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January 30, 2023

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

**Via e-mail (pubcom@finra.org)**

**Re: Proposed Changes to TRACE Reporting Rules Relating to Delayed Spot Trades; FINRA Regulatory Notice 22-26**

Dear Ms. Mitchell:

MarketAxess Holdings Inc. ("MarketAxess") appreciates the opportunity to provide the Financial Industry Regulatory Authority ("FINRA") with our comments regarding its proposal to change the TRACE reporting rules that apply to delayed Treasury spot transactions (the "Proposal").[1] MarketAxess operates the leading, institutional electronic trading platform for corporate bonds. Through its registered broker-dealer, MarketAxess Corporation, and its global affiliates, more than 2,000 firms traded a record $8.4 trillion of U.S. investment-grade bonds, U.S. high yield bonds, emerging market debt, Eurobonds, Treasuries, and other fixed income securities on the MarketAxess platform in 2022. MarketAxess' Open Trading™ marketplace is regarded as the premier all-to-all trading solution in the global credit markets, creating a unique liquidity pool for the broad range of credit market participants.

## I. Background.

As the Proposal indicates, under current TRACE reporting rules, member firms are required to report transactions in corporate bonds within 15 minutes of the time of execution,[2] which is defined as the time when the parties agree to all of the terms

[1] See Regulatory-Notice-22-26.pdf (finra.org) (December 29, 2022) (the "Notice"). In general, a delayed Treasury spot transaction occurs when a market participant trades a corporate debt security on the basis of a spread to a benchmark U.S. Treasury security and agrees to subsequently calculate the dollar price of the trade by "spotting" the benchmark U.S. Treasury security at a designated time.
[2] See FINRA Rule 6730(a).

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of the transaction that are sufficient to calculate the dollar price of the transaction.[3] Therefore, a delayed Treasury spot transaction is not reportable to TRACE until the completion of the spotting process. Further, the TRACE reporting rules only require the reporting of the final dollar price for the transaction, without identifying the transaction as a delayed Treasury spot trade or providing information about the agreed spread or the benchmark U.S. Treasury Security.

In February 2020, the SEC's Fixed Income Market Structure Advisory Committee ("FIMSAC") recommended that FINRA amend its TRACE reporting rules to add a new modifier for delayed Treasury spot trades which indicated that the spread-based terms of these trades were agreed at an earlier time in the day and by reporting the time at which the spread was agreed.[4] After this recommendation was made, FINRA requested comment on a proposal to revise its TRACE reporting rules to implement these recommendations,[5] and subsequently filed a proposed rule change with the SEC to revise these rules accordingly.[6] However, FINRA later amended this rule filing to remove any requirements relating to delayed Treasury spot trades.[7]

Under the Proposal, FINRA would amend Rule 6730 to provide for a two-part reporting regime in connection with delayed Treasury spot trades. First, member firms would be required to report the agreed upon spread and identify the associated benchmark U.S. Treasury security as soon as practicable but no later than within 15 minutes after the spread has been agreed. Second, member firms would be required to supplement the initial report by subsequently reporting the calculated dollar price as soon as practicable, but no later than within 15 minutes of the time

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[3] See FINRA Rule 6710(d). Under this Rule, when the actual yield for a transaction is established by determining the yield from a designated security and adding the agreed upon "yield spread," the time of execution occurs when the yield of the designated security has been agreed by the parties to the transaction.

[4] See "Recommendation Regarding Additional TRACE Reporting Indicators for Corporate Bond Trades" (February 10, 2020), available at: fimsac-additional-trace-flags-recommendation.pdf (sec.gov) (the "FIMSAC Report"). In considering this matter, the Committee considered the cost and difficulty of making two separate reports with respect to delayed Treasury spot trades and determined that its proposal reflected the best outcome from a cost-benefit perspective. See the FIMSAC Report at footnote 3. The Chair of The Technology and Electronic Trading Subcommittee of FIMSAC when this recommendation was made was Richard McVey, the Chairman and Chief Executive Officer of MarketAxess.

[5] See "FINRA Requests Comments on Proposed Changes to TRACE Reporting Relating to Delayed Treasury Spot and Portfolio Trades" (July 16, 2020), available at https://www.finra.org/sites/default/files/2020-07/Regulatory-Notice-20-24.pdf ("Notice 20-24").

[6] See Securities and Exchange Act Release No. 34-93699 (December 1, 2021).

[7] See Securities and Exchange Act Release No. 34-94365 (March 4, 2022), at note 7.

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the trade is "spotted" to the benchmark U.S. Treasury security. In both cases, FINRA would disseminate the reported information immediately upon receipt. According to FINRA, the proposed two-step process would increase post-trade transparency by providing market participants with timelier and more complete information about delayed Treasury spot trades than is currently available or which would have become available under its prior proposal.

## II. Discussion.

### A. General.

MarketAxess has consistently supported the adoption of greater transparency measures in the fixed income markets so long as they are implemented in a thoughtful manner. In this circumstance, however, we believe that value of additional information that would be reported and disseminated under the Proposal would be marginal relative to the costs that market participants will incur in complying with these new requirements.

As an initial matter, we believe that the costs of implementing the two-step reporting process reflected in the Proposal will be relatively high. For example, member firms will incur significant costs in modifying their reporting systems to connect the two trade reports required under the Proposal. Moreover, as the Proposal acknowledges, these costs will be higher for member firms that store some or all the relevant information in a system that is not connected to their TRACE reporting systems. While FINRA has acknowledged that market participants will incur certain costs if the Proposal is implemented, we believe that the Proposal does not provide an adequate economic analysis of these costs, and thus does not provide a basis for comparing the purported benefits of the Proposal against these costs.[8] This is especially true given the fact that it is unclear whether member firms would be subject to two TRACE reporting fees under the Proposal.

Accordingly, we believe that FINRA should take a more incremental approach and revert back to the proposal set forth in Notice 20-24 and in the FIMSAC recommendations (collectively, the "Prior Proposal"). The information required to be

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[8] While the Notice states that FINRA has undertaken an analysis of the anticipated costs associated with the Proposal, the Notice does not set forth such analysis. Instead, the Notice merely states that the costs of implementing the changes required under the Proposal may vary depending on how actively a firm engages in delayed Treasury spot trades.

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reported under the Prior Proposal would be sufficient to permit market participants to estimate the spread at which a bond was traded without significant effort. In addition, the flag required to be appended to a transaction report under Prior Proposal would clearly indicate that a delayed Treasury spot transaction was not executed at the current market price. In our view, this approach would strike a more appropriate balance between the costs and benefits of providing additional transparency to the market with respect to delayed Treasury spot transactions.

B. Scope of Proposal.

The scope of the Proposal is unclear. In this regard, the Notice describes a delayed Treasury spot transaction as a trade in a corporate debt security effected based on a spread to a benchmark U.S. Treasury security where the yield of the benchmark U.S. Treasury security will be determined at a later time. However, the Proposal does not specify how much time must pass between these two events in order for the trade to be considered a delayed Treasury spot trade. We believe that FINRA needs to specify this time period in order to permit members firms to fully assess the scope of the Proposal and the related costs and benefits of implementing the changes that would be required thereunder. In particular, FINRA should make it clear that a delayed spot Treasury trade is one that is purposefully intended to be spotted at a future time from when the spread is agreed (at least longer than the TRACE reporting window) and does not encompass trades where the spotting process is delayed due to operational issues or disagreement between the parties to the trade regarding the yield to be used for "spotting" to the benchmark Treasury security.

C. Impact on TRACE Reporting Requirements.

Although not expressly discussed in the Notice, we believe that the Proposal may raise more general concerns regarding FINRA's TRACE reporting requirements. Under the current TRACE reporting rules, firms are required to report transactions in corporate bonds within 15 minutes after all of the material terms of the transaction have been agreed (i.e., the time at which it is possible to calculate the dollar price of the transaction). The two-step reporting process reflected in the Proposal appears to change this practice by requiring members to report certain information regarding delayed Treasury spot transactions before all of the material terms have

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been agreed.[9] We believe that this represents a significant policy change which needs to be clarified by FINRA and more fully vetted with market participants before it is adopted.

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MarketAxess appreciates the opportunity to comment on the Proposal and would be happy to discuss our comments with FINRA staff. If you have any comments or questions concerning this letter, please feel free to contact us.

Sincerely,

Scott Pintoff

General Counsel, MarketAxess

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[9] This appears to be contrary to the manner in which FINRA's reporting rules treat similar transactions in NMS stocks. See FINRA Rule 6380A(a)(5)(F) and (G) (reporting of stop stock and price reference price transactions only required after all of the material terms have been agreed).

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