

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-81018; File No. SR-FINRA-2017-023)

June 26, 2017

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Reporting of Certain ATS 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 23, 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 has designated the proposed rule change as constituting a “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4 under the Act,³ 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 amend FINRA Rule 6730 (Transaction Reporting) to provide a temporary exception to permit member alternative trading systems (“ATs”) and member subscribers to report aggregate trade information to TRACE for certain transactions in U.S. Treasury Securities.

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA is proposing to amend Rule 6730 to add new Supplementary Material .06 (Temporary Exception for Aggregate Transaction Reporting of U.S. Treasury Securities Executed in ATS Trading Sessions) to provide members additional time to report individual transactions in U.S. Treasury Securities, as required by Rule 6730 (Transaction Reporting), that occur on member ATSS as part of a trading session, as described below.

Background

FINRA Rule 6730 sets forth a member’s trade reporting obligations with regard to transactions in TRACE-Eligible Securities, which, beginning July 10, 2017,⁴ will include U.S. Treasury Securities.⁵ Pursuant to Rule 6730, each FINRA member that is a “Party to a

⁴ 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). See also Regulatory Notice 16-39 (October 2016).

⁵ Rule 6710(p) will define a “U.S. Treasury Security” as “a security, other than a savings bond, issued by the U.S. Department of the Treasury to fund the operations of the federal government or to retire such outstanding securities.” The term “U.S. Treasury Security” also includes separate principal and interest components of a U.S. Treasury Security that has been separated pursuant to the Separate Trading of Registered Interest and Principal

Transaction”⁶ in a TRACE-Eligible Security is obligated to report the transaction to TRACE within the prescribed period of time. The term “Party to a Transaction” means an introducing broker-dealer, if any, an executing broker-dealer, or a customer.⁷ Thus, in a transaction in a TRACE-Eligible Security executed through an ATS between members, each member (and the ATS itself) is considered a Party to a Transaction and is required to report the trade.⁸

Specifically, the ATS is required to report two transactions to TRACE: (1) the purchase of the security from one counterparty and (2) the sale of the security to the other counterparty. In addition, each FINRA member counterparty is required to report a buy or a sell, as applicable, identifying the ATS as the counterparty to each trade.⁹

FINRA understands that ATSs that permit subscribers to trade U.S. Treasury Securities on their platforms may permit subscribers to initiate a “trading session,” which is a discrete or timed order-matching event during which one or more additional subscribers can interact with the original order on the opposite side of the market or add to the initial order on the same side of

of Securities (“STRIPS”) program operated by the U.S. Department of Treasury. See Rule 6710(p).

⁶ See Rule 6710(e).

⁷ See supra note 6.

⁸ See Question 7.4 in FINRA’s Reporting of Corporate and Agencies Debt Frequently Asked Questions: Who reports trades executed through electronic trading systems that are themselves broker-dealers? All FINRA members that are “parties to a transaction” have a trade reporting obligation under TRACE Rules. Where two FINRA members effect/execute a transaction through an electronic trading system that is registered as a broker-dealer, both members, as well as the electronic trading system would have a trade reporting obligation. See Reporting of Corporate and Agencies Debt Frequently Asked Questions, available at <http://www.finra.org/industry/faq-reporting-corporate-and-agencies-debt-frequently-asked-questions-faq#7-4>. See also Regulatory Notice 14-53 (November 2014).

⁹ Whether the ATS is involved in the clearance and settlement of a transaction does not change the TRACE trade reporting obligation for trades occurring through its system. Regulatory Notice 14-53 (November 2014).

the market.¹⁰ Although it is possible that some trading sessions involve a single transaction between two counterparties like a typical trade, FINRA understands that most trading sessions include multiple participants on one or both sides of the market during the time period the trading session is open.

For example, suppose Subscriber A initiates a trading session to sell \$25 million of a particular U.S. Treasury Security at a specific price. In a typical crossing scenario involving an ATS, the ATS would match the incoming sell order with a buy order from Subscriber B thus executing some or all of the original order. In this scenario, under TRACE rules, Subscriber A is required to report a sell to the ATS for the amount crossed, and Subscriber B would report a purchase from the ATS for that same amount.¹¹ The ATS would report two trades: a purchase from Subscriber A and a sell to Subscriber B. Under current rules, all of the reports are required to reflect the same terms of the trade and the same Time of Execution.¹²

FINRA understands that trading sessions involving U.S. Treasury Securities can, and often do, work in very different ways. Using the above example, Subscriber A may initiate a trading session to sell \$25 million in a particular U.S. Treasury Security at a specific price. Subscriber B, however, may only wish to purchase \$10 million. In this case, although there will be a sell from Subscriber A to the ATS and a subsequent sell from the ATS to Subscriber B (and

¹⁰ Different members use varying nomenclature to describe trading sessions. For example, one member ATS refers to these sessions as “workups” or “workup sessions.” In addition, the length of time a session remains open and other characteristics of how a session is structured may change from member to member. As used in the proposed rule change, the term “trading session” is meant to capture all variations of such types of sessions that member ATSs may use.

¹¹ Examples assume that each subscriber is a FINRA member.

¹² Under Rule 6710(d), the “Time of Execution” for a transaction in any TRACE-Eligible Security means “the time when the Parties to a Transaction agree to all of the terms of the transaction that are sufficient to calculate the dollar price of the trade.”

offsetting trades for the purchase from the ATS by Subscriber B and the purchase from Subscriber A by the ATS), there may be further activity during the trading session. To continue the example, after Subscriber B agrees to purchase \$10 million, Subscriber C agrees to purchase \$15 million at the same price (meaning that, at this point, Subscriber A has sold all \$25 million of the initial order). Subscriber D then joins the trading session and offers to sell \$10 million of the same U.S. Treasury Security at the same price. Subscriber E purchases \$5 million, and Subscriber B decides to purchase an additional \$5 million. If, after the period of time defined by the ATS, no further interest is indicated, the trading session closes.

Reporting Obligations Under Rule 6730

Using the above example, at the end of the trading session, the individual trades are as follows:

Trade No.	Time	Subscriber	Buy/Sell	Amount (in millions)
	11:34:02.000	Subscriber A	Sell	\$25
1	11:34:03.155	Subscriber B	Buy	\$10
2	11:34:03.483	Subscriber C	Buy	\$15
	11:34:04.003	Subscriber D	Sell	\$10
3	11:34:05.002	Subscriber E	Buy	\$5
4	11:34:05.877	Subscriber B	Buy	\$5
	11:34:07.877	Trading Session Closes		

FINRA understand that, under current practices, after the close of the trading session an ATS will provide each subscriber with a single trade message indicating the subscriber’s aggregate activity during the trading session (including, for example, an aggregate size and average price), and that the execution time provided to a subscriber can vary depending upon the convention used by the particular ATS. FINRA also understands that, although information on the individual transactions within the trading session is generally available on a real-time basis to the subscribers during the trading session to track the status of the order, this information is not

included on the final trade message, which FINRA understands currently is the message that would be used systematically by the member ATS and its subscribers for transaction reporting purposes.

Under Rule 6730, each individual trade that occurs during a trading session is a separate transaction and, as such, must be reported individually. For example, using the example above, at 11:34:03.155 (“Trade No. 1”), there is a trade agreed to between Subscribers A and B and all of the terms of the trade that are sufficient to calculate the dollar price of the trade are known at that time, including the security, the price, and the parties to the trade (i.e., the Time of Execution”).¹³ Thus, under current rules and guidance, FINRA would expect the following trade reports for Trade No. 1:

- Subscriber A reports a sell to the ATS for \$10 million in the security with a Time of Execution of 11:34:03.155.
- Subscriber B reports a purchase from the ATS for \$10 million in the security with a Time of Execution of 11:34:03.155.
- The ATS submits two reports, a buy from Subscriber A and a sell to Subscriber B for \$10 million in the security, both with a Time of Execution of 11:34:03.155.

The same analysis would apply for each of the other individual trades that occurred during the trading session. Thus, under current TRACE reporting rules, the following reports would be required by all Parties to a Transaction with respect to the trades during the trading session in the above example:

Trade No.	TRACE Reports	Quantity (in millions)	Time of Execution
1	Subscriber A sell to ATS	\$10	11:34:03.155

¹³ See supra note 12.

	ATS buy from Subscriber A	\$10	11:34:03.155
	ATS sell to Subscriber B	\$10	11:34:03.155
	Subscriber B buy from ATS	\$10	11:34:03.155
2	Subscriber A sell to ATS	\$15	11:34:03.483
	ATS buy from Subscriber A	\$15	11:34:03.483
	ATS sell to Subscriber C	\$15	11:34:03.483
	Subscriber C buy from ATS	\$15	11:34:03.483
3	Subscriber D sell to ATS	\$5	11:34:05.002
	ATS buy from Subscriber D	\$5	11:34:05.002
	ATS sell to Subscriber E	\$5	11:34:05.002
	Subscriber E buy from ATS	\$5	11:34:05.002
4	Subscriber D sell to ATS	\$5	11:34:05.877
	ATS buy from Subscriber D	\$5	11:34:05.877
	ATS sell to Subscriber B	\$5	11:34:05.877
	Subscriber B buy from ATS	\$5	11:34:05.877

Proposed Temporary Relief

The proposed rule change will, until July 10, 2018, permit members the flexibility to report trades that occurred in a U.S. Treasury Security executed within discrete ATS trading sessions (sometimes referred to as “work-up sessions”) on an aggregate, rather than individual, basis. The proposed rule change is intended to provide members with additional time to complete systems changes necessary to report each individual transaction in the trading session as required by Rule 6730, as discussed below.

FINRA understands that certain ATSS that are active in the market for U.S. Treasury Securities currently are set up to deliver aggregate trading session transaction information to each subscriber that participated in the trading session through a single trade message generated at the conclusion of a trading session. The ATSS use this final trade message for purposes of back office processes (which would include generating trade reports) and believe their subscribers use the final trade messages similarly. As a result, FINRA understands that significant systems changes would be required by the ATSS to create and generate the individual trade information within a trading session in a form that could be integrated into the ATSS’, as well as their subscribers’, back office processes to enable the reporting of individual, rather than

aggregate, trading session transaction information to TRACE, and that these changes cannot be made by July 10, 2017. As a result, FINRA is proposing to provide a temporary exception by adopting Supplementary Material .06 to permit members to report to TRACE aggregate, rather than individual, transaction information reflecting the aggregate size and average price of such transactions, and to permit trade reports to use a Time of Execution communicated by the ATS to each Party to a Transaction.¹⁴

FINRA believes it is appropriate to provide the proposed relief in recognition of the fact that impacted members are unable to implement necessary changes by the July 10, 2017 effective date for TRACE reporting of transactions in U.S. Treasury Securities. FINRA believes the proposal strikes an appropriate balance in that FINRA will continue to receive transaction information for purchases and sales that occur as part of an ATS trading session, albeit aggregated. A member ATS availing itself of this exception must provide individual transaction information for each trade in a U.S. Treasury Security occurring in a trading session to FINRA upon request. In addition, FINRA notes that transparency will not be impacted by the proposed temporary relief because transaction information in U.S. Treasury Securities currently is not subject to dissemination.

FINRA has filed the proposed rule change for immediate effectiveness. The operative date of the proposed rule change will be July 10, 2017 and it will sunset on July 10, 2018, which FINRA believes will provide members with the additional time necessary to complete necessary

¹⁴ FINRA notes that, even where aggregation is not necessary because only the ATS and two subscribers ultimately participated in a trading session resulting in a single cross, the proposed rule change permits members the flexibility to report a Time of Execution that is communicated by the ATS to each party. Thus, even where the trading session involves only one cross, member TRACE reports may reflect a Time of Execution that is, for example, the beginning of the trading session or the end of the trading session.

systems changes and result in a more orderly implementation of the TRACE reporting requirements for Treasury securities.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹⁵ 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 member ATSS, FINRA believes that additional time is necessary to permit members to program systems to comply with Rule 6730, which, beginning on July 10, 2017, will require that members report to TRACE each individual transaction in a U.S. Treasury Security.

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.

The proposed rule change should benefit members whose trades are executed on member ATSS as part of a trading session, as it provides members with additional time to build or upgrade systems to enable reporting of individual transactions in the trading section. While the proposed rule change will temporarily lessen the requirements on ATSS and their subscribers as compared to other market participants, FINRA believes the proposed rule change is appropriate to allow sufficient time to make the technological changes necessary to comply with the rule and such accommodation will be limited in duration. Moreover, FINRA retains the right to require a

¹⁵ 15 U.S.C. 78o-3(b)(6).

member ATS availing itself of this exception to provide individual transaction information for each trade in a U.S. Treasury Security occurring in a trading session upon request.

The proposed temporary relief is not expected to undermine the potential benefits of Rule 6730, as the transaction information reflecting the aggregate size and average price of such transactions should still assist the regulators to conduct monitoring and surveillance of the U.S. Treasury Securities markets, in order to detect potential disruptive trading practices and risks to market stability.

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 as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁶ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁷

FINRA has asked the Commission to waive the 30-day operative delay so that the proposal will become operative immediately upon filing. FINRA represents that it only recently was made aware of the significant technological changes to member systems that will be necessary to comply with FINRA's requirements to report transactions in U.S. Treasury

¹⁶ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁷ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) 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. The Commission has waived the five-day prefiling requirement in this case.

Securities to TRACE. FINRA also represented that it was informed by members that these systems changes cannot be completed by July 10, 2017, the date on which the new reporting requirements come into force. The proposed rule change appears to be a reasonable accommodation for members who are affected by unforeseen difficulties associated with systems reprogramming because it is of reasonably short duration and FINRA will still be able to request full transaction information from an ATS that benefits from the accommodation. Therefore, to facilitate orderly application of the TRACE reporting rules on July 10, 2017, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and designates the proposal operative upon filing.¹⁸

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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

¹⁸ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-FINRA-2017-023 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-2017-023. 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-2017-023 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.¹⁹

Robert W. Errett
Deputy Secretary

¹⁹ 17 CFR 200.30-3(a)(12).