

October 29, 2019

Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Via Email to rule-comments@sec.gov

Re: File No. SR-FINRA-2019-008 – Response to Comments

Dear Ms. Countryman:

This letter responds to comments submitted to the Securities and Exchange Commission (“SEC” or “Commission”) regarding the above-referenced filing, a proposed rule change to establish a corporate bond new issue reference data service.¹

Background

FINRA is proposing to establish a new issue reference data service for corporate bonds, in line with a recommendation from the SEC’s Fixed Income Market Structure Advisory Committee (“FIMSAC”). As discussed in more detail in the Proposal, the FIMSAC unanimously approved a recommendation that asked FINRA to establish and publish a consolidated, comprehensive, accurate, and timely data set for corporate bond new issues. The FINRA Proposal would do so by amending Rule 6760 to require underwriters subject to Rule 6760 to report to FINRA a number of additional data elements for new issues in corporate debt securities before the first transaction in the security. The Proposal also specifies that FINRA would disseminate this corporate bond new issue reference data upon receipt of it.

¹ Securities Exchange Act Release No. 85488 (April 2, 2019), 84 FR 13977 (April 8, 2019) (Notice of Filing of File No. SR-FINRA-2019-008) (“Proposal”). On July 1, 2019, the Commission issued an order instituting proceedings to determine whether to approve or disapprove the Proposal. See Securities Exchange Act Release No. 86256 (July 1, 2019), 84 FR 32506 (July 8, 2019).

The Commission received twenty-six comment letters on the Proposal from fourteen commenters.² Nine of the commenters supported the Proposal or its overall goals.³ However, several of these commenters raised questions about the Proposal's implementation or impacts. In addition, five commenters opposed the Proposal.⁴ The following are FINRA's responses, by topic, to the issues the commenters raised. In addition, FINRA submitted a Partial Amendment No. 2 on October 3, 2019, to amend the Proposal where appropriate in response to comments.⁵

² See Letters to Commission from Gregory Babyak, Global Head of Regulatory Affairs, Bloomberg L.P., dated April 29, 2019 ("Bloomberg Letter I"), July 1, 2019 ("Bloomberg Letter II"), July 29, 2019 ("Bloomberg Letter III"), and October 24, 2019 ("Bloomberg Letter IV"); Tom Quaadman, Executive Vice President, U.S. Chamber of Commerce's Center for Capital Markets Competitiveness, dated April 29, 2019 ("Chamber Letter I"), July 29, 2019 ("Chamber Letter II"), and October 24, 2019 ("Chamber Letter III"); John Plansky, Executive Vice President and Chief Executive Officer, Charles River Development, dated May 24, 2019 ("Charles River Letter"); John L. Thornton, Co-Chair, Hal S. Scott, President, and R. Glenn Hubbard, Co-Chair, Committee on Capital Markets Regulation, dated July 25, 2019 ("Committee on Capital Markets Regulation Letter I") and October 22, 2019 ("Committee on Capital Market Regulation Letter II"); Cathy Scott, Director, Fixed Income Forum on behalf of The Credit Roundtable, dated April 29, 2019 ("Credit Roundtable Letter"); SEC FIMSAC, dated June 11, 2019 ("FIMSAC Letter"); Larry Harris, Fred V. Keenan Chair in Finance, U.S.C. Marshall School of Business, dated May 17, 2019 ("Harris Letter"); Tyler Gellasch, Executive Director, Healthy Markets Association, dated April 29, 2019 ("Healthy Markets Letter I"), July 29, 2019 ("Healthy Markets Letter II"), and October 25, 2019 ("Healthy Markets Letter III"); David R. Burton, Senior Fellow in Economic Policy, The Heritage Foundation, dated April 29, 2019 ("Heritage Foundation Letter I"), July 29, 2019 ("Heritage Foundation Letter II"), and October 23, 2019 ("Heritage Foundation Letter III"); Marshall Nicholson and Thomas S. Vales, ICE Bonds, dated April 29, 2019 ("ICE Bonds Letter"); Lynn Martin, President and COO, ICE Data Services, dated April 29, 2019 ("ICE Data Letter"); Salman Banaei, Executive Director, IHS Markit, dated April 29, 2019 ("IHS Markit Letter"); Christopher B. Killian, Managing Director, SIFMA, dated April 29, 2019 ("SIFMA Letter I"), July 29, 2019 ("SIFMA Letter II"), and October 24, 2019 ("SIFMA Letter III"); and Larry Tabb, TABB Group, dated May 15, 2019 ("Tabb Letter").

³ See Charles River Letter, Credit Roundtable Letter; FIMSAC Letter; Harris Letter; ICE Bonds Letter; ICE Data Letter; IHS Markit Letter; SIFMA Letters I and II; and Tabb Letter.

⁴ See Bloomberg Letters I, II, III, and IV; Committee on Capital Markets Regulation Letters I and II; Chamber Letters I, II, and III; Healthy Markets

Discussion

Regulatory Need for the Proposal

Four commenters raised questions about the regulatory need for the Proposal. One commenter agreed the Proposal would likely provide benefits to the market but questioned whether FINRA sufficiently explained the regulatory need with supporting data and analysis.⁶ Three commenters generally stated that there is not a market failure in need of regulatory intervention but rather a functioning, competitive market for new issue reference data.⁷ For example, Bloomberg stated that market participants can receive new issue reference data from a number of private data providers and asserted there is no evidence that market participants do not have readily available access to such data.⁸ Bloomberg further offered its own analysis of secondary market trading in corporate bond new issues on electronic alternative trading systems (“ATSS”) to counter the Proposal’s discussion of limited trading opportunities on electronic platforms that did not have reasonable access to new issue reference data.⁹

FINRA believes the record provides ample support for the Proposal. Specifically, FINRA’s filing included a detailed economic impact assessment with a discussion of regulatory need. FINRA’s filing also referred to and incorporated the robust public record that supported the unanimously-approved FIMSAC recommendation. Additionally, the Proposal’s regulatory need is further reinforced by strong support from a number of commenters in response to the filing. However, in

Letters I, II and III; and Heritage Foundation Letters I, II, and III.

⁵ Due to a technical error in Partial Amendment No. 1, FINRA filed Partial Amendment No. 2, which is identical in substance to Partial Amendment No. 1. The SEC has published notice of Partial Amendment No. 2 and solicited comments on it. See Securities Exchange Act Release No. 87225 (October 4, 2019), 84 FR 54712 (October 10, 2019).

⁶ See Healthy Markets Letter I at 4-5; Healthy Markets Letter II at 4-5.

⁷ See Chamber Letter I at 2 and Chamber Letter II at 2; Heritage Foundation Letter I at 2 and Heritage Foundation Letter II at 1-2; Bloomberg Letter I at 9-15, Bloomberg Letter II at 2-6, and Bloomberg Letter III at 5-11.

⁸ See Bloomberg Letter I at 12; Bloomberg Letter II at 4; Bloomberg Letter III at 5. Bloomberg stated further that to the extent a trading platform had difficulty accessing new issue reference data, that would represent “a narrow commercial issue between two parties, not a market-structure problem justifying one-size-fits-all regulatory intervention.” Bloomberg Letter III at 5.

⁹ See Bloomberg Letter I at 12-13; Bloomberg Letter II at 5; and Bloomberg Letter III at 6-7.

response to the questions raised by the four commenters noted above, FINRA is providing further elaboration here.

As discussed in FINRA's filing, the Proposal was informed by outreach to eleven market participants—four data providers, three underwriters, two trading platforms, and two clearing firms—which FINRA believes demonstrated a regulatory need for consistent, uniform, and timely corporate bond new issue reference data.¹⁰ According to this outreach, there is not currently consistent collection of new issue reference data according to established data standards, nor is there uniform distribution of the data to market participants in a timely manner. For example, FINRA noted the experience of one trading platform that stated its reference data provider would only provide data relating to new issues the morning after issuance, which resulted in the firm's clients not being able to trade new issues on the platform on the first day of trading.¹¹ FINRA further discussed comments it received during outreach from data vendors concerning the differences among vendors in their access to corporate bond new issue reference data.¹²

The Proposal identified a number of problems that were raised during outreach that result from the lack of accurate, complete and timely corporate bond new issue reference data. Specifically, the Proposal noted that limited new issue reference data may prevent traders from identifying and evaluating newly issued bonds for trading, particularly small traders that cannot afford multiple data vendor subscriptions, and it may prevent electronic trading platforms from making newly issued corporate bonds available to trade. Further, the Proposal observed that for trading platforms, clearing firms and electronic trading platforms, inaccurate reference data creates inconsistencies in trading and the settlement process and increases transaction costs.¹³

In its letters raising questions about the regulatory need for the Proposal, Bloomberg referred to recent precedent that stated that the SEC may not place unquestioning reliance on representations or "mere assertions" in an SRO filing.¹⁴ In this case, the Proposal provides far more than mere representations and is based on evidence FINRA received from market participants and analyzed in the filing. In addition, the Proposal is further based on the public record supporting the unanimous FIMSAC recommendation.

¹⁰ See Proposal, 84 FR at 13980-81.

¹¹ See id. at 13980 n.17.

¹² See id. at 13981.

¹³ See id. at 13980.

¹⁴ See, e.g., Bloomberg Letter III at 2.

When the FIMSAC recommendation was introduced for discussion on the public record at a FIMSAC meeting, the chair of the subcommittee that developed the recommendation stated that “there are indeed gaps in corporate bond fixed income reference data, both in the timing of when that data is available with different reference data providers, as well as sometimes the accuracy.”¹⁵ This point was supported by the statements of several panelists who participated in the FIMSAC meeting. For example, one panelist from a data provider stated that “there are some market anomalies where some of the vendors have access to information much earlier than other vendors,” and “that creates basically competitive advantage on certain platforms.”¹⁶ Another panelist from an investment management firm noted “cases where a new issue does take time to get set up on some of [the investment firm’s] electronic trading platforms, and that means that we can’t necessarily go and use those electronic trading platforms right away.”¹⁷ These statements are inconsistent with a well-functioning, competitive market that some commenters suggest exists in this space.

Furthermore, since the Proposal was filed, there have been a number of comments that provide additional evidence of regulatory need. Harris, ICE Bonds, ICE Data, and Charles River all noted issues today with the availability, completeness, and timeliness of new issue reference data.¹⁸ The FIMSAC also submitted a supplemental letter to provide additional support for its initial recommendation and the Proposal. In its supplemental letter, the FIMSAC stated that research “indicated that the immediate trading of newly issued bonds is hampered by the lack of broad distribution of the required data fields—either because underwriters have a historic practice of providing new issue data to one data provider over others or because leading data providers can restrict access to some market participants that would otherwise license their reference data.”¹⁹ The FIMSAC Letter observed that “some of the leading e-trading venues are not able to offer trading in newly issued bonds on a timely basis, harming liquidity and competition in the corporate bond market.”²⁰

¹⁵ See Transcript of FIMSAC Meeting (October 29, 2018), available at <https://www.sec.gov/spotlight/fixed-income-advisory-committee/fimsac-102918transcript.txt>, at 65.

¹⁶ See *id.* at 78.

¹⁷ See *id.* at 84.

¹⁸ See Harris Letter at 2; ICE Bonds Letter at 1-2; ICE Data Letter at 1-2; Charles River Letter at 2.

¹⁹ See FIMSAC Letter at 2.

²⁰ See *id.* ICE Bonds similarly stated that “ATS platforms today do not have access to this data despite their regulatory status,” and that “[t]his information asymmetry puts ATS platforms at a disadvantage and negatively impacts investor price discovery, trading availability and hence execution quality by

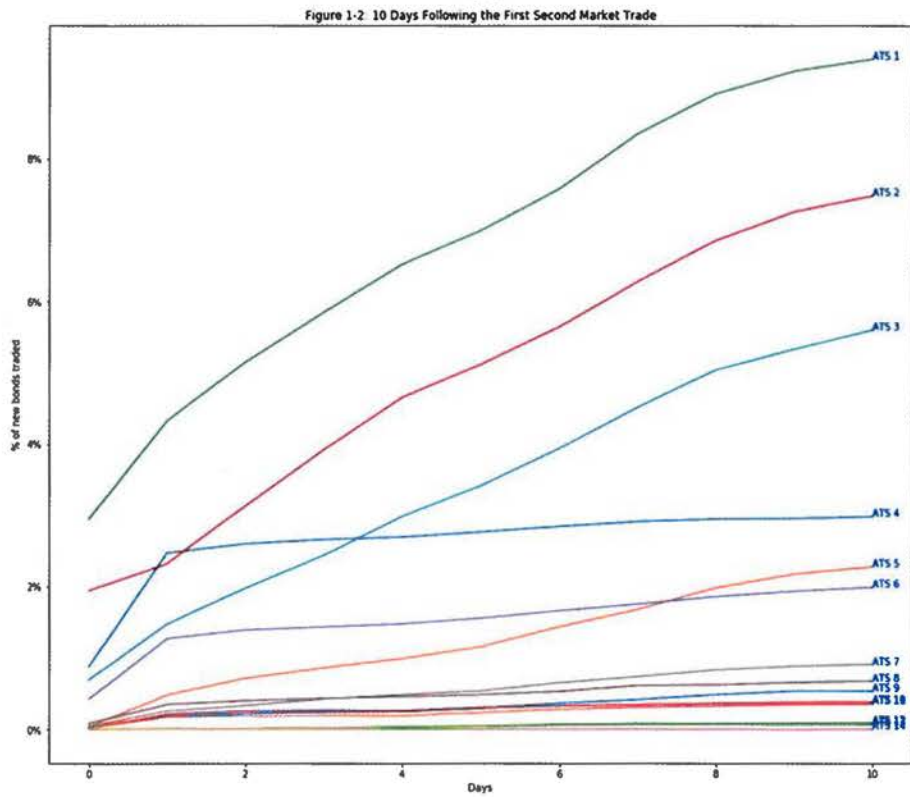
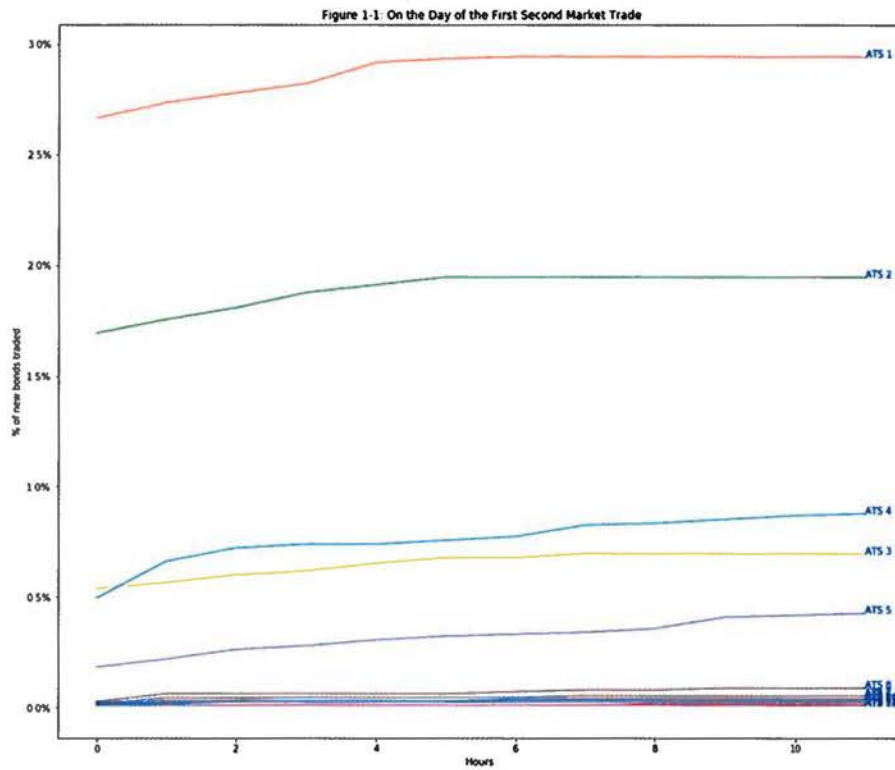
FINRA has also conducted additional data analysis of the issues raised in the Proposal and comments. FINRA believes this analysis suggests that the problematic market conditions described by FIMSAC participants and commenters is consistent with corporate bond transactional data reported to FINRA's Trade Reporting and Compliance Engine (TRACE). The figures below examine the time lapse between the first secondary market trade reported to TRACE and the first trade reported by ATSS for newly issued corporate bonds in 2018. Persistent lags between the first reported trades and first reported ATS trades suggest that some ATSS may not be receiving reference data in a timely fashion to allow them to begin trading. While ATSS represent one type of market participant discussed in the Proposal with a need for timely and accurate corporate bond new issue reference data, FINRA believes this analysis helps illustrate the potential impact of overall information asymmetry that the Proposal is intended to address.

Specifically, the figures below plot the percentage of newly issued corporate bonds that started to trade on fixed income ATSS against the time relative to the bonds' first secondary market trade for different time horizons.²¹ For the first day of trading in corporate bond new issues, represented in Figure 1-1, an ATS traded at most 3% of the 11,518 newly issued bonds. Over the subsequent 10 days after issuance, represented in Figure 1-2, ATSS represented an increasing percentage of trading. Figure 1-2 shows particularly sharp increases in trading for some ATSS between the first and second days of trading. These figures, taken together, suggest that some ATSS may have been delayed when setting up new issues to trade on their platforms. With this analysis, which is consistent with the evidence of regulatory need cited in the Proposal, at the FIMSAC meeting, and by commenters, FINRA believes there is more than a sufficient basis in the record for the Proposal.

ATS and other electronic trading platform participants." See ICE Bonds Letter at 2.

²¹ FINRA used generic ATS identifiers for purposes of these figures, as public TRACE data does not identify specific ATSS involved in a trade.

Figure 1: Start of Trading Newly Issued Bonds on ATs



Competitive Impacts of the Proposal

FINRA stated in its filing that the proposed corporate bond new issue reference data service “will promote competition in general while ensuring the essential functioning of the bond market by providing accurate and timely data for pricing and trading of corporate bonds.” In particular, the Proposal noted that “[t]he proposed service may increase competition among data providers” by, among other things, lowering barriers to entry and allowing data providers to “compete on other dimensions, such as presentation, ease of access, integration with other data, supplementary fields and other value-added services.”²²

Five commenters agreed that the Proposal would deliver such benefits. For example, Harris stated that, rather than displacing reference data vendors, the Proposal “simply lowers their research costs, which will promote competition by decreasing entry costs for new entrants.” Harris concluded that “[t]he lower research costs and the potential for additional competition both should lower the costs of their products to end users.”²³ The FIMSAC reiterated that the Proposal “will not displace or reduce private sector competition.”²⁴ ICE Data echoed that position from the data vendor perspective, similarly commenting that the Proposal would “level the playing field for all investors, trading platforms and reference data providers” and “benefit the industry and investors by enhancing market transparency, potentially aiding liquidity, reducing trading costs, and lowering the cost of capital for issuers.”²⁵ Charles River added that “[b]y providing market participants with direct access to new issuance reference data, the proposed service will reduce overall costs, while permitting third party vendors to retransmit and repackaging the reference data for market participants who may opt for this service.”²⁶

However, five commenters raised questions about the competitive impacts of the Proposal.²⁷ These commenters generally articulated similar concerns about the

²² See Proposal, 84 FR at 13982.

²³ See Harris Letter at 4.

²⁴ See FIMSAC Letter at 3.

²⁵ See ICE Data Letter at 1-2 (stating further that “timely dissemination of reference data will help improve the timeliness and accuracy of benchmark indices that seek to measure these markets and improve consistency across different market indices”).

²⁶ See Charles River Letter at 2.

²⁷ See Bloomberg Letter I at 2-3 and 16-18, Bloomberg Letter II at 6, and Bloomberg Letter III at 8-11; Chamber Letter I at 2 and Chamber Letter II at 4; Healthy Markets Letter II at 5-6; Heritage Foundation Letter at 1 and Heritage

Proposal's potential to distort private competition in the market for reference data services by creating a government-mandated monopoly.²⁸ These commenters also asserted that it was not clear whether FINRA intended the Proposal to advance regulatory or commercial objectives. In addition, these commenters shared their view that consolidating the collection and dissemination of new issue reference data would create a single point of failure and ultimately reduce data quality.

As discussed in the Proposal, the proposed data service is not designed to affect the opportunity for private third market vendors to compete on their abilities to enhance the data's value. Instead, the Proposal is intended to promote competition by lowering the barrier to entry for new reference data providers. The proposed data service will provide only the basic fields necessary for trading and settling newly issued corporate bonds. It would not inhibit reference data vendors' ability to redistribute the data with supplementary fields and other value-added services. FINRA believes that the service will promote competition by allowing more reference data providers to enter the market and compete on other dimensions, such as additional fields, updates to existing fields based on subsequent events concerning a security, presentation, ease of access and integration to other data or metrics deemed valuable by market participants.

With respect to commenters' questions about whether FINRA intends the Proposal to advance regulatory or commercial objectives, FINRA is a not-for-profit registered securities association. Accordingly, FINRA is charged under Section 15A of the Exchange Act with a number of responsibilities that include, among others, developing rules that are designed to foster cooperation and coordination with persons engaged in clearing, settling, processing and facilitating transactions in securities.²⁹ In

Foundation Letter II at 3; Tabb Letter at 2-3.

²⁸ Bloomberg also asserted that the Proposal would "result in the further entrenchment of the monopoly enjoyed by the administrators of CUSIP and ISIN" by "further extend[ing] the CUSIP mandate and embed ISIN in the FINRA rulebook." See Bloomberg Letter I at 17; see also Bloomberg Letter III at 11. Because current Rule 6760 already requires underwriters to report a CUSIP number or a similar numeric identifier (e.g., CINS) if a CUSIP number is not available, FINRA does not believe this element of the Proposal requires new economic impact analysis.

²⁹ Section 15A(b)(6) of the Exchange Act provides that "[t]he rules of the association are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest;"

light of this mandate, the collection, consolidation and dissemination of fundamental security information is not a novel role for a registered securities association, and FINRA routinely provides other types of basic security information to the marketplace to, among other things, facilitate the clearing and settlement of securities and improve transparency—an outcome that inures to the benefit of investors and contributes to the strength and quality of the securities markets.

Moreover, FINRA, as a non-profit registered securities association and self-regulatory organization, does not intend to compete with or displace any private data vendor and did not initiate the Proposal for commercial benefit. Rather, FINRA submitted the Proposal in response to a specific recommendation and regulatory need identified by the FIMSAC.³⁰ The Proposal is designed to achieve a clear regulatory objective—to provide more timely and accurate consolidation and dissemination of key corporate bond new issue reference data—that received unanimous support from the FIMSAC and additional support from the comments cited above. FINRA provided a detailed analysis of the Proposal’s anticipated costs and benefits in its filing with the SEC, and FINRA clearly stated that the proposed new issue reference data service was modeled as a regulatory utility. Thus, we believe that, not only is the proposed establishment of a corporate bond new issue reference data service not “inconsistent” with the Exchange Act, it fits squarely within the scope of FINRA’s affirmative regulatory authority.

Finally, while FINRA acknowledged in its filing that the Proposal may create a potential single point of failure, FINRA continues to believe that any concerns about the risks of consolidation do not outweigh its benefits. FINRA noted in its filing that vendors are likely to continue collecting corporate bond new issue reference data and received comments in support of this point, including from a data vendor, discussed above. However, several commenters expressed concern about the risk of consolidating the proposed corporate bond new issue reference data service with FINRA and referred to an analysis that discussed purported discrepancies with current TRACE new issue data, as compared to a vendor’s data.³¹ FINRA believes there is key information missing from the analysis that these commenters rely on. To start, it is not clear what TRACE data was used for the analysis, and it is also not clear which

³⁰ Several commenters expressed particular concern about the potential competitive impact of FINRA expanding the proposed corporate bond new issue reference data service to include other debt products. See, e.g., Bloomberg Letter I at 16. Those comments are not germane to this filing, as FINRA is not proposing to expand the Proposal to include other debt products, and it does not have any current plans to do so. FINRA was simply noting that it might study the issue in the future based on implementation of the Proposal, should the Proposal be approved, and any such expansion would necessarily be the subject of a separate rule filing for notice and comment.

³¹ See Bloomberg Letter II at 6, 8-10; Chamber Letter II at 4; Healthy Markets Letter at 5.

point in time during the trading day was used to compare TRACE data with the vendor's data. Moreover, the analysis does not explain which of the two sources were deemed accurate (it only references "reconciliation differences"), or whether the differences included cases where data was not present yet in either system.

Without this detail, it is difficult for FINRA to provide a meaningful response to the analysis. Based on its own review of TRACE and the same vendor's data, FINRA found different results, including a significant number of instances where FINRA received data not yet available from the vendor.³² However, even if the analysis were accepted on its face, FINRA notes it would expect substantially fewer reconciliation differences if the Proposal is approved. FINRA believes a number of the differences found in the analysis may have resulted from data fields that are not currently system-validated. These fields would become system-validated under the Proposal, as FINRA would employ systemic and operational checks for all of the data fields in the corporate bond new issue reference data to determine if any fields are either missing or not conforming to expected format or standards at the time of submission. Accordingly, FINRA does not believe the analysis is indicative of the accuracy of the proposed corporate bond new issue reference data service.

Fees

The Proposal contemplated a cost-based fee structure designed to promote broad access and redistribution of the corporate bond new issue reference data. Specifically, FINRA proposed to make the data available to any person or organization for \$250 per month for internal purposes only, and for a fee of \$6,000 per month for unlimited redistribution rights. Healthy Markets commended FINRA for proposing unlimited redistribution rights "to allow for greater dissemination of this important data, without unreasonable, overly burdensome, and anti-competitive barriers."³³ However, seven commenters raised questions about the proposed fees.³⁴

As noted above and in further detail in the Proposal, FINRA designed the proposed fee structure to further competition by offering efficient access to the data and by supporting innovation in the redistribution of the data. However, based on questions raised in the comments, FINRA is further evaluating the appropriate fee

³² For example, during a one-week sample review period, FINRA found that approximately half of its Rule 6760 submissions were not available on the vendor's system at the time FINRA received the information.

³³ See Healthy Markets Letter I at 6.

³⁴ See Bloomberg Letter I at 6-9, Bloomberg Letter II at 7, and Bloomberg Letter III at 2-3; Chamber Letter I at 3-4 and Chamber Letter II at 2; Committee on Capital Markets Regulation Letter I at 2-3; Harris Letter at 7; Healthy Markets Letter I at 5-6 and Healthy Markets Letter II at 3-4; Heritage Foundation Letter II at 2; SIFMA Letter I at 3-4 and SIFMA Letter II at 1-2.

structure for the proposed data service and withdrew the proposed fees from the current filing with Partial Amendment No. 2. FINRA will submit a separate filing to establish fees related to the new issue reference data service and will implement the service after those fees are adopted.³⁵

Data Fields

The Proposal specified a number of data fields, in addition to those already required to be reported under Rule 6760, which underwriters would be required to report prior to the first transaction for new issues in corporate bonds. As discussed in detail in the Proposal, FINRA proposed these data fields based on the FIMSAC recommendation and FINRA's supplemental industry outreach. ICE Data stated that it supports the inclusion of all data fields specified in the Proposal, and Harris commented that FINRA "chose the fields wisely."³⁶ Healthy Markets similarly stated that it "do[es] not disagree with the selection of [the Proposal's] data fields, and agree[s] that many, if not all of these fields may provide potentially relevant information for trading corporate bonds."³⁷ However, Healthy Markets asserted that FINRA did not provide sufficient rationale for its selection of these data fields.

The FIMSAC responded to this comment by including additional rationale for the data fields in the Proposal.³⁸ FINRA agrees with the FIMSAC's additional explanation, and with Partial Amendment No. 2, FINRA incorporated it into the list of proposed data fields provided in Exhibit 3 of the Proposal. FINRA also included additional detail in its amended Exhibit 3 as needed in response to several comments that requested clarification of certain data fields.³⁹ FINRA recognizes that SIFMA has

³⁵ After notice of Partial Amendment No. 2 was published, several commenters questioned whether FINRA was withdrawing fees from the current Proposal to avoid subjecting the fees to further public comment. See Bloomberg Letter IV at 6-9; Chamber Letter III at 2; Committee on Capital Markets Regulation Letter II at 2-3; Healthy Markets Letter III at 2; and SIFMA Letter III at 4. This is plainly not the case. Any new fee will be filed with the SEC in advance of the corporate bond new issue reference data service implementation and, as with any other fee, will be subject to applicable SEC rule filing requirements under the Exchange Act.

³⁶ See ICE Data Letter at 2; Harris Letter at 6. According to Harris, the proposed data fields are sufficient to value most bonds.

³⁷ See Healthy Markets Letter I at 6.

³⁸ See FIMSAC Letter at 2-3 and Schedule A.

³⁹ See FIMSAC Letter at 14; ICE Data Letter at 2-3; SIFMA Letter I at 3 and SIFMA Letter II at 2. In particular, FINRA has provided additional guidance to clarify that the ratings data field does not require reporting specific ratings, but instead whether the security is Investment Grade or Non-Investment Grade,

requested further clarification of several data fields;⁴⁰ FINRA believes this request can be addressed with guidance provided in the customary course of new rule implementation, and FINRA would continue to engage with market participants as required to provide such guidance.

In addition, the FIMSAC suggested adding six new fields—specifically, first conversion date (the date when a bond can first be converted to equity, if applicable); first conversion ratio (the number of shares into which each convertible bond can be converted); spread (used to calculate the coupon for floating rate securities); reference rate (benchmark of a floating rate bond); floor (the lowest allowable rate for a bond’s coupon); and underlying (to correspond to the bond’s corporate identifier). FINRA agrees that these six new fields are appropriate to include in the Proposal as they are important for settlement and valuation of floating rate notes and convertible bonds, and FINRA added them to Exhibit 3 with Partial Amendment No. 2.⁴¹ FINRA also believes these six new fields would not materially increase the costs of the Proposal on underwriters.⁴²

as those terms are defined in Rule 6710. FINRA has also clarified the information to be reported for the security type, first coupon period type, minimum increment, and minimum piece/denomination data fields.

⁴⁰ See SIFMA Letter III at 2-3.

⁴¹ The FIMSAC also recommended combining two sets of data fields included in the Proposal. FINRA agrees on the first set and has marked the Amended Exhibit 3 to reflect that the maturity and perpetual maturity indicator fields will be tied together as combined fields for purposes of reporting the information, although they remain noted in Exhibit 3 as separate data fields to reflect that FINRA included the perpetual maturity indicator field based on its industry outreach. For the second recommended combination—combining the 144A Eligible and Regulation S indicator fields into a single “Series” field—FINRA believes it will be easier operationally to maintain the separate fields as proposed to limit potential confusion about other security offering types or issuances that may meet more than one offering type.

⁴² Two commenters questioned whether the six new fields added with Partial Amendment No. 2 would increase costs on underwriters. See Bloomberg Letter IV at 5 n.10; and Chamber Letter III at 2. As FINRA discussed in the Proposal, “[b]ased on conversations with underwriters, FINRA understands that underwriters do not anticipate incurring significant costs for reporting under this proposal.” See Proposal, 84 FR at 13982. FINRA believes that the six new fields added with Partial Amendment No. 2 reflect only a modest increase in the data underwriters would report under the Proposal, and FINRA notes that it has not received any comments from underwriters concerning costs.

Reporting Process and Timeline

Under the Proposal, underwriters subject to Rule 6760 would be required to submit all of the corporate bond new issue reference data fields prior to the first transaction in a security. FINRA noted in the Proposal that it alternatively considered a phased reporting approach, with certain core data fields required to be reported prior to the first transaction and an extended 60-minute window for remaining data fields.

SIFMA and The Credit Roundtable expressed concern about the burdens the proposed reporting timeline would place on underwriters.⁴³ SIFMA instead supported the alternative phased reporting timeline discussed in the Proposal. On the other hand, ICE Bonds and ICE Data supported the proposed pre-first trade timeline for data submission. Both discussed the need for timely distribution of the data, and ICE Bonds in particular stated “it is critical for the rule to establish conditions that allow ATS providers to access the data required to trade and settle a transaction in a new issue corporate bond prior to the start of secondary market trading.”⁴⁴

FINRA agrees it is important to maintain the Proposal’s pre-first transaction reporting requirement. As discussed in the Proposal, FINRA continues to believe that on balance, the significant benefits of requiring all data fields to be reported pre-first trade outweigh the additional burdens on underwriters. The purpose of the pre-first trade requirement is to facilitate the collection and dissemination of all proposed new issue reference data fields before secondary trading in a security begins. To this end, in response to commenters that requested clarification on what the term “first transaction” means, FINRA notes that it means the time of execution of the first transaction of the offering (*i.e.*, the time of execution for the first reported primary transaction in the security), as specified currently in Rule 6760.⁴⁵

Finally, IHS Markit requested that FINRA clarify the process for underwriters to correct erroneously reported data, and SIFMA stated that FINRA should make the data submission process more dynamic, for example with an Application Programming Interface (“API”), the ability to auto-populate fields, the ability to upload multiple tranches at once, and the ability to edit or correct information.⁴⁶ If the Proposal is approved, FINRA will continue to engage with market participants on the appropriate business requirements for the reporting process. In addition, FINRA intends to implement functionality to allow for underwriters to correct previously

⁴³ See SIFMA Letter I at 1-2; Credit Roundtable Letter at 1.

⁴⁴ See ICE Bonds Letter at 2.

⁴⁵ FINRA believes this position is consistent with the recommendation from ICE Data to provide clarification for the term “first transaction” consistent with MSRB Rule G-34. See ICE Data Letter at 2.

⁴⁶ See IHS Markit Letter at 2-3; SIFMA Letter I at 2, SIFMA Letter III at 2.

submitted data to FINRA for a significant period after receiving the initial Rule 6760 submission. FINRA also may take a phased approach to implementation to promote compliance and data accuracy, where FINRA would make the reporting requirements effective for a brief time period to analyze and evaluate the accuracy of the reported data before implementing dissemination of the data.

FINRA believes that the foregoing responds to the material issues raised by comments on the Proposal. If you have any questions, please contact me at [REDACTED] or [REDACTED].

Sincerely,

/s/ Alexander Ellenberg

Alexander Ellenberg
Associate General Counsel