

Ms. Vanessa Countryman
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: Notice of Filing of a Proposed Rule Change to Establish a Corporate Bond New Issue Reference Data Service (Release No. 34-85488; File Number SR-FINRA-2019-008)

Dear Ms. Countryman:

Bloomberg L.P. is grateful for the opportunity to provide the Securities and Exchange Commission (the “SEC” or “Commission”) with further comments regarding the above-referenced proposed rule change (the “Proposal”).

Background

The Financial Industry Regulatory Authority (FINRA) has proposed to develop and market a data service for new issue reference data for corporate bonds. The Proposal would require underwriters to submit a substantial amount of data to FINRA before the initial offering of a TRACE-Eligible Corporate Debt security. The Proposal would also authorize FINRA to sell this data back to market participants at a FINRA-prescribed fee.

On April 2, 2019 the Commission published notice to solicit comments on the Proposal. A wide and diverse group of significant market voices — ranging from the U.S. Chamber of Commerce’s Center for Capital Markets Competitiveness, The Heritage Foundation, Healthy Markets Association, SIFMA, and The Credit Roundtable to members of the Fixed Income Market Structure Advisory Committee (FIMSAC) itself — submitted comments expressing profound reservations and, in some cases, outright opposition to the Proposal. These comments explained in detail why FINRA bears the burden of demonstrating that the Proposal is consistent with the Securities Exchange Act of 1934 and why FINRA’s Proposal — which assumes that competition is bad rather than good — fails to meet that burden and indeed violates Commission mandates requiring FINRA and the Commission to consider and justify an action’s impact on competition, coordination, and efficiency in the market.¹ In part, Bloomberg’s April 29 submission highlighted that the Proposal would expand a key regulator’s commercial role into new lines of heretofore competitive private business, the likely chilling effect that this would have on investment and innovation, and the inapposite Municipal Securities Rulemaking Board precedent FINRA relied upon.

¹ See, e.g., 15 U.S.C. §§ 78o-3(b)(6), 78w(a)(2).

On June 11, the Commission’s Fixed Income Market Structure Advisory Committee (“FIMSAC”) wrote to the Commission to say that it “feels compelled to respond to certain letters submitted to the Commission that express reservations about the FINRA Proposal.”² However, the FIMSAC Letter fails to address the specific, significant issues raised by numerous commenters, including those from Bloomberg noted above, and further relies on problematic anecdotal assertions of the sort that infect the Proposal itself. Because several of the FIMSAC Letter’s assertions addressed the role of data vendors, Bloomberg respectfully submits this supplemental letter to set the record straight on these additional points.

Before taking up the points raised by the FIMSAC Letter, we note that the objections set forth in our April 29 letter remain unchanged and unrebutted. The original Proposal did not establish that any market failure warranted a regulatory intervention replacing the current, competitive, market-based choices available to participants in the corporate bond market. The new FIMSAC Letter does not remedy this fundamental defect, and instead hypothesizes a solution for a problem that is assumed, but nowhere demonstrated. In sum, the “Proposal as currently formulated fails to supply the Commission with the justifications and data necessary to approve this government-backed expansion into the market.”³

* * *

No “Conflict” between Data Providers, Electronic Trading Platforms and Electronic Messaging Systems Justifies this Proposal

The FIMSAC Letter addresses an alleged “conflict” of data providers affiliated with trading or electronic messaging platforms. It characterizes this conflict as a prime driver of the Proposal. Specifically:

“FIMSAC believes it is important for the SEC to understand that several of the largest corporate bond reference data providers own, or are affiliated with, electronic trading platforms for corporate bonds.... FIMSAC heard from market participants that were concerned that certain of these large reference data providers have in the past, and could in the future, manage their data and trading businesses in a coordinated fashion — refusing to license their leading reference data products to trading platforms that they deem to be competitive to their own.”⁴

Quality bond reference data is broadly available from Bloomberg and other data vendors. Bloomberg makes this data available through the Bloomberg Terminal[®] service, as well as through Bloomberg market data services. The suggestion that data-vendors exclude trading

² See Recommendation of the SEC Fixed Income Market Structure Advisory Committee (“FIMSAC Letter”), June 11, 2019 at <https://www.sec.gov/comments/sr-finra-2019-008/srfinra2019008-5662650-185795.pdf>

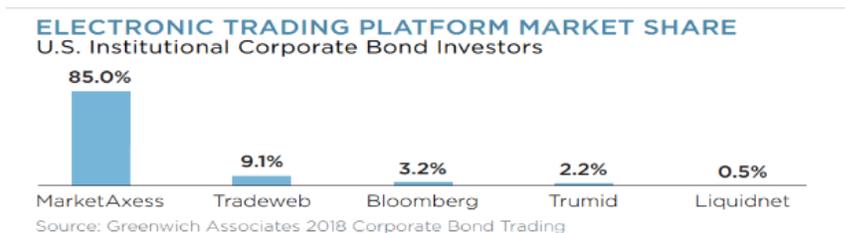
³ See Bloomberg letter from Greg Babyak, Global Head of Regulatory Affairs, Bloomberg L.P., April 29, 2019 at 19 <https://www.sec.gov/comments/sr-finra-2019-008/srfinra2019008.htm>.

⁴ See FIMSAC Letter at 3.

platforms, as represented in the FIMSAC Letter, does not reflect the reality of the well-functioning markets for both data and electronic trading.

FIMSAC’s use of the term “coordinated fashion” is a misnomer. There is, and could be no suggestion (let alone evidence), that competing data vendors collusively coordinate their conduct. To the extent that FIMSAC simply means that integrated firms consider both their data and trading businesses when making commercial decisions, FIMSAC not only offers no evidence that this is the case, but — even if true — offers no evidence that the unilateral policies of integrated data vendors have anticompetitive effects.

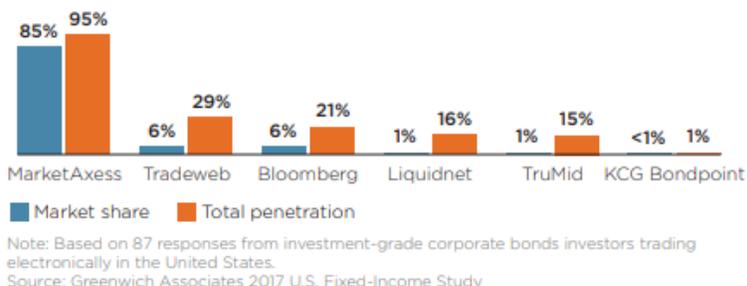
Indeed, data published in 2018 by Greenwich Associates, a leading provider of data on the financial services industry, shows that the operator of the corporate bond market’s dominant electronic trading platform for domestic U.S. institutional investors is *not* affiliated with a bond reference data vendor. This rebuts the notion that affiliated vendors are leveraging bond data to marginalize other trading platforms.



MarketAxess, which is not affiliated with a bond data vendor, is estimated by Greenwich Associates to hold an 85% market share with domestic U.S. institutional investors electronically trading U.S. corporate bonds. By contrast, the only provider in the table above that is also currently a supplier of reference data products — Bloomberg — is estimated at approximately 3.2% of the market⁵. A 2017 Greenwich Associates report estimated that Bloomberg hardly has a dominant penetration rate into the domestic U.S. institutional investors segment. The Greenwich evidence on Bloomberg’s competitive position in this electronic trading space belies any suggestion that Bloomberg has leveraged its data business to gain a competitive advantage for its electronic trading business. This is not surprising because the data business is highly competitive. A firm that does not license data from Bloomberg can readily turn to other data providers.

⁵ Bloomberg Finance L.P. operates the Bloomberg Terminal® service, which includes corporate bond trade messaging features.

E-TRADING MARKET SHARE—INVESTMENT-GRADE CORPORATE BONDS



FIMSAC’s unsupported claims — that integrated firms with both a data business and an electronic trading business are using the data business to harm competition in trading — attributes the alleged sentiments to unnamed “market participants.” Whatever the source of FIMSAC’s claims, it is clear that those claims are not supported by facts. The facts show that the dominant electronic trading platform for U.S. institutional investor corporate bonds does not have a data business and that Bloomberg — which has both a data business and an electronic messaging business — is a small player in such trading.

There is simply no basis for FIMSAC’s hypothesis that bond reference data is being withheld to expand vendor-affiliated trading platforms, thus undercutting FIMSAC’s view that there is a need for the government or an SRO to intervene in a competitive market.

Quality Bond Reference Data is Widely Available

Under FINRA Rule 6720(c)(1)⁶, a TRACE participant must report all transactions executed within an alternative trading system (ATS) under a separate Market Participant Identifier (MPID). On TRACE reports, all ATS trades are marked via an “ATS Flag.” Consistent with Regulation ATS, the fixed income ATSs are electronic venues⁷.

The FIMSAC Letter quite accurately states that “The immediate hours and days following a bond offering are typically a highly active trading period.”⁸ In our initial letter, we provided analysis of TRACE data in new issue bonds from March 12 to April 11, 2019. The analysis confirmed that indeed the majority of larger-sized new issues trade in the secondary market in the afternoon of their issuance (the pricing date).

However, FIMSAC continues to assert that the proposed bond reference service is necessary, in part, “to support the trading of newly issued bonds on electronic platforms,”⁹ ignoring that our analysis¹⁰ shows a significant number of new issues trade electronically, as indicated by the

⁶ See FINRA Manual, Rule 6720 at http://finra.complinet.com/en/display/display_main.html?rbid=2403&element_id=4401

⁷ See Regulation ATS adopting release at 70849 <https://www.govinfo.gov/content/pkg/FR-1998-12-22/pdf/98-33299.pdf>

⁸ See FIMSAC Letter at 2.

⁹ See FIMSAC Letter at 1.

¹⁰ See Bloomberg Letter at 12.

TRACE ATS flag, in the secondary market immediately after pricing and underwriter allocations¹¹ are completed. There is no market failure that needs to be addressed.

We repeated the exercise using a more recent data set from May 13 to June 12, 2019. As in the original analysis, we found similarly robust ATS activity in new issue bonds. The data make clear that when new issue corporate bonds trade in the secondary market on the day that the issue is priced, a significant amount of those issues also trade electronically on ATSS. The amount of secondary market ATS activity in new issues on pricing day has more than doubled since Q2 2018, according to FINRA’s own historic TRACE data, showing the expansion of electronic trading.

	May 13 to June 12, 2019*	March 12, 2019 to April 11, 2019*	Q2 2018**
	The percentage of new issue bonds that had both a TRACE secondary market "print" AND an ATS print on the day the new issue was priced	The percentage of new issue bonds that had both a TRACE secondary market "print" AND an ATS print on the day the new issue was priced	The percentage of new issue bonds that had both a TRACE secondary market "print" AND an ATS print on the day after the new issue was priced
Total new issue population (Issue size > 250MM)	29%	31%	12%
"Jumbo" sized issues (1BN +)	34%	43%	16%
"Benchmark" sized issues (500MM to 1BN)	28%	28%	9%
"Medium" sized issues (250MM to 500MM)	26%	11%	12%

* Analysis of new issues identified using Bloomberg's SRCH<Go> and the TRACE prints on QR<Go>
 ** Analysis of new issues identified using Bloomberg's SRCH<Go> and prints from FINRA's Historic Data File

Source: Bloomberg Finance L.P., FINRA Historic TRACE Data

This illustrates not only that electronic trading platforms can access new issue bond reference data, but also that the market is already evolving in the manner that FIMSAC wishes — without regulatory or government intervention. Moreover, if improvements are warranted, FINRA is required, under Section 15(a)(b)(6), to “foster cooperation and coordination” with data providers, the “persons engaged in . . . processing information” about securities. Instead of cooperating and coordinating, FINRA wants to oust those providers from the market.

As the Commission and courts have recognized, data — not just anecdotes or “conventional wisdom” — is critical for market structure analysis and consideration of potential interventions during evolutionary phases. The purported need for FINRA’s intervention is undermined by a failure to demonstrate that any market structure problem actually exists. For policy-making purposes, we submit that anecdotes¹² and subjective commercial concerns, like those identified by FINRA and FIMSAC, bear little weight.

¹¹ Similar to compliance with the TRACE reporting provisions of FINRA rule 6760(c)(2), we define “immediately” as “as soon possible” after pricing and allocations are determined. J.P. Morgan’s Bob LoBue, Managing Director and Head of Global Fixed Income Syndicate, noted in the October 29, 2018 FIMSAC meeting (see <https://www.sec.gov/spotlight/fixed-income-advisory-committee/fimsac-102918transcript.txt> at 0080-09) that J.P. Morgan “normally price deals somewhere between 3:00 and 5:00 p.m.” With this benchmark, our analysis confirms the vast majority of secondary trading begins in the afternoon and shows that ATSS participate in a significant number of the new issue bonds that trade during that afternoon trading window.

¹² The FIMSAC letter mentions a September 5, 2018 meeting about the Proposal with five leading corporate bond reference providers. The letter does not mention that, on that call, certain vendors opposed the Proposal and continue

No magic is necessary to supply high-quality new issue bond reference data. It is a matter of devoting the time, effort and resources to communicate with underwriters, monitor new CUSIP creation, then to check and re-check the data to ensure accuracy, consistency and quality. There are no substantial barriers to entry if other data vendors wish to provide bond reference data (or if unintegrated trading platforms wish to develop their own reference data instead of relying on third party vendors). Underwriters and issuers have significant incentives to provide data to any high-quality supplier of reference data in order to enhance awareness and distribution of their offering.

Just as our data showed bond reference data was widely available to support efficient trading, our data demonstrating efficient clearing and settlement is also un-rebutted.

Why A Government Monopoly?

Neither FINRA nor the FIMSAC have been able to identify a market structure problem that necessitates the Proposal's form of government intervention. And even if there were a problem to be solved, nothing in the record supports the conclusion that FINRA would be the most workable or reliable solution. As illustrated in the responses to FINRA's Proposal submitted by SIFMA, IHS Markit, The Credit Roundtable, and by FINRA's own indications, the Proposal envisions more than a mere incremental addition to the TRACE system.

Unlike the municipal market, which is largely national, the corporate bond market is global. Approximately 30% of U.S. corporate bonds are foreign-held.¹³ To compete in this market, private-sector data vendors currently must provide reference data for investors around with world regarding bonds issued around the world. By creating a U.S. bond reference data silo, however, investors and other market participants may be required to contract with multiple data vendors to obtain multiple data sets, adding unnecessary cost to the industry.

Most compelling and disconcerting is the warning provided by FIMSAC member Larry Tabb in a TABB Forum post entitled "An SEC-Mandated Corporate Bond Monopoly Will Not Help Quality" (attached). Mr. Tabb's analysis shows FINRA reconciliation differences in more than 20% of new issues. That error rate is for handling only *three* fields of data. In other words, in one out of every five new issues, FINRA, on average, has a data error in at least one of those three critical fields. The down-stream impact could be profoundly disruptive. How is the market going to function when FINRA, as the gold standard, is tasked with managing many times more — and substantially more complicated — data?

to do so today. In any event, this second-hand characterization of conversations is not the sort of substantive information and commentary needed to support SRO rulemaking.

¹³ See Department of the Treasury, Federal Reserve Bank of New York and Board of Governors of the Federal Reserve System, "Foreign Portfolio Holdings of U.S. Securities as of June 30, 2017", April 2018, Exhibit 2 Foreign and U.S. holdings of U.S. long-term securities (corporate debt) at 6 at <https://ticdata.treasury.gov/Publish/shla2017r.pdf> and Federal Reserve Board of Governors, Financial Accounts of the United States – Z.1, L.212 Municipal Securities at <https://www.federalreserve.gov/releases/z1/20190606/html/1212.htm>

Failure to Justify Fees

Neither FINRA nor FIMSAC have addressed the Proposal's failure to justify the fees as required by law, as noted by the Chamber of Commerce, The Heritage Foundation, Healthy Markets, SIFMA, and others. Indeed, within the last few weeks, the staff of the Division of Trading and Markets has issued guidance emphasizing the importance of demonstrating that proposed fees are fair and reasonable under the Exchange Act. As noted in the staff guidance, a fee filing "should fully and fairly describe the operation of the applicable fee (including its effect on market participants) and do so in sufficient detail so that the public can understand the Fee Filing proposal sufficiently to provide meaningful comment and the Commission can determine whether the proposal is consistent with the Exchange Act."¹⁴ The guidance further clarifies that if "an SRO seeks to support its claims that a proposed fee is fair and reasonable because it will permit recovery of the SRO's costs...specific information, including quantitative information should be provided to support that argument"¹⁵ ("Relevance of Cost Data"). FINRA's attempt to recover its costs "plus [a] margin" is unsupported and unexplained. As the Proposal contains no meaningful evidence or analysis of the proposed fees or costs, this Proposal should be rejected on that basis alone.

Conclusion

FINRA bears the burden of justifying a proposed rule change with data and evidence. Here it cannot. The anecdotes and unsupported assertions it has provided do not provide the factual basis required for Commission approval.

We appreciate the opportunity to provide our comments on the Proposal, and would be pleased to discuss any questions that the Commission may have with respect to this letter. I can be reached at [REDACTED].

Very truly yours,



By: Greg Babyak
Global Head of Regulatory Affairs, Bloomberg L.P.

¹⁴ See "Staff Guidance on SRO Rule Filings Related to Fees", May 21, 2019 at <https://www.sec.gov/tm/staff-guidance-sro-rule-filings-fees>

¹⁵ See Guidance § III.B.2.



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May 21, 2019

An SEC-Mandated Corporate Bond Data Monopoly Will Not Help Quality



Larry Tabb
TABB Group
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The quality of newly issued fixed income terms and conditions data is problematic. TABB Group analysis shows reconciliation differences in more than 20% of new issues. But giving any one vendor, including a regulator such as FINRA, a competitive advantage will reduce the competitive forces to aggregate, vet and distribute this critical information promptly, says Larry Tabb.



The quality of newly issued fixed income terms and conditions data is problematic. In a quick reconciliation between the initial release of FINRA's terms and conditions broadcast by the TRACE platform and Bloomberg's corporate bond reference data, we found reconciliation differences in more than 20% of the new issues (see *Exhibit 1, below*). More than one in five newly issued bonds either were improperly entered into Bloomberg or aggregated and distributed incorrectly through the TRACE Corporate and Agency Master file.

In the 348 bonds broadcast by TRACE in April 2019, 67 (19.3%) had coupon rate differences, seven had maturity data problems, and another seven had Reg 144a flag discrepancies. While some of these discrepancies can be attributed to differences with the representation of variable coupon rates, 13% of the new issues problems had nothing to do with variable coupon instruments. These problems not only will create reconciliation and settlement problems, they could mean that the appropriate interest and/or principal payments will not be paid to investors on a timely basis.

Exhibit 1: Comparison of FINRA TRACE New Issue Data with Bloomberg

	Issue Size > \$2m			Issue Size > \$250m		
	Total count	# Differences	%	# Differences	%	Total Population
Any interest rate difference	348	67	19.3%	29	12.5%	232
A Fixed Rate interest rate difference	249	32	12.9%	25	12.1%	207
Maturity Date difference		7	2.0%	4	1.7%	
A 144a FLAG difference		7	2.0%	5	2.2%	
Issues with any difference (coupon, maturity date, 144a Flag) (some records had multiple differences)		74	21.3%	33	14.2%	
Fixed Rate issues with any basic reference data difference (coupon, maturity date, 144a Flag)		39	15.7%	29	14.0%	
Settlement date problem (any coupon or maturity)		70	20.1%			
Settlement date problem (fixed rate)		33	13.3%			

(For issues > \$2m, issued in April 2019, with entries in both Bloomberg and FINRA)

Source: FINRA & Bloomberg




BENCHMARK REPLACEMENT
 RATES UPDATE: Q2-2019
 BY: GEORGE BOLLENBACHER



In addition to improving accuracy, another goal of the recent bond reference data proposal from the SEC's FIMSAC was that a new issue bond reference data service would help foster electronic trading. If we assume that larger issues are more likely to trade electronically, then 14% of the new bonds with issue sizes of at least \$250 million have data discrepancies that could cause trading uncertainty.

While the entry of fixed income terms and conditions information has historically been problematic, these results certainly are not good.

A corporate bond set-up error rate of more than 10%, even given the highly manual nature of corporate bonds, should not be acceptable in an age when we teach cars to drive autonomously, electronically pick faces out of a crowd, and interpret news and tweets in real time to discern and execute investment ideas.

While a 10% to 20% error rate is never good, this could be even more problematic if there isn't a group dedicated to thoroughly vetting the data. If the SEC's corporate bond reference data proposal provides FINRA – or any other single provider – with either a competitive advantage or a monopoly in the aggregation and dissemination of reference data/fixed income terms and conditions, there may not be the competitive pressure needed to push industry service providers to get this data right, delivered on time, and at a cost-competitive price.

In a recent commentary on TabbFORUM ("[An SEC-Mandated Monopoly Is not the Answer for Fixed Income Reference Data](#)"), I wrote that I was highly in favor of streamlining and improving the process and methodology for collecting, clearing and disseminating corporate bond reference data; but I absolutely was not in favor of giving FINRA any competitive advantage over other market data providers in this space.

Getting this data correctly populated and disseminated to the industry is critically important. But giving any one vendor, including a regulator such as FINRA, a competitive advantage will just reduce the competitive forces to obtain, aggregate, vet, and distribute this critical information cleanly and promptly.

I ask the SEC to take these issues to heart as it determines the best way forward to solve this tremendously difficult but highly important challenge.

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