

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-81011; File No. SR-FINRA-2017-012)

June 23, 2017

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Granting Approval of Proposed Rule Change to Reduce the Delay Period for Transactions Included in the Historic TRACE Data Sets Relating to Corporate and Agency Debt Securities

I. Introduction

On May 12, 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 reduce the minimum delay from 18 months to six months for transactions included in the Historic TRACE Data Sets relating to corporate and agency debt securities. The proposed rule change was published for comment in the Federal Register on May 22, 2017.³ The Commission did not receive any comments on the proposal.⁴ For the reasons discussed below, the Commission 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 and the fees applicable to such products. In addition to a real-time data feed, FINRA offers a Historic Corporate Bond Data Set, Agency Data Set, Securitized Product Data Set, and

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 80685 (May 16, 2017), 82 FR 23385 (May 22, 2017) (“Notice”).

⁴ FINRA previously solicited comments on the proposal as Regulatory Notice 15-24 (June 2015) and received four comments. Regulatory Notice 15-24 and the related comment letters are available as Exhibit 2 to the Notice on both FINRA and the SEC’s websites.

Rule 144A Data Set (collectively, the “Historic TRACE Data”).⁵ The Historic TRACE Data includes information such as the price, date, time of execution, yield, and uncapped volume for each transaction occurring at least 18 months ago.⁶ FINRA originally established this 18-month delay to address the possibility that the Historic TRACE Data might be used to identify positions or strategies of market participants.⁷ FINRA has proposed to reduce the delay applicable to transactions included in the Historic Corporate Bond Data Set and the Historic Agency Data Set—and Rule 144A transactions in corresponding securities (together, the “Corporate and Agency Historic TRACE Data”)—from a minimum of 18 months to a minimum of six months.⁸

FINRA has stated that researchers and other non-dealers have been the primary subscribers to Historic TRACE Data. FINRA has attributed the lack of usage by dealers to the minimum 18-month delay period for including transactions in the Corporate and Agency Historic TRACE Data. FINRA has stated that it is not aware of any complaints regarding information leakage under the current 18-month delay, and that market participants have indicated that a reduction in the minimum delay to six months would make the product more useful.

FINRA believes that a minimum six-month delay would promote the goal of increased transparency for transactions in TRACE-Eligible Securities while continuing to address

⁵ The Historic TRACE Data originally included only the Corporate Bond and Agency Data Sets. The Securitized Product Data Set and the Rule 144A Data Set were added later as information about transactions in those securities became subject to public dissemination. FINRA has stated that additional securities may be included in Historic TRACE Data as they become subject to public dissemination.

⁶ Historic TRACE Data also may include transactions or items of information that were not previously disseminated, such as exact trade volumes, where the real-time disseminated amount was capped.

⁷ See Securities Exchange Act Release No. 56327 (August 28, 2007), 72 FR 51689, 51690 (September 10, 2007).

⁸ FINRA has not proposed to change the 18-month delay for transactions included in the Historic Securitized Product Data Set.

information leakage concerns.⁹ In support of that belief, FINRA conducted a sampling analysis of past transactions in both corporate and agency bonds to assess whether positions or strategies of market participants could be identified if the Corporate and Agency Historic TRACE Data had included transactions that were aged only six months.¹⁰ Based on this analysis, FINRA concluded that “the proposed rule, if it had been in place, would have provided little additional information to the public relative to these positions”¹¹ and that a reduction of the delay would be “a limited risk for smaller issues that are held by a limited number of market participants.”¹²

To further address concerns about information leakage, FINRA solicited comment from its members on an earlier iteration of the proposed rule change.¹³ FINRA received four comment letters and made certain revisions to its initial proposal to respond to those concerns before filing the current proposal with the Commission.¹⁴ The Commission notes that it has received no comments on the version of the proposed rule change published by the Commission.

FINRA stated that it 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 120 days following publication of the Regulatory Notice.

III. Discussion

⁹ FINRA noted that the Municipal Securities Rulemaking Board (“MSRB”) disseminates in real time the exact par value on all transactions with a par value of \$5 million or less, and includes an indicator (“MM+”) in place of the exact par value on transactions where the par value is greater than \$5 million until the fifth business day. MSRB disseminates the exact par value for each transaction on the fifth day after the transaction. See MSRB Rule G-14.

¹⁰ See Notice, 82 FR 23387-89.

¹¹ Id. at 23388.

¹² Id. at 23389.

¹³ See supra note 4.

¹⁴ See Notice, 82 FR at 23389.

After carefully 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.¹⁵ In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,¹⁶ 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 notes that, because the proposed rule change does not require firms to provide FINRA with any additional data, it will not have any operational impact on firms. Furthermore, the purchase of TRACE data products is optional for members and others. Finally, in light of FINRA's analysis of past transactions in corporate and agency debt securities and the revisions that FINRA made to its first iteration of the proposal, the Commission believes that reducing the period before which transactions in such securities are included in the Historic TRACE Data from a minimum of 18 months to six months is reasonably designed to promote transparency and respond to consumer demand for a more useful market data product, while minimizing the potential for information leakage.

IV. Conclusion

¹⁵ 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).

¹⁶ 15 U.S.C. 78o-3(b)(6).

IT IS THEREFORE ORDERED pursuant to Section 19(b)(2) of the Act¹⁷ that the proposed rule change (SR-FINRA-2017-012) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

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Assistant Secretary

¹⁷ 15 U.S.C. 78s(b)(2).

¹⁸ 17 CFR 200.30-3(a)(12).