

HUDSON RIVER TRADING LLC

February 13, 2023

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

Re: FINRA Regulatory Notice 15-13 – Trading Activity Fee (TAF), May 2015

Dear Ms. Mitchell:

Hudson River Trading LLC<sup>1</sup> (“Hudson River Trading”) appreciates the opportunity to comment on the Financial Industry Regulatory Authority, Inc. (“FINRA”) proposal to exempt from the Trading Activity Fee (“TAF”) proprietary trading firm transactions on an exchange of which it is a member (the “Proposal”).<sup>2</sup>

The Securities and Exchange Commission (“Commission”) recently re-proposed amendments to Rule 15b9-1 (“Rule 15b9-1”) under the Securities Exchange Act of 1934 (“Exchange Act”) that would require FINRA membership for proprietary trading firms that engage in off-member-exchange trading.<sup>3</sup> If the proposed amendments are adopted without a corresponding change to the assessment of the TAF, the affected firms’ costs will increase significantly. Hudson River Trading supports FINRA’s proposed exemption to TAF for proprietary trading firms in view of the fact that it appropriately recognizes the differences in the activities and supervisory costs relating to regulation of proprietary trading businesses and customer businesses.

Hudson River Trading agrees with FINRA<sup>4</sup> and the Commission<sup>5</sup> that, absent a change in the application of TAF, many firms affected by the proposed amendments to Rule 15b9-1 would see a significant increase in regulatory costs<sup>6</sup> that may be disproportionate to FINRA’s costs of regulating such firms.<sup>7</sup>

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<sup>1</sup> Hudson River Trading is a multi-asset class quantitative trading firm that provides liquidity on global markets and directly to our clients. Its two broker-dealer subsidiaries (HRT Financial LP and HRT Execution Services LLC) are registered with the Commission pursuant to Section 15 of the Exchange Act and are both members of FINRA and various exchanges.

<sup>2</sup> See FINRA Regulatory Notice 15-13, *Trading Activity Fee (TAF)* (May 2015) (“Regulatory Notice”, available at [http://www.finra.org/sites/default/files/notice\\_doc\\_file\\_ref/Notice\\_Regulatory\\_15-13.pdf](http://www.finra.org/sites/default/files/notice_doc_file_ref/Notice_Regulatory_15-13.pdf)).

<sup>3</sup> See Securities Exchange Act Release No. 95388 (July 29, 2022), 87 FR 49930 (August 12, 2022) (“Re-Proposing Release”), available at <https://www.sec.gov/rules/proposed/2022/34-95388.pdf>

<sup>4</sup> See *supra* note 2.

<sup>5</sup> See *supra* note 3.

<sup>6</sup> Hudson River Trading estimates that, for those active propriety trading firms relying on the current exemption to registration with FINRA that would be required to become FINRA members if the proposed amendments are adopted, the additional regulatory costs could amount to several million dollars per year.

<sup>7</sup> See *supra* note 2 at 3 (“FINRA analyzed the potential application and impact of the TAF to proprietary trading firms and believes it could result in a significant TAF obligation for these firms that may be disproportionate to FINRA’s anticipated costs associated with the financial monitoring and trading surveillance of these firms, in large part because these firms do not have customers.”).

FINRA currently exempts many on-exchange transactions, including (1) proprietary transactions effected in a firm's capacity as an exchange market maker or specialist and (2) transactions by a firm that is a floor-based broker and that is a member of both FINRA and a national securities exchange, provided that the floor-based broker qualifies for exemption from FINRA membership under Rule 15b9-1. These exemptions demonstrate FINRA's recognition that the cost of regulating proprietary, on-exchange transactions is significantly different than that associated with regulating customer transactions.

Hudson River Trading supports the proposed exemption to the TAF for proprietary trading firms. In light of the significantly lower cost of FINRA regulation of proprietary trading member firms that have limited business model and do not engage in customer business, Hudson River Trading believes that a modification to TAF is critical to ensuring that FINRA equitably allocates fees among members firms. We believe that the exemption appropriately recognizes the cost differences in regulating proprietary trading businesses and customer businesses and results in a more equitable allocation of fees among FINRA members.

Hudson River Trading appreciates the opportunity to submit these comments and would be pleased to meet with FINRA to further discuss them or to respond to any questions you may have.

Sincerely,

/s/ Adam Nunes

Adam Nunes