

FINRA Seeks Comment on Applying Various Rules to U.S. Treasuries and Extending Certain Equity Market Rules to All Debt Securities

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Responding to a 2016 request by the SEC (in consultation with the Treasury Department), FINRA [recently reviewed](#) the extent to which various FINRA rules apply to U.S. Treasury securities. Following up on that analysis, on February 6, 2018, FINRA issued [Regulatory Notice 18-05](#), requesting comment on whether it should eliminate certain exclusions from the application of its rules for U.S. Treasury securities and other government securities. FINRA is also requesting comment on whether certain rules that currently apply only to equity securities should be extended to also apply to debt securities generally. If FINRA were to modify all of its rules discussed in the Regulatory Notice to extend them to U.S. Treasury securities and other government securities, or if it were to apply the equity rules mentioned in its Regulatory Notice to all debt securities (which, in each case, would require SEC approval of a FINRA proposed rule change), it could significantly alter trading practices and compliance regimes on fixed-income trading desks and debt research functions of member firms.

Comments must be submitted by April 9, 2018.

Government Securities

FINRA Rule 0150 specifies a long list of FINRA rules that apply to transactions in and activities relating to U.S. Treasury securities and other government securities, such as Rule 2020 (Use of Manipulative, Deceptive or Other Fraudulent Devices), Rule 2111 (Suitability), and Rule 3110 (Supervision). However, by default, many other FINRA rules, including those highlighted in FINRA's Regulatory Notice discussed below, do not apply to transactions in and activities relating to U.S. Treasury securities and other government securities. FINRA is requesting comment on whether the following rules should be extended to U.S. Treasury securities and other government securities, as well as to certain other exempted securities (such as securities issued by church plans or certain bank and other collective trust funds):

- Debt Research (Rule 2242);
- Anti-Intimidation/Coordination (Rule 5240);
- Payments for Market Making (Rule 5250);
- Front Running of Block Transactions (Rule 5270);
- Trading Ahead of Research Reports (Rule 5280); and
- Investment Banking Registration/Examinations (NASD Rule 1032(i)).

The Regulatory Notice asks extensive questions regarding whether and how these rules might be adopted to the particular characteristics of U.S. Treasury or other government securities trading.

While extending some of these rules, such as the prohibition on payments for market making and prohibitions on intimidation and coordination, would likely have little impact on the government securities business, applying FINRA's Debt Research Rule to U.S. Treasury securities could require reexamining and potentially restructuring personnel and

compensation practices, reporting lines and other aspects of producing research on government securities.

All Debt Securities

FINRA also requests comment on whether the following equity-specific rules should be extended to U.S. Treasury securities and other government securities or, potentially, to all debt securities:

- Trading Ahead of Customer Orders (Rule 5320);
- Securities Trader Registration/Examinations (NASD Rule 1032(f)); and
- Registration of Research Analysts (NASD Rule 1050).

Extending these requirements to all debt securities would likely prompt firms to review information barriers and other policies and procedures that currently support firms' compliance with trading ahead restrictions on the equity side of the business, and could result in many additional persons being required to pass qualifying examinations.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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