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Page 1 of \* 73

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549  
Form 19b-4

File No. \* SR 2022 - \* 011

Amendment No. (req. for Amendments \*)

Filing by Financial Industry Regulatory Authority

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

<b>Initial *</b> <input checked="" type="checkbox"/>	<b>Amendment *</b> <input type="checkbox"/>	<b>Withdrawal</b> <input type="checkbox"/>	<b>Section 19(b)(2) *</b> <input checked="" type="checkbox"/>	<b>Section 19(b)(3)(A) *</b> <input type="checkbox"/>	<b>Section 19(b)(3)(B) *</b> <input type="checkbox"/>
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<b>Pilot</b> <input type="checkbox"/>	<b>Extension of Time Period for Commission Action *</b> <input type="checkbox"/>	<b>Date Expires *</b> <input type="text"/>
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Rule

<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)
<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)
<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)

**Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010**

<b>Section 806(e)(1) *</b> <input type="checkbox"/>	<b>Section 806(e)(2) *</b> <input type="checkbox"/>
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**Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934**

**Section 3C(b)(2) \***

**Exhibit 2 Sent As Paper Document**

**Exhibit 3 Sent As Paper Document**

**Description**

Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

Proposed Rule Change to Expand TRACE Reporting Requirements to Trades in U.S. Dollar-Denominated Foreign Sovereign Debt Securities

**Contact Information**

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

**First Name \*** Adam **Last Name \*** Kezsbom

**Title \*** Associate General Counsel

**E-mail \*** adam.kezsbom@finra.org

**Telephone \*** (202) 728-8364 **Fax** (202) 728-8264

**Signature**

Pursuant to the requirements of the Securities Exchange of 1934, Financial Industry Regulatory Authority has duty caused this filing to be signed on its behalf by the undersigned thereunto duty authorized.

**Date** 05/06/2022

(Title \*)

**By** Racquel Russell  
(Name \*)

Senior Vice President and Director of Capital M

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Racquel Russell  
Digitally signed by Racquel Russell  
Date: 2022.05.06 09:40:38 -04'00'

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SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EDFS website.

**Form 19b-4 Information \***

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FINRA-2022-011 19b-4.docx

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

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FINRA-2022-011 Exhibit 1.docx

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2- Notices, Written Comments, Transcripts, Other Communications**

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FINRA-2022-011 Exhibit 2a.pdf  
FINRA-2022-011 Exhibit 2b.pdf

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

**Exhibit 3 - Form, Report, or Questionnaire**

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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FINRA-2022-011 Exhibit 5.docx

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

**1. Text of the Proposed Rule Change**

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> the Financial Industry Regulatory Authority, Inc. (“FINRA”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to expand reporting requirements for the Trade Reporting and Compliance Engine (TRACE) to collect information on trades in foreign sovereign debt securities that are United States (U.S.) dollar-denominated.

The text of the proposed rule change is attached as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

**2. Procedures of the Self-Regulatory Organization**

The FINRA Board of Governors authorized the filing of the proposed rule change with the SEC. No other action by FINRA is necessary for the filing of the proposed rule change.

If the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice. The effective date will be no later than 365 days following publication of the Regulatory Notice announcing Commission approval.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

**3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

(a) Purpose

FINRA is submitting this proposed rule change to amend certain rules in the Rule 6700 Series (Trade Reporting and Compliance Engine (TRACE)) to require members to report to TRACE transactions in U.S. dollar-denominated foreign sovereign debt securities. Under the proposal, trades in U.S. dollar-denominated foreign sovereign debt securities would be subject to same-day reporting and would not be disseminated publicly.

Background

Currently, almost all U.S. dollar-denominated debt securities traded in the U.S. are TRACE-Eligible Securities<sup>2</sup> and therefore are subject to TRACE reporting requirements. This includes the U.S. dollar-denominated debt of foreign private issuers. However, trades in the U.S. dollar-denominated debt of foreign sovereign issuers are not subject currently to TRACE reporting.

The proposed rule change would enhance FINRA’s regulatory audit trail and provide FINRA with important transaction information on a growing segment of the market. As discussed further below, the U.S. dollar-denominated foreign sovereign debt

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<sup>2</sup> Rule 6710 (Definitions) 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 (3) a “U.S. Treasury Security,” as defined in Rule 6710(p). The term “TRACE-Eligible Security” does not include a debt security that is issued by a foreign sovereign or a “Money Market Instrument,” as defined in Rule 6710(o).

market is a large market segment. FINRA believes the proposed rule change would advance FINRA's oversight of the fixed income markets without imposing significant burdens and costs on members, as FINRA understands that U.S. dollar-denominated foreign sovereign debt securities generally trade at firms that already have TRACE reporting workflows in place.

#### Proposed Amendments

FINRA is proposing changes to the TRACE reporting rules to require that members report to TRACE transactions in U.S. dollar-denominated foreign sovereign debt securities for regulatory purposes. First, FINRA is proposing to amend paragraph (a) of Rule 6710 (Definitions)<sup>3</sup> to include the term "Foreign Sovereign Debt Security" in the definition of TRACE-Eligible Security. FINRA also would define "Foreign Sovereign Debt Security"<sup>4</sup> in paragraph (kk) of Rule 6710 as a debt security issued or guaranteed by the government of a foreign country, any political subdivision of a foreign country (e.g., state, provincial, or municipal governments), or a supranational entity.<sup>5</sup>

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<sup>3</sup> The text of Rule 6710 incorporates the changes adopted in SR-FINRA-2019-008, which is yet to be implemented.

<sup>4</sup> FINRA notes that its proposed definition of "Foreign Sovereign Debt Security" relies on existing FINRA and SEC guidance. Specifically, FINRA published guidance in 2004 to clarify the distinction between foreign private and foreign sovereign issuers. As noted in that guidance, the term "foreign private issuer" means a foreign issuer that is not eligible to use the SEC's Schedule B for registering a debt offering in the United States. See Notice to Members 04-90 (December 2004).

<sup>5</sup> "Supranational entity" would include multi-national organizations such as the International Bank for Reconstruction & Development (World Bank), the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the International Finance Corporation, and the European Investment Bank.

With this proposal, FINRA would expand TRACE reporting requirements to include U.S. dollar-denominated debt of Schedule B-eligible issuers<sup>6</sup>—i.e., U.S. dollar-denominated debt of foreign sovereign issuers that are not foreign private issuers. Accordingly, members no longer would be required to distinguish between foreign sovereign debt and foreign private issuer debt for purposes of TRACE reporting. In addition, we note that members’ reporting obligations for transactions with a foreign component would continue to follow existing guidance.<sup>7</sup> FINRA also is proposing to amend Rule 6730 (Transaction Reporting) to adopt a same-day reporting requirement for trades in U.S. dollar-denominated foreign sovereign debt. Under the proposed amendments, reportable transactions in foreign sovereign debt executed on a business day at or after 12:00:00 a.m. Eastern Time (ET) through 5:00:00 p.m. ET must be reported the same day during TRACE System Hours.<sup>8</sup> Transactions executed on a business day after 5:00:00 p.m. ET but before the TRACE system closes must be reported no later than the next business day (T+1) during TRACE System Hours, and, if reported on T+1,

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<sup>6</sup> Schedule B is used to register debt for issuance in the United States by foreign governments or political subdivisions of foreign governments, and in some cases supranational organizations, issuers of government-guaranteed securities, and certain other issuers closely aligned and identified with a sovereign. See 15 U.S.C. 77aa.

<sup>7</sup> See e.g., [TRACE Frequently Asked Questions](#) #3.1.65 (providing that a member is not required to report a debt security to TRACE that is sold pursuant to Regulation S in an off-shore transaction; however, if a debt security originally sold in a Regulation S transaction is subsequently purchased or sold as part of a U.S. transaction, the transactions following the Regulation S transaction must be reported to TRACE).

<sup>8</sup> See Rule 6710(t). “TRACE System Hours” means the hours the TRACE system is open, which 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.

designated “as/of” and include the date of execution. Transactions executed on a business day at or after 6:30:00 p.m. ET through 11:59:59 p.m. ET—or 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—must be reported the next business day (T+1) during TRACE System Hours, designated “as/of,” and include the date of execution.

FINRA believes the same-day reporting requirement as opposed to a shorter reporting timeframe is appropriate because trades in U.S. dollar-denominated foreign sovereign debt securities would be reported for regulatory purposes only. To reflect this, FINRA is further proposing to amend Rule 6750 (Dissemination of Transaction Information) to specify that FINRA will not disseminate information on transactions in foreign sovereign debt securities at this time.<sup>9</sup>

FINRA notes that, under the proposal, members would be required to report specific items of transaction information in line with existing requirements for TRACE-Eligible Securities.<sup>10</sup> Among other things, trade reports would be required to include: the CUSIP or CINS number, or FINRA-assigned TRACE symbol;<sup>11</sup> an identifier for the

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<sup>9</sup> FINRA notes that, if the proposed rule change is adopted, FINRA will take a measured approach to potential dissemination, as it has taken historically with other TRACE-Eligible Securities and would first analyze the regulatory data to determine the appropriate contours of a potential dissemination framework.

<sup>10</sup> See Rule 6730(c).

<sup>11</sup> FINRA understands that some foreign sovereign debt securities may not have a CUSIP or CINS number but may have been assigned another type of identifier (e.g., an ISIN). To facilitate trade reporting of U.S. dollar-denominated foreign sovereign debt, where a CUSIP or CINS is not available, FINRA intends to permit members to report using a FINRA-assigned symbol that corresponds to the security’s other identifier(s) (e.g., the FINRA-assigned symbol would be associated with the ISIN on the Security Master List). FINRA notes that Rule 6730(a)(7) will continue to apply. Therefore, members remain obligated to make a good faith determination as to whether they have engaged in a reportable

contra-party (either MPID, “A” for non-member affiliate, or “C” for customer); the side of the reporting party (buy or sell); the quantity of the transaction i.e., face value amount of the transaction); the price of the transaction expressed as a percentage of face/par value; the time of execution; the date of execution (for “as/of” trades); the settlement date; any commission charged if the member is acting as agent; and any applicable trade modifiers.

FINRA also notes that, if U.S. dollar-denominated foreign sovereign debt securities become subject to TRACE reporting requirements, they would become subject to applicable transaction reporting fees. Specifically, U.S. dollar-denominated foreign sovereign debt securities would be subject to trade reporting fees pursuant to paragraph (b)(1) of Rule 7730 (Trade Reporting and Compliance Engine (TRACE)).<sup>12</sup> Similarly, U.S. dollar-denominated foreign sovereign debt securities would become subject to FINRA’s Trading Activity Fee at the rate applicable to bonds, as set out in Section 1 of Schedule A to the FINRA By-Laws.

As noted in Item 2 of this filing, if the Commission approves the filing, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice. The effective date will be no later than 365 days following publication of the Regulatory Notice announcing Commission approval.

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transaction in a TRACE-Eligible Security and, if the TRACE-Eligible Security is not entered in the TRACE system, the member must promptly notify and provide FINRA Operations the information required under Rule 6760(b) prior to reporting the transaction.

<sup>12</sup> See FINRA Rule 7730(b)(1). Rule 7730(b)(1) states that, except for certain securitized products, a member “shall be charged a trade reporting fee based upon a sliding scale ranging from \$0.475 to \$2.375 per transaction based on the size of the reported transaction.”



(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>13</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, Section 15A(b)(5) of the Act,<sup>14</sup> which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls, and Section 15A(b)(9) of the Act,<sup>15</sup> which requires that FINRA rules not impose any burden on competition that is not necessary or appropriate.

The proposed rule change is designed to provide FINRA with important transaction information on a growing segment of the debt market, consistent with Section 15A(b)(6). The proposal would do so by requiring members to report transactions in U.S. dollar-denominated foreign sovereign debt securities for regulatory purposes. Issuance activity in U.S. dollar-denominated foreign sovereign debt securities has accelerated in recent years, and FINRA believes that enhancing the audit trail with information on this growing market segment will support better informed surveillance and regulation.

Pursuant to the proposal, members would become subject to trade reporting fees under Rule 7730 and FINRA's Trading Activity Fee in connection with transactions in

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<sup>13</sup> 15 U.S.C. 78o-3(b)(6).

<sup>14</sup> 15 U.S.C. 78o-3(b)(5).

<sup>15</sup> 15 U.S.C. 78o-3(b)(9).

U.S. dollar-denominated foreign sovereign debt. The proposal would apply these fees, at established rates, equally to members reporting transactions in U.S. dollar-denominated sovereign debt securities. The proposed transaction reporting fees are consistent with FINRA's existing framework under Rule 7730 and FINRA's Trading Activity fee for similar types of transactions required to be reported to TRACE. Specifically, as noted above, transactions in U.S. dollar-denominated foreign sovereign debt securities would be charged a trade reporting fee as set forth in Rule 7730(b)(1), and U.S. dollar-denominated foreign sovereign debt securities would become subject to the Trading Activity Fee at the rate applicable to bonds set out in Section 1 of Schedule A to the FINRA By-Laws. Thus, FINRA believes that the proposed rule change is consistent with Section 15A(b)(5).

In addition, FINRA believes that U.S. dollar-denominated foreign sovereign debt securities generally trade at firms that already have TRACE reporting workflows in place. Accordingly, FINRA believes that the proposed rule change also is consistent with Section 15A(b)(9), because it would allow FINRA to advance its regulatory goal of obtaining important transaction information on these securities through incremental measures that FINRA does not believe would impose significant burdens and costs on members.

**4. Self-Regulatory Organization's Statement on Burden on Competition**

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

### Economic Impact Assessment

FINRA has undertaken an economic impact assessment, as set forth below, to analyze the potential economic impacts, including anticipated costs, benefits, and distributional and competitive effects, relative to the current baseline, and the alternatives FINRA considered in assessing how to best meet its regulatory objectives.

### Regulatory Objective

FINRA is proposing that members be required to report transactions in U.S. dollar-denominated foreign sovereign debt securities to TRACE on a same-day basis, so that FINRA may better supervise the market. These foreign sovereign debt security transactions would not be disseminated publicly.

### Economic Baseline

Members are not currently required to report transactions in U.S. dollar-denominated foreign sovereign debt securities to TRACE. Therefore, there is no current TRACE data or reasonably complete alternative source with which to estimate the amount of trading volume that will become subject to reporting under the proposal. This analysis is therefore informed by available data on the issuance and amount outstanding of U.S. dollar-denominated foreign sovereign debt obtained from other sources.<sup>16</sup>

As of December 31, 2021, the total amount outstanding of marketable U.S. dollar-denominated foreign sovereign debt was approximately \$2.0 trillion across 2,400 securities issued by 163 foreign sovereign governments. This compares to approximately

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<sup>16</sup> Data regarding U.S. dollar-denominated foreign sovereign and supranational debt was retrieved from Bloomberg on 3/16/2022 covering the period from January 1, 2012 through December 31, 2021.

\$22.6 trillion, \$1.4 trillion, and \$10.1 trillion, respectively, in marketable U.S. Treasury Securities, Agency Debt Securities, and U.S. corporate debt.<sup>17</sup>

In 2021, U.S. and foreign sovereign governments issued in aggregate approximately \$6.1 trillion of marketable U.S. dollar-denominated debt. Foreign sovereign governments issued \$259 billion of it, representing approximately 4.3% of the total amount, and the U.S. Government (U.S. Treasury Securities and Agency Debt Securities) issued the remaining amount, \$5.83 trillion.<sup>18</sup> By comparison, foreign and domestic private issuers issued a total of \$1.96 trillion in U.S. dollar-denominated corporate debt in 2021.

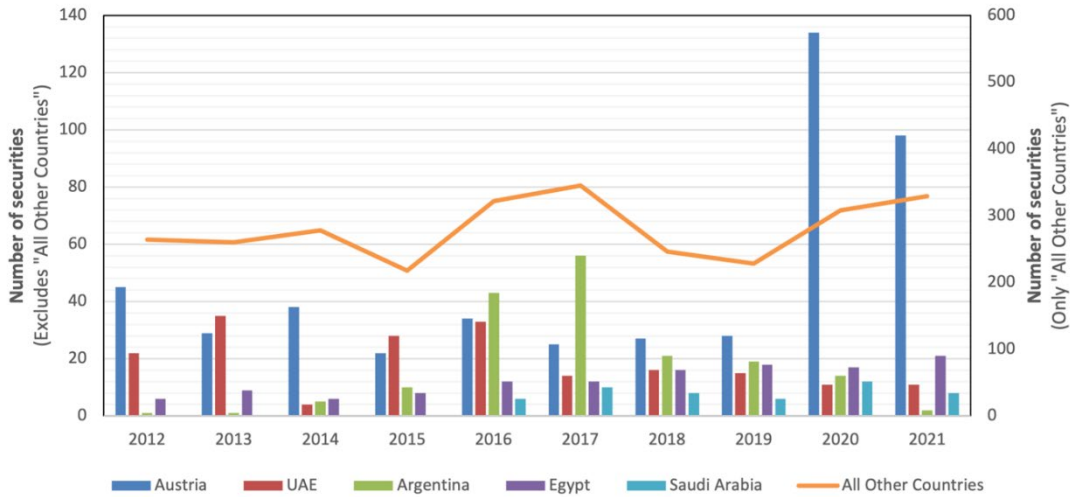
The number of U.S. dollar-denominated foreign sovereign debt issuances has increased from 337 unique securities in 2012 to 470 in 2021. As shown in Figure 1, the top five non-U.S. government issuers of marketable U.S. dollar-denominated debt from January 1, 2017 through December 31, 2021 (measured by par value issued) are: Argentina, Saudi Arabia, the UAE, Egypt, and Austria. Austria has increased its issuance of sovereign U.S. dollar-denominated debt by more than six times between 2015 and 2020, as measured by the number of unique securities (increasing from 22 to 134). Figure 2 illustrates the change in the issued amount of U.S. dollar-denominated foreign sovereign debt from 2012 to 2021.

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<sup>17</sup> These estimates are derived from data sourced from Bloomberg. The \$10.1 trillion in U.S. corporate debt does not include debt securities defined as “Money Market Instruments” in Rule 6710(o); these money market instruments are debt securities that, at issuance, have a maturity of one calendar year or less.

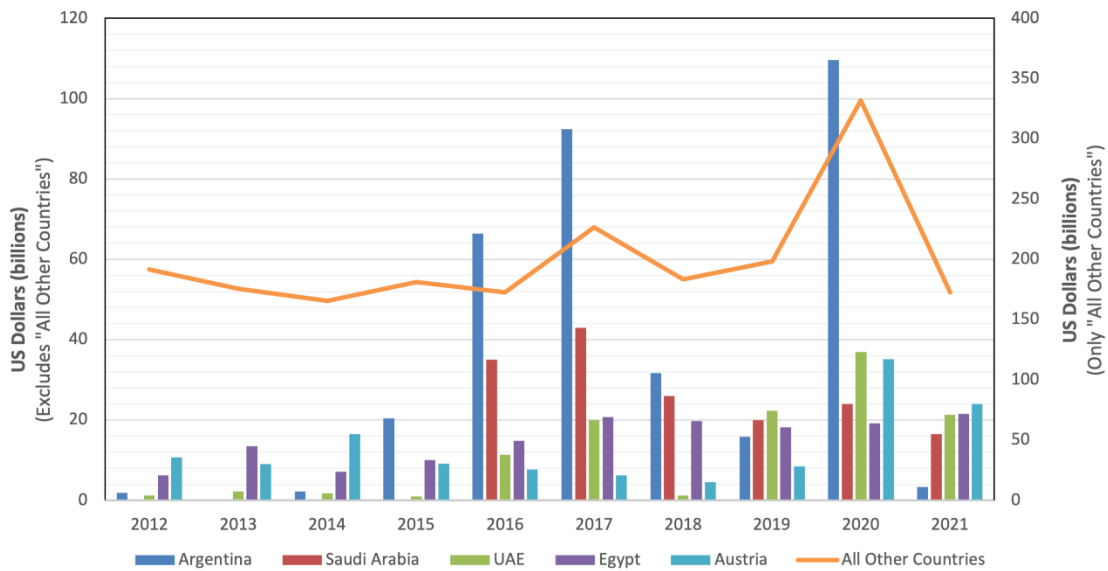
<sup>18</sup> The estimates for U.S. Government (U.S. Treasury Securities and Agency Debt) issuance amounts are derived from data sourced from Securities Industry and Financial Markets Association (SIFMA). All other estimates and figures in the Economic Impact Assessment are derived from data sourced from Bloomberg.

Figure 1. Number of foreign sovereign debt issuances in US dollars by country and year



Source: Data downloaded from Bloomberg on 03/16/2022.

Figure 2. Par value of foreign sovereign debt by country and year of issuance



Source: Data downloaded from Bloomberg on 03/16/2022.

At the end of 2021, the total amount outstanding of marketable U.S. dollar-denominated supranational debt was approximately \$733 billion across approximately 3,414 securities issued by 44 supranational organizations. The top five largest supranational issuers of marketable U.S. dollar-denominated debt from January 1, 2017 to December 31, 2021 (measured by par value issued) is about 57.0% of the total amount

outstanding. These five entities are: International Bank for Reconstruction and Development (“IBRD”), European Investment Bank (“EIB”), Asian Development Bank (“ADB”), Inter-American Development Bank (“IADB”), and International Islamic Liquidity Management (“IILM”).

Figure 3 shows that the number of supranational U.S. dollar-denominated debt issuances increased from 1,065 unique securities in 2011 to 1,346 in 2021. In 2021, out of a total of 21 supranational organizations, IBRD issued the largest number of U.S. dollar-denominated supranational debt offerings (41 securities). Figure 4 illustrates the increase in the number of U.S. dollar-denominated debt issuances by supranational organizations; specifically, issuances increased from \$85.9 billion in 2012 to \$172.4 billion in 2021. From January 1, 2017 through December 31, 2021, \$114.02 billion was issued by the top five largest supranational issuers of U.S. dollar-denominated debt (measured by par value issued).

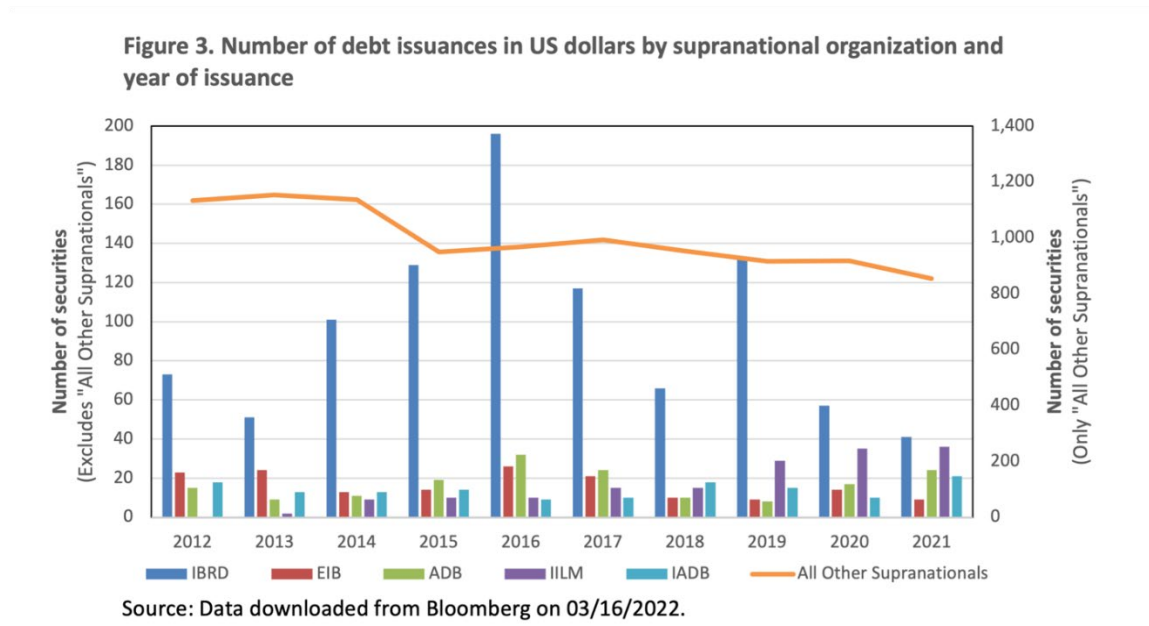
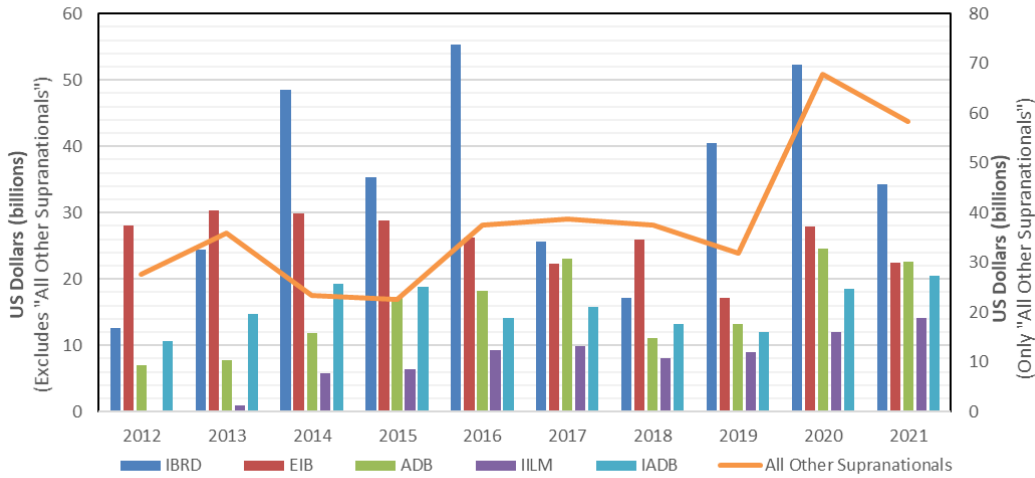


Figure 4. Par value of debt by supranational organization and year of issuance



Source: Data downloaded from Bloomberg on 03/16/2022.

Based on discussions with broker-dealers that are active in multiple foreign sovereign debt markets, FINRA understands that market participants do not generally treat debt issued by a foreign sovereign in U.S. dollars as fungible with debt issued by the same foreign sovereign in local or other currencies; therefore, FINRA does not believe that members would seek to substitute U.S. dollar-denominated foreign sovereign debt securities with securities issued by the foreign sovereign in a foreign currency.

Economic Impact

Requiring members to report transactions in U.S. dollar-denominated foreign sovereign debt securities to TRACE would benefit regulatory oversight of the fixed income markets by providing FINRA with important data regarding member activity in this space. In particular, the receipt of the transaction price, par value traded, and other transaction information in TRACE would create a better-informed surveillance program to help detect fraud, manipulation, unfair pricing, and other potential misconduct.

Academic studies have found a positive empirical relationship between the strength of

market regulation and market quality in multiple jurisdictions, including the United States.<sup>19</sup>

Potential concerns related to the dissemination of this transaction information are not relevant to this rule change because FINRA is not proposing that U.S. dollar-denominated foreign sovereign debt securities be disseminated at this time.<sup>20</sup> Members engaged in (or that anticipate entering) this business may face some additional development costs to report these transactions to TRACE, but such costs are expected to be relatively modest because, if the members already have systems in place to report other types of TRACE-Eligible Securities, they may be able to leverage those systems in connection with the proposed reporting requirement. Members will incur costs from the fees associated with the TRACE reporting required by the proposal. FINRA is not able to estimate the anticipated aggregate amount that would be collected from members from these fees because there is no current TRACE data (or reasonably complete alternative source) with which to estimate the trading volume that will become subject to reporting under this proposal.

As discussed above, FINRA understands that market participants do not generally treat debt issued by a foreign sovereign in U.S. dollars as fungible with debt issued by the same foreign sovereign in local or other currencies; therefore, FINRA does not believe

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<sup>19</sup> See e.g., Douglas Cumming et al., Exchange Trading Rules and Stock Market Liquidity, 99 J. Fin. Econ. 651 (2011) (discussing the impact of trading rules on liquidity in the equity markets)); Howell E. Jackson & Mark J. Roe, Public and Private Enforcement of Securities Laws: Resource-Based Evidence, 93 J. Fin. Econ. 207 (2009) (discussing the correlation between public enforcement of securities laws and several market indicators, including trading volume and capital formation).

<sup>20</sup> See supra note 9.



that firms would be likely to avoid the proposed reporting requirements by shifting trading to foreign sovereign debt denominated in another currency.

FINRA estimates that the benefit from improved surveillance of member trading activity in U.S. dollar-denominated foreign sovereign debt securities outweighs the costs to members associated with complying with the proposed reporting requirement.

#### Alternatives Considered

No alternatives were considered.

### **5. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others**

The proposed rule change was published for comment in Regulatory Notice 19-25 (July 2019). Four comments were received in response to the Regulatory Notice.<sup>21</sup> A copy of the Regulatory Notice is attached as Exhibit 2a and copies of the comment letters received in response to the Regulatory Notice are attached as Exhibit 2b. Three commenters were generally supportive of the expansion of TRACE to cover U.S. dollar-denominated foreign sovereign debt<sup>22</sup> and one commenter neither supported nor opposed the proposal,<sup>23</sup> as discussed below.

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<sup>21</sup> See Letter from Gerard O’Reilly, Co-CEO and Chief Investment Officer, Dimensional Fund Advisors LP, to Marcia E. Asquith, Office of the Corporate Secretary, FINRA, dated September 23, 2019 (“Dimensional”); Letter from Peter Warms, Bloomberg L.P., to Marcia E. Asquith, Office of the Corporate Secretary, FINRA, dated September 24, 2019 (“Bloomberg”); Letter from Christopher Bok, Director, Financial Information Forum, to Marcia E. Asquith, Office of the Corporate Secretary, FINRA, dated September 24, 2019 (“FIF”); and Letter from Christopher B. Killian, Managing Director, Securitization and Corporate Credit, SIFMA to Marcia E. Asquith, Office of the Corporate Secretary, FINRA, dated September 24, 2019 (“SIFMA”).

<sup>22</sup> See Bloomberg, Dimensional, and FIF.

<sup>23</sup> See SIFMA.

SIFMA and FIF requested clarification on the scope of the proposal, including regarding the definition of “political subdivision.” As discussed above, a political subdivision is, for example, a state, provincial or municipal government. FINRA notes that, as a practical matter, the proposal would remove the current need for members to distinguish between U.S. dollar-denominated foreign sovereign debt and U.S. dollar-denominated foreign private issuer debt, because transactions in both categories of debt would be subject to reporting under the proposal (so long as the security otherwise meets the definition of “TRACE-Eligible Security”). In addition, as discussed above, the proposal would expand TRACE reporting to include U.S. dollar-denominated debt of Schedule B-eligible issuers—*i.e.*, U.S. dollar-denominated debt of foreign sovereign issuers that are not foreign private issuers.<sup>24</sup> In addition, the proposal would not alter FINRA’s approach to the regulatory reporting framework, including for reporting trades in foreign private issuer debt, or reporting trades in debt issued pursuant to SEC Regulation S.<sup>25</sup>

SIFMA, FIF and Bloomberg noted that CUSIPs may not be available for all U.S. dollar-denominated foreign sovereign debt securities at the time they become TRACE-Eligible Securities and they suggested that FINRA permit members to report using alternative identifiers.<sup>26</sup> As noted above, FINRA intends to provide a FINRA-assigned symbol that corresponds to one or more non-CUSIP identifiers (*e.g.*, ISIN).

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<sup>24</sup> See supra notes 4 and 6.

<sup>25</sup> See supra note 7.

<sup>26</sup> See SIFMA, FIF, and Bloomberg.

Dimensional advocated for a 15-minute reporting requirement and for public dissemination of transaction information on U.S. dollar-denominated foreign sovereign debt securities.<sup>27</sup> In contrast, SIFMA noted potential issues regarding public dissemination, including risks to liquidity and an incomplete data set, and believed that a same-day reporting requirement was appropriate because the proposal impacted new securities and operational processes. FINRA continues to believe that same-day reporting is appropriate at this time because these transactions will not initially be publicly disseminated. FINRA intends to take a similar measured approach to potential dissemination that it has taken historically with other TRACE-Eligible Securities and, therefore, would first analyze the regulatory data to determine the appropriate contours of a potential dissemination framework.

**6. Extension of Time Period for Commission Action**

FINRA does not consent at this time to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.<sup>28</sup>

**7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2) or Section 19(b)(7)(D)**

Not applicable.

**8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**

Not applicable.

**9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act**

Not applicable.

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<sup>27</sup> See Dimensional.

<sup>28</sup> 15 U.S.C. 78s(b)(2).

**10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act**

Not applicable.

**11. Exhibits**

Exhibit 1. Completed notice of proposed rule change for publication in the Federal Register.

Exhibit 2a. Regulatory Notice 19-25 (July 2019).

Exhibit 2b. Comment letters received in response to Regulatory Notice 19-25.

Exhibit 5. Text of the proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-FINRA-2022-011)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change to Expand TRACE Reporting Requirements to Trades in U.S. Dollar-Denominated Foreign Sovereign Debt Securities

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on , the Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to expand reporting requirements for the Trade Reporting and Compliance Engine (TRACE) to collect information on trades in foreign sovereign debt securities that are United States (U.S.) dollar-denominated.

The text of the proposed rule change is available on FINRA’s website at <http://www.finra.org>, at the principal office of FINRA and at the Commission’s Public Reference Room.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA is submitting this proposed rule change to amend certain rules in the Rule 6700 Series (Trade Reporting and Compliance Engine (TRACE)) to require members to report to TRACE transactions in U.S. dollar-denominated foreign sovereign debt securities. Under the proposal, trades in U.S. dollar-denominated foreign sovereign debt securities would be subject to same-day reporting and would not be disseminated publicly.

Background

Currently, almost all U.S. dollar-denominated debt securities traded in the U.S. are TRACE-Eligible Securities<sup>3</sup> and therefore are subject to TRACE reporting

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<sup>3</sup> Rule 6710 (Definitions) 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 (3) a “U.S. Treasury Security,” as defined in Rule 6710(p). The term “TRACE-Eligible Security” does not include a debt security that is issued by a foreign sovereign or a “Money Market Instrument,” as defined in Rule 6710(o).

requirements. This includes the U.S. dollar-denominated debt of foreign private issuers. However, trades in the U.S. dollar-denominated debt of foreign sovereign issuers are not subject currently to TRACE reporting.

The proposed rule change would enhance FINRA's regulatory audit trail and provide FINRA with important transaction information on a growing segment of the market. As discussed further below, the U.S. dollar-denominated foreign sovereign debt market is a large market segment. FINRA believes the proposed rule change would advance FINRA's oversight of the fixed income markets without imposing significant burdens and costs on members, as FINRA understands that U.S. dollar-denominated foreign sovereign debt securities generally trade at firms that already have TRACE reporting workflows in place.

#### Proposed Amendments

FINRA is proposing changes to the TRACE reporting rules to require that members report to TRACE transactions in U.S. dollar-denominated foreign sovereign debt securities for regulatory purposes. First, FINRA is proposing to amend paragraph (a) of Rule 6710 (Definitions)<sup>4</sup> to include the term "Foreign Sovereign Debt Security" in the definition of TRACE-Eligible Security. FINRA also would define "Foreign Sovereign Debt Security"<sup>5</sup> in paragraph (kk) of Rule 6710 as a debt security issued or

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<sup>4</sup> The text of Rule 6710 incorporates the changes adopted in SR-FINRA-2019-008, which is yet to be implemented.

<sup>5</sup> FINRA notes that its proposed definition of "Foreign Sovereign Debt Security" relies on existing FINRA and SEC guidance. Specifically, FINRA published guidance in 2004 to clarify the distinction between foreign private and foreign sovereign issuers. As noted in that guidance, the term "foreign private issuer" means a foreign issuer that is not eligible to use the SEC's Schedule B for

guaranteed by the government of a foreign country, any political subdivision of a foreign country (e.g., state, provincial, or municipal governments), or a supranational entity.<sup>6</sup>

With this proposal, FINRA would expand TRACE reporting requirements to include U.S. dollar-denominated debt of Schedule B-eligible issuers<sup>7</sup>—i.e., U.S. dollar-denominated debt of foreign sovereign issuers that are not foreign private issuers. Accordingly, members no longer would be required to distinguish between foreign sovereign debt and foreign private issuer debt for purposes of TRACE reporting. In addition, we note that members’ reporting obligations for transactions with a foreign component would continue to follow existing guidance.<sup>8</sup> FINRA also is proposing to amend Rule 6730 (Transaction Reporting) to adopt a same-day reporting requirement for trades in U.S. dollar-denominated foreign sovereign debt. Under the proposed amendments, reportable transactions in foreign sovereign debt executed on a business day

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registering a debt offering in the United States. See Notice to Members 04-90 (December 2004).

<sup>6</sup> “Supranational entity” would include multi-national organizations such as the International Bank for Reconstruction & Development (World Bank), the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the International Finance Corporation, and the European Investment Bank.

<sup>7</sup> Schedule B is used to register debt for issuance in the United States by foreign governments or political subdivisions of foreign governments, and in some cases supranational organizations, issuers of government-guaranteed securities, and certain other issuers closely aligned and identified with a sovereign. See 15 U.S.C. 77aa.

<sup>8</sup> See e.g., TRACE Frequently Asked Questions #3.1.65 (providing that a member is not required to report a debt security to TRACE that is sold pursuant to Regulation S in an off-shore transaction; however, if a debt security originally sold in a Regulation S transaction is subsequently purchased or sold as part of a U.S. transaction, the transactions following the Regulation S transaction must be reported to TRACE).



at or after 12:00:00 a.m. Eastern Time (ET) through 5:00:00 p.m. ET must be reported the same day during TRACE System Hours.<sup>9</sup> Transactions executed on a business day after 5:00:00 p.m. ET but before the TRACE system closes must be reported no later than the next business day (T+1) during TRACE System Hours, and, if reported on T+1, designated “as/of” and include the date of execution. Transactions executed on a business day at or after 6:30:00 p.m. ET through 11:59:59 p.m. ET—or 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—must be reported the next business day (T+1) during TRACE System Hours, designated “as/of,” and include the date of execution.

FINRA believes the same-day reporting requirement as opposed to a shorter reporting timeframe is appropriate because trades in U.S. dollar-denominated foreign sovereign debt securities would be reported for regulatory purposes only. To reflect this, FINRA is further proposing to amend Rule 6750 (Dissemination of Transaction Information) to specify that FINRA will not disseminate information on transactions in foreign sovereign debt securities at this time.<sup>10</sup>

FINRA notes that, under the proposal, members would be required to report specific items of transaction information in line with existing requirements for TRACE-

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<sup>9</sup> See Rule 6710(t). “TRACE System Hours” means the hours the TRACE system is open, which 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.

<sup>10</sup> FINRA notes that, if the proposed rule change is adopted, FINRA will take a measured approach to potential dissemination, as it has taken historically with other TRACE-Eligible Securities and would first analyze the regulatory data to determine the appropriate contours of a potential dissemination framework.

Eligible Securities.<sup>11</sup> Among other things, trade reports would be required to include: the CUSIP or CINS number, or FINRA-assigned TRACE symbol;<sup>12</sup> an identifier for the contra-party (either MPID, “A” for non-member affiliate, or “C” for customer); the side of the reporting party (buy or sell); the quantity of the transaction i.e., face value amount of the transaction); the price of the transaction expressed as a percentage of face/par value; the time of execution; the date of execution (for “as/of” trades); the settlement date; any commission charged if the member is acting as agent; and any applicable trade modifiers.

FINRA also notes that, if U.S. dollar-denominated foreign sovereign debt securities become subject to TRACE reporting requirements, they would become subject to applicable transaction reporting fees. Specifically, U.S. dollar-denominated foreign sovereign debt securities would be subject to trade reporting fees pursuant to paragraph (b)(1) of Rule 7730 (Trade Reporting and Compliance Engine (TRACE)).<sup>13</sup> Similarly,

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<sup>11</sup> See Rule 6730(c).

<sup>12</sup> FINRA understands that some foreign sovereign debt securities may not have a CUSIP or CINS number but may have been assigned another type of identifier (e.g., an ISIN). To facilitate trade reporting of U.S. dollar-denominated foreign sovereign debt, where a CUSIP or CINS is not available, FINRA intends to permit members to report using a FINRA-assigned symbol that corresponds to the security’s other identifier(s) (e.g., the FINRA-assigned symbol would be associated with the ISIN on the Security Master List). FINRA notes that Rule 6730(a)(7) will continue to apply. Therefore, members remain obligated to make a good faith determination as to whether they have engaged in a reportable transaction in a TRACE-Eligible Security and, if the TRACE-Eligible Security is not entered in the TRACE system, the member must promptly notify and provide FINRA Operations the information required under Rule 6760(b) prior to reporting the transaction.

<sup>13</sup> See FINRA Rule 7730(b)(1). Rule 7730(b)(1) states that, except for certain securitized products, a member “shall be charged a trade reporting fee based upon

U.S. dollar-denominated foreign sovereign debt securities would become subject to FINRA's Trading Activity Fee at the rate applicable to bonds, as set out in Section 1 of Schedule A to the FINRA By-Laws.

If the Commission approves the filing, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice. The effective date will be no later than 365 days following publication of the Regulatory Notice announcing Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>14</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, Section 15A(b)(5) of the Act,<sup>15</sup> which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls, and Section 15A(b)(9) of the Act,<sup>16</sup> which requires that FINRA rules not impose any burden on competition that is not necessary or appropriate.

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a sliding scale ranging from \$0.475 to \$2.375 per transaction based on the size of the reported transaction.”

<sup>14</sup> 15 U.S.C. 78o-3(b)(6).

<sup>15</sup> 15 U.S.C. 78o-3(b)(5).

<sup>16</sup> 15 U.S.C. 78o-3(b)(9).

The proposed rule change is designed to provide FINRA with important transaction information on a growing segment of the debt market, consistent with Section 15A(b)(6). The proposal would do so by requiring members to report transactions in U.S. dollar-denominated foreign sovereign debt securities for regulatory purposes. Issuance activity in U.S. dollar-denominated foreign sovereign debt securities has accelerated in recent years, and FINRA believes that enhancing the audit trail with information on this growing market segment will support better informed surveillance and regulation.

Pursuant to the proposal, members would become subject to trade reporting fees under Rule 7730 and FINRA's Trading Activity Fee in connection with transactions in U.S. dollar-denominated foreign sovereign debt. The proposal would apply these fees, at established rates, equally to members reporting transactions in U.S. dollar-denominated sovereign debt securities. The proposed transaction reporting fees are consistent with FINRA's existing framework under Rule 7730 and FINRA's Trading Activity fee for similar types of transactions required to be reported to TRACE. Specifically, as noted above, transactions in U.S. dollar-denominated foreign sovereign debt securities would be charged a trade reporting fee as set forth in Rule 7730(b)(1), and U.S. dollar-denominated foreign sovereign debt securities would become subject to the Trading Activity Fee at the rate applicable to bonds set out in Section 1 of Schedule A to the FINRA By-Laws. Thus, FINRA believes that the proposed rule change is consistent with Section 15A(b)(5).

In addition, FINRA believes that U.S. dollar-denominated foreign sovereign debt securities generally trade at firms that already have TRACE reporting workflows in

place. Accordingly, FINRA believes that the proposed rule change also is consistent with Section 15A(b)(9), because it would allow FINRA to advance its regulatory goal of obtaining important transaction information on these securities through incremental measures that FINRA does not believe would impose significant burdens and costs on members.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Economic Impact Assessment

FINRA has undertaken an economic impact assessment, as set forth below, to analyze the potential economic impacts, including anticipated costs, benefits, and distributional and competitive effects, relative to the current baseline, and the alternatives FINRA considered in assessing how to best meet its regulatory objectives.

Regulatory Objective

FINRA is proposing that members be required to report transactions in U.S. dollar-denominated foreign sovereign debt securities to TRACE on a same-day basis, so that FINRA may better supervise the market. These foreign sovereign debt security transactions would not be disseminated publicly.

Economic Baseline

Members are not currently required to report transactions in U.S. dollar-denominated foreign sovereign debt securities to TRACE. Therefore, there is no current TRACE data or reasonably complete alternative source with which to estimate the

amount of trading volume that will become subject to reporting under the proposal. This analysis is therefore informed by available data on the issuance and amount outstanding of U.S. dollar-denominated foreign sovereign debt obtained from other sources.<sup>17</sup>

As of December 31, 2021, the total amount outstanding of marketable U.S. dollar-denominated foreign sovereign debt was approximately \$2.0 trillion across 2,400 securities issued by 163 foreign sovereign governments. This compares to approximately \$22.6 trillion, \$1.4 trillion, and \$10.1 trillion, respectively, in marketable U.S. Treasury Securities, Agency Debt Securities, and U.S. corporate debt.<sup>18</sup>

In 2021, U.S. and foreign sovereign governments issued in aggregate approximately \$6.1 trillion of marketable U.S. dollar-denominated debt. Foreign sovereign governments issued \$259 billion of it, representing approximately 4.3% of the total amount, and the U.S. Government (U.S. Treasury Securities and Agency Debt Securities) issued the remaining amount, \$5.83 trillion.<sup>19</sup> By comparison, foreign and domestic private issuers issued a total of \$1.96 trillion in U.S. dollar-denominated corporate debt in 2021.

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<sup>17</sup> Data regarding U.S. dollar-denominated foreign sovereign and supranational debt was retrieved from Bloomberg on 3/16/2022 covering the period from January 1, 2012 through December 31, 2021.

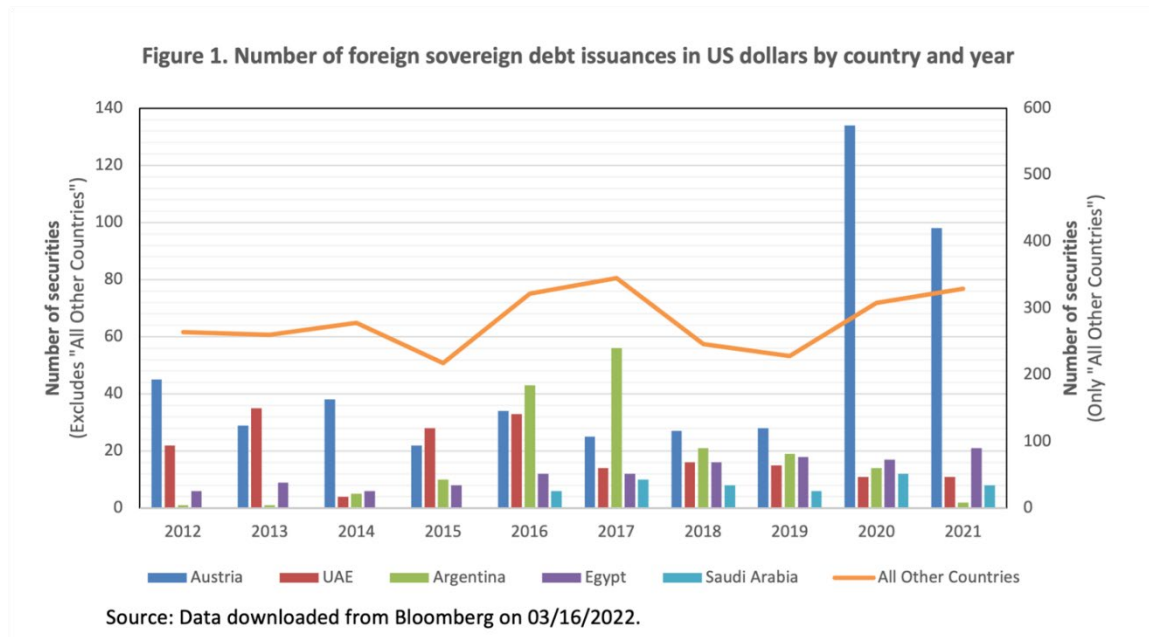
<sup>18</sup> These estimates are derived from data sourced from Bloomberg. The \$10.1 trillion in U.S. corporate debt does not include debt securities defined as “Money Market Instruments” in Rule 6710(o); these money market instruments are debt securities that, at issuance, have a maturity of one calendar year or less.

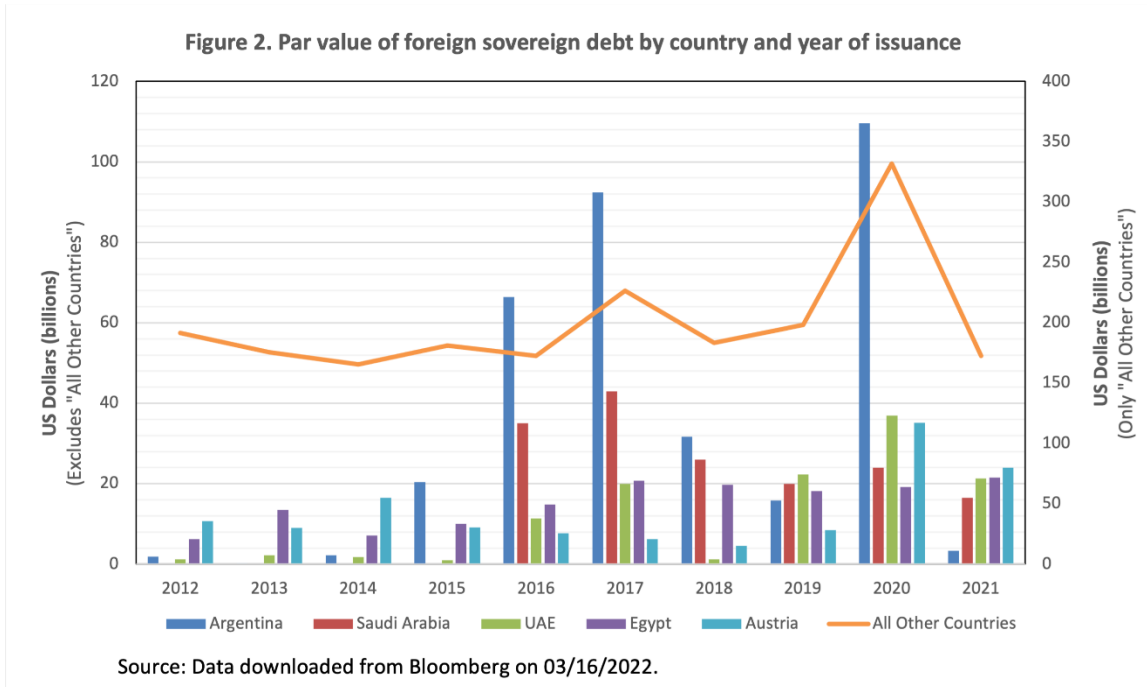
<sup>19</sup> The estimates for U.S. Government (U.S. Treasury Securities and Agency Debt) issuance amounts are derived from data sourced from Securities Industry and Financial Markets Association (SIFMA). All other estimates and figures in the Economic Impact Assessment are derived from data sourced from Bloomberg.

The number of U.S. dollar-denominated foreign sovereign debt issuances has increased from 337 unique securities in 2012 to 470 in 2021. As shown in Figure 1, the top five non-U.S. government issuers of marketable U.S. dollar-denominated debt from January 1, 2017 through December 31, 2021 (measured by par value issued) are:

Argentina, Saudi Arabia, the UAE, Egypt, and Austria. Austria has increased its issuance of sovereign U.S. dollar-denominated debt by more than six times between 2015 and 2020, as measured by the number of unique securities (increasing from 22 to 134).

Figure 2 illustrates the change in the issued amount of U.S. dollar-denominated foreign sovereign debt from 2012 to 2021.





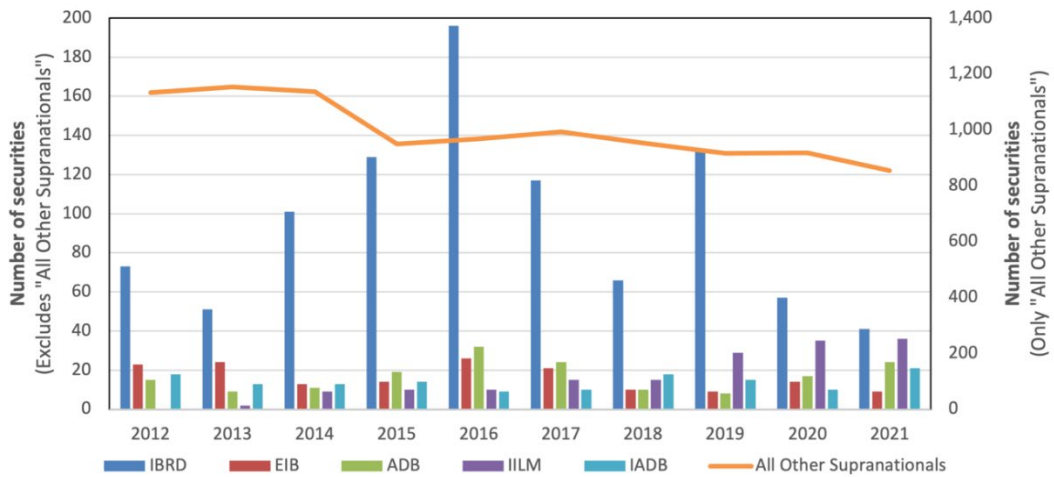
At the end of 2021, the total amount outstanding of marketable U.S. dollar-denominated supranational debt was approximately \$733 billion across approximately 3,414 securities issued by 44 supranational organizations. The top five largest supranational issuers of marketable U.S. dollar-denominated debt from January 1, 2017 to December 31, 2021 (measured by par value issued) is about 57.0% of the total amount outstanding. These five entities are: International Bank for Reconstruction and Development (“IBRD”), European Investment Bank (“EIB”), Asian Development Bank (“ADB”), Inter-American Development Bank (“IADB”), and International Islamic Liquidity Management (“IILM”).

Figure 3 shows that the number of supranational U.S. dollar-denominated debt issuances increased from 1,065 unique securities in 2011 to 1,346 in 2021. In 2021, out of a total of 21 supranational organizations, IBRD issued the largest number of U.S. dollar-denominated supranational debt offerings (41 securities). Figure 4 illustrates the increase in the number of U.S. dollar-denominated debt issuances by supranational



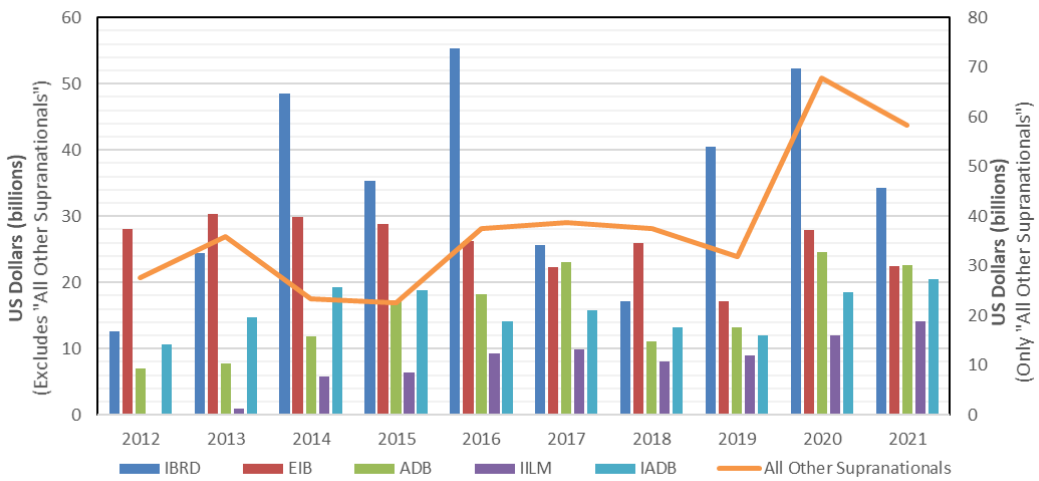
organizations; specifically, issuances increased from \$85.9 billion in 2012 to \$172.4 billion in 2021. From January 1, 2017 through December 31, 2021, \$114.02 billion was issued by the top five largest supranational issuers of U.S. dollar-denominated debt (measured by par value issued).

**Figure 3. Number of debt issuances in US dollars by supranational organization and year of issuance**



Source: Data downloaded from Bloomberg on 03/16/2022.

**Figure 4. Par value of debt by supranational organization and year of issuance**



Source: Data downloaded from Bloomberg on 03/16/2022.

Based on discussions with broker-dealers that are active in multiple foreign sovereign debt markets, FINRA understands that market participants do not generally

treat debt issued by a foreign sovereign in U.S. dollars as fungible with debt issued by the same foreign sovereign in local or other currencies; therefore, FINRA does not believe that members would seek to substitute U.S. dollar-denominated foreign sovereign debt securities with securities issued by the foreign sovereign in a foreign currency.

#### Economic Impact

Requiring members to report transactions in U.S. dollar-denominated foreign sovereign debt securities to TRACE would benefit regulatory oversight of the fixed income markets by providing FINRA with important data regarding member activity in this space. In particular, the receipt of the transaction price, par value traded, and other transaction information in TRACE would create a better-informed surveillance program to help detect fraud, manipulation, unfair pricing, and other potential misconduct. Academic studies have found a positive empirical relationship between the strength of market regulation and market quality in multiple jurisdictions, including the United States.<sup>20</sup>

Potential concerns related to the dissemination of this transaction information are not relevant to this rule change because FINRA is not proposing that U.S. dollar-denominated foreign sovereign debt securities be disseminated at this time.<sup>21</sup> Members engaged in (or that anticipate entering) this business may face some additional

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<sup>20</sup> See e.g., Douglas Cumming et al., Exchange Trading Rules and Stock Market Liquidity, 99 J. Fin. Econ. 651 (2011) (discussing the impact of trading rules on liquidity in the equity markets)); Howell E. Jackson & Mark J. Roe, Public and Private Enforcement of Securities Laws: Resource-Based Evidence, 93 J. Fin. Econ. 207 (2009) (discussing the correlation between public enforcement of securities laws and several market indicators, including trading volume and capital formation).

<sup>21</sup> See supra note 10.

development costs to report these transactions to TRACE, but such costs are expected to be relatively modest because, if the members already have systems in place to report other types of TRACE-Eligible Securities, they may be able to leverage those systems in connection with the proposed reporting requirement. Members will incur costs from the fees associated with the TRACE reporting required by the proposal. FINRA is not able to estimate the anticipated aggregate amount that would be collected from members from these fees because there is no current TRACE data (or reasonably complete alternative source) with which to estimate the trading volume that will become subject to reporting under this proposal.

As discussed above, FINRA understands that market participants do not generally treat debt issued by a foreign sovereign in U.S. dollars as fungible with debt issued by the same foreign sovereign in local or other currencies; therefore, FINRA does not believe that firms would be likely to avoid the proposed reporting requirements by shifting trading to foreign sovereign debt denominated in another currency.

FINRA estimates that the benefit from improved surveillance of member trading activity in U.S. dollar-denominated foreign sovereign debt securities outweighs the costs to members associated with complying with the proposed reporting requirement.

#### Alternatives Considered

No alternatives were considered.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The proposed rule change was published for comment in Regulatory Notice 19-25 (July 2019). Four comments were received in response to the Regulatory Notice.<sup>22</sup> A copy of the Regulatory Notice and copies of the comment letters received in response to the Regulatory Notice are available on FINRA’s website at <http://www.finra.org>. Three commenters were generally supportive of the expansion of TRACE to cover U.S. dollar-denominated foreign sovereign debt<sup>23</sup> and one commenter neither supported nor opposed the proposal,<sup>24</sup> as discussed below.

SIFMA and FIF requested clarification on the scope of the proposal, including regarding the definition of “political subdivision.” As discussed above, a political subdivision is, for example, a state, provincial or municipal government. FINRA notes that, as a practical matter, the proposal would remove the current need for members to distinguish between U.S. dollar-denominated foreign sovereign debt and U.S. dollar-denominated foreign private issuer debt, because transactions in both categories of debt would be subject to reporting under the proposal (so long as the security otherwise meets

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<sup>22</sup> See Letter from Gerard O’Reilly, Co-CEO and Chief Investment Officer, Dimensional Fund Advisors LP, to Marcia E. Asquith, Office of the Corporate Secretary, FINRA, dated September 23, 2019 (“Dimensional”); Letter from Peter Warms, Bloomberg L.P., to Marcia E. Asquith, Office of the Corporate Secretary, FINRA, dated September 24, 2019 (“Bloomberg”); Letter from Christopher Bok, Director, Financial Information Forum, to Marcia E. Asquith, Office of the Corporate Secretary, FINRA, dated September 24, 2019 (“FIF”); and Letter from Christopher B. Killian, Managing Director, Securitization and Corporate Credit, SIFMA to Marcia E. Asquith, Office of the Corporate Secretary, FINRA, dated September 24, 2019 (“SIFMA”).

<sup>23</sup> See Bloomberg, Dimensional, and FIF.

<sup>24</sup> See SIFMA.

the definition of “TRACE-Eligible Security”). In addition, as discussed above, the proposal would expand TRACE reporting to include U.S. dollar-denominated debt of Schedule B-eligible issuers—i.e., U.S. dollar-denominated debt of foreign sovereign issuers that are not foreign private issuers.<sup>25</sup> In addition, the proposal would not alter FINRA’s approach to the regulatory reporting framework, including for reporting trades in foreign private issuer debt, or reporting trades in debt issued pursuant to SEC Regulation S.<sup>26</sup>

SIFMA, FIF and Bloomberg noted that CUSIPs may not be available for all U.S. dollar-denominated foreign sovereign debt securities at the time they become TRACE-Eligible Securities and they suggested that FINRA permit members to report using alternative identifiers.<sup>27</sup> As noted above, FINRA intends to provide a FINRA-assigned symbol that corresponds to one or more non-CUSIP identifiers (e.g., ISIN).

Dimensional advocated for a 15-minute reporting requirement and for public dissemination of transaction information on U.S. dollar-denominated foreign sovereign debt securities.<sup>28</sup> In contrast, SIFMA noted potential issues regarding public dissemination, including risks to liquidity and an incomplete data set, and believed that a same-day reporting requirement was appropriate because the proposal impacted new securities and operational processes. FINRA continues to believe that same-day reporting is appropriate at this time because these transactions will not initially be

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<sup>25</sup> See supra notes 5 and 7.

<sup>26</sup> See supra note 8.

<sup>27</sup> See SIFMA, FIF, and Bloomberg.

<sup>28</sup> See Dimensional.

publicly disseminated. FINRA intends to take a similar measured approach to potential dissemination that it has taken historically with other TRACE-Eligible Securities and, therefore, would first analyze the regulatory data to determine the appropriate contours of a potential dissemination framework.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2022-011 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2022-011. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FINRA-2022-011 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>29</sup>

Jill M. Peterson  
Assistant Secretary

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<sup>29</sup> 17 CFR 200.30-3(a)(12).



# Regulatory Notice

19-25

## Trade Reporting and Compliance Engine (TRACE)

### FINRA Requests Comment on a Proposal to Require Reporting of Transactions in U.S. Dollar-Denominated Foreign Sovereign Debt Securities to TRACE

Comment Period Expires: September 24, 2019

#### Summary

FINRA requests comment on a proposal to expand TRACE reporting requirements to collect information on trades in foreign sovereign debt securities that are U.S. dollar-denominated. Issuance activity in these debt securities has accelerated in recent years and FINRA believes the proposal would provide important regulatory information on an increasingly active segment of the market. Under the proposal, trades in U.S. dollar-denominated foreign sovereign debt securities would be subject to same-day reporting and would not be disseminated publicly.

The proposed rule text is set forth in Attachment A.

Questions regarding this *Notice* should be directed to:

- ▶ Alié Diagne, Director, Transparency Services, at (212) 858-4092 or [alie.diagne@finra.org](mailto:alie.diagne@finra.org);
- ▶ Joseph Schwetz, Senior Director, Market Regulation, at (240) 386-6170 or [joseph.schwetz@finra.org](mailto:joseph.schwetz@finra.org);
- ▶ Alex Ellenberg, Associate General Counsel, Office of General Counsel (OGC), at (202) 728-8152 or [alexander.ellenberg@finra.org](mailto:alexander.ellenberg@finra.org); or
- ▶ Cara Bain, Assistant General Counsel, OGC, at (202) 728-8852 or [cara.bain@finra.org](mailto:cara.bain@finra.org).

July 26, 2019

#### Notice Type

- ▶ Request for Comment

#### Suggested Routing

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

#### Key Topics

- ▶ Foreign Sovereign Debt
- ▶ Fixed Income
- ▶ TRACE
- ▶ TRACE-Eligible Security
- ▶ Trade Reporting

#### Referenced Rules and Regulatory Notices

- ▶ FINRA Rule 6710
- ▶ FINRA Rule 6730
- ▶ FINRA Rule 6750
- ▶ FINRA Rule 7730
- ▶ *Notice to Members 04-90*

19-25

July 26, 2019

## Action Requested

FINRA encourages all interested parties to comment on the proposal. Comments must be received by September 24, 2019.

Comments must be submitted through one of the following methods:

- ▶ Emailing comments to [pubcom@finra.org](mailto:pubcom@finra.org); or
- ▶ Mailing comments in hard copy to:

Marcia E. Asquith  
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 on the proposal.

**Important Notes:** The only comments that FINRA will consider are those submitted pursuant to the methods described above. All comments received in response to this *Notice* will be made available to the public on the FINRA website. Generally, FINRA will post comments as they are received.<sup>1</sup>

Before becoming effective, the proposed rule change must be filed with the Securities and Exchange Commission (SEC) pursuant to Section 19(b) of the Securities Exchange Act (SEA).<sup>2</sup>

## Background and Discussion

Currently almost all U.S. dollar-denominated debt securities traded in the U.S., excluding money market instruments, are considered “TRACE-Eligible Securities” and therefore subject to TRACE reporting requirements.<sup>3</sup> This includes the U.S. dollar-denominated debt of foreign private issuers.<sup>4</sup> However, trades in the U.S. dollar-denominated debt of foreign sovereign issuers are not subject currently to TRACE reporting.

U.S. dollar-denominated foreign sovereign debt issuance has increased substantially since 2013. To further enhance FINRA’s regulatory audit trail, FINRA is proposing to require TRACE reporting of U.S. dollar-denominated foreign sovereign debt. FINRA believes this would provide important regulatory information on an increasingly active segment of the market. Based on discussions with member firms and feedback from advisory committees, FINRA understands that U.S. dollar-denominated foreign sovereign debt securities generally trade on desks that already have TRACE reporting workflows in place and therefore, FINRA preliminarily believes the proposal would advance this regulatory goal through incremental measures and would not impose significant burdens and costs on firms. FINRA is requesting additional feedback and comment on the specific economic impacts, as well as the overall goals and impacts of the proposal as discussed in more detail below.

## Scope of Proposed Reporting Requirements

Under the proposal, FINRA would require members to report transactions in U.S. dollar-denominated foreign sovereign debt securities, a term that would be defined to include debt securities that are issued or guaranteed by the government of a foreign country, any political subdivision of a foreign country, or a supranational entity.<sup>5</sup> Supranational entities are multi-national organizations such as the International Bank for Reconstruction & Development (“World Bank”), the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the International Finance Corporation, and the European Investment Bank.

The proposal would not change FINRA’s approach to the regulatory reporting framework or jurisdictional reach over trading activity with some foreign component. The proposed reporting requirements for U.S. dollar-denominated foreign sovereign debt securities would follow the current TRACE approach to foreign trades, which generally considers whether FINRA member firms engage in transactions that involve a beneficial change in ownership.<sup>6</sup>

Under the proposal, transaction information for U.S. dollar-denominated foreign sovereign debt securities would be reported for regulatory purposes only and would not be publicly disseminated.<sup>7</sup> Transactions in foreign sovereign debt securities would be subject to same-day reporting during current TRACE hours. Specifically, transactions between midnight and 5:00 p.m. Eastern Time (ET) on a business day must be reported on that business day, and transactions between 5:00 p.m. ET and midnight—as well as transactions on any day the TRACE system is not open—must be reported no later than 6:29:59 p.m. ET of the next business day (and designated “as/of” the date of execution).

For trades in U.S. dollar-denominated foreign sovereign debt securities subject to the proposal, FINRA would require firms to report specific transaction information similar to what is reported for other TRACE-Eligible Securities. Specifically, TRACE trade reports in foreign sovereign debt securities would be required to include:

- ▶ the CUSIP number or FINRA symbol for the security;
- ▶ the reporting party’s capacity;
- ▶ an identifier for the contra-party (either MPID, “A” for non-member affiliate, or “C” for customer);
- ▶ the side the reporting party was on (buy or sell);
- ▶ the quantity of the transaction (*i.e.*, face value amount of the transaction);
- ▶ the price of the transaction expressed as a percentage of face/par value;
- ▶ the time of execution;
- ▶ the date of execution (for “as/of” trades);
- ▶ the settlement date;
- ▶ any commission charged if the member is acting as agent; and
- ▶ any applicable trade modifiers.

If U.S. dollar-denominated foreign sovereign debt securities become subject to TRACE reporting requirements, they would also become subject to applicable transaction reporting fees. FINRA is not proposing any change to the current rate structure set out in Rule 7730, which means that U.S. dollar-denominated foreign sovereign debt securities would be treated the same as corporate debt securities for purposes of trade reporting fees under the rule. Similarly, once TRACE-Eligible, U.S. dollar-denominated foreign sovereign debt securities would become subject to the Trading Activity Fee at the rate applicable to bonds set out in Section 1 of Schedule A to FINRA's By-Laws.

## Economic Impact Assessment

FINRA has undertaken an economic impact assessment, as set forth below, to analyze the potential economic impacts, including anticipated costs, benefits, and distributional and competitive effects relative to the current baseline, and the alternatives FINRA considered in assessing how to best meet its regulatory objectives.

### Regulatory Objective

FINRA is proposing that members be required to report transactions in U.S. dollar-denominated foreign sovereign debt securities to TRACE subject to same-day reporting. These foreign sovereign debt security transactions would not be disseminated publicly.

### Economic Baseline

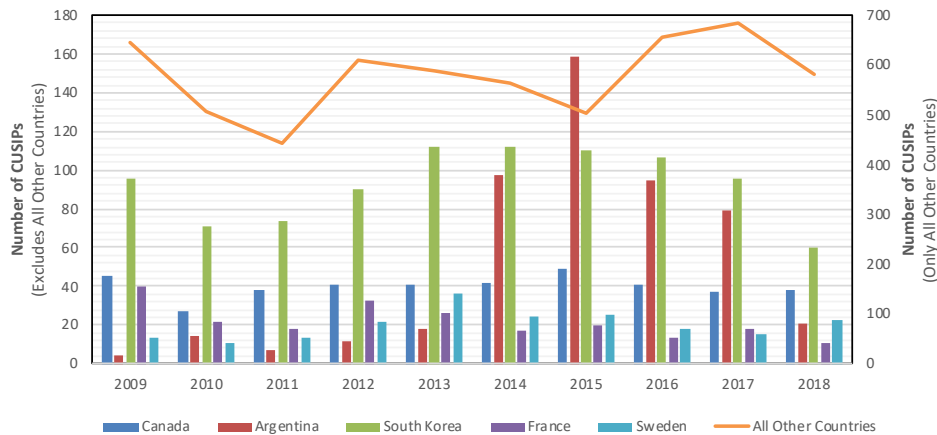
FINRA members are not currently required to report transactions in U.S. dollar-denominated foreign sovereign debt securities to TRACE. As a consequence, there is not current TRACE data to estimate the amount of trading volume that will be subject to reporting. This analysis is therefore informed by data on the issuance and amount outstanding of these securities obtained from other sources.

As of December 31, 2018, the total amount outstanding of marketable U.S. dollar-denominated foreign sovereign government debt was approximately \$2.3 trillion across 4,827 CUSIPs issued by 116 foreign sovereign governments. This compares to approximately \$16.0 trillion, \$2.3 trillion and \$8.4 trillion, respectively, in marketable U.S. Treasury debt, U.S. agency debt and U.S. corporate debt.<sup>8</sup>

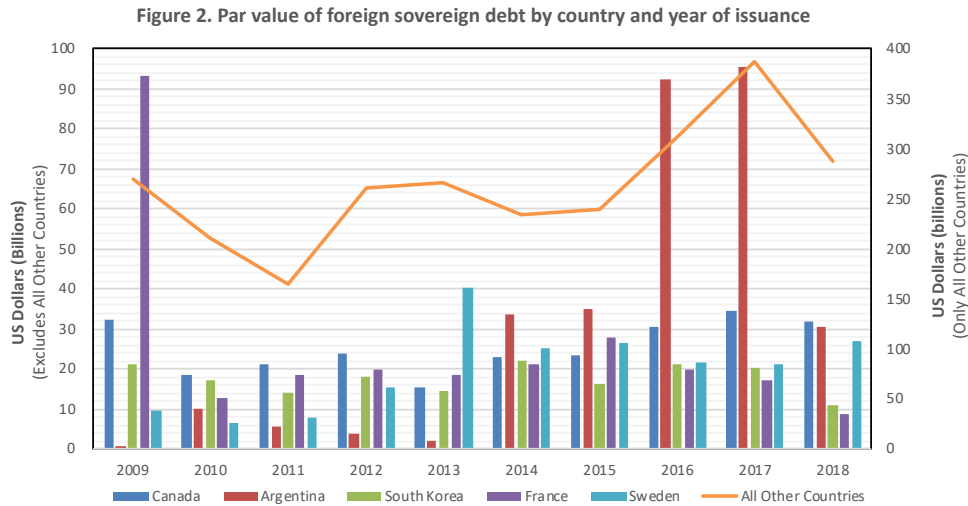
Governments issued approximately \$16.6 trillion of marketable U.S. dollar-denominated debt in calendar year 2018. Foreign sovereign governments issued \$396 billion of it, representing approximately 2.4% of the total amount, and the U.S. Government (U.S. Treasury and agencies) issued the remaining amount, \$16.2 trillion.<sup>9</sup> By comparison, foreign and U.S. firms issued a total of \$3.8 trillion of corporate debt denominated in U.S. dollars in calendar year 2018.

The number of foreign sovereign U.S. dollar-denominated debt issuances has increased from 842 to 929 unique CUSIPs per year from 2009 through 2017; foreign sovereign governments issued 734 unique CUSIPs in U.S. dollar-denominated debt in 2018. As shown in Figure 1, the top five non-U.S. government issuers of marketable U.S. dollar-denominated debt in the years from January 1, 2014 through December 31, 2018, as measured by par value, are Canada, Argentina, South Korea, France and Sweden. In particular, Argentina has increased its issuance of sovereign U.S. dollar-denominated debt by a multiple of 5.25 between the years 2009 and 2018, as measured by the number of unique CUSIPs. Figure 2 shows how the amount of U.S. dollar-denominated sovereign debt issued has changed. For example, Argentina and Sweden increased their debt issuance denominated in U.S. dollars by a multiple of 100.3 and 2.8, respectively, between the years 2009 and 2018.

Figure 1. Number of foreign sovereign debt issuances in US dollars by country and year of issuance



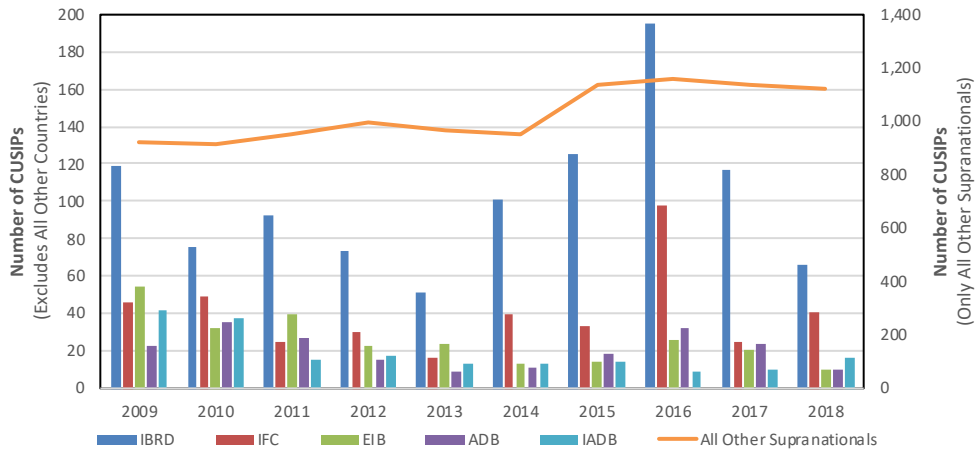
Source: Bloomberg, 07/18/2019



In calendar year 2018, the total amount outstanding of marketable U.S. dollar-denominated supranational debt is approximately \$552 billion across close to 2,667 CUSIPs issued by 31 supranational organizations. The top-five largest supranational issuers of marketable U.S. dollar-denominated debt from January 1, 2014 to December 31, 2018, as measured by par value is about 64.4% of the total amount outstanding. These five entities are International Bank for Reconstruction and Development (IBRD), International Finance Corporation (IFC), European Investment Bank (EIB), Asian Development Bank (ADB) and Inter-American Development Bank (IADB).

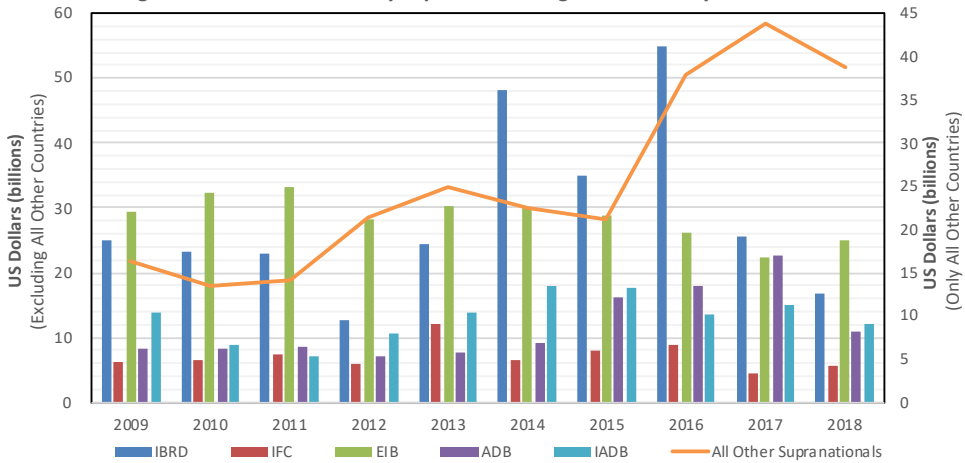
Figure 3 shows that the number of supranational U.S. dollar-denominated debt issuances has increased slightly from 1,203 to 1,264 unique CUSIPs from 2009 through 2018. In calendar year 2018, the International Bank for Reconstruction and Development made the largest number of issuances, 66 CUSIPs, out of a total of 21 supranational organizations. Figure 4 also shows that the U.S. dollar-denominated debt issued by supranational organizations has increased from \$99.1 billion in calendar year 2009 and is \$109.1 billion as of calendar year 2018, of which \$70.3 billion is issued from the top five largest supranational issuers of U.S. dollar-denominated debt in the time from January 1, 2014 through December 31, 2018, as measured by par value.

**Figure 3. Number of debt issuances in US dollars by supranational organization and year of issuance**



Source: Bloomberg, 07/18/2018

**Figure 4. Par value of debt by supranational organization and year of issuance**



Source: Bloomberg, 07/18/2018

Based on discussions with active broker-dealers in multiple foreign sovereign debt markets, FINRA understands that U.S. dollar-denominated foreign sovereign debt securities are not generally viewed as fungible investment substitutes for foreign currency (*i.e.*, non-U.S. dollar) foreign sovereign debt securities and, as such, that arbitrage trading between these securities is *de minimis*.

### Economic Impact

The primary benefit from members reporting transactions in U.S. dollar-denominated foreign sovereign debt securities to TRACE is that FINRA would be better able to supervise the market. In particular, the addition of the transaction price, par value, and other trade information in TRACE would create a better informed surveillance program to help detect fraud, manipulation, unfair pricing and other potential misconduct. Academic studies have found a positive empirical relationship between the strength of market regulation and market quality.<sup>10</sup>

As the transactions will initially not be publicly disseminated,<sup>11</sup> no additional costs or benefits from increased transparency will be imposed on market participants. FINRA and its members may face some additional development costs, but they are expected to be relatively modest because no new transaction information or modifiers are required beyond that mandated for corporate bonds. Members will pay a Transaction Reporting Fee and Trading Activity Fee for each U.S. dollar-denominated foreign sovereign or supranational debt security reported to TRACE, and FINRA is expected to bear the incremental cost of receiving and storing each of these additional transactions and conducting associated regulation. Because there is not current TRACE data to estimate the amount of trading volume that will be subject to reporting under the proposal, FINRA is not able to estimate the anticipated aggregate amount that would be collected through these fees.

As there is currently no definitive source for transactions in U.S. dollar-denominated foreign sovereign debt securities, FINRA is not able to ascertain whether transactions between non-FINRA members represent a material (or potentially material) amount of execution activity in this market. Based on preliminary discussions with several market participants, FINRA understands that non-FINRA members hold U.S. dollar denominated foreign sovereign debt securities but generally execute through FINRA members. To the extent the number of transactions between non-FINRA members is significant, the proposal may be anticipated to impose some competitive effects. In particular, some market participants may seek to ensure that their activities are not reported to FINRA so as to avoid surveillance. This could result in trading activities shifting from FINRA members to non-members. However, FINRA believes this impact is mitigated to the extent that U.S. dollar-denominated foreign sovereign debt securities are not exempted securities under the federal securities laws and are required to be transacted in the U.S. through a registered broker-dealer.



In addition, based on FINRA's understanding, noted above, that market participants do not treat debt issued by a foreign sovereign in dollars as fungible with debt issued by the same foreign sovereign in local or other currency, FINRA does not believe firms would be likely to avoid the proposed reporting requirements by shifting trading from U.S. dollar-denominated foreign sovereign debt to foreign sovereign debt denominated in other currency. FINRA also believes the ability to shift trading activity in U.S. dollar-denominated foreign sovereign debt securities to foreign jurisdictions to avoid the proposed reporting requirements is mitigated to the extent such trades are reportable in those jurisdictions, for example, in Europe. This *Notice* includes questions below to solicit additional feedback on these potential competitive issues.

FINRA estimates that the benefit from improved surveillance of the U.S. dollar-denominated foreign sovereign and supranational debt securities to market participants outweighs the costs to members for having to report and to FINRA for receiving these additional transaction reports.

#### Alternatives Considered

No alternatives are under consideration.

#### Request for Comment

FINRA requests comment on all aspects of the proposal. FINRA requests that commenters provide empirical data or other factual support for their comments wherever possible. FINRA specifically requests comment concerning the following questions:

- ▶ Do you agree with the scope of the proposal?
  - ▶ Is there another definition for the term "foreign sovereign debt security" that FINRA should consider?
  - ▶ Should FINRA consider a different reporting timeframe for trades in U.S. dollar-denominated foreign sovereign debt securities?
  - ▶ Would you propose any changes to the specific transaction information that the proposal would require for trades in U.S. dollar-denominated foreign sovereign debt securities?
  - ▶ Should non-U.S. dollar-denominated foreign sovereign debt securities be included and, if so, how would they be reported?
- ▶ What other economic impacts, including costs and benefits, might be associated with the proposal? Who might be affected and how?

- ▶ Is there more specific information on the direct costs of the proposal that FINRA should consider?
  - ▶ For example, are there U.S. dollar-denominated foreign sovereign debt securities that trade on desks that do not already have TRACE-reporting workflows in place?
  - ▶ If so, what are the costs of adding TRACE-reporting workflows to such desks?
- ▶ Would the proposal, if adopted, encourage investors to change their trading behavior to avoid TRACE reporting? If so, how do you envision investors would do so and what impacts do you think such changes would have?
- ▶ FINRA understands that today, firms may employ a manual process to determine whether a U.S. dollar denominated foreign debt security is Schedule B eligible and therefore not reportable. Would the proposal reduce the burdens and potential costs associated with determining whether a U.S. dollar-denominated debt security was issued by a foreign private issuer or a foreign sovereign issuer, since both would be reportable?
- ▶ Would the proposal impose any other competitive impacts that FINRA has not considered?

## Endnotes

1. Persons submitting comments are cautioned that FINRA does not redact or edit personal identifying information, such as names or email addresses, from comment submissions. Persons should submit only information that they wish to make publicly available. *See Notice to Members 03-73* (November 2003) (NASD Announces Online Availability of Comments) for more information.
2. *See* Section 19 of the SEA 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*. Certain limited types of proposed rule changes, however, take effect upon filing with the SEC. *See* SEA Section 19(b)(3) and SEA Rule 19b-4.
3. *See* Rule 6710(a).
4. *See* Rule 6710(a)(1). FINRA guidance states that “foreign private issuer” means a foreign issuer that is not eligible to use the SEC’s Schedule B for registering a debt offering in the United States. Schedule B is used to register debt for issuance in the United States by foreign governments or political subdivisions of foreign governments, and in some cases supranational organizations, issuers of government-guaranteed securities, and certain other issuers closely aligned and identified with a sovereign. *See Notice to Members 04-90* (December 2004).
5. The proposal would do this by amending Rule 6710 to add a new definition for “Foreign Sovereign Debt Security” and to add the term to the definition of “TRACE-Eligible Security.” The new definition for “Foreign Sovereign Debt Security” would closely track a definition for the same term adopted by the SEC in connection with Regulation ATS.
6. *See, e.g.*, FINRA TRACE FAQ 3.16 (providing guidance on requirements for reporting trades that involve off-shore subsidiaries).
7. If the proposed rule change is adopted, FINRA would take a similar measured approach to potential dissemination that it has taken historically with other TRACE-eligible securities, and would first analyze the regulatory data to determine whether a transparency regime in the future may be appropriate for this segment of the market.
8. These estimates are derived from data sourced from Bloomberg, as are other estimates and figures in the Economic Impact Assessment, unless otherwise noted. The \$8.4 trillion in U.S. corporate debt does not include debt securities defined as money market instruments by Rule 6710(o); these money market instruments are debt securities that, at issuance, have a maturity of one calendar year or less.
9. The estimates for U.S. Government (U.S. Treasury and agencies) issuance amounts are derived from data sourced from Securities Industry and Financial Markets Association (SIFMA).
10. *See generally, e.g.*, Douglas Cumming et al., *Exchange Trading Rules and Stock Market Liquidity*, 99 J. Fin. Econ. 651 (2011) (discussing the impact of trading rules on liquidity in the equity markets); Howell E. Jackson & Mark J. Roe, *Public and Private Enforcement of Securities Laws: Resource-Based Evidence*, 93 J. Fin. Econ. 207 (2009) (discussing the correlation between public enforcement of securities laws and a number of market indicators, including trading volume and capital formation).
11. As noted in footnote 7, *supra*, if FINRA proceeds with the proposal, FINRA will analyze the regulatory data to determine whether a transparency regime in the future may be appropriate for this segment of the market.

19-25

July 26, 2019

## Attachment A

Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

### 6000. QUOTATION, ORDER, AND TRANSACTION REPORTING FACILITIES

### 6700. TRADE REPORTING AND COMPLIANCE ENGINE (TRACE)

#### 6710. Definitions

The terms used in this Rule 6700 Series shall have the same meaning as those defined in the FINRA By-Laws and rules unless otherwise specified. For the purposes of this Rule 6700 Series, the following terms have the following meaning:

(a) “TRACE-Eligible Security” means a debt security that is United States (“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 paragraph (k) or a Government-Sponsored Enterprise as defined in paragraph (n); [or] (3) a U.S. Treasury Security as defined in paragraph (p); or (4) a Foreign Sovereign Debt Security as defined in paragraph (jj). “TRACE-Eligible Security” does not include a debt security that is [issued by a foreign sovereign or] a Money Market Instrument as defined in paragraph (o).

(b) through (ii) No Change.

(jj) “Foreign Sovereign Debt Security” means a debt security issued or guaranteed by the government of a foreign country, any political subdivision of a foreign country, or a supranational entity.

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#### 6730. Transaction Reporting

##### (a) When and How Transactions are Reported

Each member that is a Party to a Transaction in a TRACE-Eligible Security must report the transaction. A member must report a transaction in a TRACE-Eligible Security as soon as practicable, but no later than within 15 minutes of the Time of Execution, except as otherwise specifically provided below. Transactions not reported within the specified timeframe will be designated as “late.” A member must transmit the report to TRACE during TRACE System Hours.

(1) through (3) No Change.

##### (4) Reporting Requirements — U.S. Treasury Securities and Foreign Sovereign Debt Securities

Transactions in U.S. Treasury Securities and Foreign Sovereign Debt Securities must be reported as provided in this paragraph (a)(4).

**(A) General Reporting Requirements**

Transactions [in U.S. Treasury Securities] executed on:

(i) a business day at or after 12:00:00 a.m. Eastern Time through 5:00:00 p.m. Eastern Time must be reported the same day during TRACE System Hours;

(ii) a business day after 5:00:00 p.m. Eastern Time but before the TRACE system closes must be reported no later than the next business day (T + 1) during TRACE System Hours, and, if reported on T + 1, designated “as/of” and include the date of execution; or

(iii) a business day at or after 6:30:00 p.m. Eastern Time through 11:59:59 p.m. Eastern Time, or 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 (determined using Eastern Time) must be reported the next business day (T + 1) during TRACE System Hours, designated “as/of” and include the date of execution.

(5) through (7) No Change.

(b) through (f) No Change.

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**6750. Dissemination of Transaction Information**

(a) through (b) No Change.

**(c) Transaction Information Not Disseminated**

FINRA will not disseminate information on a transaction in a TRACE-Eligible Security that is:

(1) through (3) No Change.

(4) a Securitized Product that is: a CMBS; a CDO; or a CMO if the CMO transaction value is \$1 million or more (calculated based upon original principal balance) and the transaction does not qualify for periodic dissemination under paragraph (b) above, except as may be otherwise provided in Rule 7730; [ or ]

(5) a U.S. Treasury Security[.]; or

(6) a Foreign Sovereign Debt Security.

\*\*\*\*\*

Exhibit 2b

September 23, 2019

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

**Re: FINRA Request for Comment on a Proposal to Require Reporting of Transactions in U.S. Dollar-Denominated Foreign Sovereign Debt Securities to TRACE (FINRA Regulatory Notice 19-25)**

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Dear Ms. Asquith:

Dimensional Fund Advisors LP (“Dimensional”) appreciates the opportunity to provide the Financial Industry Regulatory Authority (“FINRA”) with our views on the Regulatory Notice 19-25 proposal.<sup>1</sup> As a registered investment adviser that provides investment management services to mutual funds, institutional and financial adviser clients, Dimensional believes that an expansion of TRACE reporting requirements and increased transparency is beneficial to fostering a fair market for all market participants.

We support the proposed expansion of TRACE reporting requirements to collect information on trades in foreign sovereign debt securities that are U.S. dollar-denominated. In this increasingly active segment of the market, we believe this additional reporting will be useful from a regulatory standpoint and therefore beneficial to the market more generally.

Furthermore, we strongly advocate for this proposal to be expanded in the future to publicly disseminate this information in a timely manner, as is currently required for almost all other U.S. dollar-denominated securities traded in the U.S., including that of foreign private issuers. We believe that increased price transparency is always beneficial for markets and will inherently boost investor confidence in this growing market segment.

**Increased transparency benefits investors**

Since the introduction of TRACE in 2002, the U.S. bond market has grown in size to all-time highs.<sup>2</sup> Secondary market trading volume continues to rise to all-time highs with each passing year.<sup>3</sup> Bid-ask

<sup>1</sup> FINRA Regulatory Notice 19-25 (July 26, 2019) (“Notice”), available online at: <https://www.finra.org/rules-guidance/notices/19-25>.

<sup>2</sup> See SIFMA’s statistics on amounts outstanding in the U.S. bond market available at <https://www.sifma.org/resources/research/us-bond-market-issuance-and-outstanding/>.

<sup>3</sup> See SIFMA’s statistics on U.S. bond market average trading volumes available at <https://www.sifma.org/resources/research/us-bond-market-trading-volume/>.

spreads have shrunk to all-time lows.<sup>4</sup> We believe it is the transparency brought about by TRACE that helped create these conditions. In turn, we believe that this transparency has increased investor confidence, resulting in more robust capital markets.

We believe complete and immediate post-trade data dissemination for all securities in the market should be the ultimate objective of any program. This model has proven to be fair and effective in the equity markets for many decades. As a result, we are supportive of additional initiatives by FINRA to further increase transparency in the bond markets.

#### **Scope of proposed reporting requirements**

Foreign sovereign debt issuance denominated in U.S. dollars has increased substantially since 2013.<sup>5</sup> Both sovereign governments and supranational organizations have contributed to this growth by issuing a greater number of U.S. dollar-denominated bonds with a larger aggregated par value amount. As such, we agree that FINRA's inclusion of both groups in the scope of the proposed reporting requirements is appropriate.

However, we believe that the reporting timeframe and the dissemination of information could be improved. The growth of this burgeoning market segment has resulted in a total amount outstanding of \$2.3 trillion in U.S. dollar-denominated foreign sovereign debt (as of December 31, 2018). This represents approximately the same amount outstanding as the U.S. agency debt market.<sup>6</sup> We believe that the foreign sovereign debt market should be held to the same reporting standards as the similarly sized U.S. agency debt market. While the same-day reporting proposed by FINRA would certainly be a step in the right direction, we believe that the 15-minute reporting deadline currently enforced for U.S. agency and corporate bonds denominated in the U.S. dollar, should be consistently implemented across market segments. The transparency brought about by current TRACE reporting standards has increased investor confidence, leading to improved capital market conditions. We believe that the foreign sovereign debt market is no different and investors will similarly benefit from a higher degree of price transparency.

#### **Increased transparency benefits investors**

Without the public dissemination of the proposed information, though, none of the transparency benefits can be realized. FINRA recognized this when it stated in the Notice that since "the transactions will initially not be publicly disseminated, no additional . . . benefits from increased transparency will be" realized.<sup>7</sup> While Dimensional appreciates that FINRA is seeking to take a measured, incremental approach by first analyzing the new regulatory data before determining if a transparency regime would be appropriate, we

<sup>4</sup> See Bruce Mizrach *Analysis of Corporate Bond Liquidity*, FINRA Office of the Chief Economist Research Note (2015).

<sup>5</sup> See the Notice, pages 4-7.

<sup>6</sup> See the Notice, page 4.

<sup>7</sup> See the Notice, page 8.

would encourage FINRA to take the next step of publicly disseminating the transaction information as soon as possible.

We strongly advocate for the dissemination of this reported information to best serve all investors, including asset managers, institutions, and Main Street investors.

**Economic costs should be minimal**

FINRA stated in the Notice that the proposal will not “impose significant burdens and costs on firms”.<sup>8</sup> Dimensional trades with a large number of broker-dealers across a wide range of market segments, including both 1) currently TRACE-eligible securities and 2) the proposed U.S. dollar-denominated foreign debt securities. As FINRA suggests, it is also our understanding that many broker-dealers already have TRACE reporting workflows in place. We believe that the benefits to investors of improving FINRA’s market surveillance program will be significant and therefore support this proposal.

**Impacts on trading behavior and competition**

Since 2002, the price transparency and improved oversight made possible by TRACE has been overwhelmingly beneficial to investors, led to narrower bid-ask spreads, and fueled capital markets growth. We believe that an expansion of TRACE reporting to a new market segment (including non-U.S. dollar-denominated foreign sovereign debt) would support and increase these benefits.

We appreciate our regulators continuing to strive to improve the fairness of markets for all participants and are grateful for this opportunity to provide our comments. Please consider our suggestions to improve the constructive proposal for additional TRACE reporting.

Sincerely,

/s/ Gerard O’Reilly

Gerard O’Reilly  
Co-CEO and Chief Investment Officer

<sup>8</sup> See the Notice, page 2.



September 24, 2019

Marcia E. Asquith  
Office of the Corporate Secretary  
Financial Industry Regulatory Authority  
1735 K Street NW  
Washington, DC 20006-1506

**Re: FINRA Regulatory Notice 19-25: Requests for Comments on a Proposal to Require Reporting of Transactions in U.S. Dollar-Denominated Foreign Sovereign Debt Securities to TRACE**

Dear Ms. Asquith:

Bloomberg L.P. is grateful for the opportunity to provide the Financial Industry Regulatory Authority (“FINRA”) with further comments regarding the above-referenced regulatory notice request for comments (the “Notice proposal”).

### **Background**

In principle, Bloomberg agrees with the proposed expansion of the Trade Reporting and Compliance Engine (“TRACE”) reporting to include U.S. dollar denominated debt securities. We would like to add our support to the Financial Information Forum’s TRACE Working Group (“FIF Working Group”) comments and voice additional concerns over the identification of U.S. dollar denominated debt securities.

### **TRACE Expansion Identifier Considerations**

Bloomberg believes that the proposed expansion provides FINRA with the opportunity to afford broker-dealers greater flexibility to expeditiously report all TRACE eligible securities and at the same time lower their operational costs.

FINRA TRACE reliance on CUSIP identifiers for *reporting* trades imposes a significant and restrictive cost on the industry as a whole. In 2009, Bloomberg developed the predecessor to the Financial Instrument Global Identifier (“FIGI”), an open-standard identifier framework that can be used as an alternative to CUSIP for the identification of fixed income securities. In 2014, Bloomberg assigned the rights and interests in FIGI to the Object Management Group (“OMG”), a not-for-profit technology standards consortium that now administers FIGI as an open data standard. FIGI is the only existing standard identification symbology currently in production that, per the requirements set out by the OMG, is fee-free and license-free, in perpetuity, under the MIT Open Source License.

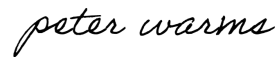
To reduce implementation costs on the consumers of TRACE data, in 2012, FINRA began to include FIGI, as well as the CUSIP and CINS identifiers with the trade data that FINRA

*disseminates* through TRACE.<sup>1</sup> FINRA accurately determined that providing the option for consumers of TRACE data to leverage FIGI, a license-free, machine-readable open data-based identifier system, could increase market transparency while reducing implementation costs by enabling market participants to use the data without the expense of licensing CUSIP numbers. The proposed expansion now enables FINRA to make a similar potential cost savings opportunity available to FINRA members when *reporting* trades to TRACE.

### **Conclusion**

We appreciate the opportunity to provide our comments on the Notice proposal and would be pleased to discuss any questions that FINRA may have with respect to this letter. I can be reached at [pwarms@bloomberg.net](mailto:pwarms@bloomberg.net).

Very truly yours,

A handwritten signature in cursive script that reads "peter warms".

By: Peter Warms

<sup>1</sup> See, e.g., Financial Industry Regulatory Authority, “TRACE Corporate Bonds and Agency Debt User Guide Version 4.7” at 88, available at <http://www.finra.org/sites/default/files/TRAQs-CA-user-guide-v4.7.pdf>.

September 24, 2019

Marcia E. Asquith  
Office of the Corporate Secretary  
Financial Industry Regulatory Authority  
1735 K Street NW  
Washington, DC 20006-1506

RE: FINRA Regulatory Notice 19-25

Dear Ms. Asquith,

On behalf of member of the Financial Information Forum's ("FIF")<sup>1</sup> TRACE Working Group ("Working Group"), FIF would like to thank FINRA for the opportunity to comment on Regulatory Notice 19-25 – FINRA's proposed expansion of TRACE reporting to collect information on trades in foreign sovereign debt securities that are U.S. dollar denominated. In principal, FIF members agree with the proposed expansion of TRACE reporting to include U.S. dollar denominated foreign sovereign debt securities. While FIF members expressed general agreement with the proposed enhancements to TRACE, this letter highlights FIF members' views with respect to potential systems impacts, policy considerations, and open question (*see* Appendix A) that should be considered prior to the promulgation of a final rule that expands upon TRACE eligible fixed-income instruments.

#### Current Status and Proposed Expansion

The Trade Reporting and Compliance Engine (TRACE) was originally developed by the National Association of Securities Dealers (NASD)(now FINRA) to allow for the reporting of over-the-counter (OTC) pertaining to eligible fixed-income securities.<sup>2</sup> Today, TRACE provides investors, broker-dealer, and regulators with access to information pertaining to almost all fixed-income trading activity, including transactional data pertaining to, *inter alia*, treasuries, corporate bonds, agency debt, and U.S. dollar denominated debt securities traded in the United States.<sup>3</sup> Currently, TRACE provides investors and other interested parties access to enhanced transactional data intended to promote greater market transparency in the fixed income market, including real-time order information, data feeds through end-of-day transaction reports, and historical statistics.<sup>4</sup>

On July 26, 2019, FINRA issued Regulatory Notice 19-25, requesting industry comment on a proposed rule change to require the reporting of transactions in U.S. dollar-denominated foreign sovereign debt

<sup>1</sup> FIF ([www.fif.com](http://www.fif.com)) was formed in 1996 to provide a centralized source of information on the implementation issues that impact the securities industry across the order lifecycle. Our participants include trading and back office service bureaus, broker-dealers, market data vendors and exchanges. Through topic-oriented working groups, FIF participants focus on critical issues and productive solutions to technology developments, regulatory initiatives, and other industry changes.

<sup>2</sup> Investopedia.com/terms/t/trace.asp.

<sup>3</sup> *Id.*; see also Regulatory Notice 19-25.

<sup>4</sup> *Id.*

securities to TRACE.<sup>5</sup> FIF believes that in principal, including eligible U.S dollar denominated foreign sovereign debt within the scope of TRACE reporting will provide FINRA the means to provide investors and other interested parties with greater transparency into the fixed-income markets. However, as will be discussed, *infra*, FIF strongly suggests that FINRA fully review, assess, and seek additional industry feedback pertaining to potential implementation challenges and open questions prior the publication of a final rule proposal that seeks to expand upon the current scope of TRACE-eligible securities.

#### TRACE Expansion – Implementation Considerations

FIF recognizes and appreciates that FINRA’s proposed expansion of TRACE to include U.S dollar denominated foreign sovereign debt will ultimately provide the regulators, investors, broker-dealers and other interested parties with increased transparency into the fixed-income market. However, FIF emphasizes that with any proposed rule expansion, regulators must fully assess whether the potential costs/resource burden imposed upon broker-dealers should the rule be approved outweighs potential benefits. Following the publication of Regulatory Notice 19-25, FIF engaged in both formal and informal discussions with industry members to better understand potential impacts to systems and operations should FINRA approve any expansion of TRACE to include U.S. dollar denominated sovereign debt. Upon initial review, FIF believes that expansion of TRACE may impose some development costs and implementation challenges to broker-dealers that trade U.S. dollar denominated foreign sovereign debt. In that spirit, FIF members have identified several open questions that should be considered prior to expanding upon TRACE that may ultimately impact the costs of implementation.

#### Availability of CUSIPs and Other Identifiers

Upon initial review of Regulatory Notice 19-25 with Industry Members, FIF believes that greater information is required regarding the means by which the CUSIPs specific to U.S. dollar denominated foreign sovereign debt will be disseminated to industry members. FIF believes that greater specificity is required regarding how FINRA expects firms to report U.S. dollar sovereign foreign debt should a CUSIP or other identifier not be available at the time that the debt security is initially traded. Currently, broker-dealers must register for and be assigned a CUSIP identifier once a new security is traded in the financial markets. However, FIF understands that certain U.S. dollar denominated foreign sovereign debt, especially those transactions derived from foreign issue desks, may not contain a CUSIP at the time the security becomes TRACE eligible. If FINRA and the SEC expand TRACE eligibility to include fixed income securities that may not include CUSIPs or another such identifier, FIF respectfully requests that FINRA provide greater detail regarding how firms should report TRACE-eligible securities should a CUSIP not be assigned.

FIF further recommends that FINRA consider allowing broker-dealers the option of appending other standardized identifiers on TRACE reports should CUSIPs not be available at the time that a fixed-income security is initially traded. For example, by allowing firms the optionality of leveraging a standardized identifier such as a Financial Instrument Global Identifier (“FIGI”)<sup>6</sup> and/or an International Securities Identification Number (“ISIN”)<sup>7</sup>, broker-dealers will be afforded additional flexibility to expeditiously report U.S. dollar denominated foreign debt securities should CUSIPs not be available at the time of reporting.

<sup>5</sup> [Regulatory Notice 19-25](#).

<sup>6</sup> <https://www.openfigi.com/about/figi>

<sup>7</sup> <https://www.isin.net/isin-identifier/>

Additionally, as is specified in Appendix A, *infra*, FIF members believe that greater detail is required regarding how FINRA intends to provide broker-dealers with information regarding eligible CUSIPs in-scope of the proposed expansion. FIF believes that unlike bonds in which broker-dealers currently report to TRACE, the underwriting syndicate desk that issues U.S. dollar denominated foreign sovereign debt is likely to be completely outside of FINRA's jurisdiction. However, because many firms may not currently employ methodologies to perform reference data mapping to foreign issues that would fall under the scope of the proposed expansion, FIF recommends that FINRA strongly consider providing broker-dealers with access to a centralized data repository that will include all relevant information related to securities in scope pursuant to the proposed expansion of TRACE. FIF notes that if FINRA does not have a mechanism in place that to automatically add new bonds to a centralized securities list, many broker-dealers will likely reach out to FINRA on the same day, resulting in an inefficient process.

Should FINRA provide industry members with additional guidance required to determine whether a U.S. dollar denominated foreign sovereign security will be TRACE-reportable, additional detail is required regarding whether FINRA will provide the recommended TRACE-eligible list through a separate and distinct feed, or will CUSIP information be provided within a current feed? FIF members emphasize that clarity regarding how information pertaining to how FINRA intends to communicate CUSIP numbers of TRACE-eligible securities that may fall under the scope of the expanded rule. This information is critical as firms will be required to perform internal assessments as to whether potential systems enhancements may be required during the implementation phase if FINRA elects to expand upon the current scope of TRACE- eligible securities.

#### Execution Time/Settlement

FIF believes that the majority of the transactional activity that will result in U.S. dollar denominated foreign sovereign debt securities ultimately becoming TRACE reportable pursuant to the proposed expansion will be initiated in foreign markets (and ultimately traded on U.S. desks). Therefore, TRACE reportable time of execution data may not be easily identified by the U.S. broker-dealer who ultimately will be required to report U.S. dollar denominated foreign debt to TRACE. Additionally, trades in U.S. dollar denominated foreign sovereign debt may occur between a FINRA member and a foreign non-FINRA member, which may not be a valid U.S. business date. In many cases, broker-dealers do not permit domestic trades to be processed on a non-U.S. business date since the time of execution may occur during local time zone hours. Therefore, when the time of execution detail is processed the next business day, the time of execution will appear as though the trade occurred in the future, and may not be permitted by current system logic. In this scenario, altering the trade date will not be appropriate since it can impact the length to settlement.

FIF recommends that to allow time of execution detail to be accurately captured pertaining to new issues/transactions that initially occur on foreign markets, FINRA consider engaging in discussions with industry members to determine the availability of a cost-effective solution that will allow broker-dealers to accurately report time of execution detail. As an initial matter, FIF engaged in preliminary discussions with industry members and believe that a possible solution may involve the creation of a new modifier that can be appended to trades in fixed-income securities that initiate outside of U.S. markets. However, this solution may ultimately result in significant implementation issues, especially if the broker-dealer that trades in U.S. dollar denominated foreign sovereign debt cannot reasonably access time of execution detail pertain to trades that the broker-dealer did not initiate. Therefore, FIF strongly recommends that prior to the finalization of a rule proposal that expands upon TRACE reporting requirements, FINRA fully engage with industry subject matter experts to determine whether time of

execution detail pertaining to trades initiated in a foreign market can be accurately captured in a manner that does not impair trade settlement processes.

#### Systems Development Efforts and Harmonization

FIF notes that with any regulatory reporting protocol that seeks to provide investors and other interested parties with greater transparency into the financial markets, such protocols should incorporate rule-based reporting methodologies. Therefore, FIF recommends that to better promote consistency across all TRACE-eligible fixed-income securities, all U.S. dollar denominated bonds (whether foreign sovereign debt or otherwise) should be treated in a similar fashion. As the fixed-income market continues to expand and proliferate, providing the industry with a systematic, rules-based approach to TRACE eligibility metrics and reporting logic will allow participants to electronically handle increasing amounts of bond trading via straight-through processing. Therefore, should TRACE be expanded to include U.S. dollar denominated foreign sovereign debt, FIF strongly recommends that FINRA should apply the same logic and reporting requirements across all U.S. dollar denominated bonds.

FIF further emphasizes that should TRACE be expanded, that FINRA require that all U.S. dollar denominated bonds should be reported through to the same TRACE system/engine (*i.e.* corporates) that are currently in existence. Leveraging existing TRACE reporting infrastructures and logic should better promote consistency in TRACE reporting, as well as to better allow broker-dealers an accurate baseline to determine TRACE eligibility. Further fragmentation in the TRACE reporting regime is likely to result in the inability of broker-dealers to apply rules-based logic in determining TRACE eligibility and could impair the ability of broker-dealers to accurately and consistently report all TRACE-eligible securities. Therefore, FIF strongly recommends that should TRACE be expanded to include U.S. dollar denominated foreign sovereign debt, that FINRA leverage existing TRACE reporting infrastructure and reporting logic to report. A separate and distinct reporting systems that encompasses only U.S. dollar denominated foreign debt securities will not only promote greater inconsistency and fragmentation within the fixed-income regulatory reporting infrastructure, but will also implicate significant costs which may potentially exceed the benefits of additional transparency that the rule seeks to provide investors.

#### Definitional Clarity

Regulatory Notice 19-25 defines U.S. dollar denominated foreign sovereign debt securities as “debt securities that are issued or guaranteed by the government of a foreign country, any political subdivision of a foreign country, or a supranational entity. Supranational entities are multi-national organizations such as the International Bank for Reconstruction & Development (“World Bank”), the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the International Finance Corporation, and the European Investment Bank.”<sup>8</sup> While FIF believes that the definition of foreign sovereign debt securities do provide sufficient specificity regarding the additional securities that may be in scope should FINRA elect to expand upon TRACE reporting obligations, FIF believes additional specificity is required. Specifically, FIF members request that greater detail/examples be provided regarding what is considered a “political subdivision” under the definition. FIF believes that these additional details are critical to allow firms to better understand the full scope of debt securities that may be reportable should FINRA elect to expand upon what is currently reportable through TRACE.

<sup>8</sup> *Supra* note, 5.

Additional Recommendations

FIF recommends that prior to the finalization of a final rule that will expand upon TRACE reportable securities, FINRA perform an assessment to determine whether the reporting of U.S. dollar denominated foreign sovereign debt securities may result in cross-border rule harmonization implications that may potentially impair firms' ability to reasonably report to TRACE. Should securities in-scope pursuant to the proposed expansion of TRACE be reportable in jurisdictions outside of the United States, industry members and FINRA will need to ensure that extra-jurisdictional reporting requirements will not impair broker-dealers' ability to report through TRACE.

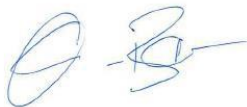
Furthermore, FIF believes that the intent of the proposed expansion of TRACE to include U.S. dollar denominated foreign sovereign debt instruments will promote greater transparency into the fixed income markets. However, should FINRA-registered broker-dealers be required to report U.S. dollar denominated foreign sovereign debt securities to another jurisdiction, FIF highly recommends that FINRA allow firms the option of exempting reporting to TRACE should a security be reported in another jurisdiction. This proposed optional exemption would prevent firms from dual reporting to FINRA and another jurisdiction's regulatory body, which will likely cause confusion regarding market sentiment conditions, trading volume, etc...

Conclusion

FIF appreciates the opportunity to comment on Regulatory Notice 19-25. FIF continues to support FINRA's focus on providing investors and other interested parties with increased transparency into the financial markets. While FIF believes that the proposed expansion of TRACE to include U.S. dollar denominated sovereign foreign debt securities will ultimately provide greater transparency into the Fixed Income market, we request that the questions and recommendations contained in this letter and associated appendix be considered during the final rule development phase. FIF believes that the assessment of and response to industry member questions/concerns will ultimately result in a more streamlined and cost-effective implementation phase should FINRA elect to expand TRACE to include U.S. dollar denominated foreign sovereign debt securities.

FIF welcomes the opportunity to discuss the considerations raised in this letter at FINRA's earliest convenience.

Regards,



Christopher Bok, Esq.  
Director, Financial Information Forum

CC: Cara Bain, Assistant General Counsel, OGC, FINRA  
Alié Diagne, Director, Transparency Services, FINRA  
Alex Ellenberg, Associate General Counsel, OGC, FINRA  
Joseph Schwetz, Senior Director, Market Regulation, FINRA

Appendix A

1. How will FINRA disseminate the list of TRACE-eligible securities/CUSIPs in scope pursuant to the proposed expansion? Will TRACE eligible CUSIPs be included within the existing TRACE eligible securities list (specific to U.S. Dollar denominated sovereign debt securities)?;
2. Because CUSIPs may not be available when a U.S. denominated foreign sovereign debt security becomes TRACE reportable, is there an opportunity for FINRA to consider other identifiers to report foreign debt securities (*e.g.* FIGI, ISIN);
3. Which TRACE reporting facility will be leveraged to report U.S. denominated debt (*i.e.* Corporates)?
4. FIF believes greater detail is required with respect to the settlement process:
  - a. Greater clarity is required regarding the time that should be reported at the time of execution;
  - b. Should firms report transactions that occur in foreign markets by leveraging the “as is” modifier?;
  - c. If a trade occurs at the end of the business day, may trades be reported on the next business day provided that the “as of” timestamp includes the correct transaction time?;
  - d. How should firms report transactions that occur as a result of a trade with a firm that is a foreign entity (*i.e.* does not have a MPID)?
5. Which Trade Modifier should be applied to each applicable trades in-scope under the proposed expansion? Will a list of trade modifiers be provided to industry members?;
6. Will U.S. Dollar Denominated foreign sovereign debt securities also be included within FINRA Rule 2232 (“Mark-Up/Mark-Down)?;
7. Definition of U.S. Dollar Denominated Sovereign Debt:
  - a. Greater clarity is required regarding the definition of “political subdivision”;
8. Has FINRA assessed whether other jurisdictions require reporting of foreign debt securities. If so, has identified any harmonization issues that may pose implementation challenges?
9. Does FINRA anticipate disseminating a list of current foreign debt securities that may fall under the proposed rule?
  - a. Will FINRA publish an updated securities list if a foreign debt security is added or removed?



September 24, 2019

Submitted electronically to: [pubcom@finra.org](mailto:pubcom@finra.org)

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

**Re: RN 19-25: Reporting of Transactions in U.S. Dollar-Denominated Foreign Sovereign Debt Securities to TRACE<sup>1</sup>**

Dear Ms. Asquith,

SIFMA<sup>2</sup> is pleased to respond to FINRA's Regulatory Notice 19-25 ("RN") on proposed TRACE reporting requirements for U.S. dollar denominated foreign sovereign and supranational securities. SIFMA members are active participants in fixed-income markets, including the markets covered by the RN, and view this proposal with great interest.

The RN includes the proposal that FINRA-member broker-dealers generally be required to engage in same-day TRACE reporting for USD-denominated foreign sovereign and supranational trading (referred to in this letter as "sov/supra"). FINRA would not disseminate these reports. FINRA indicates that reporting would allow it to better supervise these markets.

**A. Considerations for the Reporting of Transactions**

SIFMA members understand FINRA's desire for regulatory reporting of transactions in these securities for the purposes of its supervisory activities, however, we believe it is important to recognize that the nature of these markets will not result in FINRA receiving comprehensive

<sup>1</sup> The RN is available here: <https://www.finra.org/rules-guidance/notices/19-25>

<sup>2</sup> SIFMA is the voice of the U.S. securities industry. We represent the broker-dealers, banks and asset managers whose nearly 1 million employees provide access to the capital markets, raising over \$2.5 trillion for businesses and municipalities in the U.S., serving clients with over \$18.5 trillion in assets and managing more than \$67 trillion in assets for individual and institutional clients including mutual funds and retirement plans. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA).

information regarding trading in these markets. In contrast to most other TRACE-eligible markets, a significant amount of trading in sov/supra debt does not occur at FINRA-member broker dealers, as a significant proportion of trading occurs off-shore and by non-US entities. Accordingly, FINRA will not get the full picture of market activity. This could lead to regulatory confusion, needless inquiries, or other inefficiencies.

We believe it would be beneficial for FINRA to discuss with market participants how sov/supra trading is executed by FINRA-member firms, their foreign affiliates and other market participants prior to implementing the proposed rule-changes so that the supervisory regime may be tailored to the market and the unique role member-firms play within it. In some ways this is a similar issue to that in the U.S. Treasury market where a significant proportion of volume is traded outside of the broker dealer community. This gap in visibility weakens the utility of the data for supervisory activity and the drawing of conclusions based on it.

We have a number of additional questions and concerns related to the RN that FINRA should clarify or otherwise address.

- *Defining the Scope*

FINRA proposes to extend the definition of “TRACE-Eligible Security” to “Foreign Sovereign Debt Securities” – a term which has yet to be defined but which is to closely track the same term currently used in Reg ATS.<sup>3</sup> Elsewhere in the RN FINRA indicates that such TRACE reporting will extend to “debt securities that are issued or guaranteed by a government of a foreign country, any political subdivision of a foreign country, or a supranational entity.” In this regard, our members request that FINRA provide significant and specific guidance as to which types of issuers would meet these standards.<sup>4,5</sup> For example, members seek specific guidance as to what would constitute a government “guarantee” and parameters around in-scope “political subdivisions”.<sup>6</sup>

It is worth noting that, as FINRA knows, there have been historical challenges for FINRA members in determining which foreign-issued securities are TRACE eligible (such as Reg S securities which are traded subsequent to applicable seasoning periods). Challenges have also surfaced in supplying required information to FINRA so that seasoned Reg S securities become available for reporting in the TRACE system (since U.S. firms may not have been part of the distribution of the issuance). Given that the proposed rule change will likely result in more of these challenges as the number of foreign-issued TRACE-eligible securities will increase substantially, FINRA should be cognizant of the strains placed on members when designing its related supervisory structure/program. SIFMA would be pleased to facilitate a discussion for FINRA and its members on this issue.

<sup>3</sup> RN Footnote 5.

<sup>4</sup> It is SIFMA’s position is that none of these “Foreign Sovereign Debt Securities” are issued by “foreign private issuers” as defined in Rule 405 of the Securities Act or Rule 3b-4(c) of the Exchange Act. For the avoidance of doubt, FINRA should confirm this.

<sup>5</sup> We also note that the definition FINRA has proposed for “Foreign Sovereign Debt Securities” defines the scope of that term without regard to the nature of the issuance (registered, Reg S, or otherwise) such that all securities issued by these issuers are TRACE reportable. FINRA should clarify this if it disagrees or confirm our view if it agrees.

<sup>6</sup> As FINRA notes, currently members are not required to TRACE report the securities of issuers who are entitled to register securities under Schedule B. It is often unclear to members which issuers would qualify under Schedule B however. While the SEC has historically been asked to provide No Action guidance with respect to a range of development banks or other issuers who are closely aligned with or identified with a sovereign, to the extent that an issuer has not sought such No Action then members would be required to conduct their own analysis on a case by case basis.

- *Security Identifiers*

As we have discussed in previous comment letters, the lack of consistent availability of CUSIP numbers presents a further operational challenge for members.<sup>7</sup> In the case of sov/supras, we believe this problem is more prevalent. Obtaining a FINRA identifier where a CUSIP is not used, while a solution, is neither efficient nor automatable. We believe the superior solution is for FINRA to allow for the submission of ISINs, which are broadly available when a CUSIP is not used.

- *Implementation Timelines*

Given that updated rules suggested by the RN would mandate new operational requirements to markets not currently impacted by TRACE, we are pleased to see FINRA proposing end of day reporting. We believe this is appropriate. We would note in a similar vein that FINRA should also provide ample time for firms to program their systems to automate the reporting. We believe a lead time of no less than one year, and ideally 18 months, would be sufficient.

## **B. Considerations with Respect to Potential Public Dissemination**

This proposal requests comments on the reporting of dealer trades in these securities to FINRA. However, given the path of other markets through TRACE, our members also considered the prospect that rulemaking would eventually be expanded to require that these trades be publicly disseminated. In summary form, we believe there are several potentially significant complications and consequences regarding dissemination of sov/supra transactions in anything approaching a real-time nature, and do not believe the benefits outweigh the risks. We believe this requires FINRA to approach this idea very carefully, involving not only the U.S. based buyers and sellers of the bonds but also the sovereign issuers and regulators who will be impacted by changes in their markets.

- *The Need to Solicit Feedback from Foreign Sovereigns, Supranationals and their Market Regulators*

The most important distinction between sov/supra markets addressed by this RN and those otherwise included in the TRACE requirements (ex-U.S. Treasury) is that instead of a corporate entity issuing securities to fund its business, the issuer is a country or political subdivision issuing securities to support its fiscal policy, domestic agenda, or other social programs. To the extent that regulatory changes here in the U.S. impair the execution, secondary pricing, or liquidity of an issuer's securities, the effects could very well be felt by the country itself through an impact on the execution of its fiscal policy or other programs. This is very different than the situation faced by a corporate issuer that would be able to respond to financing cost changes through price changes or adjustments to supply chains, etc.

<sup>7</sup> See, e.g., SIFMA letter re: Corporate Bond New Issue Reference Data, available here [https://www.sifma.org/wp-content/uploads/2019/06/CorpBondNewIssue\\_Sifma.pdf](https://www.sifma.org/wp-content/uploads/2019/06/CorpBondNewIssue_Sifma.pdf), at 3.

Additionally, USD sovereign markets are not homogeneous and the impact on each may be more or less significant. Of the 116 issuers identified by FINRA,<sup>8</sup> larger in-scope issuers and their markets can be very different from smaller issuers and their markets. Indeed, within the 5 largest issuers identified in the RN (Canada, Argentina, South Korea, France and Sweden)<sup>9</sup> there are very different economic situations driving different outcomes for related securities markets. In addition, some jurisdictions have existing regulatory reporting and transparency requirements in place. This of course makes it important for FINRA to consider the differing needs of each type of market. Much like was done for securitized products, FINRA should consider different approaches for different sectors of the market if it moves to proposing trade dissemination.

Further, we believe that FINRA should discuss the prospect of dissemination with some of these foreign issuers, including both large G10 issuers and some smaller emerging market nations and supranational organizations. We believe that various constituents in other countries, including finance ministries and key regulators, would view this proposal with great interest.

- *The Risks to Liquidity*

As we have discussed, sov/supra markets are different from the other markets subject to TRACE reporting and share similarities with the Treasury market (i.e. the issuance of these securities is how finance ministries execute fiscal policy and their domestic policy agendas). We believe that, as we have seen in other markets, there is a likelihood that public dissemination could impair liquidity in these markets. Given the limited size of many of these markets, members are concerned that it would be unlikely that transaction counterparties could remain anonymous. There is simply not enough volume in some markets to provide that protection. Second, our members believe that price transparency is at appropriate levels today. As a general matter, the USD sov/supra markets are small and involve transactions among institutional investors who have access to effective sources of pricing information. We believe these markets generally have very low levels of retail participation. The traditional motivation to provide price transparency to retail investors, who are generally less able to access the multiple sources of pricing that institutional investors can find, is not as present here. Accordingly, the justification for imposing policies that may harm institutional liquidity because they provide some benefit to retail investors is not as relevant.

FINRA should also consider the incentive effects of dissemination. As we noted, trading is geographically dispersed in these markets. Will market participants shift the location of trade execution to avoid transparency in whole or in part for certain size trades (e.g., block trades)? The impact could be that the USD sov/supra markets increasingly move offshore and FINRA members see decreased trading activity. Our members have expressed concern regarding these issues.

- *The Risks from an Incomplete Dataset*

Further, as discussed above, trading in sov/supras is distributed internationally, with TRACE-reportable U.S. activity making up only a portion of global activity. Any analysis of the impact of public dissemination must include a review of whether such an incomplete dataset could be misleading to recipients of disseminated data.

<sup>8</sup> RN at 4.

<sup>9</sup> RN at 5

- *The Risk of Complications with Current Rulemaking Efforts*

We also note that the issue of public dissemination is currently being debated in the U.S. regarding Treasury securities. Treasury transactions are not disseminated at this time, and there is an active debate as to the merits of doing so.<sup>10,11</sup> We note that some of the issues present in the Treasury market – including the impacts on fiscal policy, and concerns around an incomplete dataset -- are also present here, as we have discussed. Adding another asset class with its own unique circumstances and various liquidity profiles to this debate at this point could potentially further confuse the analysis. Furthermore, FINRA is currently exploring the structure of a pilot program in the corporate markets aimed at testing whether changes to block trade dissemination could improve liquidity in that sector. We believe that there may be valuable lessons learned from that exercise and it would advise FINRA to evaluate the results before imposing dissemination regimes on additional markets.

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We appreciate this opportunity to provide input to FINRA. We would welcome further opportunities to discuss our comments, at your convenience.

Regards,



Christopher B. Killian  
Managing Director  
Securitization and Corporate Credit

<sup>10</sup> SIFMA has provided views on this issue, see, e.g., *SIFMA Letter to the Treasury Department*, <https://www.sifma.org/wp-content/uploads/2017/05/sifma-submits-comments-to-the-treasury-in-response-to-rfi.pdf> at 11.

<sup>11</sup> On September 23, 2019, Treasury Deputy Secretary Justin Muzinich indicated that Treasury's view is that aggregated disclosure is an appropriate path forward. See his remarks at the 2019 US Treasury Market Structure Conference here: <https://home.treasury.gov/news/press-releases/sm782>.

**EXHIBIT 5**

Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

\* \* \* \* \*

**6000. QUOTATION, ORDER, AND TRANSACTION REPORTING FACILITIES**

\* \* \* \* \*

**6700. TRADE REPORTING AND COMPLIANCE ENGINE (TRACE)**

\* \* \* \* \*

**6710. Definitions**

The terms used in this Rule 6700 Series shall have the same meaning as those defined in the FINRA By-Laws and rules unless otherwise specified. For the purposes of this Rule 6700 Series, the following terms have the following meaning:

(a) “TRACE-Eligible Security” means a debt security that is United States (“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 paragraph (k) or a Government-Sponsored Enterprise as defined in paragraph (n); [or] (3) a U.S. Treasury Security as defined in paragraph (p); or (4) a Foreign Sovereign Debt Security as defined in paragraph (kk). “TRACE-Eligible Security” does not include a debt security that is [issued by a foreign sovereign or] a Money Market Instrument as defined in paragraph (o).

(b) through (jj) No Change.

(kk) “Foreign Sovereign Debt Security” means a debt security issued or guaranteed by the government of a foreign country, any political subdivision of a foreign country, or a supranational entity.

••• **Supplementary Material:** -----

.01 No Change.

\* \* \* \* \*

## **6730. Transaction Reporting**

### **(a) When and How Transactions are Reported**

Each member that is a Party to a Transaction in a TRACE-Eligible Security must report the transaction. A member must report a transaction in a TRACE-Eligible Security as soon as practicable, but no later than within 15 minutes of the Time of Execution, except as otherwise specifically provided below. Transactions not reported within the specified timeframe will be designated as “late.” A member must transmit the report to TRACE during TRACE System Hours.

(1) through (4) No Change.

### **(5) Reporting Requirements — Foreign Sovereign Debt Securities**

Transactions in a Foreign Sovereign Debt Security must be reported as provided in this paragraph (a)(5).

#### **(A) General Reporting Requirements**

Transactions in Foreign Sovereign Debt Securities executed on:

(i) a business day at or after 12:00:00 a.m. Eastern Time through 5:00:00 p.m. Eastern Time must be reported the same day during TRACE System Hours;

(ii) a business day after 5:00:00 p.m. Eastern Time but before the TRACE system closes must be reported no later than the next business day (T+1) during TRACE System Hours, and, if reported on T+1, designated “as/of” and include the date of execution; or

(iii) a business day at or after 6:30:00 p.m. Eastern Time through 11:59:59 p.m. Eastern Time, or 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 (determined using Eastern Time) must be reported the next business day (T+1) during TRACE System Hours, designated “as/of” and include the date of execution.

(5) through (7) renumbered as (6) through (8).

(b) through (f) No Change.

**••• Supplementary Material: -----**

**.01 through .07** No Change.

\* \* \* \* \*

**6750. Dissemination of Transaction Information**

(a) through (b) No Change.

**(c) Transaction Information Not Disseminated**

FINRA will not disseminate information on a transaction in a TRACE-Eligible Security that is:

(1) through (3) No Change.



(4) a Securitized Product that is: a CMBS; a CDO; or a CMO if the CMO transaction value is \$1 million or more (calculated based upon original principal balance) and the transaction does not qualify for periodic dissemination under paragraph (b) of this Rule[above], except as may be otherwise provided in Rule 7730; [or]

(5) a U.S. Treasury Security[.]; or

(6) a Foreign Sovereign Debt Security.

••• **Supplementary Material:** -----

**.01** No Change.

\* \* \* \* \*