

protection of investors and the public interest. In this filing, the Exchange has asked that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing.

The Exchange notes the proposed rule is intended to clarify the differences in the handling of certain orders entered into the system by different protocols. The Exchange notes that orders will be treated as consistently as possible across the Test Groups and the Control Group while complying with each grouping's varied quoting and trading requirements. Additionally, the Exchange proposed to remove Commentary .14 because it is no longer necessary.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal clarifies the Exchange's rules and provides transparency to members with regards to the handling of certain orders entered via OUCH and FLITE as well as RASH, QIX, or FIX protocols for locked or crossed orders in Test Group Three Pilot Securities. The Commission notes that the Exchange proposed to remove the functionality described in Commentary .14 and make the necessary corresponding systems changes in Partial Amendment No. 2 to Nasdaq-2016-126, which the Commission approved.<sup>26</sup> The Exchange notes that it was able to implement the systems changes and that they became fully operational on the December 14, 2016. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on December 14, 2016.<sup>27</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing,

including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2016-171 on the subject line.

##### Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2016-171. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2016-171 and should be submitted on or before January 17, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>28</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79620; File No. SR-FINRA-2016-046]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Reporting Transactions in U.S. Treasury Securities to the Trade Reporting and Compliance Engine

December 20, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 14, 2016, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 6710 to clarify the definitions of "Auction Transaction" and "When-Issued Transaction" for the purposes of reporting transactions in U.S. Treasury Securities to the Trade Reporting and Compliance Engine ("TRACE").

Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

\* \* \* \* \*

#### 6000. QUOTATION AND TRANSACTION REPORTING FACILITIES

\* \* \* \* \*

#### 6700. TRADE REPORTING AND COMPLIANCE ENGINE (TRACE)

##### 6710. Definitions

The terms used in this Rule 6700 Series shall have the same meaning as those defined in the FINRA By-Laws and rules unless otherwise specified. For the purposes of this Rule 6700 Series, the following terms have the following meaning:

(a) through (ee) No Change.

(ff) "Collateralized Debt Obligation" ("CDO") means a type of Securitized Product backed by fixed-income assets

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>26</sup> See *supra* note 5.

<sup>27</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>28</sup> 17 CFR 200.30-3(a)(12).

(such as bonds, receivables on loans, or other debt) or derivatives of these fixed-income assets, structured in multiple classes or tranches with each class or tranche entitled to receive distributions of principal and/or interest in accordance with the requirements adopted for the specific class or tranche. A CDO includes, but is not limited to, a collateralized loan obligation ("CLO") and a collateralized bond obligation ("CBO").

(ff) "Auction" means the bidding process by which the U.S. Department of the Treasury sells marketable securities to the public pursuant to Part 356 of Title 31 of the Code of Federal Regulations.

(gg) "Auction Transaction" means [the purchase of] a transaction in which a member is awarded a U.S. Treasury Security in an Auction.

(hh) "When-Issued Transaction" means a transaction in a U.S. Treasury Security that is executed before the [Auction for] issuance of the security.

• • • **Supplementary Material:** —

.01 No Change.

\* \* \* \* \*

**6730. Transaction Reporting**

(a) through (b) No Change.

**(c) Transaction Information To Be Reported**

Each TRACE trade report shall contain the following information:

(1) through (2) No Change.

(3) Price of the transaction (or the elements necessary to calculate price, which are contract amount and accrued interest) or, for When-Issued Transactions in U.S. Treasury Securities executed before the Auction for the security, the yield as required by paragraph (d)(1) of this Rule [below];

(4) through (14) No Change.

**(d) Procedures for Reporting Price, Capacity, Volume**

**(1) Price**

(A) Except as noted in subparagraph (B) [for When-Issued Transactions in U.S. Treasury Securities], for principal transactions, report the price, which must include the mark-up or mark-down. (However, if a price field is not available, report the contract amount and, if applicable, the accrued interest.) For agency transactions, report the price, which must exclude the commission. (However, if a price field is not available, report the contract amount and, if applicable, the accrued interest.) Report the total dollar amount of the commission if one is assessed on the transaction. Notwithstanding the

foregoing, a member is not required to include a commission, mark-up or mark-down where one is not assessed on a trade-by-trade basis at the time of the transaction or where the amount is not known at the time the trade report is due. A member must use the "No Remuneration" indicator described in paragraph (d)(4)(F) where a trade report does not reflect either a commission, mark-up or mark-down, except for an inter-dealer transaction, a "List or Fixed Offering Price Transaction," as defined in Rule 6710(q), or a "Takedown Transaction," as defined in Rule 6710(r).

(B) For When-Issued Transactions in U.S. Treasury Securities executed before the Auction for the security and conducted on a principal basis, report the yield, which must include the mark-up or mark-down, of the security in lieu of price. For When-Issued Transactions in U.S. Treasury Securities executed before the Auction for the security and conducted on an agency basis, report the yield, which must exclude the commission, of the security in lieu of price. Report the total dollar amount of the commission.

(2) through (4) No Change.

(e) through (f) No Change.

• • • **Supplementary Material:** —

.01 through .05 No Change.

\* \* \* \* \*

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

**A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change**

**1. Purpose**

On October 18, 2016, the Commission approved a proposed rule change to require FINRA members to report certain transactions in U.S. Treasury Securities to TRACE.<sup>3</sup> The reporting

<sup>3</sup> See Securities Exchange Act Release No. 79116 (October 18, 2016), 81 FR 73167 (October 24, 2016) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of File No. SR-FINRA-2016-027).

requirements will be implemented beginning July 10, 2017.<sup>4</sup> As part of the proposed rule change, FINRA adopted three new defined terms to address members' reporting requirements involving transactions in U.S. Treasury Securities that occur on a "when-issued" basis or that occur as part of an auction of U.S. Treasury Securities: "Auction," "Auction Transaction," and "When-Issued Transaction." FINRA is amending the definitions of "Auction Transaction" and "When-Issued Transaction" to clarify the application of those terms, and is amending Rule 6730 to clarify the reporting requirements in light of the changes to the definition of "When-Issued Transaction."<sup>5</sup>

First, FINRA is amending the terminology in the definition of "Auction Transaction" to conform to the regulations applicable to auctions of U.S. Treasury Securities. As adopted, the term "Auction Transaction" is defined as "the purchase of a U.S. Treasury Security in an Auction."<sup>6</sup> Pursuant to the amendments to Rule 6730(e), Auction Transactions are exempt from the TRACE reporting requirements.

When conducting auctions, the Department of the Treasury accepts bids and determines awards pursuant to the process set forth in the applicable regulations.<sup>7</sup> Securities awarded during the auction process must then be paid for by the issue date established in the announcement for the auction.<sup>8</sup> To incorporate the concept of "awards" and maintain consistency with the applicable Treasury regulations, FINRA is amending the definition of "Auction Transaction" to mean "the [sic]<sup>9</sup> transaction in which a member is awarded a U.S. Treasury Security in an Auction." Consequently, the acquisition of U.S. Treasury Securities on the issue

<sup>4</sup> See *Regulatory Notice* 16-39 (October 2016).

<sup>5</sup> On September 23, 2016, the Commission approved SR-FINRA-2016-023, which added a definition of "Collateralized Debt Obligation" to Rule 6710 as paragraph (ff). See Securities Exchange Act Release No. 78925 (September 23, 2016), 81 FR 67023 (September 29, 2016) (Order Approving File No. SR-FINRA-2016-023). The proposed rule change also amends the paragraph designations for the definitions of "Auction," "Auction Transaction," and "When-Issued Transaction" as (gg), (hh), and (ii), respectively.

<sup>6</sup> The term "Auction" means "the bidding process by which the U.S. Department of the Treasury sells marketable securities to the public pursuant to Part 356 of Title 31 of the Code of Federal Regulations."

<sup>7</sup> See 31 CFR 356.20 (How does the Treasury determine auction awards?).

<sup>8</sup> See 31 CFR 356.25 (How does the settlement process work?).

<sup>9</sup> The proposed rule text states: "'Auction Transaction' means a transaction in which a member is awarded a U.S. Treasury Security in an Auction."

date as a result of a successful bid in an Auction will not be reportable to TRACE by a FINRA member. Any secondary market transactions in the security following the initial acquisition on the issue date will be reportable.

Second, FINRA is amending the definition of “When-Issued Transaction” to conform to more common usage of the term. As adopted, the term “When-Issued Transaction” was defined as “a transaction in a U.S. Treasury Security that is executed before the Auction for the security.” Although “when-issued” trading typically refers to any trading conducted between the announcement of an auction for a U.S. Treasury Security and the issue date, which can often be several days after the auction for the security, FINRA defined the term to extend only until the auction for the security to reflect the change in how transactions are priced before and after the auction (*i.e.*, transactions are generally conducted on a yield basis before the auction and on a price basis after the auction).

To conform the definition in the TRACE rules to more common usage, FINRA is amending the definition of “When-Issued Transaction” to mean “a transaction in a U.S. Treasury Security that is executed before the issuance of the security.” Under the amendment, therefore, the timing of When-Issued Transactions will still commence with the announcement of the Auction, but any transaction in the security subject to the Auction will be considered a “When-Issued Transaction” until the date the security is issued rather than the date the security is auctioned. Members will still be required to report yield, rather than price, for When-Issued Transactions up until the Auction for the security and price following the Auction; however, all When-Issued Transactions, both before and after the Auction up until the issue date, must be reported with the appropriate indicator. Because of the change in definition, FINRA also is amending Rule 6730 to clarify that, although the definition of the term “When-Issued Transaction” is being amended, there are no changes as to how members report price or yield on these transactions.<sup>10</sup>

FINRA has filed the proposed rule change for immediate effectiveness. The implementation date will be July 10, 2017.

<sup>10</sup> Similarly, the guidance FINRA has provided on the use of the When-Issued Transaction indicator and reopening transactions does not change as a result of these amendments. *See Regulatory Notice 16-39* (October 2016).

## 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>11</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the amendments will conform the terms in FINRA rules to their more common usage and use of these terms in applicable Treasury regulations. FINRA believes the amended definitions may reduce confusion regarding usage of the terms in the FINRA TRACE rules.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Because the amendments are limited to conforming the terms in FINRA rules to their more common usage and to the use of the terms in applicable Treasury regulations, FINRA believes that amending the definitions may reduce confusion regarding usage of the terms and will not result in any burden on competition.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup>

At any time within 60 days of the filing of the proposed rule change, the

<sup>11</sup> 15 U.S.C. 78o-3(b)(6).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. FINRA has satisfied this requirement.

Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2016-046 on the subject line.

### *Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-FINRA-2016-046. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make

available publicly. All submissions should refer to File Number SR-FINRA-2016-046, and should be submitted on or before January 17, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2016-31112 Filed 12-23-16; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79619; File No. SR-NASDAQ-2016-178]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to SQF Ports

December 20, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 16, 2016, The NASDAQ Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter XV, entitled “Options Pricing,” at Section 3, entitled “NASDAQ Options Market—Ports and other Services.” Chapter XV governs pricing for Exchange members using the NASDAQ Options Market LLC (“NOM”), the Exchange’s facility for executing and routing standardized equity and index options. The Exchange proposes to amend Specialized Quote Feed (“SQF”) Port<sup>3</sup> Fees.

The text of the proposed rule change is available on the Exchange’s Web site at <http://nasdaq.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend the SQF Port Fees in Chapter XV, Section 3 of the NOM Rules. The Exchange recently transitioned to state-of-the-art hardware and software architecture to achieve a more efficient and more robust infrastructure to support the growing needs of our Options Participants (“NOM Refresh”). In connection with this recent NOM Refresh, NOM Market Makers were required to make certain changes to connect to the new NOM System via their SQF Ports. As a result of these changes to NOM, the number of SQF Ports required by NOM Market Makers should be reduced, since a single connection may be utilized to quote across all symbols. The Exchange anticipates that NOM Market Makers will benefit from the efficiency of the service that is available to them as a result of the NOM Refresh.

The Exchange provided NOM Market Makers with new SQF ports for connectivity so that NOM Market Makers could support our migration from the old to the new SQF Ports during our symbol rollout period. During the months of October and November 2016 (“NOM Refresh Period”) the Exchange offered NOM Market Makers a Fixed SQF Port Fee, which is the amount that was paid by the NOM Market Maker for SQF Ports for the month of August 2016. Currently, NOM Market Makers are not assessed an SQF Port Fee for their use of the new version of the SQF Ports to

connect to the new environment during this NOM Refresh Period.<sup>4</sup> As of December 1, 2016, only new SQF Ports were utilized and the old SQF Ports were eliminated.

At this time, the Exchange is proposing to eliminate the Fixed SQF Port Fee and adopt the following incremental cost model for SQF Port Fees, per port, per month:

Number of SQF ports	Monthly fee per port
First 5 ports .....	\$1,500 per port.
Next 15 ports (6–20) .....	\$1,000 per port.
All ports over 20 ports (21 and above).	\$500 per port.

For example, if a NOM Market Maker desired 21 SQF Ports in December 2016, the NOM Market Maker would be billed \$1,500 for the first 5 ports (\$7,500), the next 15 ports will be billed \$1,000 (\$15,000) and the final port would be billed \$500 for a total SQF Port Fee for December of \$23,000.

While NOM Market Makers will be assessed higher fees for each port under 20 ports as compared to the original \$750 SQF Port Fee prior to the implementation of the Fixed SQF Port Fee,<sup>5</sup> the Exchange believes that costs will decline overall as a result of the more efficient connectivity offered by the NOM Refresh and the need for fewer ports. The Exchange believes that it continues to offer SQF Ports to NOM Market Makers at competitive prices.

###### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>7</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using its facility, and is not designed to permit unfair

<sup>4</sup> For example if a NOM Market Maker obtained 1 new SQF Port to test during the NOM Refresh Period, the NOM Market Maker was not assessed a new SQF Port Fee for that port, but only pay the Fixed SQF Port Fee during the two months. The Exchange notes that it is removing language related to new NOM Market Makers that request SQF Ports after October 3, 2016 would be assessed \$750 per port, per month between October 3, 2016 and November 30, 2016. This language is no longer necessary. The Exchange notes that no NOM Market Makers were subject to this fee during the NOM Refresh Period.

<sup>5</sup> Prior to the implementation of the Fixed SQF Port Fee, the Exchange assessed an SQF Port Fee of \$750 per port, per month. See Securities Exchange Act Release No. 79105 (October 17, 2016), 81 FR 72844 (October 21, 2016) (SR-NASDAQ-2016-133).

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>14</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> SQF ports are ports that receive inbound quotes at any time within that month. The SQF Port allows a NOM Market Maker to access information such as execution reports and other relevant data through a single feed. For example, this data would show which symbols are trading on NOM and the current state of an options symbol (i.e., open for trading, trading, halted or closed). NOM Market Makers rely on data available through the SQF Port to provide them the necessary information to perform market making activities.