

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-70906; File No. SR-FINRA-2013-046)

November 20, 2013

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change Relating to TRACE Reporting and Dissemination of Transactions in Additional Asset-Backed Securities

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 November 13, 2013, 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 the FINRA Rule 6700 Series and the Trade Reporting and Compliance Engine (“TRACE”) dissemination protocols to disseminate additional Asset-Backed Securities transactions and, concomitantly, to reduce the reporting periods for such securities. FINRA also proposes to re-name as “Securitized Products” the broad group of securities currently defined as “Asset-Backed Securities,” to re-define the term “Asset-Backed Security” more narrowly to mean the specific securities that FINRA proposes to disseminate in the proposed rule change, to make other definitional changes and to incorporate technical and conforming amendments to the FINRA Rule 6700 Series and FINRA Rule 7730 in connection with provisions that have expired and the amendments referenced above.

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

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

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.<sup>3</sup>

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 FINRA Rule 6700 Series and the TRACE dissemination protocols to provide for the dissemination of transactions in an additional group of Asset-Backed Securities. Transactions in such Asset-Backed Securities effected pursuant to Rule 144A<sup>4</sup> under the Securities Act of 1933<sup>5</sup> ("Rule 144A transactions") will also be disseminated.<sup>6</sup>

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<sup>3</sup> As part of the proposed rule change, FINRA submitted an Exhibit 4 and an Exhibit 5. The Exhibit 4 shows the text of the proposed rule change marked to show the proposed changes as compared to the FINRA Rule 6700 Series and FINRA Rule 7730 including amendments approved by the SEC as if such amendments were effective. See note 6. The Exhibit 5 shows the text of the proposed rule change marked to show the proposed changes as compared to the current rule text of the rules in accordance with the requirements of Form 19b-4.

<sup>4</sup> 17 CFR 230.144A.

<sup>5</sup> 15 U.S.C. 77a *et seq.* (hereinafter "Securities Act").

<sup>6</sup> The SEC recently approved FINRA's proposed rule change to disseminate transactions in TRACE-Eligible Securities effected as Rule 144A transactions (provided that securities of the same type are subject to dissemination if effected in non-Rule 144A transactions).

Concomitantly, FINRA proposes to reduce the reporting period for such Asset-Backed Securities and incorporate two changes to the TRACE dissemination protocols. FINRA also proposes to re-name as Securitized Products the broad group of securities currently defined as Asset-Backed Securities in FINRA Rule 6710(m) and, in a proposed new definition in FINRA Rule 6710(cc), to re-define the term Asset-Backed Security more narrowly to mean the specific securities that FINRA proposes to disseminate in the proposed rule change (e.g., asset-backed securities collateralized by pools of credit card receivables, student loans, auto loans, etc.).<sup>7</sup> Also, in FINRA Rule 6710, FINRA proposes to add three new definitions and amend the defined terms “List or Fixed Offering Price Transaction” and “Takedown Transaction” to apply to certain primary market transactions in Asset-Backed Securities.<sup>8</sup> Finally, in the FINRA Rule 6700 Series and FINRA Rule 7730, FINRA proposes to delete reporting provisions that have expired and incorporate additional technical and conforming amendments consistent with the above-referenced proposed amendments to the FINRA Rule 6700 Series.

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See Securities Exchange Act Release No. 70345 (September 6, 2013), 78 FR 56251 (September 12, 2013) (Order Granting Approval of Proposed Rule Change Relating to the Dissemination of Transactions in TRACE-Eligible Securities that are Effected Pursuant to Securities Act Rule 144A); Securities Exchange Act Release No. 70691 (October 16, 2013), 78 FR 62788 (October 22, 2013) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to TRACE Fees for Securities Act Rule 144A Transaction Data) (together, “Rule 144A Dissemination Amendments”); and Regulatory Notice 13-35 (announcing June 30, 2014 as the effective date for SR-FINRA-2013-029 and SR-FINRA-2013-043). As a result, when the proposed rule change to disseminate the designated group of Asset-Backed Securities is approved and becomes effective, both Rule 144A and non-Rule 144A transactions in such Asset-Backed Securities will be disseminated.

<sup>7</sup> Except when the context requires otherwise, hereinafter, FINRA uses the terms Securitized Product and Asset-Backed Security as if adopted (i.e., Asset-Backed Security means a narrow class of Securitized Product as defined in proposed FINRA Rule 6710(cc) and Securitized Product means the broader group of products and instruments, including Asset-Backed Securities).

<sup>8</sup> The terms List or Fixed Offering Price and Takedown Transaction are defined in, respectively, FINRA Rule 6710(q) and FINRA Rule 6710(r).

Definitions.

Asset-Backed Security – Proposed FINRA Rule 6710(cc).

FINRA proposes to re-define Asset-Backed Security more narrowly to describe a specific class of Securitized Products that is the subject of the proposed rule change. FINRA believes that the proposed narrower definition of Asset-Backed Security is consistent with industry usage. In addition, to clarify the scope of the term, FINRA proposes to specifically exclude three types of instruments from the term Asset-Backed Security: (i) Agency Pass-Through Mortgage-Backed Securities traded to be announced (“TBA”)<sup>9</sup> or in Specified Pool Transactions;<sup>10</sup> (ii) SBA-Backed ABS<sup>11</sup> traded TBA or in Specified Pool Transactions; and (iii) Collateralized Mortgage Obligations (“CMOs”).<sup>12</sup> As re-defined in proposed FINRA Rule 6710(cc), the term “Asset-Backed Security” means:

a type of Securitized Product where the Asset-Backed Security is collateralized by any type of financial asset, such as a consumer or student loan, a lease, or a secured or unsecured receivable, but excludes: (i) an Agency Pass-Through Mortgage-Backed Security as defined in paragraph (v) traded To Be Announced (“TBA”) as defined in paragraph (u) or in a Specified Pool Transaction as defined in paragraph (x); (ii) an SBA-Backed ABS as defined in paragraph (bb) traded TBA or in a Specified Pool Transaction; and (iii) a Collateralized Mortgage Obligation as defined in paragraph (dd).

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<sup>9</sup> The terms Agency Pass-Through Mortgage-Backed Security and To Be Announced (“TBA”) are defined, respectively, in FINRA Rule 6710(v) and FINRA Rule 6710(u).

<sup>10</sup> The term Specified Pool Transaction is defined in FINRA Rule 6710(x).

<sup>11</sup> The term SBA-Backed ABS is defined in FINRA Rule 6710(bb).

<sup>12</sup> FINRA proposes to define the term Collateralized Mortgage Obligation in proposed FINRA Rule 6710(dd). See note 17.

In addition, in proposed Supplementary Material .01 to FINRA Rule 6710, FINRA provides additional guidance regarding the scope of the defined term Asset-Backed Security.<sup>13</sup>

Securitized Product – Amended FINRA Rule 6710(m).

FINRA proposes to amend FINRA Rule 6710(m) to re-name as Securitized Products the broader group of securities currently defined as Asset-Backed Securities. The term Securitized Product is used widely to describe the broad group of securities, including various types of mortgage-backed securities that FINRA currently refers to in FINRA Rule 6710(m). FINRA’s proposal to adopt the term Securitized Product to apply to this wide range of structured and securitized instruments is consistent with industry usage.

Proposed amended FINRA Rule 6710(m) also includes a technical amendment to change a reference to Section 3(a)(77)(A) of the Act<sup>14</sup> to Section 3(a)(79)(A) of the Act.<sup>15</sup> Section 3(a)(77) of the Act was renumbered in Section 101(b)(1) of the Jumpstart Our Business Startups Act (the “JOBS Act”).<sup>16</sup> Proposed amended FINRA Rule 6710(m) provides:

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<sup>13</sup> Proposed Supplementary Material .01 to FINRA Rule 6710 provides that Asset-Backed Security shall include, but is not limited to:

securities collateralized by the following types of assets and securities: credit card receivables; automobile loans and leases; student loans; home equity loans and home equity lines of credit; aircraft leases; automobile floorplan and wholesale loans; motorcycle loans and leases; recreational vehicle loans; manufactured housing loans; commercial loans; tranches of other Asset-Backed Securities; reinsurance; timeshare obligations; loans or other financial instruments generating a stream of payments and guaranteed as to principal or interest (or both) by the Small Business Administration (traded other than to be announced (“TBA”) as defined in paragraph (u) or in a Specified Pool Transaction as defined in paragraph (x)); collateralized debt obligations; collateralized bond obligations; collateralized loan obligations; and Non-Agency Backed Commercial Mortgage-Backed Securities as defined in paragraph (ff).

<sup>14</sup> 15 U.S.C. 78c(a)(77)(A).

<sup>15</sup> 15 U.S.C. 78c(a)(79)(A).

<sup>16</sup> 15 U.S.C. 78c(a)(77). The JOBS Act was enacted on April 5, 2012; Public Law 112-106,

“Securitized Product” means a security collateralized by any type of financial asset, such as a loan, a lease, a mortgage, or a secured or unsecured receivable, and includes but is not limited to an asset-backed security as defined in Section 3(a)(79)(A) of the Exchange Act, a synthetic asset-backed security, and any residual tranche or interest of any security specified above, which tranche or interest is a debt security for purposes of paragraph (a) and the Rule 6700 Series.

Other Definitions.

FINRA proposes to define Collateralized Mortgage Obligation, Agency-Backed Commercial Mortgage-Backed Security and Non-Agency-Backed Commercial Mortgage-Backed Security in, respectively, proposed FINRA Rule 6710(dd), proposed FINRA Rule 6710(ee) and proposed FINRA Rule 6710(ff) to provide additional clarity regarding various classes of securities that are included in, or excluded from, the terms Securitized Product and Asset-Backed Security and the various dissemination and reporting requirements applicable to these different types of Securitized Products.<sup>17</sup>

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126 Stat. 306 (2012).

<sup>17</sup> In proposed FINRA Rule 6710(dd), Collateralized Mortgage Obligation is defined as:  
a type of Securitized Product structured in multiple classes (or tranches) backed by Agency Pass-Through Mortgage-Backed Securities as defined in paragraph (v), mortgage loans, certificates backed by project loans or construction loans, other types of mortgage-backed securities or assets derivative of mortgage-backed securities, and includes a real estate mortgage investment conduit (“REMIC”) and an Agency-Backed Commercial Mortgage-Backed Security as defined in paragraph (ee).

In proposed FINRA Rule 6710(ee), Agency-Backed Commercial Mortgage-Backed Security is defined as:

a type of Securitized Product that is classified as a Collateralized Mortgage Obligation for purposes of the Rule 6700 Series and

Dissemination.

Currently, FINRA requires that virtually all transactions in U.S. dollar-denominated debt securities, except U.S. Treasury securities, foreign sovereign securities and municipal securities, be reported to TRACE, and most transactions reported are subject to dissemination immediately upon receipt of a transaction report.

Securitized Products were the last major group of securities to be added to TRACE. After studying the liquidity and trading characteristics of various classes of Securitized Products, FINRA began to disseminate Securitized Products in phases, beginning with the dissemination of two very significant segments: TBA transactions and Specified Pool transactions in Agency Pass-Through Mortgage-Backed Securities and SBA-Backed ABS.<sup>18</sup>

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Rule 7730 and is issued in conformity with a program of an Agency as defined in paragraph (k) or a Government-Sponsored Enterprise (“GSE”) as defined in paragraph (n), for which the timely payment of principal and interest is guaranteed by the Agency or GSE, representing ownership interest in a pool (or pools) of mortgage loans on commercial property.

In proposed FINRA Rule 6710(ff), Non-Agency-Backed Commercial Mortgage-Backed Security is defined as:

a type of Securitized Product that is classified as an Asset-Backed Security for purposes of the Rule 6700 Series and Rule 7730 and is issued by an entity other than an Agency as defined in paragraph (k) or a Government-Sponsored Enterprise (“GSE”) as defined in paragraph (n), representing ownership interest in a pool (or pools) of mortgage loans on commercial property.

<sup>18</sup> On November 12, 2012, FINRA began disseminating transactions in Agency Pass-Through Mortgage-Backed Securities traded TBA (“MBS TBA transactions”), which are the most liquid Securitized Products. See Securities Exchange Act Release No. 66829 (April 18, 2012), 77 FR 24748 (April 25, 2012) (SEC Approval Order, File No. SR-FINRA-2012-020). See also Regulatory Notice 12-26 (May 2012) and Regulatory Notice 12-48 (November 2012).

On July 22, 2013, FINRA began disseminating Agency Pass-Through Mortgage-Backed Securities and SBA-Backed ABS traded in Specified Pool Transactions, which are correlated in pricing to MBS TBA transactions and TBA transactions in SBA-Backed ABS. See Securities Exchange Act Release No. 68084 (October 23, 2012), 77 FR 65436

FINRA proposes that transactions in Asset-Backed Securities be disseminated, including Rule 144A transactions in such securities, to increase transparency in the bond market, and particularly in the market for Asset-Backed Securities.<sup>19</sup> FINRA has reviewed substantial amounts of transaction data for Asset-Backed Securities since reporting began on May 16, 2011. The Asset-Backed Securities market is considered a largely institutional market.<sup>20</sup> In 2012, the average daily par value traded in Asset-Backed Securities was \$5.8 billion, which was approximately the same size of the market in publicly traded Non-Investment Grade corporate bonds.<sup>21</sup> Consistent with the institutional nature of Asset-Backed Securities transactions, although the size of the Asset-Backed Securities market is comparable to the market for publicly-traded Non-Investment Grade corporate bonds, there are substantially fewer trades in Asset-Backed Securities.

Based on the characteristics of the market, FINRA believes that the proposed additional price transparency in the Asset-Backed Securities market will enhance the ability of investors to identify and negotiate fair and competitive prices for Asset-Backed Securities. Dissemination of Asset-Backed Securities transactions may assist both buy and sell-side market participants in

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(October 26, 2012) (SEC Approval Order of File No. SR-FINRA-2012-042) and Regulatory Notice 12-56 (December 2012).

<sup>19</sup> See supra note 6, Rule 144A Dissemination Amendments.

The proposed rule change to disseminate Asset-Backed Securities would be the third group of Securitized Products to be disseminated. FINRA continues to review the fourth subclass of Securitized Products – CMOs and Agency-Backed Commercial Mortgage-Backed Securities – and, at a later date, may propose that transactions in such Securitized Products be disseminated.

<sup>20</sup> There appear to be few retail customer transactions in the market; only 10 percent of all Asset-Backed Securities transactions with customers are for less than \$100,000. (For purposes of assessing the level of retail and institutional customer participation in TRACE-Eligible Securities, FINRA considers a trade of less than \$100,000 to be a reasonable proxy for retail customer participation.)

<sup>21</sup> The term Non-Investment Grade is defined in FINRA Rule 6710(i).

price discovery when pricing and trading such securities. In addition, in some types of Asset-Backed Securities, such as Asset-Backed Securities backed by auto loans, disseminating the pricing of one Asset-Backed Security will aid in pricing a different Asset-Backed Security where both securities are substantially similar and, to some degree, fungible (e.g., both Asset-Backed Securities are backed by pools of auto loans having approximately the same average duration and the same average coupon rate, and the borrowers, on average, posing the same level of credit risk). Also, FINRA believes that dissemination of such transactions will assist all market participants in determining the quality of their executions and firms in complying with their regulatory obligations. Further, transparency in this sector may improve the quality of pricing for valuation purposes, which is critical for both dealers and institutions.

After dissemination begins, FINRA will observe the trading in Asset-Backed Securities to monitor the impact of price transparency in the market for Asset-Backed Securities as FINRA previously has done when initiating dissemination in any group of TRACE-Eligible Securities.

#### Reporting Reduction of Time to Report.

Members must report transactions in corporate bonds, Agency Debt Securities<sup>22</sup> and MBS TBA transactions for good delivery (“MBS TBA GD”) no later than 15 minutes from the time of execution, and transaction information is disseminated immediately upon receipt of a transaction report.<sup>23</sup> This 15-minute timeframe has proven effective in providing timely and meaningful transaction data to market participants.<sup>24</sup>

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<sup>22</sup> The term Agency Debt Security is defined in FINRA Rule 6710(1).

<sup>23</sup> FINRA implemented 15-minute reporting for MBS TBA GD on May 18, 2013.

<sup>24</sup> FINRA has adopted longer periods to report transactions in a limited number of Securitized Products that are traded infrequently and by a limited group of market participants. MBS TBA transactions not for good delivery (“MBS TBA NGD”) must be reported no later than 60 minutes from the time of execution. SBA-Backed ABS traded in TBA transactions and all Specified Pool Transactions (involving either Agency Pass-

In connection with the proposal to disseminate Asset-Backed Securities transactions, FINRA proposes to reduce the period to report such transactions. Initially, the reporting period will be reduced from the end of the day on the trade date during TRACE System Hours to no later than 45 minutes from the time of execution as provided in proposed FINRA Rule 6730(a)(3)(B)(i)b.<sup>25</sup> After approximately six months, the reporting period will be reduced again from no later than 45 minutes from the time of execution to no later than 15 minutes from the time of execution as provided in proposed FINRA Rule 6730(a)(3)(B)(ii).<sup>26</sup>

Reducing the time to report Asset-Backed Securities transactions will provide more timely price and other transaction information to the market. Reducing the time to report in two phases will provide members a period to adjust policies and procedures and make required technical changes. FINRA notes that even under the end-of-day reporting requirements currently in place, members report approximately 63% of all Asset-Backed Securities transactions within 45 minutes of the time of execution, and approximately 50% of such transactions within 15

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Through Mortgage-Backed Securities or SBA-Backed ABS) must be reported no later than 120 minutes from the time of execution initially, and, after a pilot program expires on January 24, 2014, no later than 60 minutes from the time of execution.

<sup>25</sup> See proposed FINRA Rule 6730(a)(3)(B)(i). Like the reporting requirements currently in effect for other TRACE-Eligible Securities, FINRA also proposes exceptions to the 45-minute timeframe for transactions executed near the end of the business day or when the TRACE system is not open. See proposed FINRA Rule 6730(a)(3)(B)(i)a., c., and d.

<sup>26</sup> The transitional phase for reducing reporting timeframes in proposed FINRA Rule 6730(a)(3)(B)(i) will expire after approximately 180 days. To accommodate member requests that, if possible, rule changes requiring technology changes occur on a Friday, proposed FINRA Rule 6730(a)(3)(B)(i) provides that the ABS Transitional Phase will expire on a Friday (i.e., on the 180<sup>th</sup> day, if a Friday, or, if the 180<sup>th</sup> day is not a Friday, on the Friday next occurring that the TRACE system is open).

Proposed FINRA Rule 6730(a)(3)(B)(ii) incorporates by reference Rule 6730(a)(1)(A) through (D), which require members to report transactions no later than 15 minutes from the time of execution, subject to the same exceptions for transactions executed near the end of the business day or when the TRACE system is not open.

minutes of the time of execution.<sup>27</sup>

#### List or Fixed Offering Price and Takedown Transactions.

Many Asset-Backed Securities are underwritten using a syndicated process that is similar to the offering process for corporate bonds. In syndicated offerings, there may be a number of transactions that occur at the list or fixed offering price (or the takedown price). Under the FINRA Rule 6700 Series and FINRA Rule 7730, FINRA provides more flexible treatment for TRACE-Eligible Securities transactions (except Securitized Products) that are effected in accordance with the fixed price and other requirements of a List or Fixed Offering Price Transaction, as defined in FINRA Rule 6710(q), or those of a Takedown Transaction, as defined in FINRA Rule 6710(r). The advantages of reporting under the provisions are three-fold: a member may report a List or Fixed Offering Price Transaction or a Takedown Transaction as late as T + 1 during TRACE system hours as provided in FINRA Rule 6730(a)(2); such transactions are not disseminated as provided in FINRA Rule 6750(b)(3); and a member is not charged a reporting fee for such transactions as provided in FINRA Rule 7730(b)(1)(C).

In light of the similarity of the offering process used to distribute corporate bonds and many Asset-Backed Securities, FINRA proposes to amend FINRA Rule 6710(q) and FINRA Rule 6710(r) to afford members that effect primary market Asset-Backed Securities transactions that meet all the requirements of a List or Fixed Offering Price Transaction or a Takedown Transaction the more flexible treatment set forth in FINRA Rule 6730(a)(2), FINRA Rule 6750(b)(3), and FINRA Rule 7730(b)(1)(C) for such transactions.<sup>28</sup>

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<sup>27</sup> The data is based on Asset-Backed Securities transactions reported from December 1, 2011 through April 30, 2013.

<sup>28</sup> All primary market transactions in other classes of Securitized Products will continue to be specifically excluded from the definitions of List or Fixed Offering Price Transaction and Takedown Transaction, because, in general, such Securitized Products are structured, offered and sold quite differently than corporate bonds (e.g., a large number of

### Dissemination Protocols.

FINRA proposes to amend the TRACE dissemination protocols to disseminate Asset-Backed Securities transactions subject to a \$10 million dissemination cap and not to include certain information in disseminated Asset-Backed Securities transaction data.

### Dissemination Caps.

Currently, there are TRACE dissemination caps in place, under which the actual size (volume) of a transaction over a specified par value is not displayed in disseminated TRACE transaction data. A range of dissemination caps is in effect for various types of TRACE-Eligible Securities.<sup>29</sup>

FINRA analyzed the distribution of Asset-Backed Securities transactions, including Rule 144A transactions in such securities, to determine an appropriate dissemination cap, and proposes setting a \$10 million dissemination cap for such transactions. For a transaction in an Asset-Backed Security of less than \$10 million (original par or principal value), the actual size will be disseminated, and for a transaction in an Asset-Backed Security greater than \$10 million, “\$10MM+” will be disseminated.<sup>30</sup> FINRA will monitor the effects of the \$10MM+

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Securitized Products sales are for forward delivery, and most such securities are not underwritten using a syndicated process generating a large number of transactions occurring at the same price).

<sup>29</sup> The dissemination caps applicable to transactions in various types of TRACE-Eligible Securities are: (a) \$5 million (for Investment Grade corporate bonds and Agency Debt Securities); (b) \$1 million (for Non-Investment Grade corporate bonds); (c) \$25 million (for MBS TBA GD); and (d) \$10 million (for MBS TBA NGD, Agency Pass-Through Mortgage-Backed Securities traded in Specified Pool transactions, and SBA-Backed ABS traded in TBA and Specified Pool transactions). The term Investment Grade is defined in FINRA Rule 6710(h).

<sup>30</sup> Approximately 17.6 percent of trades and approximately 75.6 percent of original par or principal value traded in Asset-Backed Securities transactions (other than Rule 144A transactions) will be disseminated subject to the \$10MM+ dissemination cap. For Rule 144A transactions in Asset-Backed Securities, approximately 28.5 percent of trades and approximately 88.1 percent of original par or principal value traded will be disseminated

dissemination cap on the Asset-Backed Securities market. The proposed dissemination cap size of \$10 million is comparable to the dissemination caps for Non-Investment Grade corporate bonds, measured by the percentage of transactions and the par value to be disseminated subject to the dissemination caps, and more conservative than the dissemination caps in place for Investment Grade corporate bond transactions.<sup>31</sup> FINRA believes that it is important to be conservative at the onset of dissemination and will observe the effects of the \$10 million dissemination cap on the market. FINRA may propose modifications to the dissemination cap size in the future if warranted.

#### Other Dissemination Protocols.

FINRA proposes that the dissemination protocols currently in use for most TRACE-Eligible Securities transactions be modified in two ways when applied to disseminated Asset-Backed Securities transactions. Current standard data elements that are disseminated for TRACE-Eligible Securities include, among other things, a dealer/customer indicator (indicating the type of contra party) and a buy/sell indicator.<sup>32</sup> However, the Asset-Backed Securities market differs from the corporate bond market in that it is smaller and largely institutional. Noting the smaller number of participants in the Asset-Backed Securities market, market participants raised concerns regarding protecting the confidentiality of dealer and customer trading strategies, identities and positions in certain types of Asset-Backed Securities.

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subject to the \$10MM+ dissemination cap. The information is based on transactions reported from May 16, 2011 through December 2012.

<sup>31</sup> Based on transactions reported from TRACE inception through December 2012.

<sup>32</sup> Additional standard data elements include the CUSIP, the time and date of the transaction, price, and the size (subject to dissemination caps).

Specified Pool Transactions are disseminated subject to modified dissemination protocols. See Securities Exchange Act Release No. 68084 (October 23, 2012), 77 FR 65436 (October 26, 2012) (SEC Approval Order of File No. SR-FINRA-2012-042) and Regulatory Notice 12-56 (December 2012).

FINRA has considered these factors and proposes not to disseminate the dealer/customer and buy/sell indicators to address such concerns. FINRA believes that dissemination of Asset-Backed Securities transactions without these items will protect sensitive information regarding the trading strategies, identities and positions of investors and will not expose dealers to additional risk in providing liquidity, while providing market participants sufficient information about Asset-Backed Securities transactions.

Additional Data Availability Under FINRA Rule 7730.

FINRA compiles disseminated real-time data for transactions, which is organized in three data sets: the Corporate Bond Data Set, the Agency Data Set and the ABS Data Set as provided in FINRA Rule 7730. In addition, in the Rule 144A Dissemination Amendments, FINRA established a Rule 144A Data Set.<sup>33</sup> Historic TRACE Data is similarly organized.<sup>34</sup>

Currently, Asset-Backed Securities data – organized as the ABS Data Set, and for Historic TRACE Data, as the Historic ABS Data Set – includes all Securitized Products transactions that are disseminated (i.e., all TBA transactions and all Specified Pool Transactions).

FINRA proposes to include the transaction information from disseminated Asset-Backed Securities transactions in the ABS Data Set (to be renamed the “SP Data Set”) and the Historic ABS Data Set (to be renamed the “Historic SP Data Set”).<sup>35</sup> Asset-Backed Securities that are

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<sup>33</sup> See supra note 6, Rule 144A Dissemination Amendments.

<sup>34</sup> FINRA also established a Historic Rule 144A Data Set as part of the Rule 144A Dissemination Amendments. See supra note 6, Rule 144A Dissemination Amendments.

<sup>35</sup> The ABS Data Set and the Historic ABS Data Set will be re-named, respectively, the SP Data Set and the Historic SP Data Set, as part of the amendments to the Rule 6700 Series and Rule 7730 in connection with re-naming as Securitized Products the broad group of securities currently referred to as Asset-Backed Securities and redefining the term Asset-Backed Securities more narrowly, as discussed, infra. A transaction in a disseminated TRACE-Eligible Security becomes available as part of Historic TRACE Data no earlier

traded in Rule 144A transactions will be included in, respectively, the Rule 144A Data Set, when available, and the Historic Rule 144A Data Set, when available.

FINRA does not propose to amend the fees currently in effect for the SP Data Set and the Historic SP Data Set. Similarly, when the Rule 144A Data Set and the Historic Rule 144A Data Set become available, disseminated information regarding Rule 144A transactions in Asset-Backed Securities will be included in such data sets without any change to the applicable fees.<sup>36</sup>

#### Other Amendments.

The reporting requirements for Securitized Products that are MBS TBA GD and MBS TBA NGD are set forth in FINRA Rule 6730(a)(3)(D) and FINRA Rule 6730(a)(3)(E), respectively, and include references to two pilot programs that have expired. Reporting requirements for certain other Securitized Products in FINRA Rule 6730(a)(3) cross-reference these reporting provisions. FINRA proposes to eliminate the provisions that have expired and all cross-references thereto in FINRA Rule 6730(a) and make conforming changes.<sup>37</sup>

Finally, FINRA proposes conforming and technical amendments to the FINRA Rule 6700 Series and FINRA Rule 7730 to reflect the proposed definitions, Securitized Product and Asset-Backed Security, and generally the use of the term Securitized Product in lieu of Asset-Backed Security; to make similar changes in FINRA Rule 7730 to delete the terms ABS Data Set and Historic ABS Data Set and substitute the terms SP Data Set and Historic SP Data Set; and, to make other technical and conforming amendments consistent with the amendments described herein to the FINRA Rule 6700 Series.

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than 18 months after the specific transaction is reported to TRACE.

<sup>36</sup> See supra note 6, Rule 144A Dissemination Amendments.

<sup>37</sup> See proposed amendments to FINRA Rule 6730(a)(3)(D) through (G).

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 later than 270 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,<sup>38</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 will increase transparency in the Asset-Backed Securities market, which may enhance the ability of investors to engage in meaningful price discovery to identify and negotiate fair and competitive prices for Asset-Backed Securities. In addition, the proposed dissemination of Asset-Backed Securities transaction data will allow investors to compare their executions with executions in the same and similar securities in the market and may facilitate their assessment of the quality of the executions provided to them. Similarly, additional transparency in such securities transactions may assist broker-dealers in complying with their regulatory obligations regarding best execution. Finally, for broker-dealers and institutional investors that hold positions in such Asset-Backed Securities, the proposed increased transparency may enable them to improve the accuracy of their valuation of such positions. These enhancements in pricing, increased capabilities to compare execution quality in transactions, and more accurate valuation of positions that may result from the additional market transparency are designed to deter or prevent fraudulent and manipulative acts and practices,

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<sup>38</sup> 15 U.S.C. 78o-3(b)(6).

promote just and equitable principles of trade, and, in general, protect investors and the public interest.

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. Based on the characteristics of the market, FINRA believes that additional price transparency in the Asset-Backed Securities market may enhance the ability of investors to identify and negotiate fair and competitive prices for these securities. In addition, dissemination may assist institutional and retail customers in determining the quality of executions provided to them, which should incentivize broker-dealers to provide competitive executions in such securities.

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](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2013-046 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-2013-046. 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-2013-046 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>39</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>39</sup> 17 CFR 200.30-3(a)(12).