



250 Vesey Street
New York, NY 10281

T +1 (212) 651 6070
F +1 (212) 651 6366
janestreet.com

June 11, 2019

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

Dear Ms. Asquith:

RE: Trade Reporting and Compliance Engine (TRACE), Regulatory Notice 19-12

Jane Street appreciates the opportunity to comment on FINRA's *Proposed Pilot Program to Study Recommended Changes to Corporate Bond Block Trade Dissemination* (the "Proposed Pilot"), described in Regulatory Notice 19-12 (April 12, 2019). The Proposed Pilot will evaluate, among other things, whether FINRA should implement a 48-hour delay in disseminating TRACE reports of corporate bond transactions exceeding certain "block size" dollar thresholds. The SEC Fixed Income Market Structure Advisory Committee ("FIMSAC") recommended implementing a block trade dissemination delay on April 9, 2018, and the Pilot Proposal arose in response to the FIMSAC recommendation.

Jane Street continues to believe that implementing a dissemination delay is inadvisable for the reasons articulated in our comment letter to FIMSAC, dated May 16, 2018, which is available here: <https://www.sec.gov/comments/265-30/26530-3652026-162412.pdf> (the "FIMSAC Comment Letter").

On the one hand, Jane Street does not believe that the policy goals driving the FIMSAC recommendation are fundamentally unreasonable. The dissemination delay will permit large dealers to hold private information about block trades they did with their largest customers for two days following the trade. The dealers will therefore be able to more profitably facilitate transfers in risk from their institutional customers to the marketplace at large. The recommendation will clearly benefit large dealers and institutional customers when trading in large size, both of which are important participants in the fixed income market structure.

On the other hand, we believe that FINRA should consider the extent to which a dissemination delay might shift costs to other market participants. More importantly, we are concerned that other market

participants, in an effort to avoid these costs, will adjust their trading in ways which will impede recent advancements in fixed income market structure like broader usage of electronic trading platforms. In our view, foregoing those advancements in market structure will likely harm all participants in the long-run.

Comments on the Advisability of a Dissemination Delay

We first briefly summarize how the dissemination delay may shift costs to other market participants:

- *Dealers who typically provide liquidity in corporate bonds in less than block size.* Fixed income dealers other than the largest banks are increasingly able to provide liquidity to a range of customers through electronic trading platforms such as MarketAxess. The recommendation will subject dealers on such platforms (including Jane Street) to greater chance of trading with counterparties who hold private information about block trades. This poses a risk to dealers who lack information about an undisclosed block trade because the price of the relevant bond would likely move in an adverse direction as the block trader continues to hedge its exposure.
- *Customers who access liquidity in corporate bonds in less than block size.* Dealers are in the business of providing liquidity, but fear providing liquidity to those with superior information because of the risk that the trade will occur at a price which is favorable to the counterparty with the superior information. Due to this “adverse selection” risk, dealers lacking private information are likely to widen markets, which ultimately imposes a cost on customers coming to them for liquidity. Furthermore, customers seeking liquidity in small size will be subject to the same adverse selection risk as those dealers who lack private information – that is, the risk of trading against large dealers who hold private information about undisclosed block trades.
- *ETF market-makers.* As detailed in the FIMSAC Comment Letter, ETF market-makers like Jane Street hold large portfolios of individual positions in corporate bonds (each position typically being less than block size) as a result of their creation and redemption activities. ETF market-makers need to hedge these portfolios by trading against bond dealers. In this respect, ETF market-makers are similar to customers who demand liquidity in corporate bonds in less than block size, and typically do so in very large scale, every single day. They are subject to the same adverse selection risk as those customers, and they risk bearing a significant portion of cost-shifting that will occur as a result of not disclosing block trades. Instead of fully bearing these costs directly, however, ETF market-makers will pass them along to ETF investors by widening their quotations as described below.
- *ETF investors.* Since ETF market-makers will face higher costs when trading bonds underlying fixed income ETFs, they will likely pass along those costs by making wider markets in the ETFs themselves. If ETF market-makers widen markets, ETF investors (including retail investors) will face greater costs trading in and out of ETF positions. Further, given the prevalence of “custom” creation and redemption baskets in corporate bond ETFs, large dealers holding private information could negotiate creation and redemption baskets in a manner advantageous to themselves and disadvantageous to ETF fundholders. (Jane Street discussed this concern in our

comment letter on the proposed ETF rule, dated October 1, 2018, which is available here: <https://www.sec.gov/comments/s7-15-18/s71518-4467045-175801.pdf>.) In general, ETF portfolio managers will find it more difficult to accurately value bonds in their holdings and baskets, posing greater costs and risks to ETF holders and market participants.

Ultimately, we believe that these effects will drive greater reliance on block trading in corporate bonds. They will also cause dealers to widen markets on electronic platforms and cause customers to be more wary of trading on those platforms. Eroding recent progress in the electronification of fixed income markets will make it harder for new entrants to fixed income dealing, such as Jane Street, to compete with larger existing players on all-to-all trading platforms. A dissemination delay will also harm investors seeking exposure to corporate bonds through ETFs, which is an increasingly important tool for retail and institutional investors. In short, making fixed income markets less transparent will advantage certain market participants, but we believe it is unlikely to be a very successful long-term tool for promoting investor confidence, fairness and innovation.

Comments on Pilot Design

We believe that the Proposed Pilot will demonstrate that a dissemination delay would lead to more block size trading activity. This is the result that proponents of the delay seek to achieve, and we agree it would benefit certain market participants.

The effects that are of concern to us are unlikely to be as readily demonstrable. For one, it is likely not possible that the Pilot Program would demonstrate any meaningful effect on ETFs because the underlying portfolio of any given ETF contains a blend of bonds from different Test Groups; therefore, it would not be possible to make relevant comparisons across ETFs. In general, the cost-shifting effects of the proposal are subtle and dispersed and will not lend themselves to easy empirical measurement. Further, our greatest ultimate concern is that the recommendation will cause market participants to respond to cost-shifting effects by adjusting their behavior in subtle ways which will slow the pace of advancements in market structure, such as electronification. It is unlikely that any pilot program could effectively “prove” this assertion because it involves comparing one unknown future to another unknown future.

Nonetheless, if FINRA does decide to proceed with the Proposed Pilot we suggest the following metrics for evaluation:

- *Evaluate the impact of the dissemination delay on non-block size quotations made available on electronic trading platforms.* This metric relates to Jane Street’s core concern that the dissemination delay will erode the quality of markets on electronic trading platforms. To test this, FINRA can obtain quotation and trading information from electronic bond trading platforms such as MarketAxess and, for securities subject to the dissemination delay, examine what, if any, effects occur on dealer quotations. In particular, when quotations are provided in response to customer RFQs (requests for quotes), are the levels wider relative to the most recent marks published by third-party pricing services?

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- *Evaluate how non-block size executions in securities subject to the dissemination delay perform relative to mark-outs (for example, 5 days after the trade) provided by third-party pricing services.* This metric (or some similar form of transaction cost analysis) may help assess the extent to which non-block size traders are negatively impacted by the dissemination delay. FINRA may choose to measure mark-outs for trades occurring in circumstances in which a block trade has occurred but a report has not yet been disseminated: i.e., how do other non-block size trades occurring in that intervening 48-hour period perform when compared to mark-outs generated soon after the block-trade prints?
- *Evaluate whether block trade spreads in securities subject to the dissemination delay are tighter than in other securities.* To the extent it is possible to obtain quoting information regarding block trades, FINRA can examine whether large dealers are making tighter block quotes as a result of the dissemination delay. This information may help demonstrate the extent to which dealers are passing along the benefits of a dissemination delay to their institutional customers.

Conclusion

For the reasons described above and in the FIMSAC Comment Letter, Jane Street believes that implementing the proposed dissemination delay will be harmful to the corporate bond market and stifle market innovation. We believe that FINRA should not proceed with the Proposed Pilot because it is unlikely to provide adequate empirical data about the costs and long-term negative effects of a dissemination delay. However, if FINRA does proceed with the Proposed Pilot, FINRA should take the opportunity to evaluate not only whether the dissemination delay increases the amount of block trading, but also, to the extent possible, to evaluate the extent to which it imposes costs on other portions of the market. We are happy to discuss any of our proposed metrics or other proposed metrics in greater detail at your convenience. I am available by telephone at (212) 651-5812, and my email is mberger@janestreet.com.

Sincerely,
/s/ Matt Berger

Matt Berger
Global Head of Fixed Income and Commodities