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Via Electronic Delivery

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Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street, Suite 600,
Alexandria, Virginia 22314

Re: MSRB Regulatory Notice 2015-16: Request for Comment on Draft Rule Amendments to Require Confirmation Disclosure of Mark-ups for Specified Principal Transactions with Retail Customers; FINRA Regulatory Notice 15-36: Pricing Disclosure in the Fixed Income Markets

Dear Ms. Asquith and Mr. Smith:

Thomson Reuters appreciates the opportunity to comment on MSRB Regulatory Notice 2015-16 (the “MSRB re-proposal”) and FINRA Regulatory Notice 15-36 (the “FINRA re-proposal”).¹ Thomson Reuters² through our Financial & Risk business unit provides buy-side, sell-side and corporate customers with information, analytics, workflow, transaction and technology solutions and services that enable effective price discovery and support efficiency, liquidity and compliance. In particular, our wealth management offerings³ include a complete suite of products that enable retail and institutional brokers to manage the daily tasks of their front, middle and back office operations. As a service provider, Thomson Reuters would like to offer an implementation perspective on the re-proposals.

¹ Note the original proposals from the MSRB and FINRA are MSRB Regulatory Notice 2014-20 and FINRA Regulatory Notice 14-52.

² Thomson Reuters is the world’s leading source of intelligent information for businesses and professionals. Combining industry expertise with innovative technology, it delivers critical information to leading decision makers in the financial and risk, legal, tax and accounting, intellectual property and science and media markets powered by the world’s most trusted news organization. For more information about Thomson Reuters, please go to www.thomsonreuters.com.

³ For more information on Thomson Reuters Wealth Management offerings, see [here](#).

Align MSRB and FINRA Approaches to Mark-Up Confirm Disclosure

The FINRA re-proposal notes that both the MSRB and FINRA have discussed a coordinated approach to confirm disclosure rule-making. We believe it is imperative that the MSRB and FINRA agree on a single set of uniform rules regarding mark-up confirm disclosures. We have seen harmonization between MSRB and FINRA on other initiatives including the no-remuneration indicators set for implementation on May 23, 2016. We see no reason why coordinated rule-making as it relates to mark-up disclosure is not possible.

This approach has a number of benefits including rationalizing implementation effort, reducing investor confusion and rationalizing internal and external training. At many firms, developers and business analysts that program for MSRB reporting changes are the same resources as those responsible for TRACE-related changes. Common definitions and methodologies allow firms to develop a consistent set of modifications with respect to both reporting regimes in a timelier manner. Testing is also simplified if test scripts can be leveraged for both sets of changes. Investor confusion is reduced for those investors that trade both corporate and municipal bonds given that modifications will be consistent across asset classes. Finally, consistency simplifies the training and education that will be required for both internal staff and external clients.

We recommend alignment not only on the definition of the mark-up disclosure but also in the following areas:

- For all confirms, include a link to a search page on the TRACE or EMMA website, as applicable. Retail investors are accustomed to using search engines for financial research. Rather than a security-specific page as proposed by the MSRB, a link to an EMMA or TRACE search page, depending on the security type, which allows a user to input a CUSIP would quickly take retail investors to the data they require without requiring individualized hyperlinks on every confirm. Operationally, this is simpler to maintain for industry participants as well as for FINRA and the MSRB. Deep linking to a specific security increases the likelihood of errors and would require testing of every link to ensure it resolves to the correct webpage. Linking to a search page addresses these issues and is consistent with other retail investor information sites like FINRA's BrokerCheck. Any explanatory text placed on the confirm regarding this link should be concise, taking into account the limited space available on confirms.
- Include time of execution on retail customer confirms based on the time of execution reported to TRACE and EMMA for trade reporting today. This would allow retail investors to more easily identify relevant trade data on the EMMA and TRACE websites.
- Specify dollar amount as the disclosure format. This maintains consistency with equity confirms.

- Eliminate the requirement to “look through” to an affiliate. This is operationally challenging due to information barriers and system limitations. In many cases, affiliates operate as separate broker dealers with policies and procedures prohibiting sharing proprietary data outside of the firm.

Eliminate Look-Forward Component of Re-Proposals

Both the MSRB and FINRA re-proposals would require firms to not only look at preceding transactions within the 2-hour or same day window but also look forward to transactions occurring after a trade is executed in order to determine whether the trade requires a mark-up disclosure. The need to look forward to transactions occurring after the trade will disrupt confirmation processes currently in place. Delays could undermine efforts to maintain operational efficiency and achieve straight through processing. We recommend requiring firms to look back only to preceding transactions that took place in the current business day. By doing this, relevant mark-up prices and disclosure text can be added to the trade ticket and maintain current workflows. Without mark-up information on the trade ticket, we are concerned that an elaborate cancel/re-bill process will be required to accurately reflect the mark-up to be disclosed on confirms.

Exempt DVP/RVP Accounts That May Not Meet Institutional Account Definition

We applaud the MSRB and FINRA for establishing consistent definitions of retail accounts in scope to include those accounts outside of the institutional account definitions established in MSRB Rule G-8(a)(xi) or FINRA Rule 4512(c). However, we are aware that small institutions may not meet those definitions even though they trade via DVP/RVP accounts and rely on institutional confirm processes.⁴ DVP/RVP account holders that do not meet the institutional account definitions are typically small investment managers and hedge funds with total assets under \$50 million. We respectfully request that MSRB and FINRA exempt DVP/RVP accounts from the scope of this rule. We believe this is consistent with the intent of the re-proposals to focus on the retail segment of the market.

Consider Simplifying Definition of Mark-Up

In order to minimize implementation effort, we recommend simplifying the definition of the term mark-up to mean the differential between the customer price and the price of the inventory account trade. From an implementation perspective, disclosing the inventory account trade price would be the most feasible alternative and provide meaningful insight into broker-dealer compensation. Given that the inventory account trade price is on the trade ticket today, implementation would be limited to establishing mechanisms to add this information to the confirm. This would be a simpler approach as opposed to creating new fields and disclosure text that will be required under either re-proposal. Additionally, it would have no impact on real-time confirmation processing.

⁴ Typically, firms use Omgeo’s TradeSuite ID confirm process for meeting institutional confirm obligations.

Another benefit of this approach is its consistency with equity preferred confirms which currently provide mark-up disclosures based on inventory account trade price.

If a broader definition of mark-up based on either the FINRA or MSRB re-proposals is required to achieve policy goals, we have identified the following additional issues with both the FINRA reference price and the MSRB prevailing price concepts that we believe must be considered and resolved.

FINRA Reference Price

FINRA's re-proposal has a number of operational challenges based on the complex requirements of the re-proposal including the following:

- The need to address complex scenarios⁵ and determine reasonable alternative methodologies. While the FINRA re-proposal offers firms flexibility, the implementation effort required to ensure that permissible methodologies are employed will be a challenge for development and testing.
- The need to evaluate a reference price to determine if a material change in the price of the security warrants excluding the reference price from the confirm or requiring additional disclosures. Firms will need to develop logic to review reference prices for their validity and establish parameters to determine if a material change occurred. Guidance would be required to ensure the determination of material change is consistent across the industry.
- The lack of consistency in the determination of the reference price or its inclusion on the confirm will make programming difficult given the number of exceptions and degree of subjectivity involved in making determinations.
- The requirement to add new fields and disclosure text. This is further complicated by the multiple workflows that exist within the fixed income marketplace. Firms use of internal or third party order management systems, trading systems, alternative trading systems (ATs), back office service providers and confirm vendors will create a number of integration touch points where mark-up data will need to be stored and passed.

MSRB Prevailing Price

While firms are required to determine prevailing market price today, this information is not currently systematized to allow for the population and communication of fields to downstream systems. Similar to the FINRA re-proposal, systematizing this information will mean the creation of new fields and associated integration work.

⁵ Complex scenarios include those where there is not a same (or greater) size principal and customer trade or there are one or more intervening principal trades of a different size,

The methodology for determining prevailing market price may differ as described in FINRA Rule 2121 and MSRB G-30 as well as associated Supplementary Materials in both rules. For illiquid securities especially, methodologies other than contemporaneous price will need to be considered, e.g., comparison to similar securities based on yield benchmarking. As noted in FINRA Regulatory Notice 15-46 which provides guidance on best execution obligations for fixed income and other markets: *“FINRA also notes that prices of a fixed income security displayed on an electronic trading platform may not be the presumptive best price of that security for best execution purposes, especially for securities that are illiquid or trade infrequently.”* Without an independent source of the prevailing market price, firms will face difficulties in providing this information in a manner that is consistent across the industry. FINRA and the MSRB must address this issue in order for the prevailing market price to be meaningful to investors.

Perform Cost/Benefit Analysis

Given the complexities of the re-proposals outlined above, we recommend performing a detailed cost/benefit analysis of the proposals that are ultimately submitted to the SEC. We note that both the MSRB and FINRA have committed to performing cost/benefit analyses. FINRA indicates that a more fulsome impact analysis is suitable for “significant new rule proposals.”⁶ Additionally, the MSRB states that, “The economic analysis drafted for the SEC rule filing should capture the analysis provided in the request for comment but should be more complete as it should also capture relevant information and arguments made during the public comment period and take into account any alterations to the proposed rule made during the rulemaking process.”⁷ Firms spend significant resources today to maintain and enhance trade reporting. Opportunities to leverage the EMMA and TRACE web portals should be explored as part of this analysis.

As part of the cost/benefit analysis, we believe that policy goals should be clarified in terms of the intent associated with the scope of mark-up disclosures. If expansion of mark-up disclosures to more retail transactions is the ultimate goal, it may be possible to reduce programming costs associated with determining in-scope trades by expanding scope at the outset to eliminate a phased approach to mark-up disclosures. If policy goals will ultimately require an expansion of scope, the costs associated with multiple phases of the project should be evaluated and mitigated. It should be noted that while expanding scope to all retail transactions may address investor confusion and complaints associated with having the mark-up disclosure on only some confirms, determination of the mark-up may be more difficult.

⁶ Framework Regarding FINRA’s Approach to Economic Impact Assessment for Proposed Rulemaking, September 2013

⁷ Policy on the Use of Economic Analysis in MSRB Rulemaking at <http://www.msrb.org/Rules-and-Interpretations/Economic-Analysis-Policy.aspx>

Provide Sufficient Implementation Time

We expect that determination of the reference price or prevailing market price will be performed within OMS/trading systems. However, new fields for the mark-up disclosure and any required disclosure text will need to be passed to back office systems on trade tickets and then on to confirm systems. There are a number of implementation activities that need to be considered across the workflow including precise definition of what price will be disclosed, establishment of new fields to be populated and passed, determination of disclosure text. It will be important for the MSRB and FINRA to work with the industry in establishing a common implementation methodology and industry standards, where possible. We believe that there will be a need for additional implementation guidance from both MSRB and FINRA if rules are ultimately approved.

Once a common approach is proposed by the MSRB and FINRA, we will be better positioned to provide more feedback on implementation issues and timeframe. It is worth noting that recent MSRB trade reporting changes have afforded market participants with twelve month implementation time periods.⁸ Changes to confirm processing typically are more complex given the number of integration touch points.

Thank you for the opportunity to comment on the re-proposals. Changes to confirms directly impact our systems and those of our clients; we appreciate the willingness of MSRB and FINRA to consider our comments.

Regards,



Manisha Kimmel
Chief Regulatory Officer, Wealth Management
Thomson Reuters

⁸ See MSRB Regulatory Notice 2015-07 published May 26, 2015 announcing a May 23, 2016 implementation date.