SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-93699; File No. SR-FINRA-2021-030)

December 1, 2021

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change to Amend FINRA Rule 6730 to Require Members to Append Modifiers to Delayed Treasury Spot and Portfolio Trades When Reporting to TRACE

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on November 22, 2021, 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, II, and III 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 to require members to append modifiers to identify delayed Treasury spot and portfolio trades when reporting to FINRA's Trade Reporting and Compliance Engine ("TRACE").

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 and basis for the proposed rule change and discussed any comments it received on the proposed

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

On February 10, 2020, the Commission's Fixed Income Market Structure Advisory Committee ("FIMSAC") unanimously approved a recommendation from its Technology and Electronic Trading Subcommittee for FINRA to amend its TRACE[3] reporting rules to provide additional information on two types of trades in corporate bond TRACE-Eligible Securities[4] ("FIMSAC Recommendation").[5] Specifically, the FIMSAC recommended that FINRA amend its TRACE reporting rules to require members to: (1) identify corporate bond trades where the price of the trade is based on a spread to a benchmark U.S. Treasury Security[6] that was agreed

3 TRACE is the FINRA-developed system that facilitates the mandatory reporting of over-the-counter transactions in eligible fixed income securities. See generally Rule 6700 Series.

4 Rule 6710(a) generally defines a "TRACE-Eligible Security" as a debt security that is United States ("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 Rule 6710(k) or a Government-Sponsored Enterprise as defined in Rule 6710(n); or (3) a U.S. Treasury Security as defined in Rule 6710(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 Rule 6710(o).

5 See FIMSAC, Recommendation Regarding Additional TRACE Reporting Indicators for Corporate Bond Trades (February 10, 2020). https://www.sec.gov/spotlight/fixed-income-advisory-committee/fimsac-additional-trace-flags-recommendation.pdf.

6 Rule 6710 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

upon earlier in the day (referred to as a "delayed Treasury spot trade") and report the time at which the spread was agreed upon; and (2) identify corporate bond trades that are part of a larger portfolio trade. Because the price reported to TRACE for these two types of trades may not reflect the market prices at the time the trades are reported and disseminated, the FIMSAC believed that reporting and disseminating this additional information would improve price transparency in the corporate bond market.[7]

On July 16, 2020, FINRA published Regulatory Notice 20-24 to solicit public comment on potential changes to its TRACE reporting rules in line with the FIMSAC's recommendations. FINRA also sought comment on whether any modifications to the scope of the FIMSAC's recommended approach might be appropriate.[8] As discussed in greater detail below, FINRA received seven comments in response to Regulatory Notice 20-24. After further consideration, FINRA is proposing the FIMSAC-recommended changes to the TRACE reporting rules to append modifiers to identify both delayed Treasury spot trades and portfolio trades, with modifications to the portfolio trade provision to clarify and simplify its conditions (based on feedback received in response to Regulatory Notice 20-24), as further discussed below.

Delayed Treasury Spot Trades

For purposes of the proposed amendment, a delayed Treasury spot trade is a transaction

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of Securities (STRIPS) program operated by the U.S. Department of Treasury. See Rule 6710(p).

7 See FIMSAC Recommendation at 1. FINRA reminds members that, pursuant to Rule 3110, they must have policies and procedures in place that are reasonably designed to ensure compliance with the TRACE reporting rules, including the accurate reporting of applicable trade modifiers or indicators. Firms also must be able to demonstrate that a transaction meets the applicable conditions associated with a particular modifier or indicator.

8 See FINRA Requests Comment on Proposed Changes to TRACE Reporting Relating to Delayed Treasury Spot and Portfolio Trades, Regulatory Notice 20-24 (July 2020).

in a corporate bond that occurs on the basis of a spread to a benchmark U.S. Treasury Security, where the agreed upon spread is later converted to a dollar price by "spotting" the benchmark U.S. Treasury Security at a designated time. For example, parties may determine to trade a corporate bond based on an agreed spread to a specified U.S. Treasury Security at 10:00 a.m. (e.g., 150 bps over the 10 Year Treasury yield), but the dollar price is determined later, e.g., at 3:00 p.m., when the parties "spot" the spread against the agreed benchmark U.S. Treasury Security yield (e.g., a reported dollar price of 97.5, expressed as a percentage of par value, calculated by applying the agreed spread of 150 bps to the 10 Year Treasury yield at 3:00 p.m.). The TRACE reporting rules generally require members to report transactions in corporate bonds within 15 minutes of the Time of Execution,[9] which is the time when the parties agree to all of the terms of the transaction that are sufficient to calculate the dollar price of the trade.[10] Therefore, in the above scenario, the delayed Treasury spot trade is reportable at 3:00 p.m., which is when the dollar price has been determined. Because the spread was negotiated earlier in the day, the dollar price reported at 3:00 p.m. may be away from the current market price for the security.

The FIMSAC believed that a specific modifier to identify delayed Treasury spot trades, along with disseminating the time at which the spread was agreed (e.g., 10:00 a.m.), would both alert market participants that the spread-based economics of the trade had been agreed upon earlier in the day as well as provide market participants with the ability to estimate the agreed-upon spread.[11]

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9 See Rule 6730(a).

10 See Rule 6710(d).

11 See FIMSAC Recommendation at 2.

Consistent with the FIMSAC Recommendation, FINRA is proposing amendments to Rule 6730 to provide additional transparency into delayed Treasury spot trades. Specifically, FINRA is proposing to amend Rule 6730: (1) add new paragraph (d)(4)(H) to require that a member append a new modifier[12] when reporting a delayed Treasury spot trade – i.e., a transaction in a corporate bond,[13] the price of which is based on a spread to the yield of a U.S. Treasury Security and where the spread was agreed upon that day prior to the Time of Execution of the transaction;[14] and (2) add new paragraph (c)(14) to require that the member report the time at which the spread for a delayed Treasury spot trade was agreed upon.[15] Both the new delayed Treasury spot modifier and the time at which the spread was agreed would be disseminated through TRACE, together with other information on the transaction, immediately upon receipt of the transaction report.[16]

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12 As for other TRACE modifiers and indicators under Rule 6730, the specific format for the new delayed Treasury spot trade modifier would be published in TRACE technical specifications.

13 The FIMSAC Recommendation related to delayed Treasury spot trades was limited to corporate bond trades. See FIMSAC Recommendation at 1. Similarly, FINRA proposes to limit use of the new modifier to transactions in corporate bonds (i.e., CUSIPs that are disseminated as part of the TRACE Corporate Bond Data Set). A CUSIP, standing for the Committee on Uniform Security Identification Procedures, is a 9-character alphanumeric code that identifies a North American security for the purposes of facilitating clearing and settlement of trades. FINRA may in the future consider applying the delayed Treasury spot modifier and associated requirement to report the time at which the spread was agreed to other types of TRACE-Eligible Securities, such as Agency Debt Securities.

14 FINRA is also proposing a non-substantive, stylistic change to the title of paragraph (d)(4) of Rule 6730, so that it refers to "Modifiers and Indicators" rather than "Modifiers; Indicators".

15 As a result of this addition, current paragraph (c)(14) of Rule 6730 would be renumbered as paragraph (c)(15).

16 FINRA generally disseminates information on transactions in TRACE-Eligible Securities immediately upon receipt of the transaction report, except as otherwise provided in Rule 6750. See Rule 6750(a).

FINRA believes that, by specifically identifying delayed Treasury spot trades, the proposed rule change will enhance FINRA's regulatory audit trail data and improve price transparency for corporate bond market participants by identifying transactions whose prices may not be at the current market for the security.[17] FINRA also believes that disseminating the time that the spread was agreed will further enhance price transparency by providing market participants with the ability to estimate the agreed-upon-spread.[18]

Portfolio Trades

FINRA also is proposing a new modifier to identify portfolio trades.[19] For purposes of the proposed amendment, a "portfolio trade" is a trade between only two parties for a basket of corporate bonds at a single aggregate price for the entire basket. For example, a market

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17 The FIMSAC considered several potential means of improving transparency around Treasury spot trades, including whether the terms (including the agreed spread and applicable Treasury benchmark) should be reported to TRACE within 15 minutes of the parties' agreement to all of the terms of the transaction other than the price of the Treasury. The FIMSAC noted that, while these alternatives would allow market participants to fully understand the spread-based economics of the trade at the time at which they are agreed, the recommended approach would be simpler and more cost-effective to implement, assuming the need for reporting parties to enhance the initial TRACE report with the calculated dollar price of the trade when the delayed spot trade is "spotted" later in the day. See FIMSAC Recommendation at 2 n.3. Following implementation, FINRA will assess the reported data regarding delayed Treasury spot trades and continue to engage with industry participants regarding whether any future changes may be appropriate to further improve transparency.

18 FINRA understands that the most common pricing benchmark used for delayed Treasury spot trades is the on-the-run U.S. Treasury Security with the maturity that corresponds to the maturity of the corporate bond being priced. For example, market participants would use the most recently issued 10-year U.S. Treasury Security as the benchmark to price a 10-year corporate bond.

19 As noted below, the specific format and requirements for both the new delayed Treasury spot modifier and the new portfolio trade modifier would be published in TRACE technical specifications. Where a specific trade meets the criteria for both modifiers, such specifications may require the use of a third, single modifier indicating that both the delayed Treasury spot modifier and the portfolio trade modifier apply to the trade.

participant may seek to trade a portfolio consisting of 50 corporate bonds. The parties may obtain mid-market prices for each of the 50 component bonds as a framework for the pricing, and, during the negotiation process, ultimately agree on a uniform spread, resulting in an aggregate dollar price for the entire portfolio. In such cases, members must report to TRACE a trade for each individual bond in the basket with an attributed dollar price for each bond. While, in many cases, the reported price for each corporate bond in a portfolio trade is in line with the security's current market price, in other cases—based on, for example, the liquidity profile of a specific bond or other factors—the attributed price reported for an individual security may deviate from its current market price.

The FIMSAC believed it would be beneficial if market participants were able to identify with certainty which trades were part of a portfolio trade because of the possibility that the reported price may not be reflective of the independent market for the bond.[20] The FIMSAC therefore recommended that FINRA amend its TRACE reporting rules to identify corporate bond trades: (i) executed between only two parties; (ii) involving a basket of securities of at least 30 unique issuers; (iii) for a single agreed price for the entire basket; and (iv) executed on an all-or-none or most-or-none basis.[21]

In line with the FIMSAC's recommendation, FINRA is proposing to amend Rule 6730 to provide additional transparency into portfolio trades. Specifically, FINRA is proposing to add

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[20] The FIMSAC acknowledged that market participants currently may be able to surmise which TRACE reports are part of a portfolio trade, based on a common time of execution or the characteristics of the components. See FIMSAC Recommendation at 2.

[21] See FIMSAC Recommendation at 4.

new paragraph (d)(4)(I) to Rule 6730 to require that a member append a new modifier[22] if reporting a transaction in a corporate bond:[23] (i) executed between only two parties; (ii) involving a basket of corporate bonds of at least 10 unique issues; and (iii) for a single agreed price for the entire basket ("Portfolio Trade Definition"). The new portfolio trade modifier would be disseminated through TRACE, together with other information on the transaction, immediately upon receipt of the transaction report. Based on feedback from commenters, the scope of FINRA's proposed Portfolio Trade Definition differs from the FIMSAC recommended definition in two ways, as discussed further below.

Both the FIMSAC recommendation and the proposal would limit use of the portfolio trade modifier to instances where the trade is executed between only two parties at a single agreed price for the entire basket. However, instead of applying the portfolio modifier to transactions involving a basket of corporate bonds of 30 or more unique issuers (as recommended by the FIMSAC), FINRA is proposing to apply the portfolio trade modifier to transactions involving a basket of corporate bonds of at least 10 unique issues/securities (i.e., individual securities counted using security identifiers such as CUSIPs or TRACE symbols). As described in further detail below, FINRA received several comments on this aspect of the proposal. Commenters stated that basing the numerical threshold on the number of issuers represented in a portfolio rather than the number of securities would be challenging to implement

22 As for other TRACE modifiers and indicators under Rule 6730(d)(4), the specific format for the new portfolio trade modifier would be published in TRACE technical specifications.

23 The FIMSAC Recommendation related to portfolio trades was limited to corporate bond trades. See FIMSAC Recommendation at 2. Similarly, FINRA proposes to limit use of the new modifier to transactions in corporate bonds (i.e., CUSIPs that are disseminated as part of the TRACE Corporate Bond Data Set). FINRA may in the future consider expanding the portfolio trade modifier to cover other types of TRACE-Eligible Securities, such as Agency Debt Securities.

and would raise interpretive issues, and therefore suggested instead basing the threshold on the number of unique corporate bond securities in the portfolio. Commenters believed that this alternative approach would effectively identify portfolio trades while avoiding challenges that would be associated with correctly identifying bonds associated with a particular issuer. Commenters also stated that basing the threshold on the number of unique issues would be simpler and more easily automatable for members to implement. FINRA agrees that using individual securities, rather than issuers, would provide a simpler and more effective way to identify portfolio trades for purposes of the new modifier. Therefore, FINRA is proposing to base the size threshold condition in prong (ii) of the Portfolio Trade Definition on the number of unique issues in the basket of corporate bonds.

Second, the FIMSAC recommended setting the size threshold for portfolio trades at 30 unique issuers. As described in further detail below, FINRA also received comments on the appropriate basket size, with commenters expressing a range of views on the most appropriate threshold. After further consideration, FINRA is proposing to modify the size threshold in prong (ii) of the Portfolio Trade Definition by lowering the threshold from 30 to 10 unique securities. FINRA believes that lowering the threshold for use of the portfolio trade modifier to 10 would provide greater informational benefits to market participants by capturing a greater number of transactions that satisfy the other conditions of the Portfolio Trade Definition.

Consistent with the FIMSAC Recommendation, prong (iii) of the Portfolio Trade Definition would apply the new modifier to transactions entered into "for a single agreed price" for the entire basket. As described above, this prong represents the key characteristic of portfolio trades, i.e., that the transaction is entered into at an agreed aggregate price for the entire basket (as opposed to individually negotiated trades), which may result in the attributed price reported for individual securities in the basket being away from their current market price.

FINRA notes that the FIMSAC also recommended that the Portfolio Trade Definition include a requirement that the basket be executed on an "all-or-none or most-or-none basis."[24] One commenter suggested deleting the reference to "most-or-none" in this proposed prong because a definition of "most-or-none" does not currently exist in current market practice and the concept is not well understood. After further consideration, FINRA believes that removing this prong in its entirety would reduce the proposal's complexity without reducing the new modifier's informational value. FINRA is therefore not proposing to include an "all-or-none or most-or-none" prong as part of the Portfolio Trade Definition. Therefore, if two parties agree on a price with respect to a basket of bonds, the component trades would be identified with the new portfolio trade modifier so long as the resulting basket trade includes the minimum of 10 unique issues at a single agreed price, regardless of the number of securities that originally were contemplated as part of the basket.

If the Commission approves the proposed rule change, FINRA will announce the effective date(s) of the proposed rule change in a Regulatory Notice.[25] FINRA will publish a Regulatory Notice announcing the effective date(s) of the proposed amendments pursuant to Rule 6730(d)(4)(H) and (I) no later than 90 days following Commission approval, and the effective date(s) will be no later than 365 days following publication of the Regulatory Notice.

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24 See FIMSAC Recommendation at 4.

25 FINRA may implement the proposed modifier requirements (pursuant to proposed Rule 6730(d)(4)(H) and (I)) separately from the proposed requirement to report the time at which the spread was agreed (pursuant to proposed Rule 6730(c)(14)).

FINRA will publish a Regulatory Notice announcing the effective date of the proposed amendments pursuant to Rule 6730(c)(14) once determined.[26]

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[27] 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. FINRA believes that the proposed rule change to improve transparency for delayed Treasury spot and portfolio trades is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, generally, to protect investors and the public.

FINRA believes that the proposed rule change will improve transparency into pricing in the corporate bond market and enhance FINRA's regulatory audit trail data by specifically identifying delayed Treasury spot trades and portfolio trades, which are two types of trades where the price may not be reflective of the current market price at the time the trades are reported and disseminated. FINRA also believes that the proposed rule change will enable market participants and investors to better understand pricing for delayed Treasury spot trades by requiring members to report the time at which the spread was agreed, which will provide market participants with the ability to estimate the agreed-upon-spread for such trades.

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

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26 FINRA is currently in the process of developing and implementing enhancements to its reporting systems, including TRACE. Because the proposed requirement to report the time at which the spread was agreed for a delayed Treasury spot trade under Rule 6730(c) would require the addition of a new TRACE reporting field, FINRA intends to set the effective date for this requirement at a later date following completion of TRACE system changes.

27 15 U.S.C. 78o-3(b)(6).

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.

Economic Impact Assessment

Regulatory Objective

As discussed above, delayed Treasury spot trades and portfolio trades may not be reflective of the current market price for the bonds and may be less informative for market participants that rely on TRACE for price discovery or other analyses. The proposed modifiers would specifically identify these types of trades and add the time at which the spread was agreed upon in disseminated data.

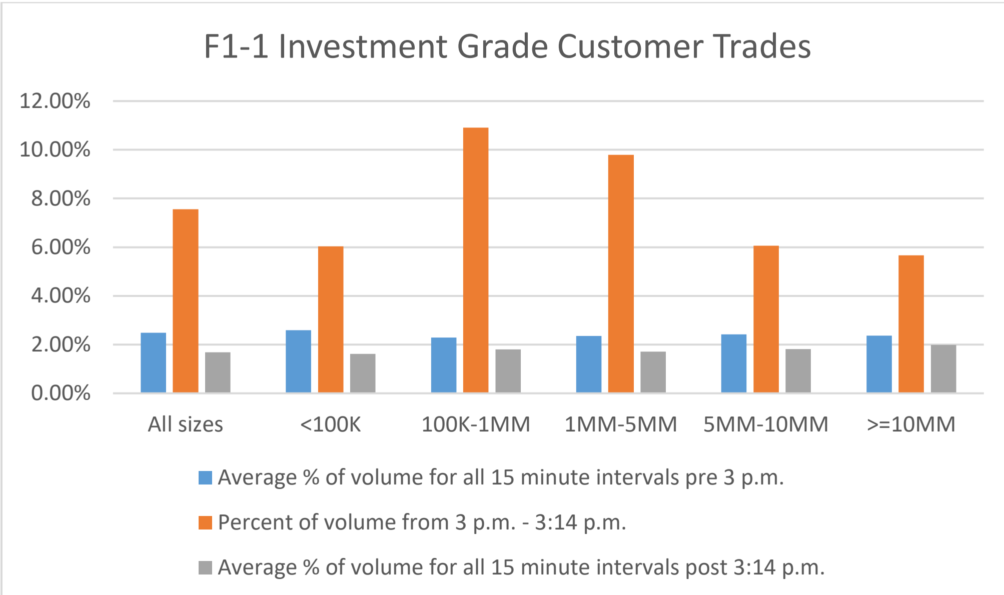
Economic Baseline

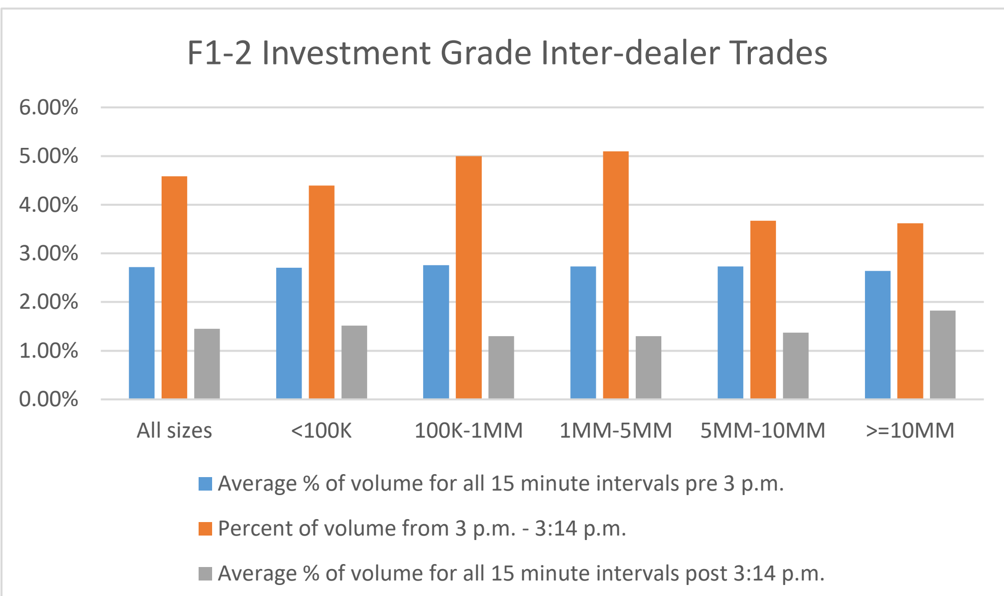
A. Delayed Treasury Spot Trades

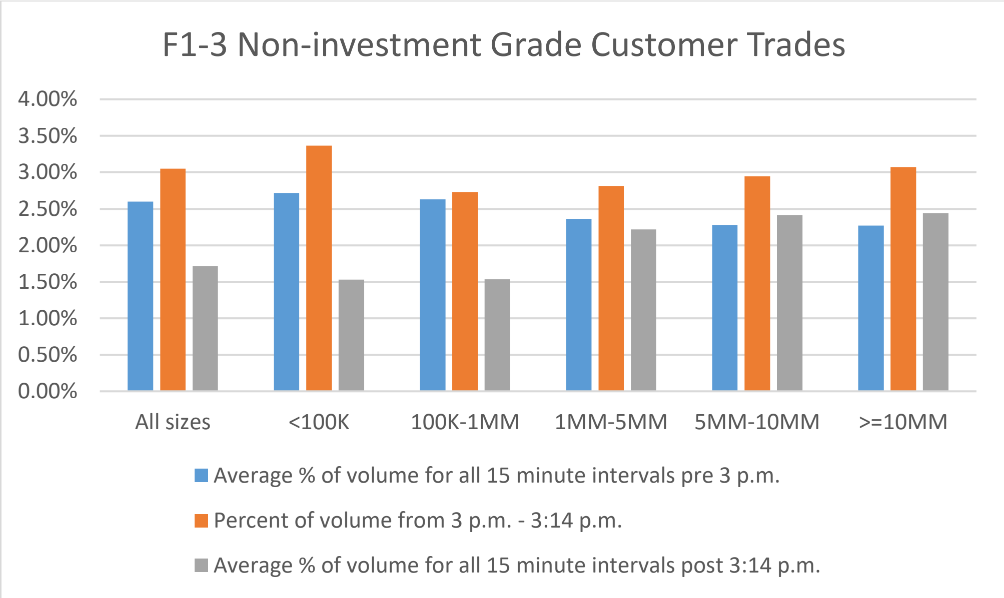
Because delayed Treasury spot trades are currently not identified in the TRACE data, the economic baseline first establishes the TRACE reported trades most likely to be associated with delayed Treasury spot trades. Using TRACE data from June 2020 to May 2021, FINRA examined the daily average concentration of corporate bond trades around 3:00 p.m., which FINRA understands to be the "spotting" time usually used by dealers for delayed Treasury spot trades. Figures F1-1 and F1-2 below compare the percentage of trades during the 3:00 p.m. to 3:14 p.m. time interval with: (1) the average percentage of trades for all 15-minute intervals before 3:00 p.m.; and (2) and the average percentage of trades for all 15-minute intervals after 3:14 p.m. Figures F1-1 and F1-2 also provide these trade distributions based on the size of trades and for all trades combined. These data are likely to either overcount the number of delayed Treasury spot trades because some of the trades executed in the time interval are not delayed Treasury spot trades, or undercount because they exclude delayed Treasury spot trades executed at other times during the day. Nevertheless, FINRA believes this methodology will provide a reasonable baseline for the analysis.

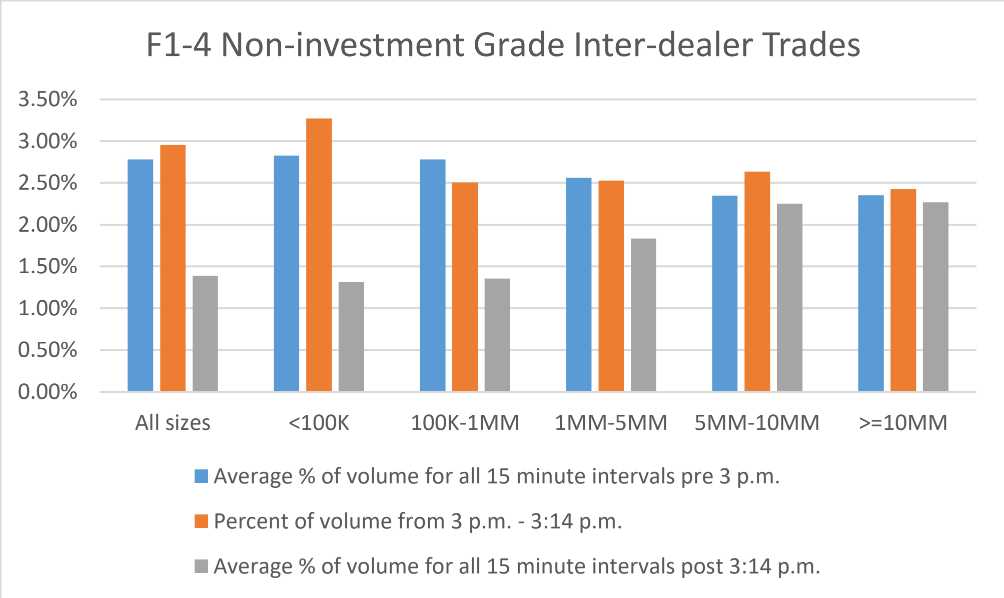
Figure F1-1 provides statistics for customer trades in investment grade bonds and Figure F1-2 provides statistics for inter-dealer trades in investment grade bonds. Figures F1-1 and F1-2 show that, across all trade sizes in investment grade bonds, volumes in the 3:00 p.m. trade interval are larger than both the pre-3:00 p.m. and the post-3:14 p.m. intervals. For investment grade customer trades, the 3:00 p.m. volumes are several times larger than both the pre-3:00 p.m. and the post-3:14 p.m. intervals. Figures F1-3 and F1-4 provide similar information for trades in non-investment grade bonds. These figures show that the differences in trades across the time intervals are much less material in non-investment grade bond trades. Although trades during the 3:00 p.m. to 3:14 p.m. time interval may not all be delayed spot trades, the jump in investment grade bond volume during the period is consistent with FINRA's understanding of when delayed Treasury spot trades are priced and reported (regardless of when the spread was agreed upon).

Figure 1: Distribution of Corporate Bond Trading Volume during Trading Hours (June 2020 to May 2021)









B. Portfolio Trades

Evidence supports the hypothesis that portfolio trading has been increasing over time.[28] An analysis by Morgan Stanley shows that $88 billion in portfolio trades were executed from January 2019 through November 2019, compared to virtually none in 2017.[29] The analysis also

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28 See infra notes 29 and 30.

29 See Jennifer Surane & Matthew Leising, Bond Trade That's Gone from Zero to $88 Billion in Two Years, BLOOMBERG (Nov. 18, 2019),

shows that portfolio trades with 140 bonds or more increased tenfold since 2018. According to a Financial Times article citing Greenwich Associates' survey of 67 bond traders, more than 50% of the traders have executed a portfolio trade in the past year.[30]

FINRA computed the annual percentage of trades that can be classified as portfolio trades of increasing portfolio sizes from 2015 to 2020 using TRACE data. For purposes of these calculations, a "portfolio trade" is a trade of a basket of corporate bonds between only two parties at the same execution time.[31] "Portfolio size" is defined as the number of unique CUSIPs contained in the basket. This analysis demonstrates that portfolio trades reported to TRACE grew significantly in the past six years. For example, Table 1 shows that the percentage of customer portfolio trades involving at least 10 CUSIPs more than quadrupled from 1.34% in 2015 to 5.64% in 2020. For portfolio trades involving at least 30 CUSIPs, the percentage of trades increased from 0.29% in 2015 to 3.60% in 2020. Inter-dealer portfolio trades grew at an even higher rate, albeit from a lower base level.

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https://www.bloomberg.com/news/articles/2019-11-18/the-bond-trade-that-s-gone-from-zero-to-88-billion-in-two-years.

30 See Joe Rennison, Robert Armstrong & Robin Wigglesworth, The New Kings of the Bond Market, FINANCIAL TIMES (Jan. 22, 2020), https://www.ft.com/content/9d6e520e-3ba8-11ea-b232-000f4477fbca. Among those traders, 75% executed the portfolio trade with dealers while the remaining did so through other means such as an electronic trading platform.

31 Using current TRACE data, FINRA can only approximate "portfolio trades" as defined in the proposed rule change. Specifically, the analysis may include trades that are not executed at a single agreed price for the entire basket or that are not limited to two parties. As a result, the method used in this analysis may include as a "portfolio trade" some trades that would fall outside of the scope using the criteria set forth in the proposed rule change. However, FINRA believes that the method used in these calculations is reasonable for purposes of the analysis given the scope of information currently available in TRACE.

Table 1: Percentage of trades by portfolio size

	2015	2016	2017	2018	2019	2020
1: Customer Trades						
>= 1	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%
>= 2	14.60%	12.63%	13.14%	16.38%	18.89%	21.94%
>= 10	1.34%	1.21%	1.10%	2.20%	3.09%	5.64%
>= 20	0.44%	0.38%	0.42%	1.30%	1.98%	4.10%
>= 30	0.29%	0.15%	0.25%	1.01%	1.62%	3.60%
>= 50	0.20%	0.06%	0.18%	0.86%	1.33%	2.98%
>= 70	0.16%	0.05%	0.16%	0.78%	1.15%	2.58%
>= 100	0.11%	0.04%	0.14%	0.71%	0.95%	2.10%
2: Dealer to Dealer Trades						
>= 1	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%
>= 2	3.65%	4.73%	5.44%	7.99%	11.36%	14.44%
>= 10	0.39%	0.78%	0.99%	2.68%	5.03%	7.18%
>= 20	0.09%	0.27%	0.41%	2.03%	4.14%	6.22%
>= 30	0.02%	0.08%	0.17%	1.70%	3.55%	5.54%
>= 50	0.00%	0.01%	0.08%	1.34%	2.65%	4.31%
>= 70			0.07%	1.04%	1.97%	3.38%
>= 100			0.06%	0.73%	1.21%	2.49%

Economic Impact

1. Delayed Treasury Spot Trades

A modifier identifying delayed Treasury spot trades would add valuable information to disseminated TRACE data by indicating that the reported price may not be at the current market. The new disseminated time field would benefit the market because market participants can use it to reasonably evaluate the spread at the time when the spread was agreed upon and compare it to other trades at or near the same time. Together, these additions will increase post-trade price transparency.

Members would be required to make systems changes to accommodate the new modifier and time field. This would represent a fixed cost to FINRA members that report corporate bond transactions priced through a delayed Treasury spot process. The cost may be higher for members that house information regarding the time of spotting in a different platform or system that is not connected to its TRACE reporting system.[32] FINRA expects that the ongoing variable cost of reporting the new modifier and populating the time field will be low for firms as costs currently are incurred for existing TRACE reporting.

2. Portfolio Trades

A modifier identifying trades executed as part of a portfolio trade would allow market participants to identify with certainty which trades occurred at attributed prices as part of a portfolio trade. With this information, market participants could better identify trade prices that may not reflect the market price for the individual bond. This modifier will improve post-trade price transparency. While some market participants may be capable of inferring portfolio trades from current disseminated data,[33] the added modifier may particularly benefit smaller market participants, market observers and researchers who may not have systems in place to actively screen for portfolio trades using currently available data.

FINRA members would incur costs associated with making system changes required to accommodate the new modifier. This would represent a fixed cost to FINRA members that execute and report portfolio trades. The variable cost of reporting the new modifier should be

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32 See SIFMA Letter, infra note 37.

33 See SIFMA Letter, infra note 37.

minimal to firms as costs are currently incurred for existing TRACE reporting. In addition, while market participants currently may infer that some trades may be portfolio trades, they cannot do so with certainty. The FIMSAC noted that there may be an increased theoretical risk that a market participant may identify the seller of a portfolio trade if these trades are identified in disseminated data.[34] FINRA requested comments on the possibility of increased risk and members did not raise concerns regarding such risk.

3. Effects on competition

FINRA does not believe that the proposed modifiers will unduly burden competition. The costs for a firm to modify the reporting process for the proposed modifiers will be proportional to the fixed cost of the firm's reporting system, and thus be helped by similar factors. For example, firms with no activities in delayed Treasury spot trades or portfolio trades may not need to update their system; firms with limited activities may choose to manually input the new modifiers; and firms can also use third party reporting system vendors, which are intended to take advantage of lower costs due to economy of scale.

Alternatives Considered

With respect to the proposed delayed Treasury spot provisions, FINRA considered requiring firms to report the available terms (including the agreed spread and applicable Treasury benchmark) of delayed Treasury spot trades within 15 minutes of the parties' agreement to the spread and benchmark. FIMSAC noted this alternative in its recommendation and stated that, while this construct would allow market participants to fully understand the spread-based economics of the trade at the point at which they are agreed, the proposed approach will be simpler and more cost-effective to implement and would avoid the need for reporting parties to

34 See FIMSAC Recommendation at 2.

enhance the initial TRACE report with the calculated dollar price of the trade when the delayed spot trade is "spotted" later in the day.[35] FINRA agrees and also believes that the proposed approach is beneficial in requiring reporting of the dollar price of the transaction once determined, which is then disseminated immediately upon receipt.

With respect to the proposed portfolio modifier, FINRA considered other thresholds for the number of unique issues to qualify as a portfolio trade, such as 30 unique issues, similar to the FIMSAC recommendation to identify trades involving a basket of at least 30 unique issuers (rather than issues), or as few as 2 unique issues, as suggested by some commenters. Lowering the threshold generally captures more portfolio trades and therefore provides greater informational benefits to market participants. It may also discourage traders from splitting up portfolio trades into smaller lists that do not meet the specified criteria to avoid identifying trades under the proposal. On the other hand, setting the threshold too low reduces the usefulness of the identifier. Portfolio trades are used to diversify individual bond risk and save on trading costs. Most of these benefits will diminish as the portfolio size becomes small. The deviation of individual bond price in a portfolio from market price will likely be less as the number of bonds in the portfolio decreases. The proposed threshold of 10 strikes an appropriate balance between the trade-offs and is also recommended by some commenters.[36]

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

The proposed rule change was published for comment in Regulatory Notice 20-24 (July 2020). Seven comments were received in response to the Regulatory Notice.[37] A copy of the

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35 See note 17 supra.

36 See Jane Street Letter and SIFMA Letter, infra note 37.

37 See Comment submission from Melinda Ramirez, Consultant, dated July 19, 2020 (stating only "Thank you for the opportunity to invest.." [sic]); letter from Gregory

Regulatory Notice is available on FINRA's website at http://www.finra.org. A list of the comment letters received in response to Regulatory Notice 20-24 is available on FINRA's website.[38] Copies of the comment letters received in response to the Regulatory Notice are also available on FINRA's website. The comments are summarized below.

Babyak, Global Head of Regulatory Affairs, Bloomberg L.P., to Jennifer Piorko Mitchell, Office of the Corporate Secretary, FINRA, dated September 14, 2020 ("Bloomberg Letter"); letter from Howard Meyerson, Managing Director, Financial Information Forum, to Jennifer Piorko Mitchell, Office of the Corporate Secretary, FINRA, dated September 14, 2020 ("FIF Letter"); letter from Kathleen Callahan, FIX Operations Director, FIX Trading Community, to Jennifer Piorko Mitchell, Office of the Corporate Secretary, FINRA, dated September 14, 2020 ("FIX Letter"); letter from Matt Berger, Global Head of Fixed Income and Commodities, Jane Street Capital, LLC, to Jennifer Piorko Mitchell, Office of the Corporate Secretary, FINRA, dated September 14, 2020 ("Jane Street Letter"); letter from Chris Killian, Managing Director, Securitization and Credit, SIFMA, to Jennifer Piorko Mitchell, Office of the Corporate Secretary, FINRA, dated September 15, 2020 ("SIFMA Letter"); and letter from Michael Grogan, V.P. & Head of US Fixed Income Trading – Investment Grade, Dwayne Middleton, V.P. & Head of Fixed Income Trading, Brian Rubin, V.P. & Head of US Fixed Income Trading – Below Investment Grade and Jonathan Siegel, V.P. & Senior Legal Counsel – Legislative & Regulatory Affairs, T. Rowe Price, to Jennifer Piorko Mitchell, Office of the Corporate Secretary, FINRA, dated September 15, 2020 ("T. Rowe Price Letter").

38 See SR-FINRA-2021-030 (Form 19b-4, Exhibit 2b) (available on FINRA's website at http://www.finra.org).

Delayed Treasury Spot Trades

Bloomberg, Jane Street and T. Rowe Price supported the proposal to require members to identify corporate bond trades where the price of the trade is based on a spread to a benchmark U.S. Treasury Security that was agreed upon earlier in the day and report the time at which the spread was agreed upon.[39] Bloomberg stated that the proposal "adds an incredible amount of value, insight and transparency into TRACE data," including by making it possible for "market participants to derive intraday credit spread moves in specific corporate bond issues and issuers."[40] Jane Street noted that while market participants would initially incur costs to modify trading reporting procedures to provide this information, such costs are outweighed by the benefit of obtaining additional information about delayed Treasury spot trades.[41] T. Rowe Price noted that the reported dollar price for delayed Treasury spot trades may not take into account market or issuer-specific developments that have occurred throughout the day, such that the proposal would benefit investment advisers and other market participant by providing timely and definitive clarity on whether reported transactions are delayed Treasury spot trades, and further would support price formation.[42] T. Rowe Price also noted benefits of the proposal to transaction cost analysis and the portfolio valuation process for institutional investors.[43]

SIFMA expressed mixed views on the delayed Treasury spot trade proposal. SIFMA noted that its members "both see benefits to this proposal but also have material questions

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39 See Bloomberg Letter at 2; Janes Street Letter at 1-2; T. Rowe Price Letter at 1.

40 See Bloomberg Letter at 2.

41 See Jane Street Letter at 2.

42 See T. Rowe Price Letter at 1-2.

43 See T. Rowe Price Letter at 2.

including the overall benefit vs. cost balancing."[44] SIFMA stated that a potential benefit of the proposal would be to provide a "clearer picture, retrospectively, as to liquidity flows throughout the day."[45] However, SIFMA noted that some of its members indicated that the technical implementation of this proposal is complex, particularly around the new time field.[46] SIFMA also highlighted that the fixed-cost burden presented by the proposal would be more meaningful for smaller, non-primary dealers, which could lead such dealers to use manual processes for trade reporting or no longer engage in these type of trades.[47]

FIF did not support the delayed Treasury spot proposal, noting that the proposal would require firms to implement significant system changes.[48] FIF stated that its members advised that dealer systems do not currently store the time the original terms are agreed in a manner that would enable reporting to TRACE on a timely basis, such that implementation would require significant cost and work for firms to upgrade various systems.[49] FIF instead proposed that FINRA consider mandating that the SpecialPriceIndicator tag, or another existing TRACE tag, be marked as instructed by FINRA to identify delayed Treasury spot trades.[50] FIF stated that this alternative would signal to the market that the terms of the trade were not agreed based on current market conditions.[51]

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44 See SIFMA Letter at 3.

45 See SIFMA Letter at 4.

46 See SIFMA Letter at 4.

47 See SIFMA Letter at 4.

48 See FIF Letter at 2.

49 See FIF Letter at 2.

50 See FIF Letter at 2.

51 See FIF Letter at 2.

FINRA agrees with commenters that the proposal relating to delayed Treasury spot trades will provide significant benefits to market participants and investors by enhancing transparency into corporate bond pricing for these types of trades. FINRA acknowledges that implementing the proposal will require members to make systems changes to identify Treasury spot trades and append the modifiers, as well as to capture and report the time at which the spread was agreed. FINRA believes, however, that the ongoing transparency benefits of reporting and disseminating this additional information will outweigh the initial costs required to modify trade reporting systems to enable gathering and reporting this new information. FINRA does not believe that use of an existing TRACE modifier or indicator, such as the special price tag, would sufficiently differentiate delayed Treasury spot trades in disseminated TRACE data or its regulatory audit trail data, nor would use of such a tag provide information about the time that the spread was agreed such that market participants can estimate the agreed-upon spread for such trades.[52]

SIFMA also responded to two specific requests for comment in Regulatory Notice 20-24 concerning the proposed Treasury spot modifier. First, FINRA asked whether it should consider requiring firms to report the spread, either at the time the spread is agreed or later in the day, and, if reported at the time the spread is agreed, whether the dollar price should also be reported later in the day. SIFMA responded that FINRA should have enough information from the proposed trade reports to derive an estimate of the spread without requiring reporting of this additional data.[53] SIFMA also noted that, in any case, dealers should not have to submit two reports, or

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52 The "special price" modifier must be appended when a transaction is executed at a price based on arm's length negotiation and done for investment, commercial or trading considerations, but does not reflect current market pricing. See FINRA Rule 6730(d)(4)(A) and Notice to Members 05-77 (November 2005). Thus a member must first make a determination, on a trade-by-trade basis, that a price is off-market before it appends the special price modifier.

53 See SIFMA Letter at 4.

amend a previous report, for the same trade.[54] As described above, FINRA is not modifying the proposal to require reporting of the spread or to require members to submit two reports for the same trade.[55] Second, FINRA requested comment on its understanding that most common pricing benchmark used for delayed Treasury spot trades is the on-the-run U.S. Treasury Security with the maturity that corresponds to the maturity of the corporate bond being priced. SIFMA stated that its members share that understanding.[56]

FIX didn't express a substantive view on the proposed amendments but suggested that it can assist in developing standard solutions for reporting of the proposed new delayed Treasury spot trade modifier.[57] For example, FIX noted that adding the capability for FINRA to capture the time that the spread was agreed would be a minimal extension to an existing concept in FIX, specifically the TrdRegTimestamps field.[58] FINRA notes that it supports several technical standards for reporting of trade information to TRACE, including FIX, and that the specific format and requirements for the new delayed Treasury spot modifier and reporting field for the time the spread was agreed would be published in TRACE technical specifications. As noted above, where a specific trade meets the criteria for both modifiers, such specifications may require the use of a third, single modifier indicating that both the delayed Treasury spot modifier and the portfolio trade modifier apply to the trade.

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54 See SIFMA Letter at 4-5.

55 See note 17 supra.

56 See SIFMA Letter at 5.

57 See FIX letter at 3.

58 See FIX letter at 2.

Portfolio Trades

T. Rowe Price supported the proposal to require members to identify corporate bond trades that are components of a larger portfolio trade, as defined in the FIMSAC Recommendation.[59] T. Rowe Price noted that the prices reported to TRACE for transactions that are part of a portfolio trade may not be at the current market for the security and that the proposal would benefit investment advisers and other market participants by providing timely and definitive clarity on whether a transaction is part of a portfolio trade, and further would support price formation.[60] T. Rowe Price also noted benefits of the proposal to transaction cost analysis and the portfolio valuation process for institutional investors.[61]

FIF, Bloomberg and Jane Street generally supported the proposal but suggested certain modifications to the conditions for trades that would qualify for the proposed portfolio trade modifier under the FIMSAC Recommendation,[62] while SIFMA expressed generally mixed views on the portfolio trade proposal.[63]

FIF and SIFMA recommended that prong (ii) of the Portfolio Trade Definition be changed to a threshold based on the number of unique issues or securities, rather than the number of unique issuers.[64] FIF noted that shifting to a security basis for this prong would avoid challenges in identifying and processing which bonds are associated with a particular issuer and would result in more trades being reported as portfolio trades, which would provide greater

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59 See T. Rowe Price Letter at 1.

60 See T. Rowe Price Letter at 1-2.

61 See T. Rowe Price Letter at 2.

62 See FIF Letter at 1-2; Bloomberg Letter at 3-4; Jane Street Letter at 2.

63 See SIFMA Letter at 1-3.

64 See FIF Letter at 2; SIFMA Letter at 2-3.

transparency and enhance FINRA's audit trail.[65] FIF also stated that basing the determination of a portfolio trade on the number of unique issuers would raise the question of whether bonds of affiliated issuers should be counted as one or multiple issuers, and highlighted in particular bonds issued by special purpose vehicle subsidiaries.[66] SIFMA stated that while it understands that using the number of unique issuers is intended to scope in diversified portfolio trades, its members raised the concern that doing so would be more complicated to implement than basing the threshold on the number of securities in the portfolio.[67] SIFMA noted several examples of potential complications that could arise by using unique issuers, such as determining how to treat affiliates and subsidiaries and how guarantees might affect the analysis.[68] SIFMA stated that these issues would require market participants to generate large lists of bonds and determine how to attribute each bond to a unique issuer, which would not be easily automatable and would introduce the risk of errors and omissions in TRACE reporting.[69] FINRA agrees with these commenters that using a threshold based on the number of individual securities, rather than issuers, to determine when to append the portfolio trade modifier would result in a clearer and easier to implement approach to identifying portfolio trades, and has modified the proposal accordingly.

Jane Street, Bloomberg, FIF and SIFMA commented on the threshold number for appending the portfolio trade modifier, which the FIMSAC recommendation set at 30. FIF stated that a trade involving fewer than 30 unique issuers should still be considered a portfolio

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65 See FIF Letter at 2-3.

66 See FIF Letter at 3.

67 See SIFMA Letter at 2-3.

68 See SIFMA Letter at 3.

69 See SIFMA Letter at 3.

trade if it meets the other conditions in the definition.[70] Jane Street stated that 30 unique issuers is too high and recommended that a basket containing bonds from at least 10 unique issuers should be reported using the portfolio trade modifier, which would maximize the informational benefit of the new modifier since many portfolio trades contain bonds of between 10 and 30 unique issuers.[71] SIFMA stated that some of its members believe that a lower number of securities would be more appropriate, such as 10, while other of its members are comfortable with the proposed 30 or an even higher number.[72] Bloomberg recommended that TRACE should identify every situation where two or more securities are transacted at an agreed upon price where the price may not reflect the current market price for the bonds.[73] As described above, FINRA has modified the proposal by lowering the threshold from 30 to 10. FINRA believes that lowering the threshold for portfolio trades that would be identified by the new modifier in this manner would provide greater informational benefits to market participants. However, FINRA believes that a lower threshold than 10 issues, such as two or more securities, would be over-inclusive and reduce the usefulness of the modifier.

With respect to the proposed prong requiring that a portfolio trade must be executed on an all or none or most or none basis, Bloomberg noted that an "all-or-none" designation is "an execution constraint that is well defined in all markets" but that the concept of "most-or-none" does not currently exist and would require further clarification around what number of constituents in the basket constitutes "most."[74] Bloomberg therefore recommended using a

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70 See FIF Letter at 2.

71 See Jane Street Letter at 2.

72 See SIFMA Letter at 3.

73 See Bloomberg Letter at 4.

74 See Bloomberg Letter at 3-4.

definition of a basket that focuses on executions, rather than order designations.[75] As described above, FINRA agrees that this aspect of the initial proposal is not well-understood and believes that the Portfolio Trade Definition would be best implemented without an "all-or-none or most-or-none" prong. Therefore, under the current formulation, if two parties enter into negotiations with respect to a basket of bonds, the component trades would be identified with the new portfolio trade modifier so long as the resulting basket trade meets the other conditions specified in the Portfolio Trade Definition.

SIFMA also commented more broadly on the portfolio trade proposal. SIFMA stated that its members see two aspects to the portfolio trade proposal: (1) the identification of portfolio trades vs. other kinds of trades and (2) the identification of potentially off-market trades.[76] With respect to the first aspect, SIFMA noted that, while the proposal would make it easier to identify portfolio trades, some of its members believe it is already fairly easy to identify portfolio trades today without the specific modifier.[77] However, SIFMA also noted that other of its members believe that the proposal would benefit smaller market participants, market observers and researchers, who may not have systems in place to actively screen for portfolio trades using currently available data.[78] SIFMA noted that some of its members have concerns about the potential impact on liquidity resulting from disclosure of trading strategies, while other members did not believe that this is a material concern. With respect to the second aspect, SIFMA stated that some of its members have questioned the appropriateness of a flag that does not provide

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75 See Bloomberg Letter at 4.

76 See SIFMA Letter at 1.

77 See SIFMA Letter at 2. SIFMA also expressed concern that the proposal shifts TRACE away from being a price transparency tool into a tool that provides trading strategy details. See id.

78 See SIFMA Letter at 2.

definitive information regarding whether the price is off-market, since a price in a portfolio trade may or may not be off-market.[79] SIFMA noted that dealers are already expected to review each line item in a portfolio trade to determine if it is off-market and, if so, append the existing special price indicator in TRACE reports. SIFMA stated that one potential benefit of the proposal could be to reduce compliance burdens if the new portfolio trade modifier replaces the special price indicator for components of portfolio trades.[80] On a related point, SIFMA asked FINRA to confirm that the portfolio trade modifier would be taken into account in fair pricing reviews.[81] SIFMA also stated dealers should not face an undue burden to explain why a price on a trade identified as a portfolio trade was off-market.[82] FINRA confirms that the portfolio trade modifier would be taken into account in FINRA's reviews of members' trading activities, including fair pricing reviews, along with any other indicators or modifiers that may be appended to individual trades (such as the special price indicator, where applicable). However, the new portfolio trade modifier would not replace any other applicable indicators or modifiers, including the special price indicator, where applicable. FINRA continues to believe that, on balance, identification of portfolio trades through the proposed portfolio trade modifier would improve market transparency and provide greater certainty to market participants and investors regarding such trades.

Bloomberg also commented more generally on the portfolio trade proposal. Bloomberg stated that it has significant reservations about the portfolio trade proposal because there would

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79 See SIFMA Letter at 2.

80 See SIFMA Letter at 2.

81 See SIFMA Letter at 2.

82 See SIFMA Letter at 2.

be significant incentives for liquidity seekers to avoid sending baskets that meet criteria.[83] Specifically, Bloomberg noted that dissemination of individual components of portfolio trades as unrelated transactions in TRACE data, as it is today, protects liquidity seekers, while appending the proposed modifier could lead to significant information leakage such that market participants would understand both why and how the trade was executed.[84] Bloomberg expressed concern that the modifier would therefore be problematic because it would alert the market that a change in portfolio strategy had occurred, for example by allowing participants to reverse engineer a particular institution's views on a particular issue, which could dampen liquidity. Bloomberg stated that these concerns would reduce the transparency benefits sought by the proposal because liquidity seekers and providers may simply split up their baskets into smaller lists that do not meet the proposed criteria for the portfolio trade modifier.[85] Bloomberg also suggested that transparency could be enhanced by instead identifying every situation where two or more securities are transacted at an agreed upon price where the price may not reflect the current market price for the bonds, drawing an analogy to reporting modifiers used for equities in the public data feeds to indicate transactions with special circumstances that impact price.[86] As discussed above, FINRA believes that, on balance, identification of portfolio trades through the new proposed portfolio trade modifier would improve market transparency and provide greater certainty to market participants and investors regarding such trades. With respect to Bloomberg's suggestion to identify any portfolio trades involving two or more securities, as discussed above FINRA believes such a low threshold would be over-inclusive and would

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83 See Bloomberg Letter at 3.

84 See Bloomberg Letter at 3.

85 See Bloomberg Letter at 3.

86 See Bloomberg Letter at 4.

reduce the usefulness of the modifier, while a threshold of 10 securities as proposed would benefit market participants by providing greater transparency into pricing in the corporate bond market, while avoiding capturing transactions that are not portfolio trades, as that term is commonly understood in the market. In addition, as discussed above, FINRA believes lowering the threshold to 10 unique issues (from the threshold of 30 set forth in the FIMSAC Recommendation) may discourage traders from splitting up portfolio trades into smaller lists that do not meet the specified criteria for the proposed modifier to avoid identifying the trade under the proposal.

FIF requested guidance on application of the portfolio trade proposal in certain scenarios. Specifically, FIF stated that its members request guidance on whether non-TRACE-Eligible Securities should be counted toward the portfolio basket size threshold where a portfolio trade involves some bonds that are TRACE-Eligible Securities and other bonds that are not TRACE-Eligible Securities.[87] FINRA confirms that a security that is a non-TRACE Eligible Security, as well as a security other than a corporate bond that is a TRACE Eligible Security, should not be counted toward the portfolio basket size threshold. FIF also asked for guidance on the definition of a "single agreed price" in the context of a portfolio trade.[88] FINRA is clarifying that a portfolio trade would be considered to be executed for a "single agreed price" for the entire basket where the overall price for the basket has been negotiated or agreed on an aggregate basis, including where the parties used a pricing list or pricing service as the starting point for negotiations but the final price was determined by applying a uniform spread to all securities in the basket. However, where the parties simply aggregate individual prices obtained from a

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[87] See FIF Letter at 3.

[88] See FIF Letter at 3.

pricing list or service without further negotiation, this would not be considered within the scope of the proposed portfolio trade modifier.[89] FIF further asked whether a portfolio trade involving a delayed spotting process would qualify as a portfolio trade.[90] FINRA notes that, where a trade meets the conditions for applying multiple modifiers, all applicable modifiers should be appended unless otherwise provided for in the TRACE technical specifications. Thus, in the scenario presented by FIF, the trade may qualify for the delayed Treasury spot modifier if the trades are based on a spread to the yield of a U.S. Treasury Security and the spread was agreed upon that day prior to the Time of Execution of the transaction. If the trade also involved at least 10 unique securities and was transacted for a single agreed price for the entire basket and the other conditions of the Portfolio Trade Definition have been met, the trade must also be appended with the portfolio trade modifier. The specific format and requirements for the new modifiers would be published in TRACE technical specifications, which may require the use of a third, single modifier indicating that both the delayed Treasury spot modifier and the portfolio trade modifier apply to the trade. As noted below, FINRA will work with members to provide further interpretive guidance, where needed.

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89 For example, consistent with the FIMSAC's recommendation, the "single agreed price" prong would "exclude normal multi-dealer list trades that originate as either an electronic OWIC or a BWIC as such protocols result in a competitively negotiated price for each security in the list." See FIMSAC Recommendation at 3 n.5.

90 See FIF Letter at 3. Specifically, FIF asked whether the following scenario would constitute a portfolio trade: (i) a third-party publishes reference prices for a universe of bonds at a set time each day at 3 pm; (ii) at 10 am two firms agree to trade a basket of securities that represents a subset of this universe based upon the as-of-yet unpublished 3 pm reference price; and (iii) at 3:30 pm the two firms review the prices published at 3 pm for the basket constituents and come to consensus on the final price, which is an aggregate of the constituent prices. FIF further asked whether the existence of any offset to the price (e.g., the 3pm reference price plus a fixed markup) would change whether the basket in this scenario would be considered a portfolio trade.

FIX suggested that it can assist in developing standard solutions for reporting the proposed new portfolio trade modifier.[91] For example, FIX noted that the TrdType and TrdSubType fields could be used to identify portfolio trades.[92] FINRA notes that it supports several technical standards for reporting of trade information to TRACE, including FIX, and that the specific format and requirements for the new portfolio trade modifier would be published in TRACE technical specifications.

Implementation Period

FIF, Bloomberg and SIFMA commented on the implementation period that would be necessary with respect to both the delayed Treasury spot and portfolio trade aspects of the proposal. FIF requested that the implementation timeline for the changes commence upon the publication of updated technical specifications and the issuance of FAQs by FINRA, given the significant technical work that will be required to implement the proposal and various issues where the industry will require interpretive guidance from FINRA.[93] SIFMA stated that a significant amount of lead time would be needed before the implementation date for the delayed Treasury spot trade proposal, "on the order of 18 months or more."[94] Bloomberg noted the "significant change in workflow" that would be required to implement the delayed Treasury spot proposal, particularly with respect to recording and reporting the time that the spread was agreed.[95] Bloomberg also noted that consumers of TRACE data will need specifications in

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91 See FIX letter at 3.

92 See FIX letter at 2.

93 See FIF Letter at 3.

94 See SIFMA Letter at 4.

95 See Bloomberg Letter at 2-3.

advance to make changes to systems to ingest the updated data feed and interpret the data.[96] Bloomberg therefore recommended that FINRA provide the industry with "plenty of time" to accommodate the changes and that FINRA should conduct outreach with members to determine an appropriate amount of lead time following FINRA's release of FAQs and TRACE messaging specifications needed to code, test and implement the necessary changes.[97] Bloomberg also noted similar implementation issues and made the same recommendation with respect to the portfolio trade aspect of the proposal.[98]

FINRA acknowledges that members reporting to TRACE require an appropriate amount of time to implement the systems and other changes necessary to report the additional information required under the proposed rule change. As noted above, if the Commission approves the proposed rule change, FINRA will announce the effective date(s) of the proposed rule change in a Regulatory Notice.[99] FINRA will publish a Regulatory Notice announcing the effective date(s) of the proposed amendments pursuant to Rule 6730(d)(4)(H) and (I) no later than 90 days following Commission approval, and the effective date(s) will be no later than 365 days following publication of the Regulatory Notice. FINRA will publish a Regulatory Notice announcing the effective date of the proposed amendments pursuant to Rule 6730(c)(14) once determined.[100] As is generally the case for TRACE rule changes, FINRA will endeavor to publish updated technical specifications as far as possible in advance of the effective date(s) and will work with members to provide interpretive guidance, where needed.

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96 See Bloomberg Letter at 3.

97 See Bloomberg Letter at 3.

98 See Bloomberg Letter at 5.

99 See supra note 25.

100 See supra note 26.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be 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. In particular, the Commission requests comment on whether the proposal should be expanded to require FINRA members to report, with respect to delayed Treasury spot trades, the actual yield spread ("spread") between the corporate bond and the U.S. Treasury Security that is agreed between the counterparties; and (2) the CUSIP number (or another identifier) of the specific U.S. Treasury Security that serves as the basis for the spread calculation. Presently, with respect to Treasury spot trades, FINRA is proposing to require only that a member append a new modifier when reporting a delayed Treasury spot trade and the time at which the spread for the delayed Treasury spot trade was agreed upon.

FINRA discussed earlier in this notice that the FIMSAC considered these additional options but ultimately did not recommend them. FINRA also discussed the SIFMA comment to its Regulatory Notice preceding this filing, where SIFMA stated that market observers "should have enough information from the proposed trade reports to derive an estimate of the spread without requiring reporting of this additional data." FINRA also stated that it requested comment on its understanding that most common pricing benchmark used for delayed Treasury spot trades is the on-the-run U.S. Treasury Security with the maturity that corresponds to the maturity of the corporate bond being priced; SIFMA stated that its members share that understanding. Therefore, FINRA has not proposed to require these additional two data elements but stated above that it "will assess the reported data regarding delayed Treasury spot trades and continue to engage with industry participants regarding whether any future changes may be appropriate to further improve transparency." In light of this background, commenters are invited to provide views on the following:

1. How easy or difficult would it be for market observers to "derive an estimate of the spread" having only the time that the spread was agreed between the counterparties to the delayed Treasury spot trade? How confident are market observers that their estimates are accurate? Would reporting and public dissemination of the actual spread for each specific delayed Treasury spot trade and the benchmark CUSIP used for the spread be preferable?
2. Do FINRA members who engage in delayed Treasury spot trades keep a record of the agreed upon spread and the benchmark CUSIP for a specific trade in any internal systems? Could FINRA members who engage in delayed Treasury spot trades capture the agreed upon spread and the benchmark CUSIP used for the spread on a specific trade in the same location as the time the spread was agreed to that FINRA is proposing to be reported in this proposal? Whatever the case, please describe the burdens that would be associated with reporting the actual spread and the CUSIP number (or other identifier) of the benchmark U.S. Treasury Security.

3. The current proposal, if approved by the Commission, would require members to add a new modifier to a delayed Treasury spot trade and to report the time at which the spread for the delayed Treasury spot trade was agreed upon. Affected reporting members would have to make systems changes to report these additional data elements for all delayed Treasury spot trades. What would be the incremental burden of the systems changes necessary to report two additional data elements—the agreed upon spread and the CUSIP or other identifier of the benchmark U.S. Treasury Security—at same time? What would be the costs of adding these two additional data elements in the future, as part of a separate systems upgrade, relative to implementing all four data elements as part of the same upgrade?
4. How confident are market observers that they share the same understanding as the counterparties to a delayed Treasury spot trade of the specific U.S. Treasury Security used as the benchmark? Are there delayed Treasury spot trades where the time to maturity for the corporate bond does not correspond exactly to any U.S. Treasury Security so there is ambiguity as to what U.S. Treasury Security would serve as the benchmark? Is there a clear market convention for benchmarking off-the-run corporate securities for which the maturities fall between two on-the-run Treasury securities (for example, 4-year maturities, 6-year maturities, *etc.*)?
5. Do you believe it would be appropriate for FINRA to disseminate its assumption of the U.S. Treasury Security used as the benchmark for a delayed Treasury spot trade, even if FINRA does not require it to be reported by members? Why or why not?

Comments may be submitted by any of the following methods:

<u>Electronic Comments:</u>

- Use the Commission's Internet comment form (http://www.sec.gov/rules/sro.shtml); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-FINRA-2021-030 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-2021-030. 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 such 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-2021-030 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.[101]

J. Matthew DeLesDernier
Assistant Secretary

[101] 17 CFR 200.30-3(a)(12).