

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-95465; File No. SR-FINRA-2022-011)

August 10, 2022

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving Proposed Rule Change to Expand TRACE Reporting Requirements to Trades in U.S. Dollar-Denominated Foreign Sovereign Debt Securities

I. Introduction

On May 6, 2022, 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”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend certain rules in the Rule 6700 Series (Trade Reporting and Compliance Engine (TRACE)) to require members to report to TRACE transactions in U.S. dollar-denominated foreign sovereign debt securities for regulatory purposes. The proposed rule change was published for comment in the Federal Register on May 17, 2022.<sup>3</sup> The Commission received four comment letters on the proposed rule change.<sup>4</sup> On June 27, 2022, the Commission extended until August 15, 2022, the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed

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

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

<sup>3</sup> See Securities Exchange Act Release No. 94891 (May 11, 2022), 87 FR 29980 (May 17, 2022) (“Notice”).

<sup>4</sup> See letters to Vanessa Countryman, Secretary, Commission, from Gerard O’Reilly, Co-CEO and Chief Investment Officer, Dimensional Fund Advisors LP (“Dimensional”), dated June 6, 2022 (“Dimensional Letter”); Scott J. Preiss, Senior Vice President, Global Head, CUSIP Global Services (“CGS”), dated June 6, 2022 (“CGS Letter”); Howard Meyerson, Managing Director, Financial Information Forum (“FIF”), dated June 7, 2022 (“FIF Letter”); and Christopher B. Killian, Managing Director, Securitization and Corporate Credit, Securities Industry and Financial Markets Association (“SIFMA”), dated June 7, 2022 (“SIFMA Letter”).

rule change.<sup>5</sup> FINRA submitted a response to the comments on August 1, 2022.<sup>6</sup> This order approves the proposed rule change.

## II. Description of the Proposal

FINRA Rule 6730(a) requires each FINRA member that is a Party to a Transaction<sup>7</sup> in a TRACE-Eligible Security<sup>8</sup> to report the transaction to TRACE. Currently, almost all U.S. dollar-denominated debt securities traded in the U.S., including U.S. dollar-denominated debt securities of foreign private issuers, are TRACE-Eligible Securities and therefore are subject to TRACE reporting requirements. However, the term TRACE-Eligible Security currently excludes any debt security that is issued by a foreign sovereign.

FINRA is now proposing to include U.S. dollar-denominated foreign sovereign debt securities within the definition of TRACE-Eligible Security, so that these securities would become subject to TRACE reporting. Specifically, FINRA proposes to amend paragraph (a) of Rule 6710 (Definitions) to include the term “Foreign Sovereign Debt Security” in the definition of TRACE-Eligible Security, and to define “Foreign Sovereign Debt Security” in paragraph (kk)

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<sup>5</sup> See Securities Exchange Act Release No. 95161 (June 27, 2022), 87 FR 39575 (July 1, 2022).

<sup>6</sup> See letter to Vanessa Countryman, Secretary, Commission, from Racquel L. Russell, FINRA, dated August 1, 2022 (“FINRA Response”).

<sup>7</sup> See FINRA Rule 6710(e) (defining “Party to a Transaction” as “an introducing broker-dealer, if any, an executing broker-dealer, or a customer. ‘Customer’ includes a broker-dealer that is not a FINRA member.”).

<sup>8</sup> See FINRA Rule 6710(a) (defining “TRACE-Eligible Security” as “a debt security that is United States (‘U.S.’) dollar-denominated and is: (1) 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; (2) issued or guaranteed by an Agency as defined in paragraph (k) or a Government-Sponsored Enterprise as defined in paragraph (n); or (3) 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).”).

of Rule 6710 as a debt security issued or guaranteed by the government of a foreign country, any political subdivision of a foreign country (e.g., state, provincial, or municipal governments), or a supranational entity.<sup>9</sup> FINRA states that this proposed rule change would enhance FINRA’s regulatory audit trail and provide FINRA with important transaction information on a growing segment of the market.<sup>10</sup> In addition, FINRA states that it believes that the proposed rule change would advance FINRA’s oversight of the fixed income markets without imposing significant burdens and costs on members because, as FINRA understands, U.S. dollar-denominated foreign sovereign debt securities generally trade at firms that already have TRACE reporting workflows in place.<sup>11</sup>

FINRA states it is not at this time proposing to publicly disseminate any reports of transactions in U.S. dollar-denominated foreign sovereign debt securities. To reflect this, FINRA proposes to amend Rule 6750 (Dissemination of Transaction Information) to specify that FINRA will not disseminate information on transactions in foreign sovereign debt securities.<sup>12</sup> FINRA states that, if the proposed rule change is adopted, FINRA will take a measured approach to potential dissemination, as it has taken historically with other TRACE-Eligible Securities and

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<sup>9</sup> FINRA states that a “supranational entity” would include multi-national organizations such as the International Bank for Reconstruction & Development (World Bank), the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the International Finance Corporation, and the European Investment Bank. See Notice, 87 FR at 29981, n. 6.

<sup>10</sup> See Notice, 87 FR at 29981.

<sup>11</sup> See id.

<sup>12</sup> See proposed FINRA Rule 6750(c)(5).

would first analyze the regulatory data to determine the appropriate contours of a potential dissemination framework.<sup>13</sup>

In addition, FINRA is also proposing to amend Rule 6730 (Transaction Reporting) to require transactions in U.S. dollar-denominated foreign sovereign debt securities to be reported on a same-day or next-day basis, depending on the time of execution.<sup>14</sup> FINRA states that this reporting timeframe is appropriate because trades in U.S. dollar-denominated foreign sovereign debt securities would be reported for regulatory purposes only.<sup>15</sup>

FINRA states that, as proposed, FINRA members would be required to report specific items of transaction information in line with existing requirements for TRACE-Eligible Securities.<sup>16</sup> Among other things, trade reports would be required to include: the CUSIP or CINS number, or FINRA-assigned TRACE symbol; an identifier for the contra-party (either MPID, “A” for non-member affiliate, or “C” for customer); the side of the reporting party (buy or sell);

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<sup>13</sup> See Notice, 87 FR at 29981, n. 10.

<sup>14</sup> See proposed FINRA Rule 6730(a)(5); see also Notice, 87 FR at 29981. Under the proposed amendments, reportable transactions in foreign sovereign debt executed on a business day at or after 12:00:00 a.m. Eastern Time (ET) through 5:00:00 p.m. ET would be required to be reported the same day during TRACE System Hours. Transactions executed on a business day after 5:00:00 p.m. ET but before the TRACE system closes would be required to be reported no later than the next business day (T+1) during TRACE System Hours, and, if reported on T+1, designated “as/of” and include the date of execution. Transactions executed on a business day at or after 6:30:00 p.m. ET through 11:59:59 p.m. ET—or on a Saturday, a Sunday, a federal or religious holiday or other day on which the TRACE system is not open at any time during that day—would be required to be reported the next business day (T+1) during TRACE System Hours, designated “as/of,” and include the date of execution. See also FINRA Rule 6710(t) (defining “TRACE System Hours”).

<sup>15</sup> See Notice, 87 FR at 29981.

<sup>16</sup> See *id.* FINRA Rule 6730(c). FINRA also states that members’ reporting obligations for transactions with a foreign component would continue to follow existing guidance. See Notice, 87 FR at 29981 (citing, as an example, TRACE Frequently Asked Questions #3.1.65).

the quantity of the transaction (i.e., face value amount of the transaction); the price of the transaction expressed as a percentage of face/par value; the time of execution; the date of execution (for “as/of” trades); the settlement date; any commission charged if the member is acting as agent; and any applicable trade modifiers.<sup>17</sup> FINRA states that some foreign sovereign debt securities may not have a CUSIP or CINS number but may have been assigned another type of identifier (e.g., an ISIN). To facilitate trade reporting of U.S. dollar-denominated foreign sovereign debt, where a CUSIP or CINS is not available, FINRA states that it intends to permit members to report using a FINRA-assigned symbol that corresponds to the security’s other identifier(s) (e.g., the FINRA-assigned symbol would be associated with the ISIN on the Security Master List).<sup>18</sup>

FINRA further states that, if U.S. dollar-denominated foreign sovereign debt securities become subject to TRACE reporting requirements, as proposed, they would become subject to applicable transaction reporting fees.<sup>19</sup> Specifically, U.S. dollar-denominated foreign sovereign debt securities would be subject to trade reporting fees pursuant to paragraph (b)(1) of FINRA Rule 7730 (Trade Reporting and Compliance Engine (TRACE)).<sup>20</sup> Similarly, U.S. dollar-denominated foreign sovereign debt securities would become subject to FINRA’s Trading

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<sup>17</sup> See id.

<sup>18</sup> See Notice, 87 FR at 29981, n. 12. In addition, FINRA states that FINRA Rule 6730(a)(7) will continue to apply. Therefore, members remain obligated to make a good faith determination as to whether they have engaged in a reportable transaction in a TRACE-Eligible Security and, if the TRACE-Eligible Security is not entered in the TRACE system, the member must promptly notify and provide FINRA Operations the information required under FINRA Rule 6760(b) prior to reporting the transaction. Id.

<sup>19</sup> See Notice, 87 FR at 29981.

<sup>20</sup> See FINRA Rule 7730(b)(1) (providing that, except for certain securitized products, a member “shall be charged a trade reporting fee based upon a sliding scale ranging from \$0.475 to \$2.375 per transaction based on the size of the reported transaction.”).

Activity Fee at the rate applicable to bonds, as set out in Section 1 of Schedule A to the FINRA By-Laws.

FINRA represents that it will announce the effective date of the rule change in a Regulatory Notice, and the effective date will be no later than 365 days following publication of the Regulatory Notice announcing Commission approval of the proposed rule change.<sup>21</sup>

### III. Summary of Comments and FINRA’s Response

The Commission received four comment letters regarding the proposed rule change.<sup>22</sup> The commenters generally support the proposed rule change;<sup>23</sup> as discussed below, however, some commenters also seek clarification and additional guidance on various aspects of the proposal or make suggestions for its modification. No commenter explicitly opposes the proposal.

#### Operational Concerns and Proposed Same Day Reporting Requirement

Two commenters raise operational concerns regarding reporting of transactions in U.S. dollar-denominated foreign sovereign debt securities to TRACE where a CUSIP or CINS number is not assigned or available, particularly given the proposed same-day reporting timeframe.<sup>24</sup> As described above, FINRA states that where a CUSIP or CINS is not available, FINRA intends to permit members to report using a FINRA-assigned symbol that corresponds to

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<sup>21</sup> See Notice, 87 FR at 29982.

<sup>22</sup> See supra note 4.

<sup>23</sup> See Dimensional Letter at 1 (“We support the Proposed Rule Change as it is a positive step toward increased transparency...”); CGS Letter at 2 (“CGS supports FINRA’s proposal to expand the TRACE reporting requirements as described above, as it will add to market transparency for a growing segment of the fixed income market.”); FIF Letter at 1 (“FIF members support FINRA’s decision to require reporting of foreign sovereign debt securities for regulatory purposes only.”).

<sup>24</sup> See FIF Letter at 3; SIFMA Letter at 2.

the security's other identifiers (e.g., the FINRA-assigned symbol would be associated with the ISIN on the Security Master List).<sup>25</sup> However, commenters express concern that firms may have difficulty reporting on a timely basis in these circumstances if they must first obtain an identifier from FINRA, which, according to commenters, is a manual and time consuming process.<sup>26</sup> To help alleviate this concern, one commenter requests that ISIN and FIGI identifiers be allowed for direct reporting, without the separate need to request a FINRA symbol, and that FINRA permit firms to request a symbol for a security where only an ISIN is available through the website process, so as to avoid a manual request process that can result in delays in the assignment of the FINRA symbol.<sup>27</sup> Another commenter expresses concern regarding reporting to TRACE in accordance with a same day reporting requirement—particularly on the first day of trading for a security that has not yet been set up.<sup>28</sup> This commenter recommends that FINRA's new issue request process be expanded prior to the implementation of the proposal to accept ISINs in lieu of CUSIP/CINS identifiers.<sup>29</sup> This commenter also requests that, at a minimum, FINRA should allow T+1 reporting for securities that require manual set up in TRACE with a FINRA symbol.<sup>30</sup> Another commenter states that the feasibility of the same-day reporting requirement is dependent on FINRA accepting a website submission of a new issue with only an ISIN, as discussed above,

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<sup>25</sup> See also Notice, 87 FR at 29981, n. 12.

<sup>26</sup> See FIF Letter at 3; SIFMA Letter at 2.

<sup>27</sup> See FIF Letter at 3-4.

<sup>28</sup> See SIFMA Letter at 2.

<sup>29</sup> See id.

<sup>30</sup> See id.

and questions the feasibility of a same-day reporting requirement for trades occurring prior to 5:00 pm, particularly for trades executed outside the U.S or involving a foreign counterparty.<sup>31</sup>

In response, FINRA states that it will update the new issue form process to permit members to submit the new issue form and receive a FINRA symbol based solely on an ISIN or a FIGI (irrespective of whether a CUSIP and CINS also are available) using the web-based process, which will obviate the need for members to call or email FINRA for assistance with setting up a symbol for a new issue that does not have a CUSIP.<sup>32</sup> FINRA also notes that, according to CGS, the operator of the CUSIP system, a CUSIP or CINS is available for virtually all U.S. dollar-denominated debt securities for foreign issuers, both private and sovereign, and that it is a rare event that a CGS identifier is not available at the time the security becomes TRACE-eligible.<sup>33</sup> Further, FINRA states that members may utilize machine-to-machine interaction to systematically upload required new issue information.<sup>34</sup> FINRA believes that these measures address commenters' operational concerns, as well as those regarding the feasibility of reporting on a same-day basis. Therefore, FINRA states it is not recommending any amendments to the proposal and that it continues to believe that the same-day reporting requirement is appropriate.<sup>35</sup>

Another commenter raises the possibility that assigning a FINRA symbol to multiple identifiers could create identifier mapping challenges or otherwise cause confusion, and states

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<sup>31</sup> See FIF Letter at 2.

<sup>32</sup> See FINRA Response at 3.

<sup>33</sup> See FINRA Response at 3; see also CGS Letter at 2.

<sup>34</sup> See id.

<sup>35</sup> See id.



that, if there is a need to assign a FINRA symbol to a foreign debt security, it should be on a one-to-one basis with the corresponding and fungible CUSIP/CINS or ISIN.<sup>36</sup> In response, FINRA states that it does not agree that associating a FINRA symbol with multiple identifiers creates any unique challenges in the context of the proposal, as an individual security currently may be assigned CUSIP/CINS, FIGI and ISIN identifiers.<sup>37</sup> In addition, FINRA states that it seeks to avoid duplicative symbol assignments and confirms that FINRA-assigned symbols are intended to correspond, on a one-to-one basis, with a single security and any related identifiers.<sup>38</sup>

#### Reporting Specifications

Two commenters request clarification regarding which TRACE system protocols would apply to the reporting of U.S. dollar-denominated foreign sovereign debt.<sup>39</sup> FINRA confirms that U.S. dollar denominated foreign sovereign will be reportable to the TRACE facility for corporate and agency debt and will be added as a new security subtype (in addition to corporates, agencies, equity linked notes, and church bonds).<sup>40</sup> FINRA also states that it will create a new report card for member reporting of U.S. dollar-denominated foreign sovereign debt securities.<sup>41</sup>

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<sup>36</sup> See CGS Letter at 2.

<sup>37</sup> See FINRA Response at 3.

<sup>38</sup> See id.

<sup>39</sup> See SIFMA Letter at 4 (requesting that FINRA clarify which of the existing specifications would be used or if a new specification would be published); FIF Letter at 2 (requesting confirmation that FINRA intends to leverage the existing TRACE system for corporate and agency debt securities); see also FIF Letter at 6 (requesting guidance as to whether FINRA will issue separate report cards for reporting in foreign sovereign bonds or whether any of the current reports cards will be updated to include reporting for foreign sovereign bonds).

<sup>40</sup> See FINRA Response at 4.

<sup>41</sup> See id.

### Implementation Timeframe

One commenter recommends a 15-month implementation timeframe for the proposal.<sup>42</sup> Another commenter requests that FINRA ensure that industry members are provided with a sufficient implementation timeframe and asks that the timeframe run from the date that technical specifications and interpretive FAQs are published.<sup>43</sup> In response, FINRA states that it would provide members with an adequate implementation period.<sup>44</sup>

### Scope of Defined Terms

Some commenters express concerns in connection with identifying U.S. dollar-denominated foreign sovereign debt for purposes of reporting to TRACE.<sup>45</sup> Two commenters state that it can be difficult to determine the Schedule B eligibility of an issuer and request that FINRA provide clarity on how foreign issuers should be classified.<sup>46</sup> One commenter also requests guidance on how a member should communicate with FINRA if it disagrees with the current classification of a bond.<sup>47</sup> Another commenter requests further guidance on terms used in the proposal related to the definition of “foreign sovereign debt security.”<sup>48</sup> This commenter also states that FINRA should provide guidance as to how previously issued foreign sovereign debt will be set up in TRACE/added to the master file.<sup>49</sup> In response, FINRA states that it regularly

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<sup>42</sup> See SIFMA Letter at 3.

<sup>43</sup> See FIF Letter at 7.

<sup>44</sup> See FINRA Response at 4.

<sup>45</sup> See FIF Letter at 4-5; SIFMA Letter at 3.

<sup>46</sup> See id.

<sup>47</sup> See FIF Letter at 5.

<sup>48</sup> See SIFMA Letter at 3.

<sup>49</sup> See id.

engages with members concerning operational and interpretive questions concerning TRACE reporting, including regarding whether and how a particular security is reportable to TRACE, if unclear.<sup>50</sup> FINRA states that the proposal seeks to define “foreign sovereign debt security” as “a debt security issued or guaranteed by the government of a foreign country, any political subdivision of a foreign country, or a supranational entity.”<sup>51</sup> FINRA states that, as is the case in determining the TRACE-eligibility of any security, FINRA would expect members to analyze the facts and circumstances of a security in light of the relevant definitions and guidance to ensure appropriate reporting to TRACE. FINRA states that TRACE rules currently require members to distinguish U.S. dollar-denominated debt of foreign sovereign issuers from that of foreign private issuers for purposes of TRACE reporting, and, as discussed in the proposal, FINRA has since 2004 provided members with guidance specifically for this purpose.<sup>52</sup> FINRA further states that members who are unable to determine whether a security falls within scope based on the rule and guidance should contact FINRA’s Office of General Counsel for assistance.<sup>53</sup>

In addition, FINRA states that it intends to proactively update the TRACE security master list to include the securities that FINRA has identified as U.S. dollar-denominated foreign sovereign debt securities, consistent with FINRA’s usual approach when a new product type becomes reportable to TRACE.<sup>54</sup> FINRA states that it will make the updated security master list

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<sup>50</sup> See FINRA Response at 4.

<sup>51</sup> See id.

<sup>52</sup> See FINRA Response at 4-5 (citing Notice to Members 04-90 (December 2004)).

<sup>53</sup> See FINRA Response at 5.

<sup>54</sup> See id.

available to members in advance of the effective date.<sup>55</sup> FINRA states, however, that, as FINRA has reminded members in the past with regard to other types of TRACE-eligible securities, members are obligated to have systems or processes in place to determine whether a transaction in a TRACE-eligible security has occurred and is, therefore, reportable, even if it was not included on the TRACE security master list at the time of the transaction.<sup>56</sup> FINRA states that members who disagree with the current classification of a bond on the master list should contact FINRA Market Operations.<sup>57</sup>

#### Public Dissemination

Several commenters express support for, or raise concerns regarding, the public dissemination of information with respect to transactions in U.S. dollar-denominated foreign sovereign debt securities.<sup>58</sup> FINRA reiterates that it is not proposing to disseminate information with respect to transactions in U.S. dollar-denominated foreign sovereign debt securities at this time, and states that it would observe its historical measured approach to dissemination following

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<sup>55</sup> See id.

<sup>56</sup> See id.

<sup>57</sup> See id.

<sup>58</sup> See Dimensional Letter at 1 (strongly urging FINRA to publicly disseminate the relevant data as soon as practicable, stating that, if disseminated, FINRA should adopt a trade reporting timeframe that is consistent with the reporting timeframe for corporate and agency bond); FIF Letter at 1 (supporting FINRA's decision to require reporting for regulatory purposes only and taking a measured approach to potential dissemination in the future); SIFMA Letter at 4 (raising several concerns regarding any further real-time public dissemination, including that it could potentially impair liquidity and lead to information leakage, and stating that it does not believe that the benefits of dissemination outweigh the risks).

appropriate analysis.<sup>59</sup> In addition, FINRA states that any determination to disseminate such transaction information would be subject to filing with the Commission.<sup>60</sup>

#### IV. Discussion and Commission Findings

After carefully considering the proposal, the comments submitted and FINRA's response to the comments, 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.<sup>61</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,<sup>62</sup> which requires, among other things, that the rules of a national securities association 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. In addition, and as discussed below, the Commission further finds that the proposal is consistent with Section 15A(b)(5) of the Act,<sup>63</sup> which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls.

Prior to TRACE's implementation, the National Association of Securities Dealers ("NASD") (FINRA's predecessor) did not have routine access to comprehensive transaction information for the over-the-counter corporate bond market, even though the NASD bore

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<sup>59</sup> See FINRA Response at 6.

<sup>60</sup> See id.

<sup>61</sup> In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>62</sup> 15 U.S.C. 78o-3(b)(6).

<sup>63</sup> 15 U.S.C. 78o-3(b)(5).

responsibility for surveilling and regulating that market. In originally approving TRACE, the Commission stated that obtaining such information to better conduct market surveillance was a fundamental means of promoting fairness and confidence in U.S. capital markets.<sup>64</sup> Similarly, with respect to the over-the-counter market for U.S. dollar-denominated foreign sovereign debt securities, FINRA currently does not possess the comprehensive transaction information that would help it carry out its statutory duties to surveil and regulate this segment of the market.<sup>65</sup>

The Commission believes, therefore, that it is reasonable and consistent with the Act for FINRA to designate U.S. dollar-denominated foreign sovereign debt securities as TRACE-Eligible Securities and to establish reporting requirements relating to such securities in the manner set forth in the proposal.<sup>66</sup> Expanding TRACE to include U.S. dollar-denominated foreign sovereign debt securities is reasonably designed to help FINRA fulfill its mandate in Section 15A(b)(6) of the Act<sup>67</sup> 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. In particular, the receipt of the transaction price, par value traded, and other transaction

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<sup>64</sup> See Securities Exchange Act Release No. 43873 (January 23, 2001) 66 FR 8131, 8136 (January 29, 2001).

<sup>65</sup> According to FINRA, almost all U.S. dollar-denominated debt securities traded in the U.S. are TRACE-Eligible Securities and therefore are subject to TRACE reporting requirements. This includes the U.S. dollar-denominated debt of foreign private issuers. Trades in the U.S. dollar-denominated debt of foreign sovereign issuers, however, are not subject currently to TRACE reporting. See Notice, *supra* note 3, 87 FR at 29980-81.

<sup>66</sup> The Commission notes that FINRA previously has expanded TRACE to require the reporting to TRACE of transactions in U.S. Treasury securities, asset-backed securities and agency debt securities. See Securities Exchange Act Release Nos. 79116 (Oct. 18, 2016), 81 FR 73167 (Oct. 24, 2016) (order approving File No. SR-FINRA-2016-027) (“Treasury Securities Order”); 61566 (February 22, 2010), 75 FR 9262 (March 1, 2010) (order approving File No. SR-FINRA-2009-065); and 60726 (September 28, 2009), 74 FR 50991 (October 2, 2009) (order approving File No. SR-FINRA-2009-010).

<sup>67</sup> 15 U.S.C. 78o-3(b)(6).

information in TRACE would create a better-informed surveillance program to help detect fraud, manipulation, unfair pricing, and other potential misconduct.

The Commission recognizes that firms covered by these new reporting requirements may incur certain compliance burdens. FINRA represents, however, that U.S. dollar-denominated sovereign debt securities generally trade at firms that already have TRACE reporting workflows in place, such that FINRA does not believe that the proposal would impose significant burdens and costs on FINRA members given the ability of these firms to leverage their existing reporting systems.<sup>68</sup> Moreover, to the extent that other firms become subject to TRACE reporting requirements for the first time (or firms that already carry out TRACE reporting from certain desks have other desks that do not currently trade TRACE-Eligible Securities and do not yet have TRACE capabilities), the Commission notes that FINRA's proposal to allow transactions to be reported by end-of-day provides such firms with some flexibility to determine the most cost-effective way of meeting the new reporting requirements.

The Commission has considered the commenters' operational concerns regarding reporting of transactions in U.S. dollar-denominated foreign sovereign debt securities to TRACE where a CUSIP or CINS number is not assigned or available. The Commission believes that FINRA's plans to permit members to receive a FINRA symbol based solely on an ISIN or a FIGI (irrespective of whether a CUSIP and CINS also are available) as well as to avoid duplicative symbol assignments, are reasonably designed to address the commenters' concerns, minimize burdens, and facilitate compliance with the proposal. With respect to comments expressing

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<sup>68</sup> See Notice, 87 FR at 29981. The Commission notes that FINRA estimates that the benefit from improved surveillance of member trading activity in U.S. dollar-denominated foreign sovereign debt securities outweighs the costs to members associated with complying with the proposed reporting requirement. See *id.* at 29985

concern that assigning a FINRA symbol to multiple identifiers could create identifier mapping challenges, the Commission agrees with FINRA that associating a FINRA symbol with multiple identifiers does not create any unique challenges in the context of the proposal, as an individual security currently may be assigned CUSIP/CINS, FIGI and ISIN identifiers.<sup>69</sup>

With regards to commenters' concerns regarding the implementation timeframe, FINRA states that it would provide members with an adequate implementation period.<sup>70</sup> The Commission notes that FINRA's proposed process for setting an effective date provides FINRA with flexibility in determining an appropriate implementation period and setting the corresponding effective date.

The Commission agrees with FINRA that the proposal does not represent unique challenges with respect of the scope of the defined terms, including those with respect to the definition of "foreign sovereign debt security," and notes that TRACE rules currently require members to distinguish U.S. dollar-denominated debt of foreign sovereign issuers from that of foreign private issuers for purposes of TRACE reporting.

The Commission has considered comments regarding public dissemination of information regarding transactions in U.S. dollar-denominated foreign sovereign debt securities. The Commission agrees with FINRA that that it is appropriate to study the information reported to regulators under this rule change before proceeding with a proposal to provide for the public

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<sup>69</sup> See FINRA Response at 3.

<sup>70</sup> See FINRA Response at 4. The Commission notes that FINRA published the proposed rule change for comment in Regulatory Notice 19-25 (July 2019). Four comments were received in response to the Regulatory Notice. See Notice, 87 FR at 29985.



dissemination of information concerning transactions in U.S. dollar-denominated foreign sovereign debt securities, which FINRA notes is consistent with past practice.<sup>71</sup>

The Commission also recognizes that members would become subject to trade reporting fees and FINRA's Trading Activity Fee in connection with transactions in U.S. dollar-denominated foreign sovereign debt securities. FINRA represents, however, that the proposed fees are consistent with FINRA's existing framework under FINRA Rule 7730 and FINRA's Trading Activity fee for similar types of transactions required to be reported to TRACE, and that these fees would apply at established rates equally to members reporting transactions in U.S. dollar-denominated foreign sovereign debt securities. Accordingly, the Commission further finds that the proposed application of trade reporting fees under FINRA Rule 7730 and FINRA's Trading Activity Fee to transactions in U.S. dollar-denominated foreign sovereign debt securities is consistent with Section 15A(b)(5) of the Act,<sup>72</sup> which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls.

For the reasons noted above, the Commission finds that the proposed rule change is consistent with the Act.

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<sup>71</sup> See FINRA Response at 6; see also Notice, 87 FR at 29985.

<sup>72</sup> 15 U.S.C. 78o-3(b)(5).

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>73</sup> that the proposed rule change (SR-FINRA-2022-011) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>74</sup>

J. Matthew DeLesDernier

Deputy Secretary

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<sup>73</sup> 15 U.S.C. 78s(b)(2).

<sup>74</sup> 17 CFR 200.30-3(a)(12).