

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-68075; File No. SR-FINRA-2012-046)

October 22, 2012

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Definition of “Money Market Instrument” in FINRA Rule 6710(o)

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on October 11, 2012, 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 and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4 under the Act,<sup>3</sup> which renders the proposal effective upon receipt of this filing by the Commission. 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 exclude additional short-term discount notes from the definition of TRACE-Eligible Security in FINRA Rule 6710(a) by amending the definition of “Money Market Instrument” in FINRA Rule 6710(o) of the Trade Reporting and Compliance Engine (TRACE) rules.

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

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

<sup>3</sup> 17 CFR 240.19b-4(f)(6).

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 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 proposes to amend the definition of "Money Market Instrument" in FINRA Rule 6710(o) for purposes of the TRACE rules. The proposed amendment would modify the definition of Money Market Instrument to include discount notes that are issued by an Agency or a Government-Sponsored Enterprise (hereinafter, referred to as agency discount notes)<sup>4</sup> and have a maturity of one calendar year and one day or less from the date of issuance (i.e., not later than 366 days from the date of issuance, or if a leap year, not later than 367 days from the date of issuance), which would exclude such short-term instruments from the definition of TRACE-Eligible Security.

Currently, a Money Market Instrument is defined in FINRA Rule 6710(o) as "a debt security that at issuance has a maturity of one year or less." Such products are excluded from the

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<sup>4</sup> The terms "Agency" and "Government-Sponsored Enterprise" are defined in FINRA Rules 6710(k) and 6710(n), respectively.

definition of TRACE-Eligible Security in FINRA Rule 6710(a) and thus are not subject to TRACE reporting and dissemination. FINRA interprets a Money Market Instrument to include an instrument with a 365 day term (or in a leap year, a 366 day term). For example, a debt security that is issued on September 15, 2012 and matures on September 14, 2013, is a Money Market Instrument (and thus not subject to TRACE reporting and dissemination). In contrast, an instrument that is issued on September 15, 2012 and matures on September 15, 2013 is not a Money Market Instrument (and thus is a TRACE-Eligible Security subject to TRACE reporting and dissemination).<sup>5</sup>

FINRA proposes to modify the definition of Money Market Instrument in FINRA Rule 6710(o) to include a significant number of agency discount notes. Consistent with a market convention that pre-dates TRACE, such agency discount notes are frequently issued and routinely mature 366 days (or, in a leap year, 367 days) from the date of issuance. Although these instruments are technically included in the universe of TRACE-Eligible Securities today, FINRA believes that such instruments should be treated as Money Market Instruments, which is consistent with the trading of such instruments, and not subject to TRACE reporting and dissemination. Accordingly, FINRA proposes to amend FINRA Rule 6710(o) to define “Money Market Instrument” as a “debt security that at issuance has a maturity of one calendar year or less, or, if a discount note issued by an Agency, as defined in FINRA Rule 6710(k), or a Government-Sponsored Enterprise, as defined in FINRA Rule 6710(n), a maturity of one calendar year and one day or less.”

FINRA believes that the proposed amendment is appropriate and would give effect to FINRA’s intention to exclude money market instruments generally from TRACE. In addition,

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<sup>5</sup> One year or less is one calendar year (adjusted accordingly during a leap year), with the date of issuance counted as the first day.

the proposed amendment would reduce any market confusion regarding the appropriate treatment of these short-term instruments. Moreover, excluding agency discount notes from TRACE reporting and dissemination should not adversely impact price transparency, as the agency discount notes are in demand and generally trade actively at narrow spreads.

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, such that FINRA can implement the proposed rule change immediately.

## 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>6</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change to modify the definition of Money Market Instrument to include agency discount notes having a term of one calendar year and one day or less will protect investors and the public interest by reducing market confusion and possible misreporting and enhance market transparency by clarifying the short-term instruments that are to be reported to TRACE.

### 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.

### 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.

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

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup>

FINRA has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such action should help minimize any market confusion regarding the TRACE-eligibility of agency discount notes. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.<sup>9</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. FINRA has satisfied this requirement.

<sup>9</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2012-046 on the subject line.

##### Paper comments:

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

All submissions should refer to File Number SR-FINRA-2012-046. 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-2012-046 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).