

Trade Reporting Notice

FINRA Reminds Firms of Their Obligations Regarding TRACE Reporting

Summary

FINRA is issuing this *Notice* to remind members of their obligation 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. In those circumstances, members should contact Market Operations to add the TRACE-Eligible Security to the security master list and report the transaction to TRACE.

- ▶ For questions on how to set up a TRACE-Eligible Security or report a security to TRACE, contact Market Operations at (866) 776-0800.
- ▶ For legal and interpretive questions, contact Racquel Russell, Associate General Counsel, Office of General Counsel, at (202) 728-8363 or racquel.russell@finra.org.

Background and Discussion

The FINRA Rule 6700 Series (Trade Reporting and Compliance Engine (TRACE)) sets forth member trade reporting obligations for securities that meet the definition of "TRACE-Eligible Security" as defined in Rule 6710(a).¹ Unless an exception applies, firms are required to report to TRACE their transactions in TRACE-Eligible Securities during the period of time prescribed by the rule.² To comply with this requirement, firms must have a process in place to determine when a transaction in a TRACE-Eligible Security has occurred. FINRA has observed that some firms rely exclusively on the list of securities that currently are active in TRACE (*i.e.*, securities on the TRACE master security list) or other lists available through service providers or vendors. However, overreliance on such lists has resulted in firms failing to meet their TRACE trade reporting obligations when they transact in a security that is not active in the TRACE system.³

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Suggested Routing

- ▶ Compliance
- ▶ Fixed Income
- ▶ Legal
- ▶ Operations
- ▶ Systems
- ▶ Trading
- ▶ Training

Key Topics

- ▶ TRACE-Eligible Security
- ▶ Transaction Reporting

Referenced Rules and Regulatory Notices

- ▶ FINRA Rule 6710
- ▶ FINRA Rule 6730
- ▶ FINRA Rule 6760

FINRA reminds members that Rule 6730(a)(7) requires all members that engage in a transaction in any TRACE-Eligible Security to contact Market Operations to set up the security if it is not set up in TRACE.⁴ This requirement facilitates members' trade reporting obligations and is separate from the notice requirement of Rule 6760 (Obligation To Provide Notice), which applies only to managing underwriters or others involved in a distribution or offering.⁵ Thus, even though underwriters are required to contact FINRA to add a security to TRACE prior to the first transaction in the security, there are, nonetheless, instances where a TRACE-Eligible Security was never added to TRACE. For example, this may occur because an underwriter failed to provide the required notice to Market Operations or the security type was not TRACE-Eligible at the time of its issuance, but later became subject to the TRACE rules—such as U.S. Treasury Securities issued before they became reportable to TRACE in July 2017 or Asset-Backed Securities issued before they became reportable to TRACE in 2011.

In addition, there may be instances where a security once appeared on the TRACE security master list, but became inactive and was subsequently removed from TRACE. In such cases, the member transacting in the security must contact Market Operations to request that the security be activated or reactivated in the TRACE system so that the member can report the transaction.

Endnotes

1. Rule 6710 generally defines a "TRACE-Eligible Security" as a debt security that is 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 Rule 6710(k) or a "Government-Sponsored Enterprise" as defined in Rule 6710(n); or a U.S. Treasury Security as defined in paragraph (p).
2. See Rule 6730 (Transaction Reporting).
3. See e.g., FINRA, [Report on FINRA Examination Findings](#) (December 2018); and FINRA, [Report on FINRA Examination Findings](#) (December 2017).
4. Specifically, Rule 6730(a)(7) provides that, if a member that is a Party to a Transaction makes a good-faith determination that a transaction involves a TRACE-Eligible Security, the member must report the transaction as provided in Rule 6730, and if the TRACE-Eligible Security is not entered in the TRACE system, the member must promptly notify and provide FINRA Market Operations the information required under Rule 6760(b) prior to reporting the transaction.
5. Rule 6760 generally requires the managing underwriter to provide Market Operations with specified information regarding a security to facilitate FINRA adding the security to the TRACE system.