

Compensation in Relation to ATS System Failure

1. In the event Blue Ocean ATS technology and operations determines that (a) a valid order was received and accepted by the ATS's system; (b) an ATS system failure occurred (see section 2. below) impacting said order; (c) a direct subscribing organization sustained a net loss related to an ATS system failure; and (d) the ATS's operations and support team received from the subscriber(s) that sustained such net loss, oral notice by the market opening on the next business day following the system failure and written notice by the end of the third business day following the system failure (T+3), the ATS will make a payment to the claiming subscriber(s) organization(s) for the claimed net losses on the amounts and subject to the processes and criteria defined below.
2. An ATS system failure is defined as a malfunction of the ATS's physical equipment, devices and/ or programming that results in an incorrect execution of a properly received and accepted order, no execution of a properly received and accepted by the ATS systems, or any malfunction of any third-party electronic system, service, or facility ("third-party vendor") provided by the ATS that results in an incorrect execution of an order or no execution of a marketable order that was received in ATS systems. Net loss is defined as the total loss off-set by any gains retained by the subscriber organization as a result of the ATS system malfunction. Misuse of ATS systems or third-party vendor systems is not included in this definition.
3. No assets of the ATS shall be applied or shall be subject to such liability in excess of the limits set forth below.
 - a. The ATS shall allot \$250,000 each calendar month ("Monthly Allotment") for any claim arising out of the use or enjoyment of the facilities afforded by the ATS or third-party vendor systems provided by the ATS for the aggregate of all claims made by all member organizations during a single calendar month. The Monthly Allotments will not aggregate, and except as set forth below, the Monthly Allotment for each calendar month is \$250,000.
 - b. If all of the claims arising out of the use or enjoyment of the facilities afforded by the ATS cannot be fully satisfied because in the aggregate the claims exceed the funds available for payment hereunder, then the funds available for such payment shall be allocated among all such claims arising during the calendar month, based on the proportion that each such claim bears to the total of the claims eligible to receive a payment determined at the end of the calendar month. Under no circumstances will the payout exceed the \$250,000 monthly allotment.
 - c. If all of the claims arising out of the use or enjoyment of the electronic systems, services, or facilities of a third-party vendor provided by the ATS cannot be fully satisfied because in the aggregate the claims exceed the funds available for payment hereunder, the aggrieved subscriber organization may file a claim directly against the third-party vendor for the remaining claimed loss sustained as a result of the third-party vendor's system malfunction.
4. The ATS will review claims submitted pursuant to this rule and determine the eligibility of a claim for payment. The ATS will determine whether the amount claimed should be reduced based on the actions or inactions of the claiming member organization, including whether the member organization made appropriate efforts to mitigate its loss.
5. All determinations made pursuant to this rule are final.