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

Re: Pricing Disclosure in the Fixed Income Markets (Regulatory Notice 15-36)

Dear Ms. Asquith:

CFA Institute[1] is pleased to comment on FINRA's proposed rules requiring its member firms to disclose certain information on customer confirmations for transactions in debt securities. CFA Institute represents the views of those investment professionals who are its members before standard setters, regulatory authorities, and legislative bodies worldwide on issues that affect the practice of financial analysis and investment management, education and licensing requirements for investment professionals, and on issues that affect the efficiency, integrity and accountability of global financial markets.

Executive Summary

Need for both pre- and post-trade transparency. CFA Institute strongly supports efforts to increase transparency in the fixed-income market, and believes that measures to provide additional pre-trade information are warranted, in addition to the post-trade transparency that this proposal seeks. We encourage FINRA to consider additional ways to increase this transparency, including providing *all* customers with links to Trade Reporting and Compliance Engine (TRACE) data, not just select customers, as proposed.

Required disclosure in complex trades. We recommend use of a uniform standard for determining the reference price to be disclosed, even in complex trades.

Disclosure when there are material changes to the price of a security. We do not agree with the proposal that would allow dealers the option to omit disclosure of the reference price in cases

[1] CFA Institute is a global, not-for-profit professional association of more than 133,700 investment analysts, advisers, portfolio managers, and other investment professionals in 145 countries, of whom more than 127,000 hold the Chartered Financial Analyst® (CFA®) designation. The CFA Institute membership also includes 147 member societies in 73 countries and territories.

where a material event results in significant price swings. Instead, we believe a better option is to require dealers to provide that disclosure with clarifying language.

Discussion

We agree with FINRA's concern that "investors in fixed-income securities currently are limited in their ability to understand and compare transaction costs associated with their purchase and sales." This is particularly noteworthy, given FINRA's own research indicating that "some customers paid considerably more than others in similar trades." We thus strongly support FINRA's efforts through this proposal to shine more light into the fixed-income market and to provide customers with additional information about their specific transactions.

Price Disclosure for Similar Transactions

As proposed, all member firms acting in the capacity of principals in transactions involving corporate or agency debt securities would have to disclose on retail customer confirmations:

- The price the customer paid for the bond;
- The "reference price" of the security subject to the principal trading transaction;
- The differential between the price the customer paid and the reference price; and
- A reference — and hyperlink if the confirmation is electronic — to publicly available TRACE data.

This would be required when firms are acting as principal and sell to, and buy from, their customers the same securities during that same trading day. Transactions not involving firms trading as principal would not trigger any requirement to provide this link.

Difference and Similarities to Municipal Securities Rulemaking Board Proposal

FINRA notes that it has discussed with the Municipal Securities Rulemaking Board (MSRB) a coordinated approach to rulemaking in this area. Similar to the MSRB, FINRA hopes through this rulemaking to provide investors with information that will help them better evaluate the costs and services received from their firms relating to select transactions. By providing links to the TRACE data, FINRA also hopes customers will gain understanding about firms' pricing practices.

The two proposals differ, however, in several respects, and FINRA invites comment on the differences. To that end, we provide suggestions where we favor the MSRB approach or otherwise believe uniformity is in the interests of investors.

Criteria for Triggering Disclosure

In an earlier proposal, FINRA proposed using a "qualifying size" trigger for additional disclosure requirements. We support FINRA's decision in this revised proposal to instead use a "retail customer account standard." This approach is not only a clearer and more direct standard for firms to apply, but also is consistent with the approach proposed by the MSRB.

Alternative Methodologies for More Complex Trades

Under the proposal, firms would need to determine and disclose the "reference price" of the security subject to the principal trading transaction. FINRA has proposed two approaches for making this calculation. In a straightforward scenario where the retail and firm principal transactions do not have intervening principal trades during the same trading day, and the principal trade is the same size or greater than the retail trades, the reference price would be the price of the principal trade.

Where there are intervening trades of differing prices or the principal trade is not equal to, or greater than, that of the retail customer, FINRA proposes giving firms flexibility to determine the reference price. The proposal notes that in these cases, firms can employ a "reasonable alternative methodology," including the average weighted price of firm trades that were equal to or more than their customers' trades. They also could use prices for the last same-day trades the firm executed as principal to their customers' trades. In all cases, firms would have to consistently apply whatever methodology chosen.

We agree with FINRA's assessment that while this flexibility may be more cost-effective for firms, it also would reduce comparability and thus investors' ability to evaluate transactions. We thus argue for adoption of one uniform standard to be applied in all scenarios. We also recommend that should FINRA elect to retain use of a reference price, that it consider requiring firms to disclose the percentage of the price differential. This, we believe, would provide customers with a better contextual basis for comparison.

Material Changes to the Price of the Security

In cases where a material event (such as credit downgrades or breaking news) affects market prices and results in significant swings in bond market prices between the times of customer and firm trades, firms would have flexibility whether or not to disclose the reference price. They could choose not to disclose or disclose with clarifying information. In providing firms this option, FINRA reasons that depending on the circumstances, investors could be confused about the differences in the prices resulting from the abnormal swings.[2]

We encourage eliminating the option of whether to provide the price in these circumstance. While we appreciate FINRA's concern for investor confusion that might stem from large market swings, we believe investors should be able to rely on receiving a reference price. To that end, we recommend that firms be required to provide that reference price with clarifying information.

Link to TRACE Data

Under the proposal, only customers who are receiving additional disclosure due to firm principal trades in the same security would receive a link from their firms to TRACE on their confirmations. While we agree this will help direct those affected to a source with more information, we believe more should be done to increase transparency in fixed-income markets.

We favor the approach taken in the MSRB proposal. Under that proposal, firms would provide links to the Board's EMMA reporting system for all retail customer confirmations, regardless of whether the transactions involve trading as principal. All retail customers deserve to receive direct links to sources where they can gain additional information about their investments and price differentials, and better educate themselves about this market, generally. To that end, we recommend that firms provide all customers with links to TRACE.

Fixed Price New Issues

We support FINRA's proposal to exempt from the proposed disclosure requirements those transactions that are sold on their first trading day at the fixed offering price, on the basis that sufficient information accompanies new issues. We agree that disclosure requirements should continue to apply to variable price offerings that are part of secondary trades.

Trades Occurring on Functionally Separate Desks

Similar to the approach proposed by the MSRB, FINRA is proposing that transactions occurring on "functionally separate" trading desks located within a firm be excluded from calculating a reference price for purposes of disclosures on customer confirmations. Specifically, firm-side transactions that are functionally separate from those conducted on the retail-desk side would be exempt from disclosure, provided that firms have policies and procedures in place that demonstrate to examiners the transactions for institutional customers are separate from the retail

[2] The proposal makes clear that swings in prices resulting from general market volatility or normal price fluctuations would not be a basis for allowing firms the option of whether or not to disclose the reference price.

desks and from retail customers. We believe this approach reasonably achieves the goal to provide investor protections while also recognizing the practical realities of firm operations.

Positions Acquired by an Affiliate on a Previous Trading Day

FINRA's proposed disclosure requirements apply to relevant transactions occurring within the same trading day. Thus, the proposal would not apply when firms acting as principals execute trades with their affiliates whose position satisfies the trade, but the trade was not acquired on the same trading day. While we agree that this approach is reasonable when focusing on the same trading day as the pivotal time-frame for triggering disclosure requirements, we favor the alternative "look-through" approach proposed by the MSRB, and suggest adoption of this approach for consistency.

Conclusion

We strongly FINRA's efforts to increase the transparency in the fixed-income market by providing customers with new disclosures relating to their trades, and about the market We encourage FINRA and the MSRB to work together to better coordinate their approaches where the end goals are the same. This will increase consistency while also reducing investor confusion. Should you have any questions about our position, please do not hesitate to contact Kurt N. Schacht, CFA at kurt.schacht@cfainstitute.org, 212.756.7728 or Linda Rittenhouse at linda.rittenhouse@cfainstitute.org, 434.951.5333.

Sincerely,

/s/ Kurt N. Schacht

Kurt N. Schacht, CFA
Managing Director, Standards and
Financial Market Integrity
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/s/ Linda L. Rittenhouse

Linda L. Rittenhouse
Director, Capital Markets Policy
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