November 16, 2012

Submitted Via Email to pubcom@finra.org

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street N.W.
Washington D.C. 20006-1506

Re: FINRA request for comments on TRACE Dissemination Issues

Ladies and Gentlemen,

The Securities Industry and Financial Markets Association ("**SIFMA**") is pleased to respond to FINRA's request for comments on issues relating to the dissemination of TRACE-eligible securities transactions.[1] SIFMA's comments on this proposal focus on the general question of whether current dissemination practices should be altered for investment grade and non-investment grade debt securities, Agency mortgage-backed securities traded on a to-be-announced ("**TBA**") basis, and Rule 144A transactions.

Summary of the Requests

FINRA has requested comment on the general appropriateness of its current dissemination protocols for investment grade and non-investment grade debt securities, TBA transactions, and Rule 144A transactions. Regarding investment grade and non-investment grade debt securities, FINRA requests feedback on whether the TRACE dissemination volume caps should be raised from $5mm and $1mm. FINRA also seeks comment on the appropriateness of the soon to be implemented TBA dissemination caps. Finally, FINRA requests comments on whether Rule 144A transactions should be subject to dissemination.

Summary of SIFMA Views

- FINRA should not increase dissemination caps for investment grade TRACE-eligible securities or non-investment grade TRACE-eligible securities at this time. The steady reduction in market liquidity that has occurred over the last few years, which is expected to be amplified by market structure changes and recently implemented and proposed financial regulations, will be exacerbated by increases to dissemination caps.
- Since dissemination of TBA transaction data did not take effect until November 12, 2012, any recalibration of dissemination caps for TBA transactions should be postponed until the market impact is known.
- Public dissemination of Rule 144A transactions is not appropriate or necessary at this time.

[1] *See* http://www.finra.org/web/groups/industry/@ip/@reg/@notice/documents/notices/p126487.pdf

DISSEMINATION CAPS FOR INVESTMENT GRADE AND NON-INVESTMENT GRADE DEBT SECURITIES

Liquidity Concerns Remain

SIFMA members do not believe now is the appropriate time to increase dissemination caps. Market dynamics do not appear to be necessitating any changes, liquidity has generally declined in recent years, and our members believe that an increase to dissemination caps would most likely further harm liquidity and large trade execution. Markets benefit from increased liquidity, and transparency initiatives should be developed with the intended effect of increasing liquidity (or, at least not harming it). As we have stated in past letters[2], market participants, including investors, value the ability to keep their strategies and activities confidential for competitive and other reasons. Broad knowledge of specific sizes and timing of trades is therefore very sensitive information, as is the ability to reverse engineer net flows to or from customers or market makers. Our members believe that an increase to dissemination caps will make such specific knowledge more widespread by increasing the proportion of trades where exact sizes will be made public. This will decrease confidentiality of positions, strategies, and flows, and lead to a decrease in market activity and liquidity instead of an increase.

Ultimately, Issuers will be Negatively Impacted by Diminished Liquidity

Issuers face the ultimate risk from decreases to market liquidity since the public dissemination of trade information, as a general matter, makes broker-dealers less willing to take risk on large size trades. A reduction in liquidity will cause institutional investors to demand greater yield from issuers (to compensate for the reduced liquidity), or to simply refuse to buy new issues in meaningful size. Therefore, a careful balance between transparency and the preservation of liquidity must be struck. Data shows that dealers have recently chosen to (or been forced to, in the case of rules like the Volcker Rule) put capital to work elsewhere. This means that institutional investors will face greater difficulty selling a larger sized amount of an issue. Pre-TRACE, and pre-financial crisis, dealers provided a much larger outlet where they would take the risk temporarily while they worked to uncover a buyer. This outlet has been much reduced in recent years, due to a combination of regulation and other market structure issues. The real liquidity differential for larger vs. smaller “on the run” amounts has been meaningfully amplified, and eliminating caps on disseminated volumes would exacerbate this problem. At a much more specific level, it is more difficult to issue securities in smaller sizes when participant’s transactions are immediately made public and expose exact amounts taken down by particular investors. An increase in the dissemination caps will increase the threshold where these securities issuances are somewhat more challenging, and disproportionately harm smaller issuers. In each case, the macro and the granular, the result is a higher cost of capital for issuers.

Regulatory Reform is Expected to Significantly Impair Liquidity

When the current dissemination caps were instituted ten years ago, financial markets and the world economy were very different than they are today. Importantly, due to reforms instituted during and after the financial crisis, trading is more capital intensive than ever before. Several factors have impacted market liquidity, including but not limited to: Basel 2.5 and Basel III, which will significantly impact capital requirements for various asset classes and trading activities; the Volcker Rule, which has

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[2] See, e.g., SIFMA’s May 10, 2012 letter on FINRA’s proposal to implement dissemination for MBS specified pools, here: http://www.sifma.org/issues/item.aspx?id=8589938683; SIFMA’s December 22, 2011 comment letter on FINRA’s proposal to implement dissemination for Agency MBS securities traded TBA, here: http://www.sifma.org/issues/item.aspx?id=8589938683

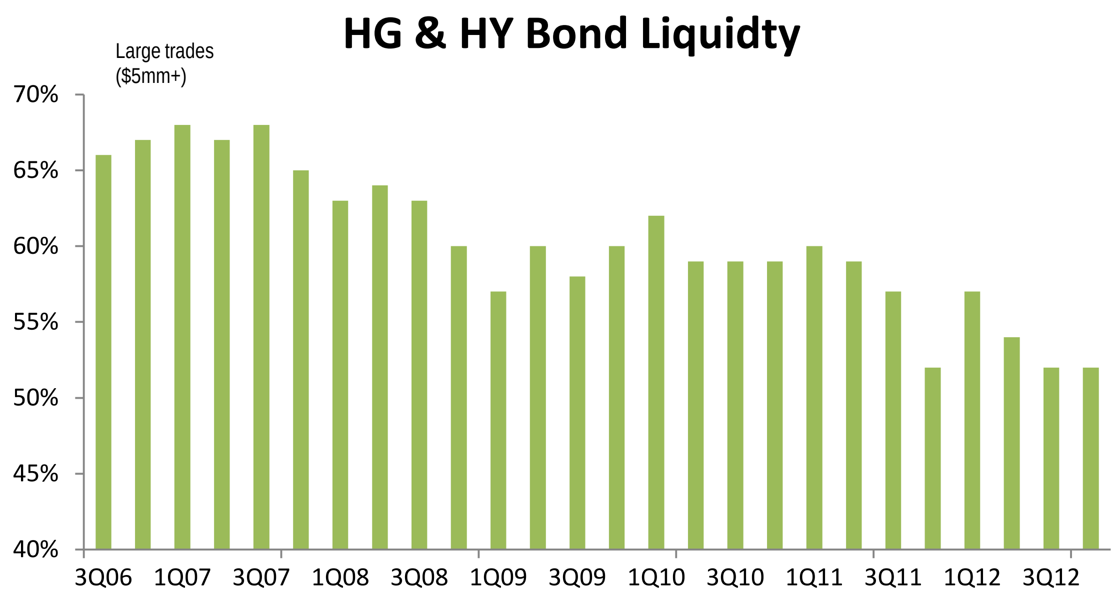
and will continue to reduce proprietary trading by banking entities as a source of liquidity in the markets (and in our view, due to the overbroad nature of the proposal, reduce liquidity far beyond what was intended due to the elimination of activity beyond true proprietary trading); and the consolidation of many large financial market participants (i.e., reductions in the number of large market makers). Each of these factors serves to reduce liquidity on its own; when combined, it is likely they will have an impact that is greater than the sum of their parts. In any case, granular economic analysis of the impact of these rules has not been performed, and rules have not been issued in final form and implemented such that markets have any experience with them. SIFMA does not believe it is appropriate to implement yet another significant change, on top of all of the others, without a better idea of combined impact of all of these regulatory initiatives.

An increase to TRACE dissemination caps coupled with these impediments to liquidity provision would serve to further decrease the ease of transacting in fixed-income markets, at a time when it has already significantly decreased. For example, dealer inventories have significantly decreased from their levels in 2007, and remain in steady decline, as shown below. Anecdotal evidence from our members supports the data. The ability and willingness of dealers to hold securities in inventory, that is, to take on the risk of price movements in securities to facilitate customer activity, is clearly reduced. While one may argue that dealer inventories have simply returned to the levels present in the early 2000s, and therefore all we have seen is a wringing out of the excesses of the crisis, we believe this argument omits one key factor. Financial markets have significantly grown in size over the last decade, and when dealer inventories are viewed proportionally to the size of the markets they serve, they are far smaller now than in the past. As a general matter, we believe that further decreasing the confidentiality of dealer and investor activities will only serve to further decrease the incentive to hold inventory and support market liquidity.

Source: Bloomberg

Trade Sizes have been Decreasing, Execution is More Challenging, and Raising the Volume Caps will Enhance that Trend

Another indicator of market liquidity is the ease with which market participants are able to execute large trades of blocks of securities. In an examination of TRACE data, it is clear that the trend for larger trades is following that of dealer inventories. Larger trades (defined as $5mm+) in corporate markets have been steadily decreasing since 2007, as shown in the chart below. The steady decrease is the product of the regulatory and liquidity concerns highlighted above. Our members believe this downward trend will be amplified with an increase to dissemination caps. If these volumes were increasing or at least steady, one could make an argument to increase caps, but the data shows that the opposite trend is in progress - and we view this as a signal for the continued need for consistency and stability in rule making initiatives.



Source: TRACE

DISSEMINATION CAPS FOR TBA TRANSACTIONS

Impact Analysis Needed before any Changes to Agency MBS TBA Dissemination Protocols

SIFMA provided feedback on FINRA's proposal to implement dissemination for Agency MBS traded TBA in 2011, and was generally supportive of the final rules. Given that dissemination of TBA transactions took effect on November 12, 2012, there has been no market experience with the initial dissemination regime. We believe it is premature to discuss amendments to that regime until we better know the impact of the proposed regime on the markets. Discussion of the appropriateness of and possible changes to TBA dissemination should be delayed until the market impact of the initially proposed dissemination is known.

144A TRANSACTIONS

Changes to the TRACE Regime are not Warranted at this Time

While the 144A market shares some similarities with that of publicly-issued debt, we believe that its unique characteristics merit its separate treatment by FINRA. As a threshold matter, the 144A market is a private market. Buyers in this market must meet certain thresholds, known as Qualified Institutional Buyer (QIB) standards, and the market is not open to typical individual investors. Offering documents are not publicly available on a system like the SEC's Edgar, and in many cases are locked behind password protected websites if they are even posted on the internet at all. Offering and other documentation is often only provided to holders of securities, and is not available to the general public.[3] What all of this means for TRACE is that data disseminated on 144A transactions is not relevant to purchasers of public offerings, as those involved in public transactions may or may not be QIBs, may or may not have access to essential offering documents and disclosure documents, and may end up confused by, or draw incorrect conclusions from, the irrelevant data. On the other hand, the potential market-based downsides are the same as we see in public markets – potential for liquidity disruptions. Here we also incorporate by reference our previously discussed concerns around changes in market liquidity and the impact of many regulatory changes – those concerns are identical in 144a markets.

In the end, the cost-benefit calculation is weighted differently than it is in public markets, and FINRA has correctly designed TRACE with regulatory reporting and dissemination for public transactions, and regulatory reporting for 144A. We do not believe that FINRA should implement dissemination for trades of 144A securities.

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SIFMA appreciates the opportunity to comment and hopes our comments are helpful and we would be pleased to discuss any questions or comments with this submission. Please contact Chris Killian at 212-313-1126 or ckillian@sifma.org with any questions or comments.

Sincerely,

Chris Killian
Managing Director

[3] We recognize that the JOBS Act reduced the general solicitation restrictions on 144A and other private offerings of securities. We note, however, that just because these restrictions have been reduced does not imply that securities issuers will necessarily begin to make offering documents publicly available. Indeed we do not think this will happen on any large scale. We also note that the SEC, in the case of asset-backed securities, has proposed to align some of the disclosure requirements of 144A and public transactions. This proposal has not been finalized, in any case would *not* require posting of such disclosure on Edgar (aside from a public notice of the offering containing summary data).

About Sifma

SIFMA brings together the shared interests of hundreds of securities firms, banks and asset managers. SIFMA's mission is to support a strong financial industry, investor opportunity, capital formation, job creation and economic growth, while building trust and confidence in the financial markets. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit www.sifma.org.