

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-81318; File No. SR-FINRA-2017-021)

August 4, 2017

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving Proposed Rule Change to Make Available a New TRACE Security Activity Report

I. Introduction

On June 19, 2017, the Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to amend FINRA Rule 7730 (Trade Reporting and Compliance Engine (“TRACE”)) to make available a new “Security Activity Report.” The proposed rule change was published for comment in the Federal Register on June 29, 2017.³ The Commission received two comments on the proposal.⁴ On August 3, 2017, FINRA submitted a letter responding to comments.⁵ As discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposal

FINRA Rule 7730, among other things, sets forth the TRACE data products offered by FINRA. FINRA proposed to amend Rule 7730 to make available a new Security Activity

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 81007 (June 23, 2017), 82 FR 29602 (June 29, 2017) (“Notice”).

⁴ See letters to Brent J. Fields, Secretary, Commission, from Bennett Golub, Chief Risk Officer, and Alexis Rosenblum, Director, BlackRock, Inc., dated July 20, 2017 (“BlackRock Letter”); and Sean Davy, Managing Director, Capital Markets Division, Securities Industry and Financial Markets Association (“SIFMA”), dated July 20, 2017 (“SIFMA Letter”).

⁵ See letter to Brent J. Fields, Secretary Commission, from Racquel L. Russell, Associate General Counsel, FINRA, dated August 3, 2017 (“Response Letter”).

Report, which will provide aggregated statistics by security for TRACE-Eligible Securities that are corporate or agency bonds (collectively “CA Bonds”). FINRA stated that the Security Activity Report will include basic descriptive elements for each CA Bond, such as the issuer’s name and the security’s coupon and maturity date, as well as aggregate transaction statistics. These statistics will include par value volume and number of customer buy transactions, par value volume and number of customer sell transactions, and par value volume and number of inter-dealer transactions.⁶ FINRA noted that, currently, transactions whose volume is over the dissemination cap⁷ becomes available only after 18 months as part of the Historic TRACE Data product.⁸ FINRA will provide the Security Activity Report on a 90-day delay to address potential confidentiality concerns.

The Security Activity Report also will provide information regarding the number of unique MPIDs that report transactions in a particular security. The report will provide the aggregate activity of the five most active MPIDs in each CA Bond and the number of unique

⁶ The Security Activity Report will reflect differing levels of par value volume detail depending on whether the transaction size is larger than the dissemination cap and whether there are more than six transactions occurring in a calendar month. Additionally, if a CA Bond has more than six transactions in a month, the par value volume traded would appear on the report within specified size categories along with a range of the number of transactions that occur within the specified volume size categories. These size categories will be announced in the Regulatory Notice which announces the effective date of the Security Activity Report.

⁷ Currently, the actual par value traded is publicly disseminated only if it is below the size cap in that asset class. For transactions in investment grade CA bonds over a \$5 million par value, TRACE disseminates the size as “5MM+.” For transactions in non-investment grade corporate bonds over a \$1 million par value, TRACE disseminates the size as “1MM+.”

⁸ The Commission notes that on June 23, 2017 it approved a proposed rule change to reduce the minimum delay from 18 months to six months for transactions included in the Historic TRACE Data Sets relating to CA Bonds. This approval occurred after the current proposed rule change was filed with the Commission. See Securities Exchange Act Release No. 81011 (June 23, 2017), 82 FR 29597 (June 29, 2017). The effective date of this change is October 2, 2017. See also, FINRA Regulatory Notice 17-23.

MPIDs for disseminated uncapped and capped transactions.⁹ In addition, the report will include the percentage, in aggregate, of the total number of transactions and the total par value volume traded by the top five MPIDs for each particular security.

FINRA believes that the Security Activity Report might be useful for both business and regulatory purposes. For example, FINRA noted that members might use the information provided in the Security Activity Report to better ascertain their relative trading activity in particular CA Bonds. Interested parties also could use the information in the Security Activity Report in connection with regulatory obligations, such as assessing, classifying, and reviewing the liquidity risk of individual securities pursuant to Rule 22e-4 under the Investment Company Act.¹⁰

FINRA has stated that it will announce in a Regulatory Notice the effective date of the proposed rule change, which will be no later than 365 days following Commission approval.¹¹ FINRA intends to establish a fee for the TRACE Security Activity Report in the future. The fee will be established pursuant to a separate rule filing.

III. Summary of Comments and FINRA's Response

As previously noted, the Commission received two comment letters¹² and a FINRA Response Letter¹³ on the proposed rule change. Both commenters expressed general support for

⁹ FINRA stated that the number of unique reporting MPIDs will be provided by displaying either the actual number of unique MPIDs where there are six or more unique MPIDs or as "1 to 5" where there are five or fewer reporting MPIDs. Specific market participants that engaged in the transactions will not be identified in the Security Activity Report.

¹⁰ 17 CFR 270.22e-4.

¹¹ In its Response Letter FINRA stated that it intends for the effective date for the Security Activity Report to be no sooner than February 1, 2018. See Response Letter at 2.

¹² See supra note 4.

¹³ See supra note 5.

the proposal and noted that the additional data provided by the Security Activity Report would assist in regulatory compliance with Rule 22e-4.¹⁴ One commenter raised concerns about the implementation, calculation, and the format of the Security Activity Report.¹⁵ This commenter noted that the delay period reduction for the Historic TRACE Data product from 18 months to six months had the potential to impact market participant behavior, and recommended delaying the implementation of the Security Activity Report for at least six months from the effective date of the reduced delay period.¹⁶ FINRA disagreed that an additional implementation delay related to the Historic TRACE Data product was necessary for the Security Activity Report. FINRA stated that proposed features of the Security Activity Report, such as the 90-day publication delay and other grouping of activity reduce information leakage risks and mitigate any potential impacts.¹⁷ FINRA stated that it intends for the effective date of the Security Activity Report to be no sooner than February 1, 2018.¹⁸

This commenter also believed there would be confidentiality concerns if market concentration percentages were not aggregated across the top five MPIDs for each particular security.¹⁹ In its Response Letter, FINRA clarified and reiterated that the activity of the top five MPIDs will be expressed in aggregate figures.²⁰

Finally, this commenter stated that it would be beneficial for FINRA to publicly share a draft template of the Security Activity Report so that market participants could educate

¹⁴ See SIFMA Letter at 1; BlackRock Letter at 1.

¹⁵ See SIFMA Letter at 2-3.

¹⁶ See id. at 2.

¹⁷ See Response Letter at 2.

¹⁸ See id.

¹⁹ See SIFMA Letter at 2.

²⁰ See Response Letter at 2.

themselves on the format and contents of the report.²¹ FINRA responded that it intends to post a file layout for the Security Activity Report on its website at least 30 days before the Security Activity Report's effective date.²²

IV. Discussion

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.²³ In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,²⁴ which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission does not believe that commenters raised any issue that would preclude approval of FINRA's proposal. The Commission notes that the Security Activity Report does not require member firms to provide FINRA with any additional data. The product is optional and responds to consumer demand for a more useful market data product. Finally, the Security Activity Report appears reasonably designed to promote transparency while minimizing the potential for information leakage.

²¹ See SIFMA Letter at 2-3.

²² See Response Letter at 2.

²³ In approving this proposed rule change, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²⁴ 15 U.S.C. 78o-3(b)(6).

IV. Conclusion

IT IS THEREFORE ORDERED pursuant to Section 19(b)(2) of the Act²⁵ that the proposed rule change (SR-FINRA-2017-021) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁶

Eduardo A. Aleman
Assistant Secretary

²⁵ 15 U.S.C. 78s(b)(2).

²⁶ 17 CFR 200.30-3(a)(12).