

Regulatory Circular 05-06

To: Ken King (K&S), Kevin King (King Keller), Scott McMullin (Commonwealth),
Chris Scharver (Commonwealth), Whit Conary (Moors and Cabot), Jim Hill (Fidelity),
Tom Hoefling (Fidelity)
From: John Boese
Chief Regulatory Officer
Date: April 20, 2005
Re: Firm Surveillance

In order to provide your firm with some of the tools needed to design surveillance and compliance programs to detect violations of BSE Rules and /or federal regulations, we are enclosing a copy of the specifications of an electronic file, the Order Tracking System file, or "OTS file" which the Exchange can provide to your firm. This file can be transmitted to your firm electronically on an overnight basis. Please call Vinnie Romano at extension 2107 with questions regarding the file, or to establish transmission.

* * *

The following is a list of items which your firm may want to consider in designing its surveillance/compliance programs. It is not intended to be all inclusive nor indicative of what the Exchange may surveil as part of its regulatory oversight of member firms. It is the responsibility of each BSE member firm to design surveillance programs and procedures which will serve to detect instances in which BSE Rules and/or federal regulations may be violated. The BSE accepts no responsibility or liability for any of the information, or lack thereof, presented here.

1. Interpositioning –
Information needed – An activity report with the entry and execution time of all Customers Orders which would permit your firm to check, for instance, whether a customer order (buy/sell) is open and a second customer order (sell/buy) is executed at an inferior price to the execution of the first customer order.
2. Trading Ahead via DOT or ITS
Information needed - An activity report with the entry and execution time of all Customer, DOT and ITS trades which would permit your firm to monitor,

for instance, whether a customer order is open and a DOT order or ITS commitment is sent to another market center, where the customer order is then executed at an inferior price to the execution of the DOT or ITS execution.

3. Limit Order Display – The rule requires an immediate display of all limit orders, but no greater than 30 seconds.
Information needed - a report which would identify when a Specialist enters into auto-quote mode or toggles off the displayable feature of a limit order. If in auto quote mode, displayable limit order could be identified. If a Specialist has “toggled off” then possible exceptions could include those limit orders required to be displayed when the Specialist is in auto-quote, and determine if a DOT order or ITS commitment was sent to represent the limit order that was toggled off
4. Firm Quote – Entering customer order through BEACON and ITS commitments received must be executed at that price up to the size displayed.
Information needed – An execution report with the bid or offer displayed by the firm at the point of entry and execution
5. Manipulation, Marking the Close, Wash Sale, Post Close Trading, Unusual Activity
Information needed – An activity report with entry and execution times, size, price, entering source, which could determine, for instance:
 - if any orders were executed near the close create the closing price or a pattern of attempting to mark the close
 - if any entered orders from the same source are for the same size and price to create a potential wash sale
 - if any execution time is greater than 4 p.m. or if not properly marked for the post close trading session
 - if there are any spikes in volume or price for any security which could warrant further investigation
6. Record Keeping and Documentation – each member firm is advised to create a Surveillance File to check off all the surveillance exception reports and document all reviews.
7. Training and Education
 - Develop a training manual covering, among other things, those items discussed in numbers 1 through 5, above
 - Keep a folder of all regulatory memos, industry developments and rule changes and copy all employees

If there are any questions regarding the information contained in this memorandum, please contact me at extension 2096.