



Securities Industry Association

1401 Eye Street, NW • Washington, DC 20005-2225 • (202) 296-9410, Fax (202) 296-9775

VIA ELECTRONIC MAIL

February 7, 2006

Katherine Simmons
Chairperson
Intermarket Surveillance Group
C/O International Securities Exchange, Inc.
60 Broad Street
New York, NY 10004

Re: Request for Extension of Electronic Blue Sheet Data Validation Compliance Date

Dear Ms. Simmons,

The Securities Industry Association (“SIA”)¹, respectfully requests an extension of the deadline for validation of Electronic Blue Sheet (EBS) submissions. An SIA ad-hoc subcommittee has been communicating with the NYSE for interpretive guidance on the September 7, 2005, Regulatory Memorandum (ISG 2005-01) from the Intermarket Surveillance Group (ISG), which requires the validation of EBS data elements by no later than March 31, 2006.

As noted in a letter to John Kroog, Director, NYSE Market Trading Analysis, dated December 28, 2005, SIA requested expedited guidance on several areas of concern in an attempt to resolve the uncertainty surrounding EBS reporting requirements. On January 30, 2006 a more detailed document with specific questions was provided to the NYSE to further discussions with the ISG.²

¹ The Securities Industry Association brings together the shared interests of approximately 600 securities firms to accomplish common goals. SIA's primary mission is to build and maintain public trust and confidence in the securities markets. SIA members (including investment banks, broker-dealers, and mutual fund companies) are active in all U.S. and foreign markets and in all phases of corporate and public finance. According to the Bureau of Labor Statistics, the U.S. securities industry employs nearly 800,000 individuals, and its personnel manage the accounts of nearly 93-million investors directly and indirectly through corporate, thrift, and pension plans. In 2004, the industry generated \$236.7 billion in domestic revenue and an estimated \$340 billion in global revenues. (More information about SIA is available at: www.sia.com.)

² A copy of both letters are attached.

Until these outstanding issues are resolved, many of which require significant program changes, we believe that compliance with the new requirements will be extremely difficult for member firms. We therefore respectfully request a mutually agreeable deadline to be implemented after guidance has been rendered and firms are able to assess and report to the ISG the technological impact and what it will take to implement.

We would welcome the opportunity to discuss these issues with the appropriate representatives from the ISG and respectfully suggest a meeting at their earliest convenience. Please do not hesitate to call me or Richard Bommer, Director of Operations at 212-618-0529. Thank you for your assistance.

Sincerely,

Ira Hammerman
Senior Vice President and General Counsel

Cc: Rose Braisted, NASD
John Chapin, PCX
Edward Deitzel, PHLX
Marguerite Donovan, CHX
Bruce Goodhue, BOX
Nicole Guiffra, NSX
John Kroog, NYSE
Pat Sizemore, CBOE
Robert Ulmer, AMEX



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VIA ELECTRONIC MAIL

December 28, 2005

John Kroog
Director, Market Surveillance
New York Stock Exchange, Inc.
20 Broad Street
New York, NY 10005

Re: Request for expedited guidance concerning the validation of Electronic Blue Sheet (EBS) submissions.

Dear Mr Kroog,

On behalf of the members EBS Working Group of the Self Regulation and Supervisory Practices Committee of the Securities Industry Association (“SIA”)³, we are writing seeking expedited, interim guidance that would immediately extend to all securities dealers clarification of validation requirements for EBS reporting. As you know, NYSE member firms (the “Firms” need list) have been working with the NYSE Market Surveillance Department, in an attempt to resolve the continuing uncertainty around EBS reporting requirements. It is our understanding that the only appropriate way for this matter to be addressed is by formalizing our concerns and asking the Intermarket Surveillance Group to clarify its EBS validation requirements by amending these requirements based on the business activity exemptions that we outline.

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I. There is a need to distinguish between a Clearing Member's Role and that of an Executing Broker with respect to the submission and validation of EBS Reports

While many of the fields required to be validated for EBS submissions include basic trade information that a clearing firm receives in order to clear and settle trades for their correspondent customers, a clearing firm is not capable and should not be responsible for validating those reporting attributes that are outside their sphere of control. As a result, clearing members are requesting an exemption from validating certain transactions as well as those attributes that are clearly outside their sphere of control.

- A. The first and simplest example of transactions outside the validation control of the clearing firm is where a broker dealer executes away from the clearing firm. Examples of these kinds of transactions include, but are not limited to: NASDAQ trades; Prime Broker Trades; Internal Crosses done at the introducing broker; Correspondent Flip-Ins; and Step-Ins.
- B. There are fields within the record layouts that clearing firms either do not receive from their correspondent firms or, they do receive but do not have the means to validate the accuracy of the data being reported to them. They include, but are not limited to the following fields/attributes:
 - Opposing broker number
 - Buy /Sell code and the ability to differentiate short sales
 - Exchange Code
 - Broker/Dealer Code
 - Solicited/Unsolicited Code
 - Branch office/Registered Representative Number
 - Employer Name
 - Name and Address
 - Account Type Identifier
 - Prime Broker
 - Depository Institution Identifier

As a result, to the extent a regulator considers one of the aforementioned transactions and fields/attributes to be significant or material, then questions of validation should be directed towards the broker responsible for managing this data as opposed to the clearing member.

II. Transaction attributes resulting from the execution of a Foreign Security are not aligned with EBS reporting requirements

Securities traded in foreign markets have different transactional attributes than securities traded in U.S. Markets. For example, since Foreign Brokers do not have NSCC numbers we will not be able to provide an opposing broker number. Also, securities traded on markets outside the U.S. typically do not have CUSIPs – they have ISINs or SEDOLs.

These examples, in turn, can lead to a perception that the broker-dealer is failing to report “complete and accurate” EBS information, when the reality is the broker-dealer is not able to match the attributes of foreign transactions to the EBS reporting specifications.

III. Account Type Identifier attribute differences exist between NYSE and NASD

It is not clear by reading the ISG memo (ISG 2005-001), how we apply the expanded list of account type indicators to NASD EBS reporting. Prior to this memo, NASD required numeric values of 1 and 2 as their account type identifiers for EBS reporting. While the memo suggests that we should “correspond to the audit trail requirements of the market of execution”, it also states that “NASD currently accepts all expanded account type identifiers.” As a result, we are reluctant to change our practice of using the numeric values of 1 and 2, for the NASD account type identifiers, without an Information Memo from NASD clarifying the use of these identifiers.

IV. Average Price Transactions

Many trades with U.S. customers in securities can be facilitated on multiple markets and be allocated across multiple accounts. While there are many possible ways in which this can occur, depending on the security traded, the particular broker-dealer’s internal mechanism for trading, booking, clearing and settling such trades, and the particular local market(s) in which the security is traded, the result is a loss of execution detail when the transaction is booked as an Average Price Transaction. As a result, the executing mechanism may reflect trade details by referencing an internal processing account, while the allocations and booking mechanism will be distributed to multiple customer accounts at an average price. This booking mechanism in turn may mask execution details, which are not necessary for customer transaction booking, but which may be required to provide customer EBS information.

Today, many member firms provide only the average price executions details on their initial EBS submissions and only when further details are required as follow up do they submit individual executions. We believe that this is a reasonable, cost effective process and would seek to continue this practice.

V. Retention Time

The ISG memo (ISG 2005-001) indicates that member organizations are required to maintain EBS information for the time set forth in SEC rule 17a-4(b). That rule states that the retention time is 3 years. However, SROs have been requesting EBS information for periods beyond the required 3 year retention period. As a result, we ask that broker-dealers be relieved from responding to EBS requests beyond the 3 year retention period. To the extent that there is a broadening of the requests which need to be satisfied within 10 days for EBS, this would significantly increase amount of data that would need to be stored for this purpose. It’s our observation and experience that in only a limited number of cases would this information be requested but would substantially increase the cost to the industry.

VI. Conclusion

As discussed above, failure to exempt the aforementioned trade scenarios forces broker-dealers to incur unnecessary costs and burdens us with providing information that may mislead the market, and which can be obtained for regulatory purposes through other, less obtrusive means. Without such exemptions, there is simply no way the broker-dealer community can certify to the completeness and accuracy of EBS information by March 31, 2006. However, as part of the annual NASD 3012/3013 and NYSE Rule 342 certifications, firms are required to attest to their procedures and controls designed to adhere to market rules and practices governing the broker-dealer community. As a result, we believe the community is better served through these ongoing processes rather than by making separate attestations for EBS. In addition, we seek to confirm that any attestations are required on a going forward basis rather than historically.

Lastly, given the number and extent of interpretive questions which need to be addressed we respectfully seek an extension of time in order to resolve and remediate all issues.

We would welcome the opportunity to discuss these issues with you further and will call to set up a meeting. Please do not hesitate to call Gary Distell at 212-272-9439 or by e-mail at Gdistell@bear.com or Shana Madoff at 212-230-2424 or by e-mail at SMadoff@madoff.com. Thank you for your assistance.

Sincerely,

Gary Distell
Shana Madoff
Co-Chairs
SIA Electronic Blue Sheet Working Group

Cc: Amal Aly
Rich Bommer