

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-81007; File No. SR-FINRA-2017-021)

June 23, 2017

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change to Amend FINRA Rule 7730 to Make Available a New TRACE Security Activity Report

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 19, 2017, 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 FINRA Rule 7730 to make available a new TRACE Security Activity Report.

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

Rule 7730 (Trade Reporting and Compliance Engine (TRACE)), among other things, sets forth the TRACE data products offered by FINRA in connection with TRACE-Eligible Securities.³ FINRA is proposing to amend Rule 7730 to make available a new TRACE Security Activity Report, which would provide aggregated statistics by security for TRACE-Eligible Securities that are corporate or agency bonds (collectively “CA Bonds”).⁴

The proposed TRACE Security Activity Report would contain basic descriptive security elements for each CA Bond (such as the issuer’s name and the security’s coupon and maturity date). In addition, the proposed report would provide subscribers with transaction totals, a measure of market concentration to indicate the extent to which activity in the security is concentrated within a few market participant identifiers (MPIDs),⁵ and more detailed aggregate par value volume information in a particular CA Bond than would be available in Real-Time

³ Rule 6710 (Definitions) provides that a “TRACE-Eligible Security” is a debt security that is United States (“U.S.”) 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); or a U.S. Treasury Security as defined in paragraph (p). “TRACE-Eligible Security” does not include a debt security that is issued by a foreign sovereign or a Money Market Instrument as defined in paragraph (o).

⁴ FINRA intends to establish a fee for the TRACE Security Activity Report prior to the effective date of the instant proposed rule change. The fee will be established pursuant to a separate rule filing.

⁵ One member may use multiple MPIDs.

TRACE transaction data. Today, the actual par value traded is available in the short-term only for transactions with sizes up to the applicable dissemination cap.⁶ Transactions with sizes over the capped amount become available only after 18 months as part of the Historic TRACE Data product.

The proposed TRACE Security Activity Report would provide insight into the level of activity in CA Bonds during a given month. Specifically, in addition to overall aggregate par value volume, the proposed TRACE Security Activity Report would provide information on the par value volume of customer buys, the par value volume of customer sells and the par value volume of inter-dealer transactions. The proposed TRACE Security Activity Report would reflect par value volume information using either capped amounts or actual par value volume, as follows. For uncapped transactions, the proposed TRACE Security Activity Report would reflect the actual trade size of each transaction (i.e., the transaction size disseminated in Real-Time TRACE transaction data). If there are six or more capped transactions disseminated during the calendar month, the aggregate par value volume would reflect the actual trade size of each transaction, as well as the par value traded that falls within specified size categories (e.g., the aggregate par value traded for transactions with a size greater than the dissemination cap up to \$10 million and the aggregate par value traded for transactions with a size greater than \$10 million).⁷

⁶ Due to transaction confidentiality concerns, FINRA has applied “dissemination caps” for purposes of dissemination. Specifically, for transactions in investment grade corporate bonds and in agency bonds over a 5 million dollar par value, TRACE disseminates the size as “5MM+.” For transactions in non-investment grade corporate bonds over a 1 million dollar par value, TRACE disseminates the size as “1MM+.”

⁷ If the SEC approves this proposal, the size categories will be announced in the Regulatory Notice announcing the effective date of the new TRACE Security Activity Report. The size category thresholds will be based on a multiple of the dissemination cap, e.g., up to or over \$10 million, which would be two times the investment grade

However, if there are fewer than six disseminated capped transactions during the calendar month, the TRACE Security Activity Report would reflect the capped volumes disseminated in Real-Time TRACE transaction data. Accordingly, the report would only reflect the actual par value traded (i.e., the amount reported by the member to TRACE) where there have been at least six capped transactions during the calendar month. As a measure to further address possible confidentiality concerns, FINRA proposes that the TRACE Security Activity Report be provided on a 90-day delay.

The proposed TRACE Security Activity Report also would provide the total number of transactions disseminated for each CA Bond as well as the number of customer buy transactions, the number of customer sell transactions and the number of inter-dealer transactions. In addition, the proposed TRACE Security Activity Report would provide incremental ranges (e.g., fewer than or equal to 5, between 6 and 10, etc.) for the number of transactions with a par value volume within specified size categories (e.g., the number of trades with a size greater than the dissemination cap up to \$10 million, and the number of trades with a size of \$10 million or greater).

The proposed TRACE Security Activity Report also would provide information regarding the number of unique reporting MPIDs and statistics for the aggregate activity of the five most active MPIDs in each CA Bond. Specifically, the proposed TRACE Security Activity Report would provide the number of unique reporting MPIDs for disseminated uncapped and capped transactions. The number of unique reporting MPIDs would be provided by displaying the actual number of unique MPIDs where there are six or more unique MPIDs, or “1 to 5,” as

dissemination cap. The number of size categories also may be adjusted (e.g., up to \$10 million; over \$10 million up to \$20 million; over \$20 million) based on FINRA’s experience with the data product.

applicable, where there are five or fewer reporting MPIDs. For capped transactions, the number of unique reporting MPIDs would be provided by displaying the actual number of unique MPIDs where there are six or more unique MPIDs, or “0” or “1 to 5,” as applicable, where there are five or fewer reporting MPIDs.

The market participants that engaged in the transactions will not be identified in the proposed TRACE Security Activity Report. The TRACE Security Activity Report also would provide the percentage of the total number of transactions traded by the top five MPIDs for each CUSIP and the percentage of total par value traded by the top five MPIDs for each CUSIP. The percentage of the total number of transactions and total par value traded for the top 5 MPIDs will be provided irrespective of the number of capped transactions (e.g., where there is only one MPID, the number of unique MPIDs will be displayed as “1 to 5” and both the number of transactions and par value percentages will be displayed as 100%).

FINRA believes that the proposed TRACE Security Activity Report may be useful to interested parties for business as well as regulatory purposes. For example, members may use the information provided in the TRACE Security Activity Report to better ascertain their relative level of trading activity in particular CA Bonds. Interested parties also may use the information in the proposed report in connection with regulatory obligations – e.g., in assessing, classifying and reviewing the liquidity risk of individual securities pursuant to Rule 22e-4 under the Investment Company Act.⁸

⁸ See SEC Press Release 2016-215 (October 13, 2016) (SEC Adopts Rules to Modernize Information Reported by Funds, Require Liquidity Risk Management Programs, and Permit Swing Pricing). See also 17 CFR 270.22e-4.

If the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice. The effective date will be no later than 365 days following SEC 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.

Pursuant to the proposal, FINRA would make available to subscribers an optional data product to provide aggregated statistics by security for CA Bonds. FINRA believes that the TRACE Security Activity Report could benefit market participants and others interested in corporate and agency bond transaction data, including information on actual transaction volume that currently would not be ascertainable for 18 months after the date of the transaction (as part of the Historic TRACE Data product). FINRA believes that the measures proposed to mitigate any potential confidentiality concerns — e.g., aggregate volume would reflect actual volume only where there were six or more total disseminated capped transactions during the calendar month — strikes an appropriate balance in providing additional transparency on the overall trading activity in a particular CA Bond, while remaining sensitive to confidentiality concerns. Thus, FINRA believes that the proposed rule change is in the public interest and consistent with the Act.

⁹ 15 U.S.C. 78o-3(b)(6).

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Economic Impact Analysis

FINRA's existing Real-Time TRACE data product provides transaction data for the following Data Sets: Corporate Bond Data, Agency Data Set, SP Data Set, and Rule 144A Data Set. As detailed above, FINRA is proposing to create a TRACE Security Activity Report to provide additional aggregated statistics by security for CA Bonds, as an alternative or in addition to the transaction data contained in the Real-Time TRACE product. The TRACE Security Activity Report would be available on an optional basis to subscribers. The proposed rule change would expand the benefits of FINRA's TRACE initiatives by providing additional transparency on CA Bonds, as the product would provide subscribers with more detailed volume information on the overall trading activity in a particular CA Bond.

The proposal to create a new TRACE Security Activity Report would not impose any additional reporting requirements or costs on firms, and the purchase of TRACE data products would continue to be optional for market participants and others and, as a result, would have no direct impact on firms. However, FINRA also considered the potential for indirect costs regarding possible information leakage due to the inclusion of the number of unique reporting MPIDs. FINRA believes that information contained in the TRACE Security Activity Report alone is not sufficient to discover the true identity of other MPIDs by market participants, where the only information used in the analysis is the information to be contained in this product. However, there may exist other publicly available datasets that can be used in conjunction with

the proposed TRACE Security Activity Report.¹⁰ FINRA acknowledges the potential for reverse engineering of the information contained in the TRACE Security Activity Report, in particular for bonds that are traded by a few market participants in a given month, to determine the true identities of other market participants, and FINRA has taken a number of measures, such as displaying information in buckets as discussed above, to reduce this risk and mitigate any potential impacts.

The proposed TRACE Security Activity Report would include a “top 5” snapshot for each CA Bond showing the percentage of the total number of transactions that is represented by the activity of the top five MPIDs, and the percentage of the total par value traded by the top five MPIDs. To the extent that market participants extract non-reported information from this report about concentration and competition in a specific bond, they may alter their demand, supply and pricing accordingly. Customers may potentially find it easier or harder to trade some bonds, and may see a change in the costs of trading, including search costs. Such changes may eventually express themselves as an indirect impact on the liquidity of these bonds

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

¹⁰ One such dataset is sold by the National Association of Insurance Commissioners (NAIC) and contains detailed information about insurance company bond transactions, including the CUSIP of the bond traded along with identities of insurance companies and the dealers with whom each trade is completed, the date of the transaction, the amount traded and the price of the transaction. See Maureen O'Hara, Yihui Wang, and Xing (Alex) Zhou, The Execution Quality of Corporate Bonds (June 1, 2016), http://papers.ssrn.com/sol3/Papers.cfm?abstract_id=2680480.

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-2017-021 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-2017-021. 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 a.m. and 3 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-2017-021 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.¹¹

Eduardo A. Aleman
Assistant Secretary

¹¹ 17 CFR 200.30-3(a)(12).