

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-75428; File No. SR-FINRA-2015-025)

July 10, 2015

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change to Amend FINRA Rule 6730 (Transaction Reporting) to Require Members to Report Transactions in TRACE-Eligible Securities As Soon As Practicable

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 July 2, 2015, Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“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 codify that members are required to report transactions in TRACE-Eligible Securities subject to dissemination as soon as practicable.

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 rule change. The text of these statements may be examined at the places specified in Item IV

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

FINRA Rule 6730 (Transaction Reporting) generally requires that each FINRA member that is a Party to a Transaction³ in a TRACE-Eligible Security⁴ report the transaction within 15 minutes of the Time of Execution,⁵ unless a different time period for the security is otherwise specified in the rule, or the transaction report will be deemed "late." Paragraph (a)(4) of Rule 6730 further provides that members have an ongoing obligation to report transaction information promptly, accurately and completely.⁶

FINRA is filing this proposed rule change to codify that members are expected to report transactions in TRACE-Eligible Securities that are subject to dissemination as soon as

³ Rule 6710(e) provides that a "Party to a Transaction" is an introducing broker-dealer, if any, an executing broker-dealer, or a customer. "Customer" includes a broker-dealer that is not a FINRA member.

⁴ Rule 6710(a) provides that a "TRACE-Eligible Security" is a debt security that is United States dollar-denominated and 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; or is a debt security that is U.S. dollar-denominated and issued or guaranteed by an Agency as defined in paragraph (k) or a Government-Sponsored Enterprise as defined in paragraph (n). "TRACE-Eligible Security" does not include a debt security that is: issued by a foreign sovereign, a U.S. Treasury Security as defined in paragraph (p), or a Money Market Instrument as defined in paragraph (o).

⁵ Among other things, Rule 6710(d) provides that the "Time of Execution" for a transaction in a 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.

⁶ While a member may employ an agent for the purpose of submitting transaction information, the primary responsibility for the timely, accurate and complete reporting of transaction information remains the non-delegable duty of the member obligated to report the transaction.

practicable following the Time of Execution, and must not deliberately delay their reporting.⁷ While FINRA provides a time period for members to conduct the necessary actions to report transactions, FINRA believes it is important for public price transparency that members do not delay reporting executed transactions and has conveyed this expectation to members.⁸ FINRA now proposes to amend Rule 6730 to provide in the rule text that each member that is a Party to a Transaction in a TRACE-Eligible Security that is subject to dissemination must report the transaction to TRACE as soon as practicable, but no later than within 15 minutes of the Time of Execution, or other timeframe specified in Rule 6730. Further, the proposed amendment includes new Supplementary Material .03 to provide additional guidance around FINRA's expectations regarding the timeliness of reports submitted to TRACE. Specifically, new Rule 6730.03 provides that members must adopt policies and procedures reasonably designed to

⁷ FINRA Rule 6750 (Dissemination of Transaction Information) provides that FINRA will disseminate information on all transactions in TRACE-Eligible Securities, including transactions effected pursuant to Securities Act Rule 144A, immediately upon receipt of the transaction report, except as specified in the rule.

⁸ For example, in a Notice regarding TRACE trade reporting obligations for transactions in Asset-Backed Securities (ABS), FINRA stated that, although firms have up to two business days to report transactions in ABSs, firms should submit reports as soon as practicable after the execution of a transaction and throughout the trading day, rather than queuing such reports until the end of the reporting time period. Trade Reporting Notice, May 10, 2011 (Reporting Asset-Backed Securities to the Trade Reporting and Compliance Engine). In addition, in Regulatory Notice 12-52 (December 2012), FINRA stated that transactions in securities subject to TRACE reporting requirements should be reported without delay, even though the TRACE rule generally allows for up to 15 minutes to report transactions in corporate and agency debt securities. See also Letter from Brant K. Brown, Associate General Counsel, FINRA, to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, dated August 29, 2012 (Letter Responding to Comments received on SR-FINRA-2012-025). FINRA also has already codified the "as soon as practicable" requirement for the reporting of transactions to the equity trade reporting facilities, which require reporting as soon as practicable but no later than 10 seconds after execution. See FINRA Rules 6282 (governing transaction reporting on the ADF), 6380A (governing transaction reporting on the FINRA/NASDAQ TRF), 6380B (governing transaction reporting on the FINRA/NYSE TRF) and 6622 (Transaction Reporting on the FINRA ORF).

comply with the requirement that transactions in TRACE-Eligible Securities that are subject to dissemination be reported as soon as practicable by implementing systems that commence the trade reporting process at the Time of Execution without delay. In addition, where a member has such reasonably designed policies, procedures and systems in place, the member generally will not be viewed as violating the “as soon as practicable” requirement because of delays in trade reporting that are due to extrinsic factors that are not reasonably predictable and where the member does not purposely intend to delay the reporting of the trade. In no event may a member purposely withhold trade reports, e.g., by programming its systems to delay reporting until the end of the reporting time period.

The supplementary material also recognizes that members may manually report transactions in TRACE-Eligible Securities and, as a result, the trade reporting process may not be completed as quickly as where an automated trade reporting system is used. In these cases, FINRA will take into consideration the manual nature of the member’s trade reporting process in determining whether the member’s policies and procedures are reasonably designed to report the trade “as soon as practicable” after execution. FINRA believes that codifying this “as soon as practicable” requirement is necessary to promote consistent and timely reporting by all members and will improve the usefulness of disseminated TRACE information for investors.

If the Commission approves the filing, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice to be published no later than 60 days following Commission approval. The effective date will be no sooner than 30 days following publication of the Regulatory Notice announcing Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁹ 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. In particular, the proposed rule would require that members report transactions in TRACE-Eligible Securities that are subject to dissemination as soon as practicable from the Time of Execution. FINRA believes it is important to ensure that members do not delay the reporting of executed transactions, particularly, for example, by imbedding into the trade reporting process deliberate delays until the end of the reporting time period. Specifically, the proposed rule change will help improve the value of transaction information for price transparency, which enhances its value for regulators, investors and other market participants.

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.

Economic Impact Assessment

The proposed rule change seeks to codify that members are expected to report transactions in TRACE-Eligible Securities as soon as practicable following the Time of Execution, and must not deliberately delay their reporting.

The economic baseline of the proposed rule change is the current rules and industry practice relating to trade reporting. As discussed above, the proposed rule change is consistent with FINRA's current expectation that members submit trade reports as soon as practicable.

⁹ 15 U.S.C. 78o-3(b)(6).

Further, FINRA understands that the vast majority of firms that report transactions to TRACE have automated their trade reporting systems, which may facilitate their ability to comply with this rule.

For example, based on a review of TRACE trade reporting data from January 2014 through December 2014, over 90% of trade reports in corporate and agency debt are submitted within five minutes of the time of execution, and 79% percent were reported within one minute. Approximately 71% of trade reports in securitized products are submitted within five minutes of execution, and over 55% were reported within one minute.

FINRA recognizes that reporting within a short time frame may not mean that firms are reporting as soon as practicable, but does indicate general timeliness in reporting. FINRA has observed instances that appear to indicate firms have taken more time than is operationally necessary to report trades, which results in delays in transaction information reaching investors and other market participants, and may raise the possibility that certain firms may have intentionally delayed trade reporting, possibly to delay public dissemination of the trade. FINRA believes such conduct is inconsistent with the purpose of the trade reporting rules and further believes that explicitly prohibiting such conduct is important for the effective operation of the rule.

Therefore, FINRA expects that the primary economic benefit arising from this proposed rule change will be a reduction in the delay between a transaction's Time of Execution and when a member reports the trade to TRACE, which will result in more timely information being disseminated to investors and other market participants. FINRA also believes that the proposal will provide further clarity as to the operation of Rule 6730 – particularly in clarifying that intentionally delaying trade reporting is violative of a member's ongoing obligation to report

transaction information to TRACE promptly. FINRA anticipates that this rule will not impose any significant new compliance costs on members.

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

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. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-FINRA-2015-025 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-2015-025. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer

to File Number SR-FINRA-2015-025 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.¹⁰

Jill M. Peterson
Assistant Secretary

¹⁰ 17 CFR 200.30-3(a)(12).