

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-63709; File No. SR-FINRA-2011-001)

January 12, 2011

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Provide Additional Time to Report Certain Reportable TRACE Transactions and Waive Certain Transaction Reporting Fees

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 4, 2011, the Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as “establishing or changing a due, fee or other charge” under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to provide additional time (until February 28, 2011) for members to trade report certain TRACE transactions and waive transaction reporting fees concomitant with such transactions reported by that date. The proposed rule change would not make any change to the text of FINRA rules.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

The proposed rule change is available on FINRA's website at <http://www.finra.org>, at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

On September 28, 2009, the SEC approved SR-FINRA-2009-010<sup>5</sup> which, among other things, amended the FINRA Rule 6700 Series to: (1) expand TRACE to include Agency Debt Securities<sup>6</sup> as TRACE-Eligible Securities<sup>7</sup> and primary market transactions as Reportable TRACE Transactions;<sup>8</sup> (2) delete the criterion that TRACE-Eligible Securities must be "depository eligible securities under NASD Rule 11310(d)," effectively introducing TRACE reporting obligations for securities not assigned a common industry recognized identifier ("CUSIP"); and (3) require members to report transactions in Agency Debt Securities and

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<sup>5</sup> See Securities Exchange Act Release No. 60726 (September 28, 2009), 74 FR 50991 (October 2, 2009) (Order Approving File No. SR-FINRA-2009-010).

<sup>6</sup> See Rule 6710(l) for the definition of "Agency Debt Security."

<sup>7</sup> See Rule 6710(a) for the definition of "TRACE-Eligible Security."

<sup>8</sup> Rule 6710 (Definitions) provides that "Reportable TRACE Transaction" means any transaction in a TRACE-Eligible Security except transactions that are not reported as specified in Rule 6730(e). See FINRA Rule 6710(c).

primary market transactions. This rule change to the FINRA Rule 6700 Series, as amended, became effective on March 1, 2010.<sup>9</sup>

Due to operational and technical challenges introduced by trade reporting in securities not assigned a CUSIP, changes were needed to firms' processes as well as to the TRACE system to facilitate TRACE trade reporting for those securities. TRACE-related changes were implemented by FINRA on December 1, 2010. FINRA is filing this proposed rule change to provide limited relief from the new TRACE trade reporting requirements (and transaction reporting fee obligations) for those Reportable TRACE Transactions in securities not identified by a CUSIP effected from March 1, 2010 (the effective date of SR-FINRA-2009-010) through November 30, 2010 ("Covered Reportable TRACE Transactions"). FINRA is providing additional time (until February 28, 2011) for members to trade report Covered Reportable TRACE Transactions and waiving transaction reporting fees concomitant with such transactions reported by that date.<sup>10</sup>

FINRA has filed the proposed rule change for immediate effectiveness. The operative date will be the date of filing.

## 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,<sup>11</sup> which requires, among other things, that FINRA rules provide for the

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<sup>9</sup> See Regulatory Notice 09-57 (September 29, 2009) (SEC Approves Amendments Expanding TRACE to Include Agency Debt Securities and Primary Market Transactions).

<sup>10</sup> Specifically, members will not be required to pay a Trade Reporting Fee or "As Of" Trade Late Fee under Rule 7730(b) (Transaction Reporting Fees) with respect to Covered Reportable TRACE Transactions if such transactions are reported to TRACE by February 28, 2011.

<sup>11</sup> 15 U.S.C. 78o-3(b)(5).

equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls.

FINRA believes that the proposed rule change is appropriate in recognition of the operational and technical challenges introduced by trade reporting in securities not assigned a CUSIP. Therefore, delaying members' trade reporting obligations until February 28, 2011 for Covered Reportable TRACE Transactions and waiving the transaction reporting fees applicable to such transactions provides a balanced resolution while requiring that all Covered Reportable TRACE Transactions are ultimately reported to FINRA.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder,<sup>13</sup> because it establishes a due, fee, or other charge imposed on its members by FINRA.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(2).

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2011-001 on the subject line.

##### Paper Comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2011-001. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the

Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FINRA-2011-001 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

Elizabeth M. Murphy  
Secretary

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<sup>14</sup> 17 CFR 200.30-3(a)(12).