

Execution Access, LLC.
One Liberty Plaza
165 Broadway
New York, NY 10006

August 18, 2017

VIA ELECTRONIC DELIVERY

Robert W. Errett
Deputy Secretary, U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

**Re: Proposed Rule Change Relating to Reporting of Certain ATS Transactions in U.S. Treasury Securities (FINRA Rule 6730)
SR-FINRA-2017-023**

Dear Mr. Errett:

Execution Access, LLC (“EA” or the “Firm”) appreciates the opportunity to provide its comments on the Financial Industry Regulatory Authority’s (“FINRA’s”) proposed rule change relating to reporting of certain alternative trading system (“ATS”) transactions in U.S. Treasury Securities (“USTs”) (the “Proposed Rule”).¹ The Proposed Rule provides a temporary exception until July 10, 2018 to permit member ATSS and member subscribers to report aggregate UST trade information to FINRA’s Trade Reporting Compliance Engine (“TRACE”) that occur on member ATSS as part of a trading session. At expiration of the temporary exception time period, member ATSS will be required to report to TRACE the ‘individual’ matches within a trade session.

The Firm recognizes that the market for USTs could benefit from greater transparency, organization and efficiency. Markets must be transparent in each of several respects to serve market participants and investors fully and fairly. The structure, regulation, and operation of the market should be readily understood to inspire trust and confidence. Widespread availability of the best available prices ensures that market participants make informed investment decisions and receive high quality, low cost service from intermediaries and markets alike. The TRACE reporting requirements effective July 10, 2017 was a positive step, and the Firm supports the approach to aggregate reporting in the temporary exception. However, as described below, we believe the temporary exception should be made permanent for the following reasons:

1. **Reduced Transparency.** The reporting methodology proposed by FINRA is counter to the goal of

¹ See SR-FINRA-2017-023.

greater transparency because FINRA will not know the number of distinct customers and the quantities each customer traded within a trade state.

2. Significant Technology Implications. The Firm and other member firms will need to implement significant technology enhancements in order to report 'individual' transaction level information. The technology enhancement will prove costly without providing a significant increase in transparency.
3. Fundamental Impact on UST Market Structure. Changing the TRACE reporting methodology will cause unnecessary confusion for all participants, discourage liquidity provisioning, and change the fundamental UST market structure by effectively eliminating the trade state concept.
4. Significant Impact to Trading and Clearing Costs. Transmitting 'individual' transactions to a clearing broker will increase ticket charges for the Firm and other ATSs with trade state functionality ("Trade State ATSs"), which will ultimately increase costs to subscribers and investors.
5. Competitive Disadvantages. Affected participants may migrate away from Trade State ATSs to other venues so as not to incur additional costs to comply.

We respectfully acknowledge other industry comment letters² in response to the Proposed Rule and concur with the recommendations and concerns addressed in those letters.

Background of EA and NFI Trade State

EA is registered with the U.S. Securities and Exchange Commission (the "Commission") as a broker-dealer and is a FINRA member organization. The Firm operates a registered ATS, Nasdaq Fixed Income ("NFI"), to facilitate matching of customer ("subscriber") orders solely in USTs. NFI offers its subscribers the opportunity to trade USTs approximately 22-23 hours per day, 5 days a week, subject to market holidays and industry-designated shortened trading sessions. Subscribers to NFI are institutional entities, including but not limited to banks, broker-dealers and proprietary trading firms.

Orders sent to NFI are placed in the order book based on price/time priority. A trade state begins at the initial match of an incoming order with a resting order, and concludes at the end of a designated time period when no other orders match. During a trade state, the counterparties to the initial match or other buyers and sellers may join the trade state.

When an incoming (aggressive) order has a limit price that is (i) through the current trade state price, (ii) cannot be fully executed by all available size at the current trade state price, and (iii) executable against marketable resting orders at other price levels, the active trade state at the current price immediately terminates. A new trade state is subsequently initiated at the new trade price level.

At the conclusion of a trade state, NFI provides each counterparty that matched during a trade state with a trade confirmation message indicating the aggregate quantity traded at an average price. In addition,

² See letters to Robert W. Errett, Deputy Secretary, the Commission, from (i) Nicholas Passarelli, Chief Compliance Officer, Dealerweb Inc., July 21, 2017; (ii) James A. Moore, Jr., Associate General Counsel, ICAP Securities USA LLC and ICAP Corporates, LLC; and (iii) Andrew Weinman, Chief Operations Officer, Brokertec Americas LLC dated July 21, 2017.

trade state transactional information is sent to NFI's clearing broker, in aggregate form, for submission to the Government Securities Division of the Fixed Income Clearing Corporation ("FICC").

Trade state, or 'workup,' functionality encourages liquidity provisioning by offering ATS subscribers with the opportunity to offer additional size at the trade state price, and has been deep-rooted in the UST market structure since the advent of UST ATSs such as NFI in the late-1990s.

1. ***Reduced Transparency***

Under the current reporting methodology, NFI reports the trade state transactional information in aggregate form. We believe the aggregate trade state information provides FINRA with greater transparency into the current market, its participants and their respective traded quantities. Reporting the underlying matches, or 'individual' transactions, reduces this transparency as illustrated below.

Trade State Details

| Match | Subscriber | Time | Side | Quantity |
|-------|-----------------------------|-------------|--------|----------|
| 1 | Subscriber A (FINRA Member) | 9:00:00.052 | Bought | 5 |
| 1 | Subscriber B (Customer) | 9:00:00.052 | Sold | 5 |
| 2 | Subscriber A (FINRA Member) | 9:00:00.100 | Bought | 20 |
| 2 | Subscriber C (Customer) | 9:00:00.100 | Sold | 20 |
| 3 | Subscriber A (FINRA Member) | 9:00:00.250 | Bought | 10 |
| 3 | Subscriber B (Customer) | 9:00:00.500 | Sold | 10 |
| 4 | Subscriber A (FINRA Member) | 9:00:01.378 | Bought | 8 |
| 4 | Subscriber B (Customer) | 9:00:01.378 | Sold | 8 |

Current Aggregate Trade State Reporting

Under the current reporting structure, NFI reports as the counterparty to one FINRA and two distinct customers.

| Subscriber | Time | Side | Quantity |
|-----------------------------|-------------|--------|----------|
| Subscriber A (FINRA Member) | 9:00:00.052 | Bought | 43 |
| Subscriber B (Customer) | 9:00:00.052 | Sold | 23 |
| Subscriber C (Customer) | 9:00:00.100 | Sold | 20 |

As such, FINRA has a clear view into the number of participants and the quantities traded by each participant.

Proposed 'Individual' Transaction Reporting

Under the proposed reporting structure, NFI would be report as counterparty to one FINRA member and potentially four distinct customers.

| Trade Report | Subscriber | Time | Side | Quantity |
|--------------|------------|------|------|----------|
|--------------|------------|------|------|----------|

| | | | | |
|---|-----------------------------|-------------|--------|----|
| 1 | Subscriber A (FINRA Member) | 9:00:00.052 | Bought | 5 |
| 1 | Customer | 9:00:00.052 | Sold | 5 |
| | | | | |
| 2 | Subscriber A (FINRA Member) | 9:00:00.100 | Bought | 20 |
| 2 | Customer | 9:00:00.100 | Sold | 20 |
| | | | | |
| 3 | Subscriber A (FINRA Member) | 9:00:00.250 | Bought | 10 |
| 3 | Customer | 9:00:00.500 | Sold | 10 |
| | | | | |
| 4 | Subscriber A (FINRA Member) | 9:00:01.378 | Bought | 8 |
| 4 | Customer | 9:00:01.378 | Sold | 8 |

As such, we believe the reporting methodology proposed by FINRA is counter to the goal of greater transparency because FINRA would not know the number of distinct customers and the quantities each customer traded within a trade state. FINRA could only assume anywhere from one to four distinct customers were involved on the sell side. Transparency decreases further when the counterparties within a trade state are solely customers (i.e. non-FINRA members).

2. Significant Technology Implications

As noted above, at the conclusion of a trade state, NFI delivers a trade confirmation message to each counterparty that matched during a trade state. The trade confirmation message details the aggregate quantity traded and average price. In addition, such trade confirmation messages are sent to our clearing broker for submission to FICC.

Significant technological enhancements within the Firm will be necessary in order to report 'individual' transaction level information. Technological enhancement could include new or enhanced systems design and architecture, market data feeds, and messaging protocols. Likewise, NFI's FINRA member subscribers, or third-party vendors/service bureaus who perform TRACE reporting on behalf of members, must enhance current systems and protocols to consume or communicate with the new 'individual' transaction FIX messages from NFI and enhance their own TRACE reporting protocols to report this information.

3. Fundamental Impact to Market Structure

Reporting aggregated trade details to participants of a trade state is a standard approach used by ATSs since the advent of UST ATSs such as NFI in the late-1990s. The 'trade state' functionality was created in the electronic markets as a way to replicate how the UST voice broker market operates. We believe changing the TRACE reporting methodology will cause unnecessary confusion for all participants, discourage liquidity provisioning, and change the fundamental UST market structure by effectively eliminating the trade state functionality.

4. Significant Impact to Trading and Clearing Costs

FICC charges its member firms on a per-ticket basis. Typically, FICC member firms pass such ticket charges to its introducing brokers, who in turn pass through to their clients. As noted above, at the conclusion of a trade state, NFI sends aggregate trade information to our clearing clearing broker for submission to FICC. If NFI were to modify its systems to send the 'individual' transactions to the clearing broker, overall ticket charges will increased significantly for NFI and other ATSs, which ultimately

increases costs to subscribers and investors. Conversely, if NFI does not modify its system and continues to send the aggregate trade information to our clearing broker, then a discrepancy in information will exist between reported information in TRACE and trade information sent to FICC.

5. Competitive Disadvantages

The Firm disagrees with the commentary to the Proposed Rule which states that the change in reporting methodology will not result in any burden on competition. EA is concerned that ATSS will be put at a competitive disadvantage because subscribers impacted by the Proposed Rule may decide to trade away from Trade State ATSS where the technology and human resource costs are not required, for example voice brokers, where technology enhancements aren't required. The result could further reduce the transparency FINRA seeks. In addition, the Proposed Rule may create an uneven playing field between Trade State ATSS and other venues that are not required to report individual transactions, although certain venues (e.g., voice brokers) report the summary details once a workup is completed.

Conclusion

Based on the foregoing, EA kindly requests that FINRA allow ATSS to report the aggregate trade details of a trade state on a permanent basis.

EA supports FINRA's goal of increased transparency and effective market surveillance. We appreciate the opportunity to submit the above comments for your consideration, and welcome additional conversations and/or meetings with the Commission and FINRA.

Please do not hesitate to contact me at [REDACTED] or [REDACTED] with any questions or for further information.

Respectfully submitted,



Christopher M. Setaro
Vice President & Chief Compliance Officer
Execution Access, LLC

cc: Heather Seidel, Acting Director of the Division of Trading and Markets, SEC