



Number 09-31
June 24, 2009

TO: ALL MEMBERS AND MEMBER ORGANIZATIONS

SUBJECT: DECOMMISSIONING OF THE DPTR

I. Purpose

The purpose of this Information Memo is to advise all member organizations that the New York Stock Exchange LLC (“NYSE”) will be decommissioning the requirement to report program trading activity via the Daily Program Trading Report (“DPTR”), which was previously approved by the Securities and Exchange Commission (the “Commission”).¹ The last trade date for which member organizations will be required to file the DPTR with the Exchange will be July 10, 2009 and therefore the last required date to submit the DPTR will be July 14, 2009.

II. Background

In 2007, the Exchange filed a rule proposal to update the definition of program trading and to make certain conforming changes to rules governing program trading at the Exchange (the “2007 rule filing”).² In addition to amending the definition of program trading, the Exchange proposed to streamline the reporting process that member organizations must follow when reporting program trading.³

In the 2007 rule filing, the Exchange proposed to eliminate DPTR. The 2007 filing noted that there was some duplication between the DPTR data and the audit trail information that member organizations provide to the Exchange via account-type indicators at the time that they submit program trades to the Exchange. The Exchange uses account type indicators to capture program trade information for those portions of the program trades that are submitted to and executed on the Exchange.

¹ See Securities Exchange Act Release No. 55793 (May 22, 2007), 72 FR 29567 (May 29, 2007) (SR-NYSE-2007-34).

² See Securities Exchange Act Release No. 55615 (Apr. 11, 2007), 72 FR 19225 (Apr. 17, 2007) (SR-NYSE-2007-34).

³ Beginning in 1988, the Exchange required that member organizations report program trading by the close of the second business day following the trade day on the DPTR.

In the 2007 rule filing, the Exchange also proposed to redefine two of the existing program trading related account type indicators.

Following approval of the rule filing, after consulting with the SEC, the Exchange announced that it would delay implementation of the two redefined account type indicators, and pending such implementation, member organizations would be required to continue filing the DPTR with the Exchange.⁴ The current delayed implementation date of the redefined J and K account type indicators is June 30, 2009. Accordingly, the Exchange still requires member organizations to submit DPTR.

III. Reporting Program Trading Activity after July 10, 2009

The Exchange has filed with the SEC to implement the decommissioning of the DPTR requirement following the July 10, 2009 trade date. Accordingly, the last required submission of the DPTR will be on July 14, 2009, which is the second business day after the last trade date for which the DPTR is required.

In addition, in connection with the decommissioning of the DPTR, the Exchange will not be implementing the proposed redefined program trading account type indicators (J and K) and will continue to use the existing J and K audit trail account types. Upon further analysis and based on industry input, the Exchange has determined that these redefined account type indicators do not enhance the regulatory audit trail because the proposed redefined J and K could subsume some of the other, more granular account type indicators that the Exchange currently receives. Accordingly, the Exchange has determined not to redefine the J and K account types in the manner previously proposed, and is instead leaving the J and K account-type definitions unchanged.

The Exchange further notes that it will use the existing account type indicator data – which captures program trade information for those orders sent to and executed on the Exchange – to report to the Commission on a weekly basis the program trading statistics for portions of program trades executed on the Exchange. Accordingly, beginning on July 23, 2009, the Exchange will provide the Commission with its weekly statistics on program trading based on account type indicator data rather than DPTR data. Similarly, at the same time, the weekly statistics regarding program trades that the Exchange provides to media outlets will also be derived from account type indicator data rather than the DPTR.

IV. Supervision

Member organizations are reminded that they are required to have adequate policies and procedures, including written supervisory procedures, reasonably designed to ensure proper identification of activities that constitute Program Trading and compliance with all reporting requirements of Program Trading activity as discussed in this and prior Information Memos. This requirement applies to all program trading activity submitted through a member organization's mnemonics, including as direct market access or sponsored activity. Failure to have an adequate supervisory system in place may result in disciplinary action.

⁴ See NYSE Information Memos 07-52 (June 11, 2007), 07-88 (Aug. 31, 2007), 08-4 (Jan. 16, 2008), 08-25 (Apr. 30, 2008), and 08-64 (Dec. 15, 2008) (extending the reporting requirement changes to June 30, 2009).

V. Staff Contacts

Questions about reporting program trading activity should be directed to:

Robert Airo, Senior Vice President, NYSE Euronext at (212) 656-5663 or
Aleksandra Radakovic, Vice President, NYSE Regulation at (212) 656-4144

NYSE Regulation, Inc.