

Trade Reporting and Compliance Engine (TRACE)

SEC Approves Amendments to Require Firms to Report Transactions in TRACE-Eligible Securities As Soon As Practicable

Effective Date: November 30, 2015

Executive Summary

The SEC approved amendments to the Trade Reporting and Compliance Engine (TRACE) rules to codify that firms are required to report transactions in TRACE-eligible securities that are subject to dissemination as soon as practicable following the time of execution of the transaction. The amendment will become effective on November 30, 2015.

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

Questions regarding this *Notice* should be directed to:

- ▶ Patrick Geraghty, Vice President, Market Regulation, at (240) 386-4973 or by email at Patrick.Geraghty@finra.org; or
- ▶ Racquel Russell, Associate General Counsel, Office of General Counsel, at (202) 728-8363 or by email at Racquel.Russell@finra.org.

Background and Discussion

FINRA Rule 6730 (Transaction Reporting) sets forth the requirements that apply to firms when reporting transactions in TRACE-eligible securities.¹ A firm that is a “party to a transaction”² in a TRACE-eligible security generally is required to report the transaction within 15 minutes of the “time of execution,”³ unless a different time period for the security is specified in the rule, or the transaction report will be deemed “late.” Paragraph (a)(4) of the rule further provides that firms have an ongoing obligation to report transaction information promptly, accurately and completely.⁴

October 2015

Notice Type

- ▶ Rule Amendment

Suggested Routing

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

Key Topics

- ▶ Fixed-Income Securities
- ▶ TRACE
- ▶ Transaction Reporting

Referenced Rules and Notices

- ▶ FINRA Rule 6710
- ▶ FINRA Rule 6730
- ▶ FINRA Rule 6750

The SEC approved amendments to Rule 6730 clarifying that firms must report transactions in TRACE-eligible securities that are subject to dissemination⁵ “as soon as practicable” following the time of execution. New Supplementary Material .03 provides additional guidance around the requirement that trades be reported as soon as practicable, specifically that firms must adopt policies and procedures reasonably designed to comply with the “as soon as practicable” requirement by implementing systems that commence the trade reporting process at the time of execution without delay. In addition, if a firm has such reasonably designed policies, procedures and systems in place, the firm generally will not be viewed as violating the “as soon as practicable” requirement because of delays in trade reporting that are due to extrinsic factors that are not reasonably predictable and where the firm does not purposely intend to delay the reporting of the trade. The new Supplementary Material .03 further states that in no event may a firm purposely withhold trade reports, *e.g.*, by programming its systems to delay reporting until the end of the reporting time period.

In the case of manual trade reporting for TRACE-eligible securities, Supplementary Material .03 acknowledges that the trade reporting process may not be completed as quickly as an automated trade reporting system and that, in these cases, FINRA will take into consideration the manual nature of the firm’s trade reporting process in determining whether the firm’s policies and procedures are reasonably designed to report the trade “as soon as practicable” after execution.

The effective date of these amendments is November 30, 2015.

Endnotes

1. Rule 6710 generally defines a “TRACE-eligible security” as: (1) a debt security that is U.S. dollar-denominated and 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); or (2) a debt security that is U.S. dollar denominated and issued or guaranteed by an “Agency” as defined in Rule 6710(k) or a “Government-Sponsored Enterprise” as defined in Rule 6710(n).
2. Rule 6710(e) provides that a “party to a transaction” is an introducing broker-dealer, if any, an executing broker-dealer, or a customer. “Customer” includes a broker-dealer that is not a FINRA member.
3. Among other things, Rule 6710(d) provides that the “time of execution” for a transaction in a TRACE-eligible security means the time when the parties to a transaction agree to all of the terms of the transaction that are sufficient to calculate the dollar price of the trade.
4. Firms may employ an agent for the purpose of submitting transaction information. However, the primary responsibility for the timely, accurate and complete reporting of transaction information remains the non-delegable duty of the firm obligated to report the transaction.
5. FINRA Rule 6750 (Dissemination of Transaction Information) provides that FINRA will disseminate information on all transactions in TRACE-eligible securities, including transactions effected pursuant to Securities Act Rule 144A, immediately upon receipt of the transaction report, except as specified in Rule 6750(b).