

HUDSON RIVER TRADING LLC

June 19, 2015

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

Re: Regulatory Notice 15-13 – Trading Activity Fee

Dear Ms. Asquith:

Hudson River Trading LLC (“Hudson River Trading”) appreciates the opportunity to comment on FINRA’s proposed exemption to the Trading Activity Fee (“TAF”) for proprietary trading firms.

Hudson River Trading is a global, multi-asset class quantitative trading firm that develops automated trading strategies that provide liquidity and facilitate price discovery on exchanges and Alternative Trading Systems (“ATs”).

Hudson River Trading’s broker-dealer affiliate, HRT Financial LLC (“HRTF”), is a proprietary trading and market making firm that is registered with the Securities and Exchange Commission (the “Commission”) and 16 exchanges, including all US equities exchanges. HRTF is currently exempt from FINRA registration under Rule 15b9-1 under the Securities Exchange Act of 1934.

The Commission recently proposed amendments to Rule 15b9-1 that would require FINRA membership for proprietary trading firms that engage in off-exchange trading<sup>1</sup>. If the amendments are adopted and there is no change to the TAF, the affected firms’ regulatory costs will increase significantly. Hudson River Trading supports FINRA’s proposed exemption to TAF for proprietary trading firms because it appropriately recognizes the differences in regulating proprietary trading businesses and customer businesses.

## Overview

Hudson River Trading agrees with FINRA<sup>2</sup> and the Commission<sup>3</sup> that absent a change in the application of TAF, many firms affected by the proposed amendments would see a significant increase in member regulatory costs. Further, we agree with FINRA’s statement in its regulatory notice that such increases, which we estimate could be several million dollars for more active firms, are disproportionate to FINRA’s cost of regulating such firms: “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

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<sup>1</sup> See Securities and Exchange Commission Release No. 34-74581; File No. S7-05-15 “Exemption for Certain Exchange Members” <http://www.sec.gov/rules/proposed/2015/34-74581.pdf>

<sup>2</sup> See FINRA Regulatory Notice 15-13 “Trading Activity Fee (TAF)” [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 and Exchange Commission Release No. 34-74581; File No. S7-05-15 “Exemption for Certain Exchange Members” <http://www.sec.gov/rules/proposed/2015/34-74581.pdf>

costs associated with the financial monitoring and trading surveillance of these firms, in large part because these firms do not have customers.<sup>4</sup> Hudson River Trading agrees that the cost of member regulation for proprietary trading firms is significantly lower given their limited business model and the fact that they do not do business with public customers. We believe that a modification to TAF is critical to ensure that FINRA equitably allocates fees among members.

FINRA currently exempts many proprietary, 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 proprietary, on-exchange transactions have a significantly different cost to regulate than customer transactions.

While we support FINRA's proposed exemption to the TAF for proprietary trading firms, we believe that FINRA should consider applying the TAF based on the nature of the transaction rather than the business model of the firm. Specifically, we believe that Principal trades executed on an exchange should be exempt from the TAF, while off-exchange trades, as well as Agency and Riskless Principal trades executed on an exchange, should continue to be charged the TAF. Under FINRA's current proposed exemption, a firm with a large proprietary trading business is disincentivized from engaging in any customer-focused business, as any such business would result in a significant TAF liability. As such, firms entering customer business generally start an additional broker-dealer to avoid triggering the TAF. We believe that charging the TAF based on the nature of a transaction would largely eliminate the incentive of firms to operate multiple broker-dealers.

## **Conclusion**

Hudson River Trading supports the proposed exemption to the TAF for proprietary trading firms. We believe that the exemption appropriately recognizes the differences in regulating proprietary trading businesses and customer businesses. We recommend that FINRA consider applying the TAF based on the nature of the transaction rather than the business model of the firm.

Hudson River Trading appreciates the opportunity to submit these comments and is available to meet and discuss them with FINRA in order to respond to any questions.

Sincerely,

/s/ Adam Nunes

Adam Nunes

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<sup>4</sup> See FINRA Regulatory Notice 15-13 "Trading Activity Fee (TAF)"  
[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)