

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-83098; File No. SR-FINRA-2018-014)

April 24, 2018

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Temporary Exception that Permits Aggregate Reporting for Certain ATS Transactions in U.S. Treasury Securities

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 April 16, 2018, Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. 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 amend FINRA Rule 6730 (Transaction Reporting) to provide an extension of the temporary exception to permit member alternative trading systems (“ATSs”) and member subscribers to report aggregate trade information to TRACE for certain transactions in U.S. Treasury Securities.

The text of 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

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

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

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

FINRA Rule 6730 sets forth a member’s trade reporting obligations with regard to transactions in TRACE-Eligible Securities,<sup>3</sup> which beginning on July 10, 2017, included U.S. Treasury Securities.<sup>4</sup> Pursuant to Rule 6730, each FINRA member that is a “Party to a Transaction”<sup>5</sup> in a TRACE-Eligible Security is obligated to report the transaction to TRACE within the prescribed period of time. Transaction information in U.S. Treasury Securities reported to TRACE currently is not subject to public dissemination.

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<sup>3</sup> “TRACE-Eligible Security” generally is defined as a debt security that is U.S. dollar-denominated and is: (1) issued by a U.S. or foreign private issuer, and, if a “restricted security” as defined in Securities Act Rule 144(a)(3), sold pursuant to Securities Act Rule 144A; (2) issued or guaranteed by an Agency as defined in paragraph (k) or a Government-Sponsored Enterprise as defined in paragraph (n); or (3) a U.S. Treasury Security as defined in paragraph (p). “TRACE-Eligible Security” does not include a debt security that is issued by a foreign sovereign or a Money Market Instrument as defined in paragraph (o). See Rule 6710(a).

Rule 6710(p) defines a “U.S. Treasury Security” as “a security, other than a savings bond, issued by the U.S. Department of the Treasury to fund the operations of the federal government or to retire such outstanding securities.” The term “U.S. Treasury Security” also includes separate principal and interest components of a U.S. Treasury Security that has been separated pursuant to the Separate Trading of Registered Interest and Principal of Securities (“STRIPS”) program operated by the U.S. Department of Treasury. See Rule 6710(p).

<sup>4</sup> See Securities Exchange Act Release No. 79116 (October 18, 2016), 81 FR 73167 (October 24, 2016) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of File No. SR-FINRA-2016-027). See also Regulatory Notice 16-39 (October 2016).

<sup>5</sup> See Rule 6710(e).

On June 23, 2017, FINRA filed a proposed rule change to, on a temporary basis, adopt Supplementary Material .06 (Temporary Exception for Aggregate Transaction Reporting of U.S. Treasury Securities Executed in ATS Trading Sessions) to permit members to report trades that occurred in a U.S. Treasury Security executed within discrete ATS trading sessions<sup>6</sup> (sometimes referred to as “work-up sessions”)<sup>7</sup> on an aggregate, rather than individual, basis (“Aggregation Exception”).<sup>8</sup>

The Aggregation Exception provides relief to members with respect to the number of transactions required to be reported, the price reported, as well as the Time of Execution<sup>9</sup> reported to TRACE. Specifically, the exception provided that ATSS and member subscribers are permitted to report transactions in U.S. Treasury Securities executed within discrete trading sessions by submitting a transaction report reflecting the aggregate amount of a U.S. Treasury Security purchased (sold) to another party during a single trading session at the average price of

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<sup>6</sup> FINRA understands that ATSS that permit subscribers to trade U.S. Treasury Securities on their platforms may permit subscribers to initiate a “trading session,” which is a discrete or timed order-matching event during which one or more additional subscribers can interact with the original order on the opposite side of the market or add to the initial order on the same side of the market. Although it is possible that some trading sessions involve a single transaction between two counterparties like a typical trade, FINRA understands that most trading sessions include multiple participants on one or both sides of the market during the time period the trading session is open.

<sup>7</sup> Different members use varying nomenclature to describe trading sessions. For example, one member ATS refers to these sessions as “workups” or “workup sessions.” In addition, the length of time a session remains open and other characteristics of how a session is structured may change from member to member. As used in the proposed rule change, the term “trading session” is meant to capture all variations of such types of sessions that member ATSS may use.

<sup>8</sup> See Securities Exchange Act Release No. 81018 (June 26, 2017), 82 FR 29956 (June 30, 2017) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2017-023) (“Original Filing”).

<sup>9</sup> Under Rule 6710(d), the “Time of Execution” for a transaction in any TRACE-Eligible Security means “the time when the Parties to a Transaction agree to all of the terms of the transaction that are sufficient to calculate the dollar price of the trade.”

such transactions, with the Time of Execution communicated by the ATS,<sup>10</sup> irrespective of the number of trades in the trading session. The Aggregation Exception was intended to provide members with additional time to complete the systems changes necessary to accurately report each individual transaction in a U.S. Treasury Security in the trading session as required by Rule 6730.<sup>11</sup> Once the temporary exception sunsets, member ATSS and member subscribers are required to comply with Rule 6730 by separately reporting each individual trade that occurs during a trading session as well as the actual time and price at which each of these individual trades is executed.

FINRA understands from discussions with multiple member ATSS that are active in the market for U.S. Treasury Securities that the systems changes necessary to comply with Rule 6730 will require substantial development and testing to complete and that, further, the systems changes required by subscriber members also are significant and cannot be completed by July 10, 2018. While we understand that member ATSS have begun the development work necessary to report individual execution information, additional time is necessary, including to develop an additional data feed to deliver execution level information to subscribers and vendors. We also understand that member subscribers require additional time to update their systems to consume the new execution information to be provided by the ATSS and to systematically incorporate this information in their TRACE reporting to FINRA. FINRA believes it is important that both member ATSS and member subscribers perform the programming and testing necessary to

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<sup>10</sup> FINRA notes that, even where aggregation is not necessary because only the ATS and two subscribers ultimately participated in a trading session resulting in a single cross, the proposed rule change permits members the flexibility to report a Time of Execution that is communicated by the ATS to each party. Thus, even where the trading session involves only one cross, member TRACE reports may reflect a Time of Execution that is, for example, the beginning of the trading session or the end of the trading session.

<sup>11</sup> See Original Filing.

accurately and consistently report individual executions and the time of execution to TRACE to avoid inconsistencies in the audit trail. Thus, FINRA is proposing a nine-month extension of the temporary exception, until April 12, 2019. As a condition to the exception, a member ATS availing itself of this exception would continue to be required to provide individual transaction information for each trade in a U.S. Treasury Security occurring in a trading session to FINRA upon request. In addition, FINRA expects that necessary testing of new required functionality will commence well in advance of the extended deadline of April 12, 2019, but at a minimum, no later than January 12, 2019.

FINRA has filed the proposed rule change for immediate effectiveness. The operative date of the proposed rule change will be July 10, 2018 and it will sunset on April 12, 2019, which FINRA believes will provide members with the additional time required to complete necessary systems changes to comply with Rule 6730 and result in a more accurate and complete TRACE audit trail for U.S. Treasury Securities.

## 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>12</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. Based on discussions with multiple member ATSS, FINRA believes that additional time is necessary to permit members to program systems to comply with Rule 6730. FINRA believes it is appropriate to provide the proposed relief in recognition of the fact that impacted members are unable to implement necessary changes by the July 10, 2018. FINRA believes the proposal

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<sup>12</sup> 15 U.S.C. 78o-3(b)(6).

strikes an appropriate balance in that FINRA will continue to receive transaction information for purchases and sales that occur as part of an ATS trading session, albeit aggregated. In addition, FINRA notes that transparency will not be impacted by the proposed temporary relief because transaction information in U.S. Treasury Securities currently is not subject to public dissemination.

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.

The proposed rule change should benefit members whose trades are executed on member ATSs as part of a trading session, as it provides members with additional time to build or upgrade systems to enable reporting of individual transactions in the trading session. While the proposed rule change will temporarily lessen the requirements on ATSs and their subscribers as compared to other market participants, FINRA believes the proposed rule change is appropriate to allow sufficient time to make the technological changes necessary to comply with the rule and such accommodation will be limited in duration. Moreover, FINRA retains the right to require a member ATS availing itself of this exception to provide individual transaction information for each trade in a U.S. Treasury Security occurring in a trading session upon request.

The proposed temporary relief is not expected to undermine the potential benefits of Rule 6730, as the transaction information reflecting the aggregate size and average price of such transactions should still assist the regulators to conduct monitoring and surveillance of the U.S. Treasury Securities markets, in order to detect potential disruptive trading practices and risks to market stability.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</sup>

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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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:

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<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived the five-day pre-filing requirement in this case.

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-2018-014 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-FINRA-2018-014. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make



available publicly. All submissions should refer to File Number SR-FINRA-2018-014 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>15</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).