

Trade Reporting and Compliance Engine (TRACE)

Exemption From Trade Reporting Obligation for Certain Transactions on Alternative Trading Systems

Effective Date: October 3, 2022

Summary

FINRA has adopted amendments to Rule 6732 (Exemption from Trade Reporting Obligation for Certain Transactions on an Alternative Trading System) to expand the scope of the exemption to include eligible ATS transactions that involve only one member (other than the ATS). As amended, a member ATS may apply for the exemption for transactions between a member subscriber and a non-member entity (e.g., a bank). The amendments to Rule 6732 will take effect on October 3, 2022.

The amended rule text is available in the online FINRA Manual.

Questions regarding this *Notice* should be directed to:

- ▶ for information on how to apply for exemptive relief, Joseph Schwetz, Senior Director, Market Regulation, at (240) 386-6170 or by email at joseph.schwetz@finra.org; or
- ▶ for legal and interpretive questions, Racquel Russell, Senior Vice President, Capital Markets Policy, Office of General Counsel, at (202) 728-8363 or by email at racquel.russell@finra.org.

Background and Discussion

FINRA has adopted amendments to Rule 6732 to extend the current ATS trade reporting exemption to transactions that involve at least one FINRA member (other than the ATS), so long as the other conditions specified in the rule are met.¹ Under the amended scope, the Rule 6732 exemption (where granted) would permit additional member ATSS to avail themselves of an alternative, streamlined reporting regime that simplifies TRACE reporting without compromising transparency. Specifically, amended Rule 6732 provides that, pursuant to the Rule 9600 Series (Procedures for Exemptions), FINRA staff may exempt, upon application, a member ATS from the trade reporting requirements of Rule 6730 (Transaction Reporting) where the following criteria are satisfied:

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Notice Type

- ▶ Rule Amendment

Suggested Routing

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

Key Topics

- ▶ Alternative Trading System
- ▶ Fixed-Income Security
- ▶ TRACE
- ▶ TRACE-Eligible Security
- ▶ Transaction Reporting

Referenced Rules

- ▶ FINRA Rule 6710
- ▶ FINRA Rule 6720
- ▶ FINRA Rule 6730
- ▶ FINRA Rule 6732
- ▶ FINRA Rule 9600 Series
- ▶ Regulatory Notice 16-15

- ▶ the trade involves at least one FINRA member (other than the ATS) that meets the definition of “Party to a Transaction;”²
- ▶ the trade does not pass through any ATS account, and the ATS does not exchange TRACE-eligible securities or funds on behalf of the subscribers, take either side of the trade for clearing or settlement purposes, including, but not limited to, at the Depository Trust Company or otherwise, or in any other way insert itself into the trade;
- ▶ the ATS agrees to provide to FINRA on a monthly basis, or such other basis as prescribed by FINRA, data relating to each exempted trade occurring on the ATS’s system pursuant to Rule 6732, and the ATS acknowledges that failure to report such data to FINRA, in addition to constituting a violation of FINRA rules, will result in revocation of any exemption granted pursuant to Rule 6732;
- ▶ the ATS remits to FINRA a transaction reporting fee based on the fee schedule set forth in paragraph (b)(1) of Rule 7730 (Trade Reporting and Compliance Engine (TRACE)) for each exempted sell transaction occurring on the ATS; and
- ▶ the ATS has entered into a written agreement with each member that is a “Party to a Transaction” with respect to any trade for which the ATS is exempted under Rule 6732, specifying that the trade must be reported by the member pursuant to Rule 6730(c)(13), identifying the trade as having occurred on the ATS using the ATS’s separate MPID obtained in compliance with Rule 6720(c).

Where the criteria in the rule are satisfied, an exempted trade occurring on the ATS must be reported by a member (other than the ATS) that meets the definition of “Party to a Transaction” identifying a counterparty other than the ATS with respect to each side of the trade.³ In addition, for a transaction between a member and a non-member on an ATS that is a “covered ATS” under Rule 6730.07, the ATS must provide to the member subscriber (and the member subscriber must report to TRACE using) the FINRA-assigned identifier for each non-FINRA member subscriber. A “covered ATS” is defined as an ATS that executed transactions in U.S. Treasury Securities against non-FINRA member subscribers of \$10 billion or more in monthly par value, computed by aggregating buy and sell transactions, for any two months in the preceding calendar quarter.⁴

FINRA considers exemptive applications on a case-by-case basis, taking into consideration all the relevant factors. Specifically, FINRA staff may grant an exemption to a member ATS if such exemption is consistent with the protection of investors and the public interest and only where all of the rule’s criteria are satisfied.⁵

Endnote

1. See Securities Exchange Act Release No. 93966 (January 12, 2022), 87 FR 2976 (January 19, 2022) (SR-FINRA-2021-029) (“Order Approving Proposed Rule Change to Amend FINRA Rule 6732 and Expand the Scope of Exemptions that FINRA May Grant ATSS from the TRACE Reporting Requirements”).
2. “Party to a Transaction” means an introducing broker-dealer, if any, an executing broker-dealer, or a customer. “Customer” includes a broker-dealer that is not a FINRA member. See Rule 6710(e).
3. See Rule 6732(b).
4. See Rule 6730.07.
5. See generally [Regulatory Notice 16-15](#), Exemption from Trade Reporting Obligation for Certain Transactions on Alternative Trading Systems (April 2016).