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SEC finalizes amendments to require greater execution quality disclosure

On March 6, 2024, the Securities and Exchange Commission (SEC) finalized amendments to Rule 605, which requires disclosure of order execution statistics.[1] The amendments comprise a significant expansion of 605 reporting as it has historically been done. One of the most critical changes is an extension of the 605-reporting obligation to any broker-dealer with more than 100,000 customer accounts.

Firms that already had obligations under Rule 605 will need to make significant changes to their existing reporting. In certain cases, firms may be obligated to produce multiple reports as the rule requires Alternative Trading Systems (ATS) to produce reports separate from their broker-dealer operators.

Insights you should know

Expanded scope: All broker-dealers who have 100,000+ customer accounts (as well as single-dealer platforms) now will need to publish monthly 605 reports under the amended rule. The amendments also expand the definition of "covered order" to include certain orders submitted outside of trading hours, with stop prices, and non-exempt short sale orders.

New order type categories: The final rule establishes seven new order type categories, replacing the three existing categories: (1) marketable immediate-or-cancel orders, (2) marketable orders submitted with stop prices, (3) non-marketable limit orders with stop prices, (4) midpoint or better limit-orders, (5) nonmarketable immediate or cancel orders, (6) non-marketable limit orders, and (7) non-marketable immediate-or-cancel orders.

New order size & time to execution categories: The final rule establishes order size categories based on both notional dollar value and whether the order is a fractional share, odd-lot order, or round lot order. It also modifies time-to-execution standards to make them more granular (measured in milliseconds or smaller), including realized spread statistic categories to be calculated to the microsecond.

Publicly available report: The final rule requires reporting entities to publish a comprehensive summary report (in PDF and CSV format) on a public website on a monthly basis with a single month lag. This summary report is in addition to the detailed report changes.

18-month implementation period: The compliance date for the rule to 18 months post-effective date, which the date of rule publication in the Federal Register, giving firms roughly twenty months to prepare.

Spread calculations: Changes include more time intervals, spread-based weighed effective spread, and additional statistics such as the quoted spread, midpoint, and cumulative notional size.

[1] SEC, "Disclosure of Order Execution Information," March 6, 2024.

Considerations to evaluate

Conduct an impact assessment: Firms should conduct an initial impact assessment to determine applicability of the amended rule to their firm. Firms that already had 605 reporting obligations will need to conduct an assessment to determine the extent of changes required to satisfy the amended reporting requirements, including new statistics to be reported. Other firms should conduct an impact assessment to understand the applicability of the final amendments to their business and develop an initial estimate of the effort required to comply.

Work with industry groups: All impacted firms can work with industry groups to develop a shared understanding of the new requirements, pain points, and opportunities for scale in the implementation of the rule's requirements.

Source relevant data: Firms will need to identify and assemble relevant data to feed the publicly available report or find a vendor offering this as a service. If vendor offerings develop, firms will need to carefully evaluate available options as the regulatory obligation will ultimately be theirs.

Establish an implementation plan: To achieve a reliable output, firms likely will need to automate production of the new report. Firms should establish a detailed implementation plan to ensure that they complete development and testing ahead of the SEC deadline.

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