Regulatory Notice 20-43

Trade Reporting and Compliance Engine (TRACE)

FINRA Requests Comment on Enhancements to TRACE Reporting for U.S. Treasury Securities

Comment Period Expires: February 22, 2021

Summary

In consultation with the U.S. Department of the Treasury (Treasury Department), FINRA is soliciting comment on potential enhancements to the information reported to FINRA's TRACE facility regarding transactions in U.S. Treasury securities. Specifically, FINRA is seeking comment on potential changes to TRACE reporting for U.S. Treasury securities that would require: (1) more granular execution timestamps; (2) a shortened trade reporting timeframe; (3) new indicators to identify non-alternative trading system (ATS) trading venues and method of execution, the trading unit within a firm executing a trade, and the method used to clear and settle a transaction; (4) new modifiers to identify additional multi-leg transactions and whether a transaction is priced at the current market; (5) standardized price reporting; and (6) separate reporting of per-transaction ATS fees. FINRA also is soliciting views on whether these proposed changes should apply to all TRACE-eligible securities uniformly, if applicable.

Questions regarding this *Notice* should be directed to:

- Patrick Geraghty, Vice President, Market Regulation, at (240) 386-4973;
- Chris Stone, Vice President, Transparency Services, at (202) 728-8457; or
- Racquel Russell, Associate General Counsel, Office of General Counsel, at (202) 728-8363.

December 23, 2020

Notice Type

- Request for Comment

Suggested Routing

- Fixed Income
- Government Securities
- Legal & Compliance
- Operations
- Systems
- Trading

Key Topics

- TRACE
- Trade Reporting
- U.S. Treasury Securities

Referenced Rules and Notices

- FINRA Rule 6710
- FINRA Rule 6720
- FINRA Rule 6730
- FINRA Rule 6732
- FINRA Rule 11900
- Regulatory Notice 16-39
- Regulatory Notice 18-34

FINRA

Action Requested

FINRA encourages all interested parties to comment on this request for comment. Comments must be received by February 22, 2021.

Comments must be submitted through one of the following methods:

- Online using FINRA's comment form for this *Notice*;
- Emailing comments to *pubcom@finra.org*; or
- Mailing comments in hard copy to:

  Jennifer Piorko Mitchell
  Office of the Corporate Secretary
  FINRA
  1735 K Street, NW
  Washington, DC 20006-1506

To help FINRA process comments more efficiently, persons should use only one method to comment.

Important Notes: Comments received in response to *Regulatory Notices* will be made available to the public on the FINRA website. In general, comments will be posted as they are received.[1]

Before becoming effective, any proposed rule change must be filed with the Securities and Exchange Commission (SEC) pursuant to Section 19(b) of the Securities Exchange Act of 1934 (SEA).[2]

Background and Discussion

On July 10, 2017, FINRA members began reporting information on transactions in U.S. Treasury securities to TRACE.[3] These reporting requirements apply only to FINRA members. However, FINRA notes that the Board of Governors of the Federal Reserve System (Federal Reserve) has announced that it plans to collect data on secondary market transactions in U.S. Treasury securities from banks and will enter into negotiations with FINRA to potentially act as the Federal Reserve's collection agent for the data.[4] To the extent that the Federal Reserve requires banks to report these transactions to TRACE, any expanded data collection described in this *Notice*, subject to filing with and approval by the SEC, potentially also would apply to banks.

Information in TRACE regarding transactions in U.S. Treasury securities is for regulatory and other official sector purposes and is not disseminated publicly.[5] FINRA makes the data available to the official sector to assist them with monitoring and analysis of the U.S.

Treasury securities markets.[6] Since the implementation of the reporting requirements, FINRA, together with the official sector, has continued to study the data members report and assess the quality of the data, and has taken steps to enhance the data. For example, FINRA recently began requiring that large ATSs identify non-member subscribers when reporting transactions in U.S. Treasury securities to TRACE to enhance the data available to FINRA and the official sector.[7] The Treasury Department has recommended that FINRA consider additional changes to U.S. Treasury securities reporting to provide more insight into trading in the U.S. Treasury securities markets.[8] FINRA is issuing this *Notice* to solicit comment on these potential changes to help inform FINRA's and the official sector's continuing analysis of the data and whether changes to the TRACE reporting rules for U.S. Treasury securities may be appropriate.

A. Execution Timestamps

FINRA is considering revisions to the current execution timestamp requirements for U.S. Treasury securities to improve the accuracy of the information reported to TRACE. Currently, Rule 6730 requires members to report the Time of Execution[9] for a transaction executed electronically to the finest increment of time captured in the member's system (*e.g.,* millisecond, microsecond), but at a minimum, in increments of seconds.[10] However, if a member uses multiple systems to facilitate trade reporting and those systems differ in granularity (*e.g.,* System A captures time to the millisecond, while System B only captures time to the second), then the member currently may use the finest increment that is common across all systems (*i.e.,* in this example, to the second), and is not required to update its systems to trade report to the finer increment captured by System A.[11]

FINRA is considering revising the existing rule to require that members report transactions executed electronically in U.S. Treasury securities to TRACE in the finest increment of time captured by the firm's execution system, but at a minimum, in increments of a second. Therefore, for example, if the firm's execution system captures time in milliseconds but its system for reporting U.S. Treasury securities transactions only reports time in seconds, the firm would be required to update its reporting system so that it reports Time of Execution in milliseconds. Similarly, where a firm executes transactions in U.S. Treasury securities through an external system, FINRA is considering requiring that firms report such transactions to TRACE consistent with the Time of Execution communicated by the execution venue. Therefore, for example, if a firm executes a transaction on an ATS and receives an execution message from the ATS providing an execution time in microseconds, the firm also would report its leg of the ATS transaction with an execution time in microseconds. FINRA believes this change would result in FINRA receiving more accurate and consistent information across reporters with respect to the Time of Execution of the transaction.

B. Reporting Timeframe Reduction

Rule 6730 sets forth how trades executed during different time periods throughout the day are to be reported to TRACE. Specifically, for transactions executed on a business day from 12:00:00 a.m. to 5:00:00 p.m., firms must report the trade the same day during TRACE system hours.[12] For transactions executed on a business day after 5:00:00 p.m. but before the TRACE system closes, firms must report the trade no later than the next business day (T+1) during TRACE system hours (and, if reported on T+1, designated "as/of" with the date of execution). Finally, for transactions executed on a business day at or after 6:30:00 p.m. through 11:59:59 p.m., or on a Saturday, Sunday, a federal or religious holiday, or other day on which the TRACE system is not open at any time during that day, firms must report the trade on T+1 during TRACE system hours (and designate the trade "as/of" and include the date of execution).

FINRA is considering reducing the trade reporting timeframe for U.S. Treasury securities to facilitate more timely availability to regulators of intraday pricing and liquidity information on U.S. Treasury securities. FINRA is considering amending the current rules to provide that:

- for transactions executed on a business day at or after 12:00:00 a.m. through 7:59:59 a.m., firms would be required to report the trade the same day no later than 60 minutes after the TRACE system opens.
- for transactions executed on a business day at or after 8:00:00 a.m. through 6:29:59 p.m., firms would be required to report the trade within 60 minutes of the Time of Execution, except that, for transactions executed on a business day less than 60 minutes before 6:30:00 p.m., firms would be required to report the trade no later than 60 minutes after the TRACE system opens on T+1 (and, if reported on T+1, designated "as/of" with the date of execution).
- for transactions executed on a business day at or after 6:30:00 p.m. through 11:59:59 p.m., or for trades executed 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, firms would be required to report the trade on T+1 no later than 60 minutes after the TRACE system opens (and must designate the trade "as/of" and include the date of execution).

C. Platform Information and Trading Method

FINRA is considering changes to require members to report information regarding the identity of any non-ATS electronic trading platform through which a transaction in a U.S. Treasury security occurs as well as the method of execution (*i.e.,* voice or electronic) of a transaction in a U.S. Treasury security. Currently, Rule 6720(c) requires that member ATSs (as that term is defined in Rule 300 of SEC Regulation ATS) obtain a separate MPID for purposes of TRACE reporting. This separate MPID requirement applies to any member ATS that trades TRACE-eligible securities if it meets Regulation ATS's definition of "alternative trading system," irrespective of whether the member ATS is required to comply with Regulation ATS.[13] By requiring that a separate MPID be used for ATS activity, FINRA is

better able to specifically identify which transactions occur on or through an ATS. An ATS's separate MPID must be used: (1) when the ATS submits trade reports to TRACE; and (2) where an ATS is exempt from TRACE reporting pursuant to Rule 6732 (Exemption from Trade Reporting Obligation for Certain Transactions on an Alternative Trading System) and the member counterparties to the exempt trade on the ATS must enter the ATS's separate MPID on the TRACE report for those transactions.

However, there is significant activity in U.S. Treasury securities through other, non-ATS fixed income electronic trading platforms that are not specifically identified in the TRACE audit trail. To capture additional information about the trading that occurs through these platforms, FINRA is considering requiring members, when reporting transactions in U.S. Treasury securities to TRACE, to populate a separate field to identify the non-ATS platform on or through which it transacted. This additional information would allow FINRA to identify a broader range of electronic trading platforms through which transactions in U.S. Treasury securities may originate and occur. For purposes of the proposal, a "non-ATS trading platform" would include any electronic system that does not meet the definition of an ATS under SEC Regulation ATS, through which multiple parties facilitate orders, request-for-quotes (RFQs), or negotiate the terms of a trade in a U.S. Treasury security. These platforms currently do not have a separate MPID and are not otherwise identifiable in TRACE reports. Under the proposal, members would be required to identify the non-ATS trading platform for those transactions that originated or occurred through the platform. To provide consistent identification of these platforms across TRACE reports, FINRA would provide to reporters a list of non-ATS trading platform identifiers for use in populating the new field. If a member trades in a U.S. Treasury security through a platform not yet included in the TRACE list, the member would be required to notify FINRA so that the platform can be added to the list of identifiers.

Importantly, the SEC recently published for comment proposed amendments to Regulation ATS that would eliminate the existing exemption from compliance with Regulation ATS for an ATS that trades only government securities, including U.S. Treasury securities.[14] As part of that release, the SEC also issued a concept release seeking feedback on the regulatory framework for electronic platforms that trade corporate debt and municipal securities in response to recommendations from the SEC's Fixed Income Market Structure Advisory Committee (FIMSAC) to review this area.[15] FINRA recognizes that the feedback and ultimate outcome of the SEC's proposed amendments and concept release will impact and inform any proposal FINRA may advance in this area, for example, to help better and more consistently identify the types of electronic systems and platforms that trade fixed income securities.

In addition to identifying the platform in TRACE reports, FINRA also is considering changes to require for all transactions in U.S. Treasury securities (whether or not an electronic component to the transaction exists), that members indicate whether the transaction was executed via voice or electronically.

D. Desk Identifiers

FINRA is considering adding a new trading desk or unit identifier field for U.S. Treasury securities reporting to identify the specific desk or unit within a member firm executing the transaction. Member counterparties currently are identified in TRACE by the MPID submitted in the transaction report. Some firms trade U.S. Treasury securities from multiple desks or units. For those firms with multiple desks or units, each independent desk or unit within a firm may execute trades using a separate MPID or they may share the same MPID for the entire firm—either approach is permissible under the TRACE rules.

FINRA is considering changes to the trade reporting requirements that would require more granular information regarding the desk or unit executing a U.S. Treasury security trade. Specifically, FINRA would require members to assign and enter an additional identifier for each desk or unit at the firm that executes transactions in U.S. Treasury securities. Firms would provide FINRA with a list of all desks/units within the firm that may trade a U.S. Treasury security, along with the firm-generated identifier for each (within the alpha or numeric parameters specified by FINRA). Members also would be required to keep FINRA informed of any change to the member's desk or unit identification assignments by providing FINRA with the updated assignments by the next business day following the implementation of such change. FINRA would not require that each trading desk or unit have a separate MPID, nor would firms be required to modify their existing organization in any way. Allowing each firm to specify the relevant desks and units and assign identifiers provides firms with flexibility and, therefore, accounts for varying structures across different member firms.[16]

E. Clearing Arrangement Indicator

FINRA is considering requiring members to append a new indicator that would identify whether a transaction in a U.S. Treasury security will be cleared centrally or bilaterally.[17] Rule 6730 does not currently require members to specify in TRACE whether a transaction in a U.S. Treasury security will be centrally or bilaterally cleared. In addition, FINRA rules do not mandate that members centrally clear transactions in U.S. Treasury securities.[18]

The method by which a transaction is cleared and settled—specifically whether the parties to the transaction use a central clearing counterparty—affects the degree and type of risk the parties bear (*e.g.,* counterparty financial exposure). FINRA understands that the proportion of trades in U.S. Treasury securities that are cleared centrally through FICC[19] has changed over time along with changes in the composition of the participants in the interdealer U.S. Treasury securities cash market.[20] Specifically, these changes include the growth of electronic trading platforms and the entrance of new market participants that are not broker-dealer FICC members.[21] Although recent efforts have been made to expand the scope of transactions that are centrally cleared through FICC,[22] market developments in recent years have prompted calls for greater study of the clearing practices and counterparty risk in this market.[23] To support this objective, FINRA is proposing adding a new clearing arrangement indicator that members would be required to report that would identify whether a trade in a U.S. Treasury security will be cleared bilaterally or centrally.

F. Multi-leg Transaction Modifiers

FINRA is considering whether additional modifiers to identify specific categories of multi-leg transactions involving a U.S Treasury security are appropriate, as well as an additional modifier to indicate whether the U.S. Treasury security transaction is priced at or off market. Currently, members are required, among other things, to identify a transaction in a U.S. Treasury security that is: (a) part of a series of transactions where at least one of the transactions involves a futures contract with the .B modifier; and (b) part of a series of transactions where one or more legs may not be priced based on the current market with the .S modifier. FINRA believes that the scope of usage of the .B modifier is relatively narrow and consistent; however, the .S modifier is used for a wide range of multi-leg transactions, including those that have different implications on how the price of the reported trade should relate to the current market price. FINRA is considering adding modifiers to further distinguish various strategies, as well as to provide information as to whether the transaction in the U.S. Treasury security is priced at the current market. As stated below in the Preliminary Economic Impact Analysis and Request for Comments section, FINRA welcomes feedback on the appropriate types and groupings of strategies involving U.S. Treasury securities, and initially is considering proposing modifiers to identify:

- trades involving a series of nominals (*e.g.,* curves, butterflies; swap box, rolls; off-the-run vs. off-the-run strategies). These strategies may vary from two to four or more transaction legs. These strategies may seek to benefit from differences in (or expected changes in) the shape of the Treasury yield curve—for example, buying or selling a short maturity U.S. Treasury security, while taking one or more opposite positions in an intermediate or long-term maturity U.S. Treasury security. These strategies also may seek to take advantage of differences between on-the-run and off-the-run U.S. Treasury securities. For example, a market participant may sell an off-the-run U.S. Treasury security and simultaneously buy the most recent on-the-run U.S. Treasury security.
- breakeven trades (*e.g.,* nominal and Treasury Inflation Protected Security (TIPS) legs). A breakeven trade is a relative value trade involving a nominal U.S. Treasury security and a TIPS, where the trade participants take positions based on inflation expectations.
- trades against an interest rate swap (*e.g.,* asset swaps with U.S. Treasury securities or swap spreads). These risk management strategies involve U.S. Treasury securities and derivative contracts.
- Trades hedging other security types (*e.g.,* hedging corporates, mortgage-backed securities, foreign sovereigns). Hedge trades involve at least two legs and generally are intended to manage interest rate risk. For example, a market participant might purchase a corporate bond, agency debenture, municipal bond, or other type of security, while simultaneously selling short a U.S. Treasury security with a similar maturity.[24]

- Any other multi-leg transaction not specified in the above categories would be identified with a new "catch-all" modifier for other U.S. Treasury security trades that are part of a series of transactions.

Finally, FINRA is considering, for each strategy (including for trades identified using the existing .B modifier[25] and the new catch-all category), that members further specify whether the U.S. Treasury securities transaction is executed at a price that is at or off the current market. The new strategy modifiers would replace the current use of the .S modifier, which is used to identify a transaction that is part of a series of transactions and *may not* be priced based on the current market.

G. Standardized Price Reporting

Members are required to report the price of a transaction or the elements necessary to calculate the price. Certain U.S. Treasury securities are traded and quoted using different price conventions, including Treasury bills (which use a discount rate) and floating rate notes (FRNs) (which use a discount margin). FINRA has issued guidance to members that, in such cases, members may report the price of a transaction as either the discount rate or discount margin, but members are still permitted to report the dollar price.[26]

Where members are permitted to choose to report price in either dollars or another measure, it is more likely that validation mismatches would occur. Unmatched trades in the audit trail may reduce the clarity of the available data.[27] As a result, FINRA is considering changes to require further standardization of the measure used to report price in these types of U.S. Treasury securities.[28] As stated below in the Preliminary Economic Impact Analysis and Request for Comments section, FINRA welcomes feedback on the appropriate approach to standardizing price for Treasury bills and FRNs—for example, FINRA is considering whether it is appropriate to require that firms report the discount rate for transactions in Treasury bills and the discount margin for transactions in FRNs, rather than also being permitted to report the dollar price in these instances.

H. Report ATS Fees Separately

FINRA Rules 6730(c) and (d)(1) set forth member obligations for reporting the price of a transaction in a TRACE-eligible security. Members must report the price of a transaction, including any mark-up or mark-down the member charges (for principal transactions), but excluding any commission the member charges (for agency transactions), which must be reported separately from the reported price. Currently, members trading on an ATS also may include in the price reported to TRACE certain per-transaction fees that the ATS may assess for a transaction. FINRA understands that ATSs may assess fees to subscribers in a variety of ways—*e.g.,* an ATS may bill subscribers on a monthly basis or may charge a per-transaction fee. Further, per-transaction fee arrangements may differ among subscribers, resulting in different fees being assessed to each counterparty to a trade. These varying fee arrangements can result in differences in the prices the counterparties to a transaction

report to TRACE (*i.e.*, where one member pays ATS fees on a monthly basis while the other pays a per-transaction fee, or where both members pay a different per-transaction fee with respect to the transaction).

FINRA is considering requiring that members report per-transaction ATS fees separately from the price when reporting transactions in U.S. Treasury securities to TRACE. Therefore, under the proposal, instead of reflecting any per-transaction fee in the price, members would report the price (exclusive of such fees) and include these fees in a new, separate, per-transaction, ATS fee field.

Preliminary Economic Impact Analysis and Request for Comments

As discussed above, FINRA is considering potential enhancements to improve the quality of the information reported to TRACE for transactions in U.S. Treasury securities. These potential enhancements likely would result in direct and indirect costs for firms that trade U.S. Treasury securities by requiring firms to implement changes to their processes and systems for reporting U.S. Treasury securities transactions to TRACE.[29] In addition to the specific questions noted below, FINRA requests comment on all aspects of this *Notice*, including the costs and burdens associated with these potential enhancements. FINRA requests that commenters provide empirical data or other factual support for their comments wherever possible.

Execution Timestamps

As discussed above, FINRA is considering requiring members to report electronically executed transactions in U.S. Treasury securities to the same degree of granularity as that captured by the execution system (internal or external) used to execute the transaction. In the first half of 2019, 267 unique MPIDs reported transactions in U.S. Treasury securities executed on or through an ATS to TRACE.[30] Of the 267 MPIDs, 225 MPIDs reported transactions in seconds only and six MPIDs reported in milliseconds or finer only. The remaining 36 MPIDs reported transactions in both seconds and milliseconds or finer. There were approximately 32.5 million ATS transactions reported in the sample period across all 267 MPIDs. The majority of these transactions (74.8 percent) were reported in milliseconds or finer.

- FINRA requests that firms provide detailed information regarding the feasibility of reporting to the same degree of granularity as captured by the system (internal or external) on or through which the U.S. Treasury securities transaction was executed.
  - What updates or changes to systems would be necessary to facilitate this type of change?

- What, if any, concerns or additional costs would commenters anticipate if FINRA were to require members to report transactions in U.S. Treasury securities to the same degree of granularity as captured by the execution system?
- FINRA requires manual trades to be reported in seconds, but permits firms to enter seconds as "00" if the firm's system is not capable of reporting seconds.[31] Should FINRA continue to permit manual trades to effectively be reported in minutes, or should reporting to at least seconds be required? Why or why not?

Reporting Timeframe Reduction

FINRA is contemplating changes to reduce the timeframe for reporting transactions in U.S. Treasury securities to TRACE to within 60 minutes of execution. FINRA analyzed member trade reporting behaviors for U.S. Treasury securities transactions in the first half of 2019 and observed that firms reported approximately 95 percent of transactions within 60 minutes of the Time of Execution.[32] In the sample period, of the 864 MPIDs that reported transactions in U.S. Treasury securities within the same day, 417 MPIDs always reported transactions within 60 minutes and six MPIDs always reported transactions more than 60 minutes after the execution. The remaining 441 MPIDs reported transactions both within 60 minutes and after 60 minutes of execution, of which more than 95 percent were reported within 60 minutes of execution.[33]

FINRA also observed during the sample period that, of the transactions that were executed after 5:30 p.m. and reported the next day, approximately 93 percent of these transactions were reported within 60 minutes after the TRACE system opened (by 96 MPIDs). Of the 96 MPIDs, 39 always reported within 60 minutes, accounting for approximately 5 percent of overall dollar trading volume reported the next day. Of the 96 MPIDs, 44 reported both within and after 60 minutes after the TRACE system opened the next day, accounting for 94.9 percent of overall dollar trading volume reported the next day, of which 92.8 percent of the dollar trading volume was reported within 60 minutes.

Some member firms who trade in U.S. Treasury securities also trade in other types of TRACE-eligible securities that already require reporting in a shorter timeframe. For example, transactions in corporate bonds and Agency debt securities generally are required to be reported to FINRA within 15 minutes of the Time of Execution pursuant to FINRA Rule 6730. In the sample period, of the 874 MPIDs that reported transactions in U.S. Treasury securities, 772 MPIDs also reported transactions in corporate bonds and Agency debt securities. While these transactions may occur on separate trading desks, to the extent that firms are able to leverage existing technology within the firm, the costs associated with the proposed reporting timeframe changes for U.S. Treasury securities could potentially be reduced.

- Do members anticipate any operational challenges to complying with a shortened reporting timeframe? For example, do firms anticipate that reporting within 60 minutes of execution may result in the need for additional cancellations or corrections?
- What, if any, additional costs would commenters anticipate if FINRA were to require members to report transactions in U.S. Treasury securities within the timeframes proposed here?
- Are there any current system limitations that may complicate reporting within 60 minutes of execution? If so, are those limitations similar for both voice and electronic executions?
- Should FINRA consider a shorter reporting timeframe than 60 minutes? If so, what shorter timeframe would be appropriate and why?
- What implementation period would be appropriate to provide members with sufficient time to comply with changes to the reporting timeframe?

Trading Method and Platform Information

As discussed above, FINRA is considering requiring that members specify the method of execution for a trade in a U.S. Treasury security—*i.e.,* whether the trade was executed via voice or electronically.

- Is execution method information currently captured by firms?
- What is an appropriate definition of a "voice" or an "electronic" trade?
- Should the definition of an "electronic" trade be limited to machine-to-machine interfaces only, or should it be extended to RFQ processes, or other non-human interfaces?
- Should the definition of a "voice" trade include electronic communications, such as email and instant messaging, where a human has to make a decision? Should all trades resulting from human negotiations (even if performed over an electronic medium) be categorized as "voice?"
- What, if any, additional costs would commenters anticipate if FINRA were to require members to specify on trade reports the method of execution for a trade in a U.S. Treasury security?
- Please describe any potential implementation challenges associated with complying with these requirements. For example, would it be difficult for members to indicate on trade reports whether a trade was executed via voice or electronically? If so, please describe the difficulties involved.
- Should the definition of an "electronic" trade used for purposes of execution method reporting also apply for other purposes, *e.g.,* determining whether a trade is executed electronically or manually for purposes of the timestamp requirements described above? Why or why not?

As discussed above, FINRA currently can identify transactions in U.S. Treasury securities that occur on or through an ATS, regardless of whether the ATS is required to comply with Regulation ATS or if the ATS is itself exempt from TRACE reporting under FINRA rules. To identify a broader range of electronic trading platforms through which transactions in U.S. Treasury securities may originate and occur, FINRA is considering requiring members to append a unique identifier for each non-ATS trading platform used for transactions in U.S. Treasury Securities. A "non-ATS trading platform" required to be identified under the proposal would include any electronic system that is not an "alternative trading system," as that term is defined in Rule 300 of SEC Regulation ATS, through which multiple parties facilitate orders, RFQs, or negotiate the terms of a trade in a U.S. Treasury security.

- Is the above an appropriate definition for a "non-ATS trading platform?" Specifically, should the definition include non-ATS platforms that "facilitate orders, RFQs, or negotiate the terms of a trade"? Would the proposed definition effectively identify those non-ATS electronic trading platforms members currently use to trade U.S. Treasury securities? Why or why not? If not, what alternative definition or definitional elements would be more appropriate?
- Please provide detailed information regarding the feasibility of identifying non-ATS trading venues. For example:
  - Is trading venue information currently captured by firms?
  - Does the ability of firms to identify non-ATS platforms vary or depend on the characteristics of a particular trade, *e.g.,* whether the trade originates through a firm's own order management system or whether it is executed based on external bids or offers from outside platforms?
  - Do members anticipate being able to develop a fully automated process to comply with such a requirement at the time of trade reporting, or would the process include any manual efforts by traders or others?
  - Is non-ATS trading venue information available within a timeframe sufficient to be included in the TRACE report for the trade?
- To facilitate compliance, FINRA would provide a list of non-ATS trading platforms for U.S. Treasury securities for use by reporters. Do members anticipate any challenges with uniformly identifying trading platforms for inclusion on the list? Are there any other alternative approaches that should be considered to achieve this regulatory objective?
- FINRA is aware that members transact in other types of TRACE-eligible securities through non-ATS trading venues; however, FINRA currently is considering this identification requirement only for U.S. Treasury securities (and intends to consider the potential application to other types of TRACE-eligible securities separately). Is this an appropriate first step to facilitate the availability to regulators of information on the trading platforms used for transactions in U.S. Treasury securities?

- As noted above, in September 2020, the SEC proposed amendments to SEC Regulation ATS that would eliminate the existing exemption for an ATS that trades only government securities, including U.S. Treasury securities.[34] In the same release, the SEC also published a concept release on the electronic corporate bond and municipal securities market as part of the SEC's review of the regulatory framework for fixed income electronic trading platforms in response to recommendations from the FIMSAC.[35] Do members have views on whether the changes proposed by the SEC or discussed in the SEC's concept proposal impact or could inform the modifications sought here?
- What implementation timeframe would be appropriate to provide members sufficient time to identify platform information and the trading method used?
- What, if any, additional costs would commenters anticipate if FINRA were to require members to identify non-ATS trading platforms used for transactions in U.S. Treasury securities?

Desk Identifiers

FINRA is considering changes to require members to assign and use a unique identifier for each desk or unit at the firm that executes transactions in a U.S. Treasury security.

- FINRA understands that, in some cases, traders may manage a trading book, which may be linked to multiple desks or algorithms. Is this accurate? If so, in such cases, is the concept of a trading desk or unit identifiable for firms trading in U.S. Treasury securities?
- Is this information currently captured by firms? If not, how difficult would it be to capture this information?
- What, if any, additional costs would commenters anticipate if FINRA were to require members to assign and use a unique identifier for each desk or unit at the firm that executes transactions in U.S. Treasury securities?
- What, if any, implementation challenges may exist with respect to complying with this requirement?
- Should FINRA consider defining a desk or unit for these purposes and, if so, how? For example, are there existing definitions that FINRA should consider incorporating, *e.g.*, the definition of "trading desk" for purposes of the Volcker Rule?[36] How would commenters anticipate defining a "desk" or "unit" for purposes of reporting this information to TRACE?
- FINRA is considering requiring firms to keep FINRA informed of any changes to desk/unit ID assignments by providing FINRA with updated desk/unit assignments by the next business day following the implementation of the change. Is this timeframe reasonable for members? If not, what would be a more reasonable timeframe?

- What implementation timeframe would be appropriate to provide members with sufficient time to comply with changes to require desk identification?

Clearing Arrangement Indicator

FINRA is considering requiring that members specify whether a trade in a U.S. Treasury security will be centrally or bilaterally cleared. FINRA understands that, to the extent that the clearing method is not captured or stored in current systems, firms may incur costs associated with developing systems and protocols to capture, store and report a clearing arrangement indicator.

- Do firms always know at the time of the trade whether a trade will be cleared bilaterally or centrally? If not, when does this information become available?
- Do members anticipate being able to develop a fully automated process to comply with this requirement at the time of trade reporting, or would the process include any manual efforts by traders or others?
- What, if any, implementation challenges may exist with respect to complying with this requirement?
- Is TRACE reporting the appropriate mechanism through which to obtain clearing arrangement information for transactions in U.S. Treasury securities from firms? If not, what alternative(s) would be more appropriate?
- What, if any, additional costs would commenters anticipate if FINRA were to require that members specify whether a trade in a U.S. Treasury security will be centrally or bilaterally cleared?
- What implementation timeframe would be appropriate to provide members with sufficient time to append a clearing arrangement indicator?

Multi-leg Transaction Modifiers

As discussed above, FINRA is considering adding modifiers to further distinguish various strategies and to indicate whether a transaction in a U.S. Treasury security is priced at the current market. Firms potentially could incur costs associated with identifying these transactions and appending the appropriate modifier.

FINRA requests comment on which strategies involving a transaction in a U.S. Treasury security should be identified in TRACE reporting, and how such strategies should be grouped. Specifically, FINRA is considering adding modifiers to identify the following types of strategies, grouped as follows:

- trades involving a series of nominals (*e.g.,* curves, butterflies, swap box, rolls, off-the-run vs off-the-run strategies);
- breakeven trades (*e.g.,* nominal and TIPS legs);

- trades against an interest rate swap (*e.g.,* asset swaps with U.S. Treasury securities, swap spreads); and
- trades hedging other security types (*e.g.,* hedging corporates, mortgage-backed securities, foreign sovereigns).

- Are these strategies identifiable for members when reporting U.S. Treasury securities transactions to TRACE? Are these the most relevant types of strategies to distinguish?
- Are there any additional or alternative strategies that should be identified in TRACE reports?
- Should these strategies be grouped differently?
- Could these strategies be further refined? For example, instead of reporting a series of nominals, would it be feasible for members to report the specific type of series involved (*e.g.,* curves, butterflies, swap box, rolls, off-the-run vs. off-the-run strategies)?
- For trades involving a series of nominals that seek to benefit from differences in the shape of the Treasury yield curve, FINRA requests comment on which transaction leg (the on-the-run leg or the off-the-run leg) is more likely to be executed at a locked or fixed price that could be off-market. Would it be feasible for the member that is conducting the multi-leg transaction to report the spread associated with these trades (in addition to the dollar price)?
- FINRA also requests comment on whether it would be feasible for the member that is conducting the multi-leg transaction (and therefore knows that all the legs are related) to report a unique and consistent identifier for each leg such that the separate legs could be linked together in the data.
- Rather than proposing additional modifiers to cover specific strategies that currently fall within the scope of the ".S" modifier, should FINRA instead provide additional guidance to clarify the appropriate scope and usage of the ".S" modifier?
- Members currently use the .H modifier to identify transactions in U.S. Treasury securities executed to hedge certain primary market transactions in a non-Treasury TRACE-eligible security. Should the use of this existing modifier be expanded to more broadly identify any U.S. Treasury securities trades executed to hedge other security types, rather than adopting a new additional hedging modifier? Should there be a minimum correlation requirement for hedged transactions?
- Please describe in detail any implementation challenges that may exist for firms that would result from required use of the additional modifiers.
- What, if any, concerns or additional costs would commenters anticipate if FINRA were to require adding these additional modifiers to further distinguish various strategies?
- What implementation timeframe would be appropriate to provide members with sufficient time to comply with additional strategy identification modifiers?

- What type of documentation would a firm retain to demonstrate to FINRA that a U.S. Treasury security trade was appropriately appended with the correct trading strategy modifier? What costs and challenges are associated with collecting and retaining such information and documentation?

FINRA is also considering, for each strategy category, that members further specify whether the U.S. Treasury securities transaction is executed at a price that is at or off of the current market. Firms potentially could incur costs associated with indicating whether prices are at or off market.

- Does identifying when a transaction is executed at a price that is at or off the current market present members with any operational or supervisory challenges?
- What, if any, concerns or additional costs would commenters anticipate if FINRA were to require that members specify whether the transaction in the U.S. Treasury security is priced at the current market?
- Please describe in detail any implementation challenges that may exist for firms that would result from such a requirement.
- Should FINRA only require firms to specify when a trade is away from the current market?

Standardized Price Reporting

FINRA is considering changes to require firms to standardize the method used for reporting the price of transactions in U.S. Treasury securities. To the extent that standardization of price reporting requires developing or updating TRACE reporting systems, firms could incur costs associated with the proposed requirement. Where a firm's systems already have the ability to report price either in dollar price, discount rate or margin, systems changes to standardize reporting should be less significant.

In reviewing transactions for different types of U.S. Treasury securities, FINRA found that, in the first half 2019, of the 701 MPIDs that reported Treasury bill transactions, 105 MPIDs reported transactions in discount rates only, 496 MPIDs reported transactions in dollar price only, and 100 MPIDs reported transactions in both discount rates and dollar price. Over the same period, of the 115 MPIDs that reported transactions in FRNs, 34 MPIDs reported in discount margin only, 58 MPIDs reported in dollar price only, and 23 MPIDs reported in both discount margin and dollar price. For all other U.S. Treasury security types, 679 MPIDs reported dollar prices only and 90 MPIDs reported in both discount rate and dollar price. Therefore, it appears that firms currently report primarily in dollar price.

- How should price reporting be standardized for Treasury bills and FRNs? Would firms prefer to report the dollar price for Treasury bills and FRNs, or would members prefer to report the discount rate for transactions in Treasury bills and the discount margin for transactions in FRNs?

- What, if any, implementation challenges may exist with respect to complying with a standardization requirement?
- What, if any, additional costs would commenters anticipate if FINRA were to require standardized price reporting?
- What implementation timeframe would be appropriate to provide members with sufficient time to comply with a standardized price reporting requirement? Would implementation times differ depending on the manner in which price reporting was standardized?

Report ATS Fees Separately

As discussed above, FINRA is considering requiring members to exclude per-transaction ATS fees from the price reported to TRACE, and to instead require that members report these fees separately.

- For ATS fees assessed on a per-transaction basis, do firms always know the ATS fees at the time of the trade report? If not, when would this information become available?
- Would the ability to separate ATS fees from price differ depending on the fee schedule or model adopted by the particular ATS? Would tiered pricing models affect a firm's ability to separately report an ATS's per-transaction fees?
- Would reporting price exclusive of ATS fees complicate trade reporting processes for firms? If so, how?
- What updates or changes to systems would be necessary to facilitate trade reporting in U.S. Treasury securities exclusive of ATS fees? What changes, if any, would be required of firms' subscribers? What changes, if any, would be required of ATSs?
- Would this requirement impact how an ATS assesses fees?
- What, if any, concerns or additional costs would commenters anticipate if FINRA were to require firms to exclude per-transaction ATS fees from the price reported to TRACE and to instead require firms to report these fees separately?
- What implementation timeframe would be appropriate to provide firms with sufficient time to comply with a requirement to report per-transaction ATS fees separately from the price?

General Questions

- As noted above, the U.S. Treasury securities TRACE reporting requirement currently only applies to FINRA members. What, if any, impacts might the above changes have in the aggregate on competition for execution services in U.S. Treasury securities, such as between member and non-member firms and between ATSs and other execution venues?

- Should the changes described above be implemented at the same time or should implementation be staggered? If the latter, in what order should the changes be implemented and why? Should some subset of the above changes be implemented together (*e.g.,* to take advantage of technological efficiencies)? If so, which ones and why?
- What, if any, other costs or economic impacts might be associated with the changes outlined here? Are any of these costs quantifiable? If so, please quantify.
- Are there any other issues specific to TRACE reporting of U.S. Treasury securities transactions that FINRA should consider?
- FINRA currently is contemplating that the changes described above would apply only to TRACE reporting of transactions in U.S. Treasury securities. Should any of the above changes also be considered for other types of TRACE-eligible securities? If so, which proposals should apply to which types of TRACE-eligible securities, and why?

Endnotes

1. Parties should submit in their comments only personally identifiable information, such as phone numbers and addresses, that they wish to make available publicly. FINRA, however, reserves the right to redact or edit personally identifiable information from comment submissions. FINRA also reserves the right to redact, remove or decline to post comments that are inappropriate for publication, such as vulgar, abusive or potentially fraudulent comment letters.

2. *See* SEA Section 19 and rules thereunder. After a proposed rule change is filed with the SEC, the proposed rule change generally is published for public comment in the Federal Register. Some proposed rule changes take effect immediately upon filing with the SEC. *See* SEA Section 19(b)(3) and SEA Rule 19b-4.

   In addition, pursuant to SEA Section 19(b)(5), the SEC is required to, among other things, consult with and consider the views of the Secretary of the Treasury prior to approving a proposed rule filed by a registered national securities association that primarily concerns conduct related to transactions in government securities, except where the SEC determines that an emergency exists requiring expeditious or summary action and publishes its reasons therefor. *See* 15 U.S.C. 78s(b)(5).

3. *See* *Regulatory Notice 16-39* (October 2016). *See also* Securities Exchange Act Release No. 79116 (October 18, 2016), 81 FR 73167 (October 24, 2016) (Order Granting Accelerated Approval of File No. SR-FINRA-2016-027).

4. *See* Federal Reserve press release, Federal Reserve Board announces plans to enter negotiations with FINRA to potentially act as collection agent of U.S. Treasury securities secondary market transactions data.

5. On March 10, 2020, FINRA began posting on its website weekly, aggregate data on the trading volume of U.S. Treasury securities reported to TRACE. *See* FINRA press release, FINRA Launches New Data on Treasury Securities Trading Volume; *see also* Securities Exchange Act Release No. 87837 (December 20, 2019), 84 FR 71986 (December 30, 2019) (Order Approving File No. SR-FINRA-2019-028). Information on individual transactions in U.S. Treasury securities is not published or disseminated.

6. The Treasury Department, the Federal Reserve, the Federal Reserve Bank of New York, the SEC and the U.S. Commodity Futures Trading Commission comprise the Inter-Agency Working Group for Treasury Market Surveillance (IAWG or "official sector").

7. *See* *Regulatory Notice 18-34* (October 4, 2018); *see also* Treasury Department, A Financial System that Creates Economic Opportunities: Capital Markets, at 80 (October 6, 2017) ("Capital Markets Report") (recommending requiring ATSs to identify customers in their TRACE reports).

8. *See* remarks of Deputy Secretary Justin Muzinich at the 2020 U.S. Treasury Market Conference (September 29, 2020).

9. Rule 6710(d) generally provides that the "Time of Execution" for a transaction in a TRACE-eligible security means the time when the Parties to a Transaction agree to all of the terms of the transaction that are sufficient to calculate the dollar price of the trade.

10. *See* Rule 6730.04.

11. *See also* TRACE Treasury FAQ #3.5.8:

    Question: Our firm will use two separate systems to facilitate trade reporting of U.S. Treasury Securities for different business lines. One system ("System A") has the capability to capture the time of execution to the millisecond; however, the second system ("System B") will only capture the time of execution to the second. Will our firm be required to update System B to capture the time of execution to the millisecond?

    Answer: No. The rule requires members to report the time of electronic executions to the finest increment of time captured in the member's system (*e.g.,* millisecond, microsecond), but at a minimum, in increments of seconds. Since the firm would be reporting the time of execution to the finest increment captured by each system, the firm would not need to make any updates to System B to comply with a finer time increment.

    See Section 3.5 of FINRA's Frequently Asked Questions (FAQ) about the Trade Reporting and Compliance Engine (TRACE).

12. TRACE system hours are 8:00:00 a.m. Eastern Time through 6:29:59 p.m. Eastern Time on a business day, unless otherwise announced by FINRA. See FINRA Rule 6710(t).

13. Rule 300 of Regulation ATS generally provides that an "alternative trading system" means "any organization, association, person, group of persons, or system: (1) that constitutes, maintains, or provides a market place or facilities for bringing together purchasers and sellers of securities or for otherwise performing with respect to securities the functions commonly performed by a stock exchange; and (2) that does not: (i) set rules governing the conduct of subscribers other than the conduct of such subscribers' trading on such system; or (ii) discipline subscribers other than by exclusion from trading." *See* 17 C.F.R. 242.300(a). Certain ATSs are exempt from the requirements of Regulation ATS. *See* 17 C.F.R. 242.301(a).

14. *See* Securities Exchange Act Release No. 90019 (Sept. 28, 2020) (Regulation ATS for ATSs that Trade U.S. Government Securities, NMS Stock, and Other Securities; Regulation SCI for ATSs that Trade U.S. Treasury Securities and Agency Securities; and Electronic Corporate Bond and Municipal Securities Markets) ("ATS-G Release").

15. *See id. See also* FIMSAC, Recommendation for the SEC to Review the Framework for the Oversight of Electronic Trading Platforms for Corporate and Municipal Bonds (July 16, 2018). FINRA notes that, in its concept release, the SEC also solicited comment on electronic trading platforms for government securities. *See* ATS-G Release at 201 n.391 ("While this concept release is focused on electronic trading platforms for corporate debt and municipal debt, to the extent commenters believe comments are relevant to electronic trading platforms for other types of debt securities, including government securities, that information would be helpful to the Commission.").

16. FINRA previously has provided similar flexibility to firms in identifying desks that were separated by information barriers for purposes of compliance with the customer order protection rule. *See, e.g.,* Securities Exchange Act Release No. 34-65692 (November 4, 2011), 76 FR 70195 (November 10, 2011) (Notice of Filing of File No. SR-FINRA-2011-063) (requiring firms relying on the No-Knowledge Exception under Supplementary Material .02 to Rule 5320 to report the unique identification of any appropriate information barriers in place at the department within the firm where the order was received or originated).

17. For purposes of the new indicator, a transaction in a U.S. Treasury security would be considered to be centrally cleared if the transaction is submitted for clearing to a central counterparty (CCP), such as the Fixed Income Clearing Corporation (FICC). A CCP is an entity that interposes itself between counterparties, becoming the buyer to every seller and the seller to every buyer so that the parties do not directly face each other through settlement. For a given transaction, a CCP performs a variety of services, including matching trade details, guaranteeing the transaction, netting obligations and novating the transaction. All other transactions in U.S. Treasury securities that are not submitted to a CCP for clearing would be considered bilaterally cleared, including transactions involving interdealer brokers, clearing agents or custodial banks that do not clear through a CCP.

18. FINRA Rule 11900 (Clearance of Corporate Debt Securities) generally requires that members use the facilities of a registered clearing agency for clearing transactions between members in corporate debt securities where the member or its agent is a participant in a registered clearing agency. This requirement does not apply to transactions in U.S. Treasury securities.

19. FICC is an SEC-registered subsidiary of the Depository Trust and Clearing Corporation (DTCC) that provides fixed income clearing services, including real-time trade matching, risk management and netting.

20. *See* Joint Staff Report, IAWG, The U.S. Treasury Market on October 15, 2014 (July 13, 2015).

21. *See id*.

22. For example, FICC amended its Government Securities Division (GSD) Rulebook to expand the categories of FICC members who can sponsor their clients to clear through FICC and to permit sponsored clients to trade with counterparties other than their sponsors. These rule changes are intended, in part, to enable a greater percentage of transactions in U.S. Treasury securities to centrally clear through FICC. *See* Securities Exchange Act Release No. 85470 (March 29, 2019), 84 FR 13328 (April 4, 2019) (Order Granting Approval of File No. SR-FICC-2018-013); Securities Exchange Act Release No. 84951 (December 21, 2018), 83 FR 67801 (December 31, 2018) (Notice of Filing of File No. SR-FICC 2018-013). FICC also modified the fee structure for its GSD in an effort to reduce pricing complexity and make central clearing more accessible to additional market participants. *See* Securities Exchange Act Release No. 83401 (June 8, 2018), 83 FR 27812 (June 14, 2018) (Order Granting Approval of File No. SR-FICC-2018-003); Securities Exchange Act Release No. 83153 (May 2, 2018), 83 FR 20882 (May 8, 2018) (Notice of Filing of File No. SR-FICC-2018-003). *See also* DTCC, Central Clearing in the U.S. Treasury Cash Market (May 2019).

23. *See, e.g.,* Capital Markets Report. *See also* Treasury Market Practices Group (TMPG), Best Practice Guidance on Clearing and Settlement (July 11, 2019); TMPG, Best Practices for Treasury, Agency Debt, and Agency Mortgage-Backed Securities Markets (July 11, 2019) (updated to incorporate recommendations relating to clearing and settlement practices); TMPG, White Paper on Clearing and Settlement in the Secondary Market for U.S. Treasury Securities (July 11, 2019). The TMPG is a group of market professionals sponsored by the Federal Reserve Bank of New York. The TMPG has released several recent publications regarding clearance and settlement in the U.S. Treasury securities market.

24. FINRA recently adopted a new modifier for certain U.S. Treasury securities hedge transactions. However, the use of that modifier is limited to identifying a transaction executed to hedge a List or Fixed Offering Price Transaction or Takedown Transaction. *See* Securities Exchange Act Release No. 86178 (June 21, 2019), 84 FR 30783 (June 27, 2019) (Order Approving File No. SR-FINRA-2019-014).

25. FINRA would retain the current .B modifier, which would continue to identify a transaction that is part of a series where at least one of the transactions involves a futures contract.

26. *See* TRACE Treasury FAQ #3.5.25:

    Question: Certain U.S. Treasury Securities, including Treasury bills and Floating Rate Notes (FRNs), are issued at a discount to face value and mature at face value rather than making interest payments. These securities are quoted and traded in terms of their discount rate (discount margin for FRNs) or interest rate based on a 360-day year, even after the auction and issue dates of the securities. The interest rate is a function of the purchase price, the face value of the security, and the time remaining until maturity. How should firms report the "price" of these securities that trade based on a discount rate/margin?

    Answer: For transactions in U.S. Treasury Securities that trade based on discount rate/ margin, either the discount rate/margin or the dollar price of the transaction may be reported as the price. When reporting the discount rate/margin in the Price field, the price type of "Yield" should be selected in the Price Type field. When reporting the discount rate or discount margin, percentage units should be entered in the price field (*e.g.,* a discount rate of 0.97 percent should reflect an entered price of 0.97). Firms choosing to report the dollar price of the transaction instead of the discount rate/ margin must use the price type of "Decimal."

    See Section 3.5 of FINRA's Frequently Asked Questions (FAQ) about the Trade Reporting and Compliance Engine (TRACE).

27. *See* Treasury Department press release, U.S. Department of the Treasury, Statement on Trade Reporting in the U.S. Treasury Market (May 16, 2016). *See also* SEC press release, Statement on Trade Reporting in the U.S. Treasury Market.

28. If a change to permissible pricing conventions for Treasury bills and FRNs is adopted, FINRA would revise the guidance provided in existing FAQ #3.5.25 consistent with the new approach.

29. To the extent firms in whole or in part pass these costs on to customers, customers may choose to trade using non-members who do not have TRACE reporting obligations. However, such substitutability would depend on, among other things, whether there are regulatory or practical limitations on where customers and institutions may trade. For example, some customers may find it infeasible or impossible to trade through a bank. In addition, search and other costs may further impose a burden on customers that may limit substitution.

30. FINRA has analyzed the number of transactions executed on or through an ATS because these are a readily identifiable subset of all electronically executed transactions.

31. *See Notice to Members 04-90* (December 8, 2004) (NASD Issues Interpretive Guidance Regarding Various Trade Reporting and Compliance Engine (TRACE) Rules); *see also* TRACE For Treasuries User Guide.

32. This figure is based on an analysis of transactions executed on business days between 8:00 a.m. and 5:00 p.m. in the first half of 2019.

33. Trades by these 441 MPIDs accounted for more than 99 percent of dollar trading volume, of which 85.7 percent of the dollar trading volume was reported within 60 minutes.

34. *See* ATS-G Release, supra Note 14.

35. *See id.* at 199-209.

36. *See* Bank Holding Company Act Release No. BHCA-1, Prohibitions and Restrictions on Proprietary Trading and Certain Interests In, and Relationships With, Hedge Funds and Private Equity Funds (December 10, 2013), (original adoption of Volcker Rule); *see also* Bank Holding Company Act Release No. BHCA-7, Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds (September 18, 2019) (amendments to Volcker Rule, including changes to definition of "trading desk").