did not raise any questions for the following fields: Submitting Broker Number, Requesting Organization Number, Submitting Broker Number, Trade Date, Net Amount, Buy/Sell Code, State Code, Zip Code/Country Code and Account Number.

number, but the firm clears its trades with another firm that does have an NSCC number. In the opposing broker field, should firms report the NSCC number for the clearing firm of the opposing broker or the market participant identifier (“MPID”) of the executing broker?

Answer 5: The NSCC number for the clearing firm for the opposing broker is preferable, but the MPID of the clearing firm would be an acceptable alternative.

Question 6: For odd-lot transactions executed on the NYSE, the exchange trading system does not provide the exchange mnemonic of the contra-broker. Odd lots are cleared through the specialist.

For EBS reporting purposes should firms:

1. Leave the opposing broker field blank, to be consistent with the information that the NYSE provides from its front office systems?

2. Report the NYSE/AMEX omnibus clearing number associated with normal trades done through the specialists (0787 for NYSE or 0620 for AMEX)? *or*

3. Derive the NSCC number of the individual specialist firm based on the security?

Answer 6: In this scenario, the firm should know the opposing broker, so the firm must report it.

Field Name: File Creation Date

Question 7: Is “file creation date” a required field?

Answer 7: Yes. This information should be inputted for the file creation date field.

Field Name: CUSIP Number

Question 8: Since foreign securities do not have U.S. CUSIP numbers, what should firms report for foreign trades in the CUSIP field?

Answer 8: In the case of foreign securities, firms should use foreign identification numbers, such as the International Securities Identification Number (ISIN), the CUSIP International Numbering

System (CINS) number, or the identification code issued by the Stock Exchange Daily Official List (SEDOL).

Field Name: Ticker Symbol

Question 9: **How should securities without U.S. symbols be handled? Are they out of scope for EBS requests?**

Answer 9: Non-U.S. securities are not out of the scope of EBS requests. When the U.S. security is traded in a non-U.S. market, the ISG wants to see the U.S. symbol. When the U.S. security is an American Depository Receipt (“ADR”) or American Depository Share (“ADS”) and the ISG participant is also interested in the home country or "Ordinary" shares, the ISG participant will send two distinct EBS requests, one for the ADR or ADS and one for the "Ordinary" shares. In this event, the firm should report the "Ordinary" symbol and the corresponding non-U.S. identification number.

Question 10: **Since there is no OPRA ticker symbol for foreign options, does that mean they are out of scope?**

Answer 10: No. Foreign ISG members could request information through the ISG. Therefore, foreign securities could be requested and therefore EBS must be reported.

Question 11: **Firms are still not clear when and if foreign transactions should be reported.**

Answer 11: See Questions 9 and 10 above.

Question 12: **By specifying a ticker symbol as a required field, does this mean that only securities with U.S. ticker symbols will be requested on an EBS report?**

Answer 12: See Questions 9 and 10 above.

Question 13: **Do firms need to maintain EBS data for securities not listed on U.S. markets?**

Answer 13: Yes.

Field Name: Settlement Date

Question 14: For “when issued” trades, should firms leave the settlement date blank, or should firms report the corrected settlement date of the transaction once it is established?

Answer 14: If firms do not know the settlement date, the field should be blank.

Field Name: Quantity

Question 15: The EBS file format accepts only whole numbers. How do firms report fractional shares, for example, for international securities?

Answer 15: It is acceptable for submitting firms to truncate to the whole share any quantities that are in fractional shares. For example, 100.5 shares may be reported as 100 shares.

Field Name: Price

Question 16: For trades executed in a foreign currency, what exchange rate should be used to translate the trade price into U.S. dollars? Is it acceptable to use the noon buying rate used by the Federal Reserve?

Answer 16: The use of the Federal Reserve noon buying rate is acceptable. The firm may use an alternative foreign exchange rate, as long as any such exchange rate used is applied consistently in all EBS reporting by the firm.

Field Name: Exchange Code

Question 17: The NASD ADF requires a “Q” code. What is the NASD ADF?

Answer 17: The NASD ADF is the “Alternative Display Facility.” For more information, go to <http://www.nasdaqtrader.com> or <http://www.nasd.com>.

Question 18: If the NASD ADF is not an execution venue, but only a display tool, when would it ever produce a trade execution that would be reported through the EBS?

Answer 18: Currently, there will be no occasion to report “Q” for NASD ADF trades through the EBS. However, this code is reserved for future use in the event that the NASD ADF ever executes trades.

Question 19: What code should be assigned to electronic communications network (“ECN”) trades: “Z” or “O”?

Answer 19: ECN trades should all be coded as “Z.”

Question 20: How should trades executed on the INET ATS, Inc. (“INET”) ECN and Brass ECN (“BRUT”) be reported on the EBS after they have become part of the NASDAQ and after NASDAQ has become an exchange?

Answer 20: After the conversion of INET and BRUT from independent ECNs to components of the NASDAQ trading system, they should be reported as “R.” Prior to this conversion, these ECNs should be reported as “Z.” After NASDAQ has become an exchange, trades on the exchange should be reported as “R”. Trades reported on the Trade Reporting Facility (“TRF”) should be reported as “S”.

Question 21: What code should be assigned to Third Market trades of listed securities executed on an exchange: “Z” or “S”?

Answer 21: Third Market trades should all be coded as “S” for OTC.

Question 22: Are the following applications of the exchange code correct?

- **Broker-to-broker transactions cleared through NASDAQ Market Center or TRACS: “S”**
- **Listed securities executed OTC but not on SuperMontage (Third Market): “S”**
- **Non-listed securities executed on an ECN: “Z”**
- **Listed securities executed on an ECN: “Z”**
- **Non-listed securities executed on SuperMontage: “R”**
- **OTC Bulletin Board transactions: “S”**
- **Pink Sheets transactions: “S”**

Answer 22: The applications described above are correct.

Question 23: What exchange code should be assigned to trades posted to the recipient of average price trades?

Answer 23: The exchange code should be left blank for the recipient of the average price trades.

Field Name: Broker-Dealer Code

Question 24: Firms understand that if a transaction was done for another broker-dealer, the broker-dealer code should be “1,” to indicate “yes.” What does “done for” mean? Does it mean executed, or cleared, or both?

Answer 24: Both clearing and executing brokers are responsible for submitting this code on their EBS submissions. “Done for” can mean either execution or clearing, depending on the role that the submitting broker-dealer played in the transaction.

Question 25: How should firms report the broker-dealer code if an executing broker-dealer executes and clears a customer trade? Firms believe that the executing broker should report a “1” if the customer is a broker-dealer (or it is a customer of another broker-dealer) and a “0” if the customer is not a broker-dealer. Is this correct?

Answer 25: Yes.

Question 26: What do clearing brokers report for trades that are cleared for their correspondents (that is, their introducing brokers and executing brokers)? Firms believe that clearing brokers should report “1” for these trades since they are “done for” another broker-dealer. Is this correct?

Answer 26: Yes.

Question 27: What are the acceptable broker-dealer codes? Are they “1” and “2,” or are they “0” and “1”?

Answer 27: The correct answers are “0” for “no” and “1” for “yes.”

Question 28: If an account is a disclosed account for the benefit of an underlying client (e.g., XYZ broker-dealer FBO John Doe), should this be coded as “broker-dealer,” or is the broker-dealer code limited to proprietary accounts of broker-dealer clients?

Answer 28: This trade would be coded “1” for “yes,” as this is a trade for another broker-dealer. The designation of a trade as a “broker-dealer” trade is not limited to proprietary trades of broker-dealers. The “broker-dealer” designation also includes non-proprietary trades done for another broker-dealer.

Question 29: Should firms code a “flip,” or a trade in an omnibus account, as “broker-dealer”?

Answer 29: Yes. Both the executing broker and the clearing broker would report these transaction types as “1” for “yes.”

Question 30: When a member firm is the executing broker and its trades settle at a prime broker, should these trades have a value of “0” for “no” or “1” for “yes”?

Answer 30: Trades executed by an executing broker that will be delivered to a prime broker should be designated according to the broker-dealer status of the executing broker's customer.

The executing broker should input a “1” for “yes” in the broker-dealer code field on its EBS submission, signifying that the account belongs to another broker-dealer, and input the NSCC clearing number of the prime broker in the prime broker field.

The prime broker would input a “0” for “no” in the broker-dealer code field on its EBS submission, signifying that the account is *not* one of another broker/dealer, and its own NSCC clearing number in the prime broker field.

Question 31: What code should be used when a broker-dealer trades for its own account?

Answer 31: Proprietary trades by broker-dealers are always coded as “0.” Trades are only coded as “1” if they are done for *another* broker-dealer. Note that clearing brokers that execute for their own accounts would also code these trades as “0.”

Question 32: Should trades done for foreign affiliates be marked as broker-dealer trades?

Answer 32: Trades done for foreign affiliates would be categorized as correspondent or omnibus trades. Therefore, as noted above in Question 29, they would be coded “1.”

Question 33: Should prime broker trades being reported by the prime broker be marked as broker-dealer trades?

Answer 33: Trades that are reported by a prime broker should be coded “0,” as these trades can only be for non-broker-dealer customers.

Field Name: Solicited Code

Question 34: How should firms report trades from a “non-retail” environment? Is it permissible to default to “unsolicited” in absence of information to the contrary?

Answer 34: It is acceptable to leave the field blank if a submitting firm does not know the solicited/unsolicited status of the trade.

Field Name: Branch Office/Registered Representative Number

Question 35: Should the Branch Office value on the EBS match the NYSE EFP branch codes?

Answer 35: No.

Question 36: When reporting the registered representative number for institutional business, can firms use a generic number for trades handled by a specific trading desk, such as the program trading desk, or must firms report the registered representative number of the individual sales trader who handled the order?

Answer 36: While it is preferable that firms report the registered representative number assigned to the individual trader, it is acceptable for the registered representative number to be the number assigned to a trading desk.

Question 37: Should the registered representative number be associated with individual trades or to all trades for a particular account?

Answer 37: It is preferable that firms report the registered representative number of the individual trader associated with the individual trade in order to provide the most granularity as to who handled the order or trade. However, it is acceptable to report the registered representative number associated with an account if the registered representative number of the trader is not available for the trade.

Field Name: Date Account Opened

Question 38: Is “date account opened” a required field for proprietary accounts?

Answer 38: The information should be reported if it is known. Otherwise, the field may be left blank.

Field Name: Short Name Field

Question 39: How should the short name field be handled for non-individual accounts, such as corporate accounts, hedge funds, and firm accounts?

Answer 39: If a firm has the information readily available, then it is preferable that the firm includes as much of the account name as possible.

Question 40: Since this field is not listed as one requiring validation, is it required on all transactions submitted through the EBS?

Answer 40: If a firm has the information readily available, then it is preferable that the firm includes the information. Otherwise, the field may be left blank.

Field Name: Employer Name

Question 41: Is “employer name” currently a required field?

Answer 41: If the firm has the information readily available, then it is preferable that the firm includes the information.

Field Names: TIN 1 Indicator and TIN 2 Indicator

Question 42: What do firms report if the customer is a foreign broker-dealer and has no tax identification number (“TIN”)?

Answer 42: The field should be left blank.

Question 43: Do firms report the TIN for firm accounts? Do average price accounts require a TIN?

Answer 43: For average price accounts, the field should be left blank. For other firm accounts, report the company’s TIN.

Field Name: Name & Address Lines 1-6

Question 44: What account information should the firm submit for processing accounts? For example, what information should the firm report for an allocation/average price account?

Answer 44: The ISG has previously indicated that the account name of proprietary accounts should not be a cryptic code or reference number. Instead, the account name should make clear the nature of the account with all relevant information, including, without

limitation, if it is a processing account or an allocation/average price account or otherwise.

Question 45: According to SEC Rule 17a-25, submitting firms do not need to give account name and address information for proprietary accounts. However, firms understand that this information would now be required for proprietary accounts. Which view is the correct one?

Answer 45: The account name and address information should be provided for proprietary accounts.

Question 46: For trades that are sent to a prime broker, is it acceptable to use the address of the prime broker receiving the trade or must the address of the account's beneficial owner be used?

Answer 46: It is acceptable to use the address of the prime broker.

Field Name: Account Type Identifiers

Question 47: Are firms required to submit all possible account type identifiers according to all of the different exchanges and their unique sets of codes, or may firms limit their submission to only those account type identifiers listed in Attachment B of the 2005-01 ISG Notice?

Answer 47: Firms only need to report those account type identifiers that are listed in Attachment B of the 2005-01 ISG Notice or any future changes that may be made by members of the ISG.

Question 48: How should firm report the account type identifiers when trades from multiple customers are averaged together and each has a different account type code? For example, suppose an introducing broker has several clients for whom he acts as a money manager. Some of the clients are individuals and others are institutions. The introducing broker has a trading account with his executing broker to handle the order flow. The introducing broker sends a single order to his executing broker for the accounts of several different customers. The executing broker routes the order to the NYSE for execution. What is the correct account type identifier?

Answer 48: In the example presented above, with individual and institutional orders aggregated together, the correct account type identifier is "A."

Question 49: Can firms leave the account type identifier field blank for executions processed through the average price account?

Answer 49: Firms should provide the account type on the individual executions in an average price/processing account. Clearing brokers should pass through to an average price account any account type identifier codes that they have been given by their executing and introducing brokers. However, if a clearing broker is not given the information, then this field may be left blank.

Question 50: Do firms need to submit account type identifiers for short sale trades executed into an average price account, or is this information only required for trades executed directly into customer accounts?

Answer 50: Firms are required to submit account type identifiers for short sale trades executed in an average price account.

Question 51: Previous guidance specified unique account identifier codes for NASD EBS requests. The most current guidance from the 2005-01 ISG Notice makes no mention of the NASD codes previously in use.

Should firms continue to use the previously announced NASD codes even though they were not mentioned in the latest guidance, or should firms assume these are obsolete and use only the codes specifically mentioned in the 2005-01 ISG Notice? If so, then is there any additional guidance on how firms should fit the NYSE originated codes in the 2005-01 ISG Notice to NASDAQ transactions?

Answer 51: For trades that are executed on NASDAQ, it is acceptable to use the basic "A" and "P" codes for "agency" and "proprietary." NASD will accept the additional codes from the 2005-01 ISG Notice, but these codes are not required. AMEX trades should make use of the full set of NYSE originated codes listed in the 2005-01 ISG Notice.

Question 52: Firms are unsure when to use the options code "P" and when to use options code "F." Options code "P" is for "Registered Trader Market Maker Transaction Regardless of the Clearing Number" and options code "F" is for non-program proprietary trades. What is the definition of a registered trader market maker? Are there any limits on whether these trades should be principal or agency trades?

Answer 52: The “F” code applies to a clearing broker’s proprietary option trades. The “P” code is for a trade done by a Primary Market Maker (“PMM”). A PMM may also be called a Designated Primary Market Maker (“DPM”) or Lead Market Maker (“LMM”) depending on the Exchange. The PMM is a market maker that has additional responsibilities similar to a specialist on an equity exchange. The “M” code is for a market maker that does not have these additional responsibilities. The “S” code is for an equity specialist executing option trades for their own account. With respect to the AMEX, the “S” code will also be used for the options’ specialist executing trades in its specialty options.

Question 53: **The new guidance from the 2005-01 ISG Notice specifies separate codes for specialists and for competing market makers. Firms understand that specialist codes should apply to designated specialists that trade listed stock on the exchange floor. Furthermore, firms understand that competing market maker codes apply to both Third Market OTC Market Makers who trade listed stock OTC/NASDAQ, and NASDAQ Market Makers who trade NASDAQ stock on the NASDAQ market. Is this interpretation correct?**

Answer 53: Yes.

Question 54: **Many of the account type identifiers require firms to designate an account as a “member” or a “non-member.” Firms understand that trades should use a “member” account identifier code if the account executing the trade is a member of the same exchange where the stock is listed. Is this interpretation correct?**

Answer 54: In connection with this question, the ISG was asked to consider the following two scenarios.

Under the first scenario, an introducing broker has a customer who is a member of the NYSE, but not a member of the AMEX. The introducing broker sends two orders on behalf of its customer in NYSE-listed securities to its executing broker. When the introducing broker sends these orders, it does not know where they will be executed. The executing broker routes one of the orders to the NYSE and the other to the AMEX.

In addition, when the introducing broker delivers the orders to the executing broker, the executing broker knows the membership status of the account. When the executing broker routes the order,

it knows the execution venue of the trade and the listing origin of the security.

In this scenario, if member and non-member trades are aggregated together, then the aggregated trade should default to a non-member "A" code.

Under the second scenario, an introducing broker has a customer who is a member of the NYSE. The introducing broker sends an order on behalf of its customer in NYSE-listed securities to its executing broker. When the introducing broker sends this order, it does not know where the order will be executed. In this case, the executing broker routes this order to an ECN.

In this scenario, the membership status for a given trade is based on the membership of the account and the venue of execution.

Question 55: **How should a firm assign the account type identifier to a trade if the trade can be categorized in more than one way?**

Answer 55: In connection with this question, the ISG was asked to consider the following two scenarios.

The first scenario involves a program trade that is also a proprietary market maker trade. The correct account type identifier depends on the composition of the program. If the program contains any exchange-traded stocks, then the NYSE program trading account type identifier codes should be used. If the program does not contain any exchange-traded stocks, then the P/A NASDAQ codes should be used.

The second scenario involves a program trade with some component trades that are short sale exempt. In this case, the program trades' account type identifiers are the correct ones to use, and not the short exempt identifiers.

Question 56: **How should the status of a "registered trader" be ascertained? Firms understand that the definition of a "registered trader" (the "G" code) includes "upstairs broker-dealers doing proprietary trades through an affiliated floor broker." Is this correct?**

Answer 56: No. The "G" code is for trades done by a registered equity trader on the floor of the exchange.

Field Name: Prime Broker

Question 57: What clearing number should be included in the prime broker field? What should be reported if the submitting firm acted as prime broker?

Answer 57: An executing broker should report the NSCC clearing number of the prime broker. For the same trade, a prime broker should report its own NSCC clearing number. If an executing broker also acts as the prime broker, then it should report its own NSCC clearing number.

Field Name: Average Price Account

Question 58: If a client order is facilitated through an “Average Price Facilitation Account,” but the resulting execution of the order is filled through single execution, should the transaction be reported as “average price”?

Answer 58: Yes.

Question 59: How should firms handle allocated trades that are derived from underlying trades with mixed characteristics? For example, how should an aggregated trade be coded if it is derived from underlying trades with different account type codes or exchange codes?

Answer 59: For the individual market executions (*i.e.*, the underlying trades), the specific opposing broker, exchange code and account type identifier should be reported for each trade. However, these fields may be left blank for the allocation trades into an average price recipient account.

Question 60: Multiple executions of an order for a customer can be rolled up such that a customer receives one confirmation indicating an average price. For example, suppose a customer enters an order for 200 IBM that is filled in two lots of 100. Instead of receiving two separate confirmations, the customer receives one confirmation at an average price. The individual execution lots are reported on the EBS submission. Do these trades need to be reflected on the EBS as an average price trade as well?

Answer 60: No.

Question 61: How should fair price trades/allocations be reported on the EBS? Is it acceptable to treat fair price trades like average

price trades in terms of reporting the execution and the allocation, and for applying the average price codes of “1” (average/fair price trade itself) and “2” (executions that make-up average/fair price trade)?

Or for fair price trades/allocations, should only the execution be reported (without the specific account holder information)?

Or for fair price trades/allocations, should only the allocations be reported (with the specific account holder information)?

Answer 61: Fair price trades can be coded with the same methodology as average price trades, in order to identify cases where both an execution and an allocation are provided on the EBS - for double counting purposes. However, if a firm processes fair price trades such that only the execution or allocation is provided on the EBS, then it would be acceptable to report it without an average price indicator.

Question 62: A customer sells long and short throughout the day. The trades are appropriately identified for the street side fills as long sales and short sales. The customer’s transactions are averaged out at the end of the day. What should be reflected in the Buy/Sell field for the account that received the average price in this mixed capacity scenario?

Answer 62: In this mixed capacity scenario, the Buy/Sell field should reflect a long sale for the account that received the average price.

Field Name: Depository Institution Identifier

Question 63: What is a Depository Institution Identifier?

Answer 63: The Depository Institution Identifier is the identifier number assigned by the depository institution. (*See NASD Notice to Members 01-60.*)

Other Topics

Field Validation

Question 64: Is there a general guideline as to when a firm may leave a particular EBS field blank?

Answer 64: The general guideline is that a firm should report data if it has the data in its possession. If that data is unattainable, then that EBS field may be left blank.

Question 65: What is the difference between required validation fields and fields where validation is not required?

Answer 65: A non-validated field does not necessarily indicate that the information is optional to report. To the extent that information in these fields have been provided in the past, then it is expected that the firm continue to supply the information.

For example, the Net Amount field is not a required field for validation and the firm may or may not provide the information. However, the Requesting Organization Number is also not a required field for validation, but the information is necessary for the submission of the EBS.

Question 66: What is required to be reported to the ISG if a firm finds in its validation process a discrepancy between the requirements and how or what the firm has been submitting?

Answer 66: If a firm discovers an error in its EBS process, then it should immediately self-report gaps as follows:

- if the firm is a member of only one SRO, report to that SRO;
- if the firm is a member of multiple SROs including the NYSE, report to the NYSE; or
- if the firm is a member of multiple SROs and is not a NYSE member, report to the NASD.

Question 67: When a firm is acting as a clearing broker for transactions that are executed away from it, the data attributes are outside the clearing broker's sphere of control and are passed to it by the introducing broker or the executing broker. Is it sufficient to validate that the information is correctly passed to the firm's EBS and consistent with information on the clearing firm's books and records?

Answer 67: A firm should report information that it has available. It should also make a reasonable effort to ensure that the information it reports is accurate. If a firm discovers that the information that it received from a client that the firm is depending upon to make an EBS report is inaccurate, the firm should refer the client to that client's Designated Examining Authority. See Question 66 above.

Scope of products/ transactions that are reportable through EBS

Question 68: **Aside from common shares and exchange-traded options, there are many other security types that are priced based on the underlying value of corporate equity or debt. Are any of these other securities and derivatives reportable through EBS, or are EBS submissions limited to common shares and exchange-traded options?**

Answer 68: All ISG SROs may make EBS requests for any securities traded. This may include bonds (reporting face value amounts), foreign stocks (reporting foreign ticker/ foreign identification number), domestic stock (reporting domestic ticker and CUSIP), fixed income securities traded over the counter (such as corporate and municipal bonds, and U.S. treasury securities), exchange-traded options (listed) and structured products.

Question 69: **How should listed bonds be reported through the EBS?**

Answer 69: The reportable "quantity" should be the face value of the bonds, the "net amount" should be the net proceeds, and the "symbol" should be the symbol for the bond on the marketplace where the bond was traded. However, if the bond trades on more than one marketplace, then provide the symbol of the marketplace requesting the EBS.

Question 70: **Is the scope of foreign securities reportable through EBS isolated to only common stock/shares traded in foreign markets that have U.S. equivalents? Does the scope of foreign securities reportable through EBS include foreign bonds, foreign stock options, foreign index options, etc.?**

Answer 70: EBS requests will be for specific securities as indicated by a ticker symbol or security identification number, including ISINs, CINS, or SEDOLs. Therefore, firms will not be responsible for reporting related ADRs, preferreds, or any other related classes of securities requested for an EBS report, unless that other class is specifically

requested. This is true for requests of both domestic and foreign securities.

Question 71: **Are fractional share purchases associated with equity dividend reinvestment plans required to be shown on an EBS?**

Answer 71: No. Only whole number of shares are reportable. See Question 15, above.

Question 72: **Should clearing member trade agreement (“CMTA”) trades be included in the executing firm's EBS submission? Should CMTA trades be included in the clearing firm's EBS submission? Or both?**

Answer 72: CMTA trades should be included in the firm’s EBS submission. Executing firms that do option trades and then CMTA the trade for clearance will be expected to know the trade details for an EBS submission. Each firm has to provide the information the firm knows.

Question 73: **Are firms required to report pre-settlement trade cancels/corrects through the EBS? Is it acceptable to report, for a cancel/correct, only the adjusted trade without reference to any cancels, or nothing in the case of a straight cancel?**

Answer 73: The firm’s EBS submission should reflect the corrected settlement date transaction information, since this is the information that is recorded on the firm's books and records and accurately reflects the transactions. Therefore, pre-settlement date adjustments do not need to be separately included on the firm’s EBS submission. However, a firm may include pre-settlement trade adjustments if it prefers.

Information Confidentiality

Question 74: **Does a clearing firm have to share the results of its EBS audit with its introducing firms? What is a clearing firm's responsibility with respect to the sharing of results?**

Answer 74: The ISG leaves this to the firms’ discretion.

Question 75: **Is an executing firm required to pass on to its clearing firm all of the information that a clearing firm will require to submit its own EBS report?**

Answer 75: Yes. The ISG requires that executing firms pass to their clearing brokers all of the information that the clearing brokers will need to make their EBS submissions correct with respect to the fields that require validation. Additionally, the ISG would prefer that executing firms forward any other information that the clearing firm may require to make their submission complete.

Information Retention Time

Question 76: The 2005-01 ISG Notice indicated that member organizations are required to maintain EBS information for the time set forth in SEC Rule 17a-4(b). That rule states that records should be preserved for three years. However, from time to time, EBS requests are made for data that is older than three years. Is the firm obligated to answer EBS requests for periods exceeding the requirements of 17a-4(b)?

Answer 76: Firms should maintain certain transaction information for six years and other information for three years. However, they only need to keep information in an “easily accessible” place for two years. If an EBS request is received for a period more than two years in the past, and that submission will take longer than 10 days to deliver, the submitting firm should contact its SRO on a case-by-case basis to discuss a reasonable timeframe for responding to the request.

Executing Versus Clearing Broker Responsibilities

Question 77: Is it acceptable for the executing broker on CMTAs and give-ups not to report these transactions since they are not processed on that firm’s books and records and the executing broker does not have any account information to report in their EBS submission? For these trade types, the clearing broker has all of the required information for the EBS report, including the account name and account address.

Answer 77: Executing brokers should report give-ups and CMTA-out trades. See Question 72 above.

Question 78: For step-outs and flip-outs, does the executing broker report only the execution with the street, or should the executing broker also report the clearing transaction with the clearing broker?

Consider this example: an executing broker executes a buy trade for a customer. After execution, the executing broker gives this customer trade to its clearing broker through a

“correspondent flip-out.” This flip-out to the clearing broker appears as a sell trade and is a separate transaction in the books and records of the executing broker, distinct from the buy trade done in the open market.

The clearing broker receives this trade as a “flip-in” and processes it through the settlement cycle. The clearing broker reflects this flip-in as a buy trade.

Answer 78: Step-outs and flip-outs should be reported. An executing firm should report both its market executions and its clearing transactions to its clearing broker.

A clearing broker should report those clearing transactions it receives from its executing clients.

Question 79: For transactions in which the firm is acting only as the clearing broker, as with prime brokerage, step-ins or flip-ins, clearing typically occurs on an aggregated basis and not at the individual execution level. Is it acceptable to report these transactions in the aggregated form in which they were cleared? If so, what is the appropriate account type indicator and exchange code to be used for aggregated trades?

Answer 79: Prime brokers and clearing brokers should report in their EBS submission transactions showing the trade data that they were given. For aggregated trades, if the underlying transactions are of different types, then the clearing broker or prime broker should leave those fields blank. See Question 75 above.