



441 G St. N.W.
Washington, DC 20548

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April 30, 2024

The Honorable Sherrod Brown
Chairman
The Honorable Tim Scott
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Patrick McHenry
Chairman
The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
House of Representatives

Subject: *Securities and Exchange Commission: Disclosure of Order Execution Information*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Securities and Exchange Commission (SEC) entitled “Disclosure of Order Execution Information” (RIN: 3235-AN22). We received the rule on March 8, 2024. It was published in the *Federal Register* as a final rule on April 15, 2024. 89 Fed. Reg. 26428. The effective date is June 14, 2024.

According to SEC, the final rule adopts amendments to a rule under the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a–78rr, that requires disclosures for order executions in national market system stocks. SEC reported that the rule amends Rule 605 under Regulation National Market System, 17 CFR 242.600–242.614, in order to update and improve the disclosure of execution quality information by expanding the scope of entities subject to Rule 605, modifying the information required, and making key execution quality metrics more accessible to investors. 89 Fed. Reg. 26429–26430.

Enclosed is our assessment of SEC’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Charlie McKiver, Assistant General Counsel, at (202) 512-5992.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Sherry R. Haywood
Assistant Secretary
Securities and Exchange Commission

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
SECURITIES AND EXCHANGE COMMISSION
ENTITLED
“DISCLOSURE OF ORDER EXECUTION INFORMATION”
(RIN: 3235-AN22)

(i) Cost-benefit analysis

The Securities and Exchange Commission (SEC) conducted an economic analysis of this final rule. According to SEC, it has considered and describes the economic effects of the amendments to Rule 605 under Regulation National Market System, 17 CFR 242.600–242.614, in the rule. SEC stated that it has quantified the likely economic effects of these amendments where possible. SEC considered the expected benefits of these amendments in relation to transparency, competition, and order execution quality, including those benefits expected from expanding the scope of reporting entities, modernizing the required information, and improving accessibility. Furthermore, SEC considered other benefits resulting from these amendments, including lower fees for customers, higher rebates, new products or functionalities, and better customer service.

Additionally, SEC evaluated the costs associated with the amendments to Rule 605, the majority of which it identifies as initial and ongoing compliance costs to reporting entities. SEC estimates that the initial aggregate compliance costs of the amendments will total \$9.3 million and the ongoing aggregate compliance costs will total \$11.3 million, which incorporates costs relating to the expansion of reporting entities, modifications to information required, and costs related to the preparation of summary execution quality reports. SEC also identified and described potential costs other than compliance costs, as well as evaluated the impact of the rule on efficiency, competition, and capital formation. Finally, SEC discussed alternatives it considered to the adopted amendment.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

SEC certified that this final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

As an independent regulatory agency, SEC is not subject to the Act.

(iv) Agency actions relevant to the Administrative Pay-As-You-Go-Act of 2023, Pub. L. No. 118-5, div. B, title III, 137 Stat 31 (June 3, 2023)

As an independent regulatory agency, SEC is not subject to the Act.

(v) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On January 20, 2023, SEC published a proposed rule in the *Federal Register*. See 88 Fed. Reg. 3786 (Proposing Release). SEC reported that the Proposing Release detailed the proposed amendments to Rule 605, as well as the costs and benefits of the proposed amendments, and received substantial public comment. SEC noted that it considered the comments it received, updated its data analysis where needed, and, in some instances, has modified the proposal in response to the comments.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

SEC determined that this final rule contains information collection requirements (ICRs) under the Act. SEC stated that the ICR, titled “Rule 605 of Regulation NMS (f/k/a Rule 11Ac1–5),” was submitted to OMB for review under OMB Control Number 3235-0542. SEC currently estimates a total initial burden of 23,019 hours for all respondents and a total annual burden of 45,276 hours. It estimates the monetized initial burden for all respondents to be \$9,257,505 and the monetized annual burden for all respondents to be \$17,715,266.

Statutory authorization for the rule

SEC promulgated this final rule pursuant to the Securities Exchange Act of 1934, particularly sections 3(b), 5, 6, 11A, 15, 17, 19, 23(a), 24, and 36. 15 U.S.C. §§ 78c, 78e, 78f, 78k-1, 78o, 78q, 78s, 78w(a), 78x, and 78mm.

Executive Order No. 12866 (Regulatory Planning and Review)

As an independent regulatory agency, SEC is not subject to the Order.

Executive Order No. 13132 (Federalism)

As an independent regulatory agency, SEC is not subject to the Order.