



21 Dupont Circle, NW • Suite 750
Washington, DC 20036
202.204.7900
www.bdamerica.org

August 6, 2015

Submitted Electronically

Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-025

RE: Notice of Filing of a Proposed Rule Change To Amend FINRA Rule 6730 To Require Members To Report Transactions in TRACE-Eligible Securities as Soon as Practicable— (File No. SR-FINRA-2015-025)

Ladies and Gentlemen:

On behalf of the Bond Dealers of America (“BDA”), I am pleased to submit this letter in response to the Securities and Exchange Commission’s (SEC) notice to solicit comments on a proposed rule change (“the Proposal”) to Financial Industry Regulatory Authority (FINRA) Rule 6730 (Transaction Reporting). BDA is the only DC based group representing the interests of middle-market securities dealers and banks focused on the United States fixed-income markets and we welcome this opportunity to present our comments on this rule proposal.

BDA supports the prompt and unintentionally delayed reporting of trades but believes the Proposal’s language needs to be clarified to ensure consistent enforcement.

BDA member firms believe that reporting trades to TRACE “as soon as practicable” and without intentional delay is in the best interests of the marketplace. BDA members currently endeavor to report trades as soon as practicable in the context of the myriad external, internal, security-specific, and trade-specific issues that routinely arise to impact the complexity, and therefore, the time required to report trades within the timeframes required under FINRA Rule 6730. However, BDA believes that certain language in the Proposal should be amended to ensure clarity and to support consistent application by enforcement staff and to foster an understanding of the intent of the Proposal amongst market participants. BDA believes that the recommended changes to the Proposal’s text outlined below are consistent with the intent of the Proposal—to ensure reporting as soon as practicable, to prohibit intentionally delayed trade reporting, and to require firms to develop policies and procedures to support trade reporting “as soon as practicable”.

BDA believes that the language of the Proposal should be clarified to acknowledge all of the facts and circumstances that impact trade reporting for a dealer acting in full compliance of the Proposal.

Specifically, the proposed Section 6730.03 (Trade Reporting Time Frame) would require a member to adopt policies and procedures reasonably designed to comply with reporting trades “as soon as practicable”. The section states:

*“where a member has such reasonable designed policies, procedures and systems in place, the member 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** [BDA emphasis] and where the member does not purposefully intend to delay the reporting of the trade.”*

BDA’s concern is that the addition of the phrase “extrinsic factors” may not completely acknowledge the myriad factors, facts, and circumstances—both extrinsic and intrinsic—that impact the amount of time it takes for each individual dealer with robust policies and procedures in place to report trades with differing levels of operational complexity or when the timeframe is impacted by changes in operational or trading staff or other routine day-to-day business and personnel issues that could be “reasonably predictable” and would minimally impact reporting timeframes within the timeframes required by Rule 6730.

Therefore, BDA recommends the following language for the proposed Section 6730.03 (Trade Reporting Time Frame):

*“where a member has such reasonable designed policies, procedures and systems in place, the member 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~~ **the facts and circumstances of the transaction that are not reasonably predictable** and where the member does not purposefully intend to delay the reporting of the trade.”*

BDA believes that the recommended language allows for a wide variety of market and business factors that may impact trade reporting to occur without violating the intent of proposed rule.

BDA believes this language clarifies that a multiplicity of facts and circumstances, some of which could be reasonably anticipated, can impact the time it takes to report trades within the reporting window required by Rule 6730. For example, as BDA highlighted in its April 9 letter to FINRA in response to its request for comment on Regulatory Notice 15-04, there are predictable facts and circumstances that arise, especially with the reporting of securitized products, that make reporting those transactions more operationally intensive and time intensive.¹ Securitized products have many more operational inputs and less frequently trade in round, whole number quantities, require the manual input and potential update of a factor, and trades are regularly rejected by TRACE due to outdated pricing modules. This makes input errors and late trade filings more frequent under the timeframe currently required by FINRA rules. This issue is more acute for smaller dealers with less operational support staff that already strive to meet the intent of the Proposal.

¹ <http://www.finra.org/industry/rule-filings/sr-finra-2015-025>

BDA's concern with the language associated with the Proposal, as written, is that it could be applied without a proper acknowledgment of the operational and reporting complexity associated with different securities, differing trade sizes, and differing execution styles across different sized firms. As the Proposal highlights electronically executed and reported trades are swiftly reported under the required 15-minute timeframe. But, trades do take place that have greater levels of operational and reporting complexity. The longer reporting timeframes associated with these trades are not indicative of an intentional delay or faulty policies and procedures.

For example, when a dealer bids on an extensive "bid list," it may purchase multiple securities "over-the-counter" via the telephone or Bloomberg in differing quantities which are all required to be reported within the timeframes required currently by Rule 6730. When the security or securities purchased are more complex securitized products it remains challenging for many dealers, especially small-to-medium sized dealers, to report within the timeframe. BDA wants to ensure that dealers are not unfairly challenged—when robust trade reporting policies and procedures are in place and followed by dealer—about differing trade submission times associated with trades with differing levels of complexity or execution style or any other intrinsic or extrinsic factors, facts, and circumstances that may unavoidably impact the time it takes to report a trade by a dealer that is fulfilling the proposed requirement to report "as soon as practicable" and not intentionally delaying the trade reporting process. BDA members stress that an ambiguous rule could negatively impact market liquidity by causing dealers to not bid on securities in an effort to avoid fines for what is deemed an insufficient reporting speed for a trade report that is reported within the required reporting window.

In addition, more routine and predictable trading and operational issues, such as staff turnover, beginning to trade and report a new security type, or simply a particularly high volume trading day could impact trade reporting time frames for a dealer relative to its own reporting track record or relative to the trade reporting time frames by other dealers executing similar trades. BDA believes that the above recommended language change allows for a variety of business and market factors to impact what is "practicable" for dealers with respect to trade reporting.

In conclusion, BDA agrees with the intent of this proposed rule change but has concerns with how the rule—without the above recommended language changes—could lead to ambiguity and therefore inconsistent enforcement due to a lack of acknowledgement of the full scope of factors, facts, and circumstances that could lead to differing trade reporting for dealers who have no intention to delay reporting and who also follow robust trade reporting policies and procedures.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Nicholas".

Michael Nicholas
Chief Executive Officer