



Via PDF email: pubcom@finra.org

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

January 7, 2015

Re: Regulatory Notice 14-52, "Pricing Disclosure in the Fixed Income Markets"

Dear Ms. Asquith:

The members and management of DelphX LLC¹ ("DelphX") appreciate this opportunity to respond to the request for comments issued by the Financial Industry Regulatory Authority ("FINRA") in Regulatory Notice 14-52 (November 2014). We are pleased to submit the following comments regarding FINRA's important and timely proposal to increase transparency relating to transactions involving fixed income securities ("Proposal"). The Proposal would "require customer confirmation disclosure of same-day pricing information for customer retail-size transactions in corporate and agency debt securities."

As reflected in many recent commentaries, pre-trade pricing and transaction costs in the vast fixed income market continue to be opaque.² This lack of transparency materially limits the ability of investors to discern the remuneration retained by their broker-dealers in fixed income trades,³ and investors' ability to determine if their broker-dealers fulfilled their obligation to seek the "best execution" of such trades.

¹ DelphX is an unbiased pricing-service provider dedicated to promoting efficiency, liquidity and broad pre-trade price transparency for corporate bonds and other fixed income securities by delivering validated continuous forecasts of the price at which each such security would currently trade. The undersigned, Larry Fondren, is the founder and CEO of DelphX. For more information about Larry Fondren, please visit http://en.wikipedia.org/wiki/Larry_Fondren. For more information about DelphX, please visit www.delphx.com.

² See, e.g., Securities and Exchange Commission ("SEC") Chair Mary Jo White, "Intermediation in the modern securities markets: putting technology and competition to work for investors" (June 20, 2014), 5-6; SEC Commissioner Daniel M. Gallagher, "Remarks to the Georgetown University Center for Financial Markets and Policy Conference on Financial Markets Quality" (September 16, 2014), at 5-6; SEC Commissioner Michael S. Piowar, "Remarks at the 2014 Municipal Finance Conference presented by The Bond Buyer and Brandeis International Business School" (August 1, 2014), at 4-5; Director of the SEC Division of Trading and Markets, Stephen Luparello, "Testimony on 'oversight of the SEC's Division of Trading and Markets'" (June 26, 2014), 6-7; FINRA Chairman and CEO, Richard G. Ketchum, at the FINRA Fixed Income Conference (March 9, 2010); Legislation: Mark R. Warner (D-VA) and Thomas A. Coburn (R-OK) sponsorship of "Bond Transparency Act of 2014," S. 2114, 113th Cong. § 3.

³ Because fixed income securities transactions are commonly executed by broker-dealers which act as a principal in the transaction, their remuneration is generally secured in the form of a markup or markdown from the "prevailing market price." See FINRA Rule 2121. The Proposal is intended to address the fact that, currently, the amount of that markup or markdown is not required to be disclosed on the confirmation for fixed income trades executed by a broker-dealer as principal.

Based upon our experience and the insights received from an array of market participants, we believe there is a critical need for increased pre-trade price transparency in relation to transactions involving fixed income securities, particularly those issues that are traded infrequently. We, therefore, applaud FINRA's initiative to enhance fixed income market transparency for investors.⁴

A. Scope. The comments contained herein are principally focused on FINRA's request regarding alternative forms of disclosure or methods that would achieve or serve to better facilitate the objectives of the Proposal.

B. Summary of Comments. As discussed below, we believe the Proposal could provide useful information to investors that would enable them to make more informed investment decisions and be better equipped to assess the quality of their trade executions by broker-dealers. Moreover, in response to FINRA's request for "alternative forms of disclosure or methods to achieve the objectives of the proposal,"⁵ we believe that an additional means of providing transparency, namely, the recognition of "**Accredited-Benchmark**" prices that accurately forecast the current market price ("Market-Price") of a fixed income security continuously throughout each trading day, would provide timely and relevant pre-trade pricing information to investors. That contemporaneous information could be used by investors to assess the remuneration retained by broker-dealers when effecting their trades, and to evaluate the performance of broker-dealers in seeking "best execution" of those trades. We also believe that this approach of employing transparently-validated Market-Price forecasts would provide a comprehensive and cost-efficient means of expanding the scope of the Proposal to include customer transactions for which there is no same-day or recent transaction involving the subject security.

C. The Proposal. FINRA states that it is "concerned that investors in fixed income securities currently are limited in their ability to understand and compare transaction costs."⁶ FINRA is proposing an amendment to FINRA Rule 2232 that "would require firms to disclose additional information on customer confirmations for transactions in fixed income securities. Specifically, FINRA is proposing that, for same-day, retail-size principal transactions, firms disclose on the customer confirmation the price to the customer, the price to the member of a transaction in the same security, and the differential between those two prices."

Specifically, where a firm executes a sell (buy) transaction of "qualifying size" with a customer and executes a buy (sell) transaction as principal with one or multiple parties in the same security within the same trading day, where the size of the customer transaction(s) would otherwise be satisfied by the size of one or more same-day principal transaction(s), confirmation disclosure to the customer would be required. That disclosure would entail (i) the price to the customer; (ii) the price to the firm of the same-day trade; and (iii) the difference between those two prices. The rule would define "qualifying

⁴ As the Regulatory Notice notes, the Municipal Securities Rulemaking Board ("MSRB") has coordinated with FINRA and issued a similar proposal relating to transactions in municipal securities: MSRB Regulatory Notice 2014-20, "Request for comment on draft rule amendments to require dealers to provide pricing reference information on retail customer confirmations" (November 17, 2014).

⁵ See, e.g., Regulatory Notice 14-52, Request for Comments, No.5.

⁶ Regulatory Notice 14-52, at 8.

size” as a purchase or sale transaction of 100 bonds or less or bonds with a face value of \$100,000 or less, based on reported quantity, which is designed to capture those trades that are retail in nature.⁷

While this additional disclosure could “better enable customers to evaluate the cost and quality of the services firms provide,”⁸ it has a variety of limitations. Because many of these considerations are recognized and discussed in the Regulatory Notice, we touch upon them only briefly in our comments below.

D. Response to Selected Request-Questions.

We refer to specific requests for comment as numbered in the Regulatory Notice.

Question 1. What are the anticipated benefits to investors of providing the proposed disclosure?

Response: Economic studies have shown that investors benefit from increased price transparency through material reductions in their transaction costs.⁹ Currently, broker-dealers are not required to disclose their markups or markdowns to investors on fixed income trade confirmations when the broker-dealer acts as a principal in the transaction.¹⁰ Therefore, we believe additional relevant and meaningful information about current Market-Pricing would assist investors in understanding the remuneration retained by their broker-dealers, and help investors evaluate the services they receive. Providing pricing information relating to similar same-day trades, as the Proposal contemplates, could assist investors in assessing the quality of a broker-dealer’s transaction services. However, we believe the alternative Market-Pricing information described in Section E below could further the Proposal’s objectives, and materially enhance the scope of its benefit to investors.

Question 4. For which transactions should pricing disclosures be made?

Response: Useful and meaningful price disclosure should be made available, where feasible, for all forms and sizes of transactions, rather than be limited to retail-sized or “riskless principal” trades. Without meaningful pre-trade price disclosure, institutional investors are as uncertain as individual investors as to the current Market-Price of securities they are considering buying or selling. While it is possible that increased price-transparency may diminish the levels of traditional dealer-sourced liquidity, increasing the ability of investors of all sizes to more confidently assess the current Market-Pricing of securities will potentially increase investor-sourced liquidity and the ability of dealers to more-

⁷ Regulatory Notice 14-52, at 3.

⁸ Regulatory Notice 14-52, at 8.

⁹ See Hendrik Bessembinder and William Maxwell, “Transparency and the corporate bond market,” J. Econ. Perspectives, v.22, no.2 (Spring 2008), 217, 227 (“Overall, the statistical and anecdotal evidence indicates that the introduction of post-trade transparency in the corporate bond markets has significantly reduced the costs that investors pay to dealer firms for executing their trades in corporate bonds.”); Amy K. Edwards, Lawrence E. Harris, and Michael S. Piwowar, “Corporate bond market transaction costs and transparency,” J. Fin., v.LXII, no.3 (June 2007), at 2. “If transaction costs are a deterrent to retail interest, we would expect retail interest to increase with the lower transaction costs associated with transparency.” Id. at 31.

¹⁰ Regulatory Notice 14-52 n.9 (discussing SEC Rule 10b-10; also noting that FINRA rules set forth “standards by which the amount of a mark-up or mark-down may be assessed, but do not require members to disclose the amount of the mark-up or mark-down”).

readily facilitate “matching” or “pairing” of contra-trades among investors – further promoting increased liquidity.

Question 5. Are there alternative forms of disclosure or methods to achieve the objectives of the proposal and are they better suited than the proposal?

Response: We believe that, by creating an environment in which independent pricing-service providers are incentivized to develop and continuously publish precise forecasts of the current Market-Price of outstanding fixed income securities in real-time, investors would gain access to a transparent and demonstrably accurate means of assessing the current Market-Price of securities they are considering buying or selling. Such a transparent environment, as described more fully below, would also enable investors to independently assess the remuneration retained by their broker-dealers, and more efficiently determine the quality of executions they receive from their broker-dealers.

Rather than using the price to the firm, would the best available representation of current market price be more useful, particularly where the firm-side and customer-side transactions do not occur close in time? If so, given the infrequent trading in many bonds, what would be an acceptable reference price to use to measure the current market price?

Response: We believe the “best available representation of current market price” would be more useful and provide broader utility to institutional and retail investors, particularly in cases where contemporaneous transaction pricing is not available. The breadth of that utility will also likely increase in cases where no other transaction involving the security has occurred in the last day, week or longer.

The idea of providing investors with current Market-Price forecasts and other benchmark prices is not a new one. The need for investors to receive relevant information immediately prior to buying or selling a bond was recognized by the Corporate Debt Market Panel (“Panel”) established by FINRA’s predecessor.¹¹ The Panel stated that an important part of increasing investors’ ability to “understand the detail of their investment choices, risks and return” is the “ability to link aspects of recent improvements in transparency with actual transactions so that individual investors can determine the quality of execution they receive from their brokers.”¹² The recommended pre-trade information included “[w]here the customer can get information on recent transactions in this or similar bonds.”¹³ The Panel also observed that “it would be very helpful for investors to be able to compare the price and yield they receive for a bond against industry benchmarks.”¹⁴

The Accredited-Benchmark utility described in Section E below would help investors realize many of the Panel’s aspirations, by providing accurate to-the-second forecasts of the current Market-Price of thousands of fixed income issues, including those for which no contemporaneous transaction pricing is

¹¹ National Association of Securities Dealers, “Report of the Corporate Debt Market Panel,” at 2, 9 (September 2004) (“Debt Market Panel Report”).

¹² Debt Market Panel Report at 9.

¹³ Debt Market Panel Report at 12.

¹⁴ Debt Market Panel Report at 3.

available. It also would benefit investors by fostering a transparent market facility through which independent pricing-service providers are incentivized to publish the most accurate Market-Price forecasts possible, and to continually strive to improve the scope and cost-efficiency of their pre-trade pricing utilities.

Question 6. To what extent, if any, do firms already provide or make available such information or similar information to customers in any format? Should the proposal allow for alternative methods, if they provide substantially similar pricing information to customers?

Response: While some firms currently provide markup (markdown) information to their customers, we believe investors would materially benefit from broker-dealers including information regarding the current Market-Price forecasts of one or more Accredited-Benchmarks for the subject security. Accordingly, we believe that Rule 2232 should permit the inclusion of Accredited-Benchmark pricing as an acceptable alternative to the reference pricing disclosures discussed in the Proposal, particularly where same-day transaction pricing for the security is not available.

Question 9. Would it be appropriate to allow firms to have flexibility to establish their own methodology, consistent with the objectives of the proposal, which would be documented by the firm in its written policies and procedures and consistently applied? For example, is it appropriate to allow firms to utilize a reference price that is based on a same-day principal trade that does not meet the LIFO standard, where the size of that principal trade is more equivalent to the size of the customer trade? What other approaches might a firm adopt?

Response: We believe it would be appropriate to allow member firms to establish their own methodology, consistent with the objectives of the Proposal, provided that methodology is developed employing an objective rationale acceptable to FINRA, is clearly described to investors and consistently applied in all transactions. For example, should a firm choose to display Accredited-Benchmark pricing in its confirmations, it would be required to implement written policies and procedures to: (a) identify the Accredited-Benchmark as defined by criteria in a FINRA rule; (b) use a consistent methodology to disclose the Accredited-Benchmark's Market-Price forecasts to customers; (c) periodically review the performance of the Accredited-Benchmark to verify that it continues to satisfy the accreditation criteria specified by FINRA and provides meaningful information to customers; and (d) retain all documentation and data required to demonstrate the foregoing. Member-firms could thus optionally disclose on customer confirmations the price to the customer, the Accredited-Benchmark price of the subject security at the time of the trade, and the differential between those two prices.

Question 10: When a firm executes a transaction as principal with a customer, such as in Example 6, where the firm buys 50 XYZ bonds from one customer and then sells 50 XYZ bonds to another customer, FINRA understands that the price paid to the customer may not represent the firm's true price of the trade, *e.g.*, it may reflect a mark-down. For purposes of the proposed disclosure requirement, should firms be allowed to use a different price as the reference price in this scenario, assuming the firm is able to justify and document its decision?

Response: As noted above, we believe a firm should be allowed to use an Accredited-Benchmark as the determinant of Market-Price at the time of each trade, and to consistently include such reference pricing in its confirmations. Given the transparency, validation and documentation of every Accredited-Benchmark price, the firm would have ready access to all documentation required to justify its use of Accredited-Benchmark prices. Use of objectively-derived Accredited-Benchmark prices would thus avoid the subjective pricing difficulty described in this question.

Question 12. Would it be appropriate or beneficial for firms to supplement the proposed disclosures by providing customers with an explanation of the pricing information or to provide customers with additional information relevant to execution quality? If so, what kind of documentation would be appropriate for this purpose? Should this practice be permitted or required?

To provide additional transparency, we believe firms should be required to provide customers with an explanation of the pricing information they use (including Accredited-Benchmark prices) on trade confirmations, customer statements, and/or the firm's website.

E. Enhancing Pre-trade Price Transparency Through "Accredited-Benchmarks".

DelphX agrees with FINRA that investors in fixed income securities are currently limited in their ability to understand and compare transaction costs. However, we believe "understanding" and "comparing" are separate, but related, challenges. The Proposal would help with the former, but have limited impact on addressing the latter - as investors' comparative-pricing information would be limited to only the prices of same-day transactions executed by their broker.

Because the vast majority of outstanding corporate bond and other fixed income issues will likely not be traded on any given day, the transparency fostered by the Proposal will apply to only a small portion of the total universe of such securities. We believe FINRA's recognition of an additional form of pre-trade price transparency, which also encompasses the larger group of securities for which no readily-observable current transaction pricing is available, would expand the utility and benefit of the confirmation disclosure contemplated in the Proposal.

To provide that additional comparative-pricing information to investors, we propose that FINRA foster the development and ongoing refinement of historically-accurate, continuously-updating forecasts of the current Market-Prices for a broad array of fixed income securities, including those for which no recent transaction information is available. Specifically, we encourage FINRA to:

- 1) Establish an environment in which independent pricing-service providers are encouraged to calculate, validate and publish in real-time continuously-updating forecasts of the Market-Price at which each of a broad universe of outstanding corporate bonds, and other fixed income securities, would currently trade;
- 2) Prescribe a standard protocol for measuring the accuracy of such forecasts, and definitive qualification parameters, that all pricing-service providers could employ to uniformly determine the accuracy with which their Market-Price forecast for a subject security predicted the actual price at which that security traded ("Trade-Price");

- 3) Specify the minimum acceptable level of historical accuracy that the Market-Price forecasts published by a pricing-service provider must continually meet to qualify as an “Accredited-Benchmark”; and
- 4) Amend Rule 2232 to provide guidance to member firms, that the price of an Accredited-Benchmark is an acceptable reference source of the current Market-Price of the subject security for disclosure on customer confirmations.¹⁵

By establishing a standard protocol for calculating the accuracy of security-specific, time-specific Market-Price forecasts published by independent pricing-service providers, FINRA could provide a compelling incentive to current and future pricing-service providers to publish demonstrably accurate Market-Price forecasts. Moreover, competitive pressures would likely also encourage those providers to continually strive to increase the accuracy of their forecasts and to deliver those forecasts on increasingly competitive terms.

It is anticipated that the cost of accessing Accredited-Benchmark prices would be based upon the number of subject securities, timing of updates (real-time or delayed), frequency of updates (end-of-day or intra-day) and other factors. It is also possible that an Accredited-Benchmark pricing service provider, like DelphX, would provide free public access to Accredited-Benchmark prices for limited-use, time-delayed queries.

TRACE-Enabled Validation. We believe FINRA’s Transaction Reporting and Compliance Engine (“TRACE”) provides a valuable source of timely post-trade pricing information that could be employed to measure and validate the forecasting accuracy of continuous pre-trade Market-Price forecasts published by pricing-service providers. By comparing a given provider’s Market-Price forecasts for a subject security current at the time of each transaction in that security, as reported to TRACE, the accuracy of that provider’s pre-trade Market-Price forecasts can be definitively determined on a security-specific and aggregate basis for use in the benchmark-accreditation process.

Thus, each time a transaction involving a subject security is reported to TRACE, the degree to which the forecasted Market-Price published at the time the transaction was executed deviated from the transaction’s Trade-Price can be definitively measured, recorded and transparently reported to validate the accuracy of the Market-Price forecasts.

Therefore, to provide greater price transparency and facilitate more definitive compliance, we recommend that, in addition to the Proposal’s same-day transaction price, broker-dealers alternatively be permitted to disclose on confirmations the current Market-Price forecast of an Accredited-Benchmark for the subject security at the time of the transaction with or for the investor. Investors and all other market participants and regulators would thus gain an informed and transparent basis upon which to assess the current pre-trade pricing levels of most outstanding fixed income issues.

¹⁵ As we discuss below, the Accredited-Benchmark pricing used in customer confirmations would also be useful for best execution and other price-related compliance purposes.

Minimum Accuracy Standard.

It is suggested that to qualify as an Accredited-Benchmark, FINRA would require a fixed income securities pricing-service to:

- 1) Publish prices for the subject security and updated them continually, or at least as frequently as FINRA specifies, throughout each trading day;
- 2) Continually meet the acceptable Accuracy-Score levels specified by FINRA (e.g., at least 80.0% of published Market-Price forecasts must possess Accuracy Scores of 98.0% or higher); and
- 3) Continually report the benchmark's current Accuracy-Score, and transparently publish all information required to independently audit the accuracy of its current and prior Accuracy-Scores and its Market-Price forecasts current at each time the issue has been traded.

One approach for determining the accuracy of prior Market-Price forecasts of a subject benchmark is to compare its Market-Price forecast at the time each trade of the security occurred in the past (using the "Execution" date/time of the trade reported to the TRACE system as the trade-time determinant), as DelphX currently does for calculating the Accuracy-Scores of its MAV_n[®] (Market-Adjusted Value per congruent nexus) Market-Pricing forecasts. Specifically, the current Accuracy-Score of the Market-Price forecasts a subject MAV_n is determined by:

- 1) Calculating the Absolute Deviation (without regard for the direction of each deviation to avoid distortions due to "netting" of groups of deviations) of each Market-Price forecast from the actual Trade-Price at which the applicable transaction involving the security occurred;
- 2) Adding the Absolute Deviations of a specified number (e.g., 5) of the most recent transactions involving the subject security;
- 3) Adding the Trade-Prices of the transactions described above;
- 4) Dividing the Total Sum of the Absolute Deviations by the Total Sum of the Trade-Prices, to determine the Absolute Deviation-Quotient of the Market-Price forecasts in the analyzed transactions; and
- 5) Subtracting that Absolute Deviation-Quotient from 100% to determine the Accuracy- Quotient (Score) of the Market-Price forecasts of the subject benchmark.

For example, the Accuracy-Score of the continually-updating benchmark pricing of security A would be calculated as follows:

Calculating Accuracy-Score of Market-Price Forecasts for Security A

| <u>Transaction Sequence</u> | <u>Forecasted Market-Price</u> | <u>Actual Trade-Price</u> | <u>Absolute Deviation</u> |
|-----------------------------|--------------------------------|---------------------------|---------------------------|
| Most Recent | 112.045 | 112.392 | 0.347 |
| 2 nd Most | 109.255 | 109.641 | 0.386 |
| 3 rd Most | 110.340 | 110.950 | 0.610 |
| 4 th Most | 110.654 | 109.894 | 0.760 |
| 5 th Most | 110.873 | <u>111.055</u> | <u>0.182</u> |
| | | 553.932 | 2.285 |

Absolute Deviation Quotient = 0.413% (2.285 ÷ 553.932 = 0.413%)

Accuracy-Score = 99.587%¹⁶ (100% - 0.413% = 99.587%)

Employing Accredited-Benchmarks. We believe that permitting broker-dealers to display an Accredited-Benchmark price on a trade confirmation would be an excellent example of “principles-based regulation” - rather than specifying a solitary method to provide pricing information to achieve its regulatory objective, the rule would allow firms to decide which acceptable method best fits their business model and customer base. Under this approach, a firm would be required to have written policies and procedures reasonably designed to identify an Accredited-Benchmark, provide contemporaneous Accredited-Benchmark pricing information to customers, and periodically review the performance of the Accredited-Benchmark to verify that it continues to satisfy the required criteria and provides meaningful information to its customers.

Accordingly, we recommend that FINRA amend Rule 2232 to permit broker-dealers to disclose as a pricing reference on customer confirmations the Accredited-Benchmark price published for the subject security at the time of the transaction. By including Accredited-Benchmark prices as pricing references on customer confirmations, member firms could thus provide “meaningful and useful” information to investors.

Recognition by FINRA of Accredited-Benchmarks may also tend to increase the frequency with which currently-illiquid issues trade as, by informing investors of the likely current Market-Price of each of a broad range of securities they may have interest in buying or selling, those investors may be more inclined to trade attractively-priced securities with greater confidence and frequency.

¹⁶ More than 94.0% of MAV=n forecasts published by DelphX currently possess Accuracy-Scores higher than 98.0%.

Best Execution and Fair Prices. SEC Commissioner Gallagher has stated: “Notwithstanding these recent initiatives in post-trade price transparency¹⁷ retail investors continue to face significant market headwinds. They simply cannot be sure that they receive best execution and a fair price.”¹⁸ There is a growing consensus that “meaningful pre-trade pricing information” is key to addressing concerns about best execution and markup and markdown disclosure in the fixed income markets.¹⁹

As described below, there is a close association between the objectives of the Proposal and a FINRA member’s obligations to seek “best execution” in executing customer orders, and to charge reasonable markups and markdowns on customer trades. Providing investors with Accredited-Benchmark Market-Pricing could enhance best execution and markup/markdown information and compliance.²⁰

Best execution. FINRA Rule 5310 requires that a member “use reasonable diligence to ascertain the best market for the subject security and buy or sell in such market so that the resultant price to the customer is as favorable as possible under prevailing market conditions,” and indicates that an essential element in assessing the “character of the market for the security” is price.²¹ In the fixed income markets, where many if not most securities trade infrequently, determining whether a price offered in the market is reasonable can be difficult and time-consuming. However, a price generated by an Accredited-Benchmark could greatly assist the broker-dealer in assessing whether an offered price is fair. That, in turn, can be incorporated into the other prevailing market factors in satisfying the broker-dealer’s best execution obligation. In addition, if the Accredited-Benchmark price were included on the customer’s confirmation, the customer would have highly relevant, accurate and reliable information to use in evaluating the broker-dealer’s satisfaction of its best execution responsibilities.

Markup policy. FINRA Rule 2121, among other things, requires that a member trade as principal with a customer at “a price which is fair, taking into consideration all relevant circumstances” Supplementary Material .01 discusses FINRA’s markup policy, and provides in relevant part: “It shall be deemed a violation of ... Rule 2121 for a member to enter into any transaction with a customer in any security at any price not reasonably related to the current market price of the security....”²² Moreover, “[t]he mark-up over the prevailing market price is the significant spread from the point of view of fairness of dealings with customers in principal transactions.”²³ Supplementary Material .02 provides guidance for determining the “prevailing market price” in connection with transactions in debt securities (except municipal securities).²⁴ The Supplementary Material guidance recognizes that contemporaneous transactions in a particular debt security may not be available, and sets forth a

¹⁷ Referring to FINRA’s Transaction Reporting and Compliance Engine and the Municipal Securities Rulemaking Board’s Electronic Municipal Market Access system.

¹⁸ Remarks by Commissioner Gallagher, supra n.2, at 3-4.

¹⁹ See, e.g., Speech by Chair White, supra n.2, at 6; Remarks by Commissioner Piwowar, supra n.2, at 4-5; Remarks by Commissioner Gallagher, supra n.2, at 4.

²⁰ Remarks by Chairman Ketchum, supra n.2, at 1-2.

²¹ FINRA Rule 5310(a)(1)(A).

²² FINRA Rule 2121.01.

²³ FINRA Rule 2121.01(a)(3).

²⁴ FINRA Rule 2121.02(b).

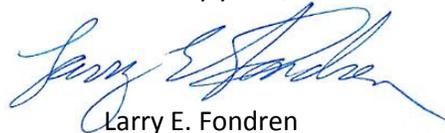
“waterfall” process for determining the prevailing market price.²⁵ Under certain circumstances, a dealer may take into consideration the prices of transactions in “similar securities” or prices generated by economic models.²⁶

We believe that Market-Prices generated by Accredited-Benchmarks will be increasingly superior to virtually all of the options in this waterfall process in determining the current Market-Price of a debt security at any point in time. Also, it incorporates aspects of Supplementary Material .02, such as contemporaneous transaction information and reference to similar securities, and produces empirically accurate, real-time, fair value prices. This could be used by a broker-dealer in evaluating one or more dealer prices, or in determining the prevailing market price for a sale out of the broker-dealer’s inventory. If disclosed on the confirmation, the customer would have useful and meaningful information to assess the remuneration retained by the broker-dealer on a trade.

As stated above, we believe that all customers,²⁷ retail and institutional, would benefit from the timely and historically-accurate Market-Price information provided by Accredited-Benchmarks.²⁸

Conclusion. DelphX applauds FINRA for its initiative and is grateful for the opportunity to present an alternative means of increasing pre-trade price transparency and enhancing achievement of the Proposal’s objective. We would be pleased to meet with FINRA Staff to provide additional information or answer questions regarding the proposed Accredited-Benchmark utility. Please contact me at (610) 640-7546 (lef@delphx.com).

Sincerely yours,



Larry E. Fondren
President and CEO

cc: Ronald W. Smith, Corporate Secretary, Municipal Securities Rulemaking Board
Larry E. Bergmann, Murphy & McGonigle P.C.

²⁵ Contemporaneous transactions in the same security by the dealer are presumptively considered to establish the prevailing market price. FINRA Rule 2121.02(b)(1). We note that, while a contemporaneous transaction is a strong indicium of the current market price for a security, the transaction price will reflect the facts and circumstances pertaining to the individual firm, and the price may be superior or inferior to prices that another firm could obtain.

²⁶ FINRA Rule 2121.02(b)(6), (7), (c).

²⁷ FINRA Rule 2121.02(b)(9) defines “customer” to exclude certain transactions with institutional customers.

²⁸ See Hendrik Bessembinder, William Maxwell, and Kumar Venkataraman, “Market transparency, liquidity externalities, and institutional trading costs in corporate bonds,” Initial Draft: November 2004, Current Draft: October 2005, J. Fin. Econ., forthcoming, at Abstract, 2, 35-37 (study of the “effect of transaction reporting on trade execution costs ... using a sample of institutional trades in corporate bonds, before and after the initiation of public transaction reporting through the TRACE system. ... The results reported here are important because they verify that market design, and in particular decisions as to whether to make the market transparent to the public, have first-order effects on the costs that customers pay to complete trades. Further, since the sample employed here consists of institutional trades, these results indicate that public trade reporting is important not only to relatively unsophisticated small traders, but also to professional investors who make multi-million dollar transactions”)