

## Market Order Timeliness

### FINRA Reminds Member Firms of Obligation to Execute Marketable Customer Orders Fully and Promptly

#### Summary

In light of the increasingly automated markets for NMS stocks, FINRA is issuing this *Notice* to remind member firms of their obligation to execute marketable customer orders fully and promptly. We also are reminding firms of their obligation to ensure that their supervisory systems are reasonably designed to achieve compliance with this obligation.

Questions concerning this *Notice* should be directed to:

- ▶ Patrick Geraghty, Vice President, Market Regulation, at (240) 386-4973 or [patrick.geraghty@finra.org](mailto:patrick.geraghty@finra.org); or
- ▶ Robert McNamee, Associate General Counsel, Office of General Counsel, at (202) 728-8012 or [robert.mcnamee@finra.org](mailto:robert.mcnamee@finra.org).

#### Background and Discussion

FINRA customer order handling rules require that a member firm make every effort to execute a marketable customer order that it receives fully and promptly.<sup>1</sup> FINRA's supervision rule requires that each member firm establish and maintain a system to supervise its activities that is reasonably designed to achieve compliance with FINRA rules,<sup>2</sup> including the "full and prompt" execution requirement for marketable customer orders.

What constitutes "prompt" order handling must evolve as securities markets, and the technology underlying them, evolve, and firms' compliance efforts to satisfy this requirement likewise must keep pace with these changes. In light of the developing technology for the routing and execution of orders for NMS stocks and the increased speed with which many marketable customer orders are executed, FINRA reminds firms of the progressive nature of what is deemed a "prompt" execution consistent with industry standards.<sup>3</sup> FINRA also reminds firms of their need to ensure that order handling and supervisory systems are designed to keep pace with these standards.

January 21, 2022

#### Notice Type

- ▶ Reminder

#### Suggested Routing

- ▶ Compliance
- ▶ Legal
- ▶ Operations
- ▶ Senior Management
- ▶ Technology
- ▶ Trading and Market Making

#### Key Topics

- ▶ Best Execution
- ▶ Equity Securities
- ▶ NMS Stocks
- ▶ Order Handling
- ▶ OTC Equity Securities
- ▶ Regulation NMS
- ▶ Supervision

#### Referenced Rules

- ▶ FINRA Rule 3110
- ▶ FINRA Rule 5310
- ▶ FINRA Rule 5320

The following table provides statistics regarding execution times during September 2021 for held customer market orders in NMS stocks for order sizes of up to 20,000 shares.

<b>Percentage of Orders</b>	97.03%	99.55%	99.68%	99.94%
<b>Time to Execution</b>	less than 100 milliseconds	less than 500 milliseconds	less than 1 second	less than 5 seconds

FINRA has observed that, over time, average industry execution times for held customer market orders have trended downward due to technology enhancements, among other factors. FINRA has also observed that firms, either directly or through providers of their order management system, may use exception reports as part of supervising their compliance with the full and prompt execution requirement. However, FINRA understands that these reports in some cases may generate exceptions for only those executions of marketable customer orders that occurred more than 30 seconds following the time the firm received the order or when the order became marketable.

Given that the vast majority of held market orders in NMS stocks are executed within 500 milliseconds following receipt or triggering of the order, FINRA expects firms to regularly evaluate the thresholds they use to generate exceptions as part of their supervisory systems designed to achieve compliance with their “full and prompt” obligations. Firms should modify those thresholds, as appropriate, to reflect current promptness standards for marketable order execution, including the statistics above, other relevant indicators of industry standards, and the firm’s own data.<sup>4</sup>

## Endnotes

1. See Rule 5310.01. Likewise, Supplementary Material .07 of FINRA Rule 5320 (Prohibition Against Trading Ahead of Customer Orders) requires full and prompt handling of marketable customer orders.
2. See Rule 3110.
3. See Securities Exchange Act Release No. 65579 (October 17, 2011), 76 FR 65549 (October 21, 2011) (Notice of Filing of SR-FINRA-2011-052) (“The Supplementary Material [.01 to Rule 5310] requires ‘prompt’ execution and does not dictate a specific timeframe because FINRA believes the principle-based standard of acting promptly would encompass all reasonable factors that a prescriptive standard could not address in all cases.”).
4. FINRA notes that, while this *Notice* is focused on observations and trends in NMS stocks, expectations for prompt execution of orders in OTC equity securities are also evolving as automation and execution speed for OTC equity securities increases and firms need to ensure that their order handling and supervisory systems are designed to keep pace with these evolving standards.