

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-80975; File No. SR-FINRA-2017-018)

June 20, 2017

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Implementation Date for Trade Modifiers When Reporting Transactions in U.S. Treasury Securities

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 June 12, 2017, Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 establish an implementation date for certain trade modifiers required on trade reports to the Transaction Reporting and Compliance Engine (“TRACE”) involving U.S. Treasury Securities. The proposed rule change does not make any changes to the text of FINRA rules.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

On October 18, 2016, the Commission approved a proposed rule change to require FINRA members to report certain transactions in U.S. Treasury Securities to TRACE.⁵ The new rules included two new trade modifiers, which are described below, for use on certain types of trades in U.S. Treasury Securities reported to TRACE. On October 19, 2016, FINRA announced that the reporting requirements would be implemented beginning July 10, 2017; however, FINRA noted that, although the two new trade modifiers could be used by members when reporting trades beginning on July 10, 2017, FINRA would announce at a later time when the modifiers would be required.⁶ The current proposed rule change establishes February 5, 2018, as the implementation date for the two new modifiers.

The Original Filing amended the TRACE rules to require that transactions in U.S. Treasury Securities, as defined in Rule 6710, be reported to TRACE. To effectuate this requirement, the Original Filing amended the definition of “TRACE-Eligible Security” to include U.S. Treasury Securities and amended the definition of “U.S. Treasury Security” to

⁵ See Securities Exchange Act Release No. 79116 (October 18, 2016), 81 FR 73167 (October 24, 2016) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of File No. SR-FINRA-2016-027) (“Original Filing”). The Original Filing stated that the implementation date for the new rules would be no later than 365 days following Commission approval. FINRA is filing the current proposed rule change to extend the implementation date for the trade modifiers beyond the 365-day period set forth in the Original Filing.

⁶ See Regulatory Notice 16-39 (October 2016).

exclude savings bonds. The term “U.S. Treasury Securities” therefore includes Treasury bills, notes, and bonds, as well as separate principal and interest components of a U.S. Treasury Security separated pursuant to the Separate Trading of Registered Interest and Principal of Securities (STRIPS) program operated by the Treasury Dept.⁷

The Original Filing also included amendments to Rule 6730 to require the use of two new modifiers, when applicable, to reported transactions in U.S. Treasury Securities. When proposing the rule, FINRA noted that transactions in U.S. Treasury Securities that are executed as part of larger trading strategies can often be priced away from the current market for legitimate reasons.⁸ FINRA therefore adopted two new modifiers to require members to indicate that particular transactions are part of larger trading strategies.

First, the amendments require that members append a “.B” modifier to a trade report if the transaction being reported is part of a series of transactions where at least one of the transactions involves a futures contract (e.g., a “basis” trade). Second, the amendments require that members append a “.S” modifier to a trade report if the transaction being reported is part of a series of transactions and may not be priced based on the current market (e.g., a fixed price transaction in an “on-the-run” security as part of a transaction in an “off-the-run” security).

FINRA noted that the use of these modifiers on TRACE trade reports involving U.S. Treasury Securities will allow FINRA to better understand and evaluate execution prices for specific transactions that may otherwise appear aberrant if, for example, they are significantly outside of the price range for that security at that time. Among other things, these modifiers

⁷ The STRIPS program is a program operated by the Treasury Dept. under which eligible securities are authorized to be separated into principal and interest components and transferred separately. See 31 CFR 356.2; see generally 31 CFR 356.31 (providing details on how the STRIPS program works).

⁸ See Securities Exchange Act Release No. 78359 (July 19, 2016), 81 FR 48465, 48468 (July 25, 2016) (Notice of Filing of SR-FINRA-2016-027).

should reduce the number of false positive results that could be generated through automated surveillance patterns that include the price as part of the pattern.

As noted above, the new TRACE reporting requirements for U.S. Treasury Securities are scheduled to be implemented beginning July 10, 2017,⁹ and the proposed rule change establishes February 5, 2018, as the implementation date for the two new modifiers.

FINRA has filed the proposed rule change for immediate effectiveness. The implementation date will be February 5, 2018.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹⁰ 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. Based on discussions with multiple FINRA members, FINRA believes that providing members with an additional six months after the implementation of the new TRACE requirements to report transactions in U.S. Treasury Securities to report the trade modifiers on applicable transactions will give them sufficient time to program systems to comply with the requirement.

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.

As noted in the Original Filing, the new modifiers may introduce additional complexity to the proposed reporting, as traders at FINRA-member firms must apply the modifiers correctly and consistently to ensure meaningful data collection. FINRA noted that, in discussions with

⁹ See Regulatory Notice 16-39 (October 2016).

¹⁰ 15 U.S.C. 78o-3(b)(6).

market participants, larger firms, for example, indicated that U.S. Treasury Securities are typically traded across many desks within the firm and this increases compliance costs because the new modifiers need to be identified by individual traders, as they are uniquely situated to know whether a specific trade is associated with a cross-instrument strategy that would require the modifier.¹¹ Some firms also suggested that it may be difficult for a trader to know at the time of a trade whether it is part of a cross-instrument strategy, thus increasing complexity and their regulatory risk. When proposing the requirements, FINRA noted that it planned to phase in the modifiers to simplify the immediate implementation of the proposed rule change and provide firms additional time to make the necessary changes to implement the new modifiers.¹² The proposed rule change is consistent with these representations and provides firms with additional time after they begin reporting transactions in U.S. Treasury Securities to TRACE to implement the requirement to append modifiers if applicable.

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

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

¹¹ See Securities Exchange Act Release No. 78359 (July 19, 2016), 81 FR 48465, 48471 (July 25, 2016).

¹² See id. at 48469, n.25; see also Original Filing, supra note 5, at 73170.

as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹³ and Rule 19b-4(f)(6) thereunder.¹⁴

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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or 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-2017-018 on the subject line.

Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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 complied with this requirement.

All submissions should refer to File Number SR-FINRA-2017-018. 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 such 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-2017-018, 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.¹⁵

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¹⁵ 17 CFR 200.30-3(a)(12).