

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-88478)

March 25, 2020

Order Granting Application by The Financial Information Forum and Security Traders Association for a Temporary Exemption Pursuant to Rule 606(c) of Regulation NMS Under the Exchange Act in Response to the Effects of COVID-19

I. Introduction

The Financial Information Forum (“FIF”) and Security Traders Association (“STA”) have filed with the Securities and Exchange Commission (“Commission”) an application for an exemption from certain requirements¹ of Rule 606 of Regulation NMS under the Exchange Act in light of unforeseen and uncertain demands on information technology and other resources required to respond to COVID-19.²

This order grants the following temporary exemptive relief from certain requirements of Rule 606, which is set forth in greater detail below: (1) broker-dealers are exempt from the requirement to provide the public report covering the first quarter of 2020 required by Rule 606(a) until May 29, 2020; (2) broker-dealers that engage in outsourced routing activity are exempt from the requirement to collect the monthly customer-specific data required by Rule 606(b)(3) for such activity until June 1, 2020, and are exempt until July 29, 2020, from the requirement to provide a customer-specific report of June 2020 outsourced routing data within seven business days for customer requests for such customer-specific reports that are made on or before July 17, 2020.³

¹ See letter from James Toes, President & CEO, STA, Chris Halverson, Chairman of the Board, STA, and Christopher Bok, Director, FIF, to Brett Redfearn, Director, Division of Trading and Markets (“Division”), Commission, dated March 24, 2020 (“FIF/STA Letter”).

² 17 CFR 242.606.

³ Customer-specific reports of June 2020 outsourced routing data are due within seven business days of customer requests made after July 17, 2020.

II. Background

On November 2, 2018, the Commission adopted amendments to Rule 606 of Regulation NMS under the Exchange Act.⁴ Under Rule 606(a), broker-dealers must provide quarterly, aggregated public disclosure of their routing and handling of orders submitted on a held basis in NMS stock. In addition, under Rule 606(b) a broker-dealer must, upon request of its customer, provide customer-specific disclosures related to the routing and execution of the customer's NMS stock orders submitted on a not held basis for the prior six months, subject to two de minimis exceptions.

The Commission previously revised the compliance dates for Rule 606 to provide broker-dealers with additional time to implement the systems and other changes necessary to comply with Rule 606. On April 30, 2019, the Commission extended the compliance date for the amendments to Rule 606 to begin following September 30, 2019.⁵ On September 4, 2019, the Commission, by the Division pursuant to delegated authority, granted temporary exemptions from amended Rule 606: (1) to all broker-dealers, from the requirement to collect the quarterly public data on held orders until January 1, 2020 (with the first quarterly report due by the end of April 2020); (2) to all broker-dealers that engage in self-routing activity, from the requirement to collect the customer-specific monthly data for not held orders until January 1, 2020 (with the first customer-specific report of such data due seven business days after February 15, 2020, for

⁴ See Exchange Act Release No. 84528 (November 2, 2018), 83 FR 58338 (November 19, 2018) (“Adopting Release”).

⁵ See Exchange Act Release No. 85714 (April 24, 2019), 84 FR 18136 (April 30, 2019) (“April 2019 Extension”). The original compliance date set forth in the Adopting Release was May 20, 2019. The April 2019 Extension did not extend the original compliance date for the amendment to Rule 605.

customer requests made on or before February 15, 2020); and (3) to all broker-dealers that engage in outsourced routing activity, from the requirement to collect the customer-specific monthly data for not held orders until April 1, 2020 (with the first customer-specific report of such data due seven business days after May 15, 2020, for customer requests made on or before May 15, 2020).⁶

FIF and STA request that the Commission: (1) delay to May 29, 2020, the date by which broker-dealers must provide the public report of first quarter 2020 data required by Rule 606(a); and (2) extend to June 1, 2020, the date that broker-dealers that outsource routing must begin to collect the monthly customer-specific data for not held NMS stock orders required by Rule 606(b)(3), and extend to July 29, 2020, the date by which broker-dealers must provide the customer-specific report of June 2020 data for customer requests that are made on or before July 17, 2020.⁷ According to FIF and STA, due to the challenges posed by COVID-19, resources at firms are currently focused on the safety of employees and supporting investors, and extensions of the near-time compliance dates for implementation of amended Rule 606 would allow broker-dealers to allocate resources towards addressing those challenges as well as issues associated with current market volatility and mitigate potential risks to firms' regulatory systems that otherwise would need to be modified and tested to satisfy near-term implementation milestones.⁸

⁶ See Exchange Act Release No. 86874 (September 4, 2019), 84 FR 47625 (September 10, 2019) ("September 2019 Extension"). As set forth in the September 2019 Extension, "self-routing activity" refers to when a broker-dealer handles customers' orders using its own systems and "outsourced routing activity" refers to when a broker-dealer uses the order routing systems of another broker-dealer.

⁷ See FIF/STA Letter, *supra* note 2. FIF and STA did not request an extension of monthly customer-specific reporting for not held orders for self-routing broker-dealers. See *id.* The reporting requirement for self-routing activity has already come due and is ongoing.

⁸ *Id.*

III. Order Granting Temporary Exemptions

Rule 606(c)⁹ authorizes the Commission to conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of this section, if the Commission determines that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors. The Commission, by the Division pursuant to delegated authority,¹⁰ is granting a temporary exemption from certain of the existing compliance dates that were set forth in the September 2020 Extension. The Commission believes that this temporary relief is necessary or appropriate in the public interest, and consistent with the protection of investors, given the unforeseen and uncertain challenges, including business continuity implementation and market volatility, posed by COVID-19 to broker-dealers that must comply with the Rule 606 requirements to provide reports of order handling and routing data.

A. Rule 606(a)

The Commission has determined that it is necessary or appropriate in the public interest, and consistent with the protection of investors, to provide broker-dealers with a temporary exemption until May 29, 2020, from the requirement to provide the initial public report of first quarter 2020 data for held orders under Rule 606(a). Broker-dealers have been required to collect the held order data since January 1, 2020, but they are not required to generate the initial public

⁹ 17 CFR 242.606(c).

¹⁰ 17 CFR 200.30-3(a)(69).

report of that data until the end of April 2020. Pursuant to this exemption, a broker-dealer has an additional month to prepare the public report of first quarter 2020 held order data.¹¹

B. Rule 606(b)(3) for Broker-Dealers Engaged in Outsourced Routing Activity

For substantially the same COVID-19-related reasons, the Commission has determined that it is necessary or appropriate in the public interest, and consistent with the protection of investors, to provide broker-dealers that outsource routing with a temporary exemption until June 1, 2020, from the requirement to collect the monthly customer-specific data for their outsourced routing activity, and until July 29, 2020, from the requirement to provide the first customer-specific report of such data for customer requests that are made on or before July 17.¹² This first report would cover June 2020. Pursuant to this exemption, a broker-dealer has two additional months to prepare to collect the data required by Rule 606(b)(3) for outsourced routing activity and to prepare the first report relating to outsourced routing activity.¹³

¹¹ The Commission is granting the exemption as requested by FIF and STA. See FIF/STA Letter, supra note 2. Broker-dealers are still required to collect the held order data required by Rule 606(a) for the full second quarter of 2020, and to provide the public report of that data by the end of July 2020.

¹² The Commission is granting the exemption as requested by FIF/STA. See FIF/STA Letter, supra note 2.

¹³ Rule 606(b)(3) requires a broker-dealer to provide a report to its customer within seven business days of receiving the customer request. Similar to the relief provided to broker-dealers in the September 2019 Extension, the Commission believes it is appropriate to provide broker-dealers additional time to prepare the first report of June data in response to customer requests received in early July. Accordingly, the report for any request received on or before July 17 would not be due until July 29. For example, if a customer requests a report of June 2020 data on July 1, 2020, the broker-dealer is not required to provide the report within seven business days of July 1, 2020; instead, the broker-dealer is required to provide the report no later than July 29, 2020. The report for any request received after July 17 would be due seven business days after such request.

The chart below depicts the current timing for reporting requirements under amended Rule 606 as set forth in the September 2019 Extension, as well as the temporary exemptions being granted herein:

	Who?	What?	Current Requirement	Exemption
<u>Quarterly Public Reporting</u>	All routing broker-dealers	Aggregate public report on routing <u>held</u> orders in NMS stocks and orders for options contracts of less than \$50,000.*	Data collection began Jan. 1, 2020; report covering Q1 2020 due Apr. 30, 2020	Report covering Q1 2020 due May 29, 2020
<u>Monthly Customer-Specific Reporting (upon request)</u>	Self-routing broker-dealers	Detailed customer-specific order handling disclosures for NMS stock orders submitted on a <u>not held</u> basis.	Data collection began Jan. 1, 2020; first report (covering January) was due Feb. 25, 2020	None
	Broker-dealers that outsource routing (white-labeling)		Data collection begins Apr. 1, 2020; first report (covering April) due May 27, 2020	Data collection begins June 1, 2020; first report (covering June) due July 29, 2020 for customer requests made on or before July 17

* This requires disclosure of material aspects of broker-dealer’s relationship with routing venues, which includes the details of any arrangement with a venue where the level of execution quality is negotiated for an increase or decrease in payment for order flow. See Adopting Release at 58376, n. 397.

Accordingly, IT IS ORDERED, pursuant to Rule 606(c) of Regulation NMS under the Exchange Act,¹⁴ that:

- (1) Broker-dealers are exempt from the requirement to provide the public report of held order data for the first quarter of 2020 required by Rule 606(a) until May 29, 2020.
- (2) Broker-dealers engaged in outsourced routing activity are exempt from the requirement to start collecting the Rule 606(b)(3) data until June 1, 2020 for such activity. For customer requests that are made on or before July 17, 2020, a broker-dealer is exempt from the requirement to provide a Rule 606(b)(3) report for outsourced routing activity covering June 2020 data until July 29, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

J. Matthew DeLesDernier
Assistant Secretary

¹⁴ 17 CFR 242.606(c).

¹⁵ 17 CFR 200.30-3(a)(69).