

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT of 1934
Release No. 34-96541 / December 20, 2022

In the Matter of the

Financial Industry Regulatory Authority, Inc.

For an Order Granting the Approval of

Proposed Rule Change, as Modified by
Amendment No. 2, to Establish a Corporate
Bond New Issue Reference Data Service
(File No. SR-FINRA-2019-008)

**ORDER SCHEDULING
FILING OF STATEMENTS ON
REVIEW**

On January 15, 2021, the Commission issued an order (“Approval Order”) approving a proposed rule change (“Proposal”) by Financial Industry Regulatory Authority, Inc. (“FINRA”) to establish a new issue reference data service for corporate bonds.¹ Bloomberg L.P. (“Bloomberg”) filed a petition for review of the Approval Order in the U.S. Court of Appeals for the District of Columbia Circuit (“D.C. Circuit”), challenging the Commission’s Approval Order.

The D.C. Circuit found that all but one of Bloomberg’s arguments lacked merit. Specifically, the D.C. Circuit concluded that the Approval Order failed to sufficiently consider Bloomberg’s “concerns about the costs that FINRA, as well as market participants, will incur in connection to the creation and maintenance of the data service.”² The D.C. Circuit remanded to the Commission for reconsideration of this issue, but did not vacate the Approval Order.³

¹ See Exchange Act Release No. 90939 (Jan. 15, 2021), 86 FR 6922 (Jan. 25, 2021) (Order Setting Aside Action by Delegated Authority and Approving a Proposed Rule Change, as Modified by Amendment No. 2, To Establish a Corporate Bond New Issue Reference Data Service).

² Bloomberg L.P. v. SEC, 45 F.4th 462, 466 (D.C. Cir. 2022).

³ Id. at 478.

The court stated that “on remand, ‘the Commission can redress its failure of explanation’ by analyzing the costs FINRA will incur in building and maintaining its data service and how the costs of building the data service will be remunerated if the fee proposal is ultimately disapproved by the Commission.”⁴ The D.C. Circuit’s mandate, which was issued on October 11, 2022, returned the matter to the Commission for further proceedings.⁵

Accordingly, to facilitate the Commission’s further review of the Proposal, IT IS ORDERED, that by January 19, 2023, FINRA may submit any additional statements or information that it considers relevant to the Commission’s analysis of the issue on remand, including the costs FINRA expects to incur in building and maintaining its data service and how the costs of building the data service would be remunerated if the fee proposal is ultimately disapproved by the Commission.

Furthermore, the Commission is providing other parties and persons 30 days to respond to any additional statements or information FINRA may submit.

Accordingly, IT IS ORDERED, that by February 18, 2023, any party or other person may submit any additional statements or information such party or other person considers relevant to the issue on remand.

By the Commission.

Sherry R. Haywood,

Assistant Secretary.

⁴ Id. at 477.

⁵ Doc. No. 1968395, Case No. 21-1088 (D.C. Cir. Oct. 11, 2022).