

concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by other Regulated Funds or Affiliated Funds that the Regulated Fund considered but declined to participate in, so that the Non-Interested Directors may determine whether all investments made during the preceding quarter, including those investments that the Regulated Fund considered but declined to participate in, comply with the conditions of the Order. In addition, the Non-Interested Directors will consider at least annually the continued appropriateness for the Regulated Fund of participating in new and existing Co-Investment Transactions.

10. Each Regulated Fund will maintain the records required by section 57(f)(3) of the Act as if each of the Regulated Funds were a BDC and each of the investments permitted under these conditions were approved by the Required Majority under section 57(f) of the Act.

11. No Non-Interested Director of a Regulated Fund will also be a director, general partner, managing member or principal, or otherwise an "affiliated person" (as defined in the Act), of an Affiliated Fund.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the Securities Act) will, to the extent not payable by the Advisers under their respective investment advisory agreements with Affiliated Funds and the Regulated Funds, be shared by the Regulated Funds and the Affiliated Funds in proportion to the relative amounts of the securities held or to be acquired or disposed of, as the case may be.

13. Any transaction fee¹² (including break-up or commitment fees but excluding broker's fees contemplated by section 17(e) or 57(k) of the Act, as applicable) received in connection with a Co-Investment Transaction will be distributed to the participating Regulated Funds and Affiliated Funds on a pro rata basis based on the amounts they invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by an Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by such Adviser at a bank or

banks having the qualifications prescribed in section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided pro rata among the participating Regulated Funds and Affiliated Funds based on the amounts they invest in such Co-Investment Transaction. None of the Affiliated Funds, the Advisers, the other Regulated Funds or any affiliated person of the Regulated Funds or Affiliated Funds will receive additional compensation or remuneration of any kind as a result of or in connection with a Co-Investment Transaction (other than (a) in the case of the Regulated Funds and the Affiliated Funds, the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(C); and (b) in the case of an Adviser, investment advisory fees paid in accordance with the agreement between the Adviser and the Regulated Fund or Affiliated Fund.

14. If the Holders own in the aggregate more than 25 percent of the Shares of a Regulated Fund, then the Holders will vote such Shares as directed by an independent third party when voting on (1) the election of directors; (2) the removal of one or more directors; or (3) any other matter under either the Act or applicable State law affecting the Board's composition, size or manner of election.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80975; File No. SR-FINRA-2017-018]

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

June 20, 2017.

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 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

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

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.

¹² Applicants are not requesting and the staff is not providing any relief for transaction fees received in connection with any Co-Investment Transaction.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 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 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 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 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

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.

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.

⁶ See *Regulatory Notice* 16–39 (October 2016).

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).

⁹ See *Regulatory Notice* 16–39 (October 2016).

¹⁰ 15 U.S.C. 78o-3(b)(6).

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 email 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.

All submissions should refer to File Number SR-FINRA-2017-018. This file number should be included on the subject line if email 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 Web site (<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 Web site 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 July 17, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Eduardo A. Aleman,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80978; File No. SR-ICEEU-2017-003]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Amendment No. 1 and Order Approving Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to ICE Clear Europe's End-of-Day Price Discovery Policy

June 20, 2017.

I. Introduction

On March 10, 2017, ICE Clear Europe Limited ("ICE Clear Europe") 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 (SR-ICEEU-2017-003) to amend ICE Clear Europe's CDS End-of-Day Price Discovery Policy ("EOD Price Discovery Policy") to implement a new price submission process for Clearing Members. The proposed rule change was published for comment in the **Federal Register** on March 23, 2017.³ The Commission did not receive comments regarding the proposed changes. On May 1, 2017, the Commission extended the period in which to approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change to June 21, 2017.⁴ On June 9, 2017, ICE Clear Europe filed Amendment No. 1 to the proposal.⁵ For the reasons discussed below, the

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 34-80269 (March 17, 2017), 82 FR 14925 (March 23, 2017) (SR-ICEEU-2017-003) ("Notice").

⁴ Securities Exchange Act Release No. 34-80566 (May 1, 2017), 82 FR 21287 (May 5, 2017).

⁵ ICE Clear Europe filed Amendment No. 1 to clarify that the implementation date for the proposed rule change will be July 10, 2017, and to note that ICE Clear Europe will issue a circular confirming this timeline in advance of the July 10, 2017 implementation date. Because Amendment No. 1 is a clarifying amendment that does not alter the substance of the proposed rule change the Commission is not publishing it for comment.

Commission is approving the proposed rule changes, as modified by Amendment No. 1.

II. Description of the Proposed Rule Change

ICE Clear Europe has proposed changes to its EOD Price Discovery Policy that are designed to implement a new price submission process. As part of its current price submission process, ICE Clear Europe requires Clearing Members to submit certain required price information to an intermediary, which ICE Clear Europe then obtains and uses as part of its price discovery process. The proposed rule changes would eliminate the use of the intermediary in the price submission process and instead require Clearing Members to submit required price information directly to ICE Clear Europe. In order to implement the direct price submission process, ICE Clear Europe proposed to amend its EOD Price Discovery Policy to (1) require Clearing Members establish direct connectivity with ICE Clear Europe and use a FIX API to provide ICE Clear Europe with the required price information, (2) add references to FIX API terminology, and (3) make revisions reflecting the replacement of existing trade date files with FIX API firm trade messages.⁶ Moreover, ICE Clear Europe proposed amending the Pricing Policy to note that ICE Clear Europe will send FIX API messages directly to Clearing Members, and to remove references to the intermediary and its "Valuation Service API" that ICE Clear Europe previously used.⁷ Although ICE Clear Europe proposed additional minor changes to the timing of various steps in the pricing process, these proposed changes would not affect the actual settlement submission windows.⁸

In addition to the changes described above, ICE Clear Europe also proposed changes with respect to the format of information required to be submitted by Clearing Members for the CDX.NA.HY index. Moreover, ICE Clear Europe proposed modifications to the process for distributing end-of-day prices, which will result in ICE Clear Europe publishing separate messages setting forth end-of-day price information for single name and index CDS to Clearing Members.⁹

⁶ Notice, 82 FR at 14925.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*