

September 14, 2022

Via Electronic Mail (govsecreg@fiscal.treasury.gov)

Honorable Janet L. Yellen, Secretary  
Department of the Treasury  
1500 Pennsylvania Avenue, N.W.  
Washington, D.C. 20220

RE: Notice Seeking Public Comment on Additional Transparency for Secondary Market Transactions of Treasury Securities, TREAS–DO–2022–0012.<sup>1</sup>

Dear Secretary Yellen,

In response to the Request for Comment, the Healthy Markets Association (HMA)<sup>2</sup> writes to urge the Department of the Treasury to work with the Securities and Exchange Commission (“SEC”) and other regulators to adopt rules and guidance to enhance the stability, integrity, and oversight of the markets for US Treasury Securities.<sup>3</sup>

The markets for US Treasury Securities are arguably the most important markets in the world, undergirding much of the US and global financial system. And yet, time and again, these markets have proven susceptible to actions that have undermined their stability<sup>4</sup> and integrity.<sup>5</sup>

In November 2021, the Inter-Agency Working Group on Treasury Market Surveillance (“IAWG”)<sup>6</sup> released a “Progress Report” on efforts to improve the transparency and

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<sup>1</sup> Notice Seeking Public Comment on Additional Transparency for Secondary Market Transactions of Treasury Securities, Dep’t of Treasury, 87 Fed. Reg. 38259 (June 27, 2022), available at <https://www.govinfo.gov/content/pkg/FR-2022-06-27/pdf/2022-13540.pdf>.

<sup>2</sup> Healthy Markets Association engages asset owners, asset managers, brokers, exchanges, data providers, policymakers, regulators, and other stakeholders to increase capital markets transparency and reduce conflicts of interest, risks, and costs for investors. To learn about HMA or our members, please see our website at <http://healthymarkets.org>.

<sup>3</sup> We have previously urged the Securities and Exchange Commission to work with FINRA and the Treasury to enhance transparency into these markets, and we do so again here. Letter from Tyler Gellasch, HMA, to Hon. Gary Gensler, SEC, Jan. 3, 2022, available at <https://healthymarkets.org/wp-content/uploads/2022/01/Treasury-Market-Structure-Letter-1-3-22-1.pdf>.

<sup>4</sup> See, e.g., *Joint Staff Report: US Treasury Market on October 15, 2014*, Dep’t of Treasury, et al., July 13, 2015, available at <https://home.treasury.gov/system/files/276/joint-staff-report-the-us-treasury-market-on-10-15-2014.pdf>.

<sup>5</sup> See, e.g., *In the Matter of J.P. Morgan Securities LLC*, SEC, Admin. Proc. File 3-20094, Sept. 29, 2020, available at <https://www.sec.gov/litigation/admin/2020/33-10858.pdf> (settling allegations that traders had engaged in manipulation of the treasuries market for years).

<sup>6</sup> The Inter-Agency Working Group for Treasury Market Surveillance, which was formed in 1992, is currently comprised of the staffs from the Treasury Department, Federal Reserve Board of Governors, Federal Reserve Bank of New York, Securities and Exchange Commission, and Commodity Futures Trading Commission.

resiliency of these markets.<sup>7</sup> The Progress Report found that, despite the best efforts of the Financial Industry Regulatory Authority (“FINRA”), little progress has been made.<sup>8</sup>

Amidst growing concerns about potential strains on these enormous markets,<sup>9</sup> we urge the Treasury Department to work with other regulators to implement three essential reforms to promote transparency, integrity and stability of the markets without delay:<sup>10</sup>

- Promote timely access to essential market information;
- Enhance transparency, reduce conflicts of interest, and ensure integrity of trading venues; and
- Reduce risks of trade processing and settlement through centralized clearing.

Lastly, we note that very recent evolutions in the markets have accelerated the need for urgent action.

## Promote Timely Access to Essential Market Information

Orders and trade information in US Treasury Securities should be reported and disseminated to the public in real time.<sup>11</sup> Bringing transparency to the markets for US Treasury Securities would empower market participants and regulators, while reducing risks of manipulation and abuse.<sup>12</sup>

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<sup>7</sup>U.S. Dep’t of Treasury, et. al, *Recent Disruptions and Potential Reforms in the U.S. Treasury Market: A Staff Progress Report*, Nov. 8, 2021, available at <https://home.treasury.gov/system/files/136/IAWG-Treasury-Report.pdf> (“Progress Report”).

<sup>8</sup> Progress Report.

<sup>9</sup> See, e.g., Paul J. Davies, *Is the U.S. Treasury Market Too Big to Trade?*, Bloomberg, Dec. 8, 2021, available at <https://www.bloomberg.com/opinion/articles/2021-12-08/the-massive-u-s-treasury-market-is-showing-signs-of-strain-and-dysfunction>.

<sup>10</sup> We very much appreciated your remarks before the Inter-Agency Working Group on Treasury Market Surveillance. Remarks of Hon. Gary Gensler, SEC, before the U.S. Treasury Markets Conference, Nov. 17, 2021, available at <https://www.sec.gov/news/speech/gensler-us-treasury-market-conference-20211117>.

<sup>11</sup> See, e.g., Citadel Securities, *Enhancing Competition, Transparency, and Resiliency in U.S. Financial Markets*, at 9-10, May 2021, available at <https://s3.amazonaws.com/citadel-wordpress-prd102/wp-content/uploads/sites/2/2021/05/03130457/EnhancingCompetitionTransparencyandResiliencyinUSFinancialMarkets.pdf>.

<sup>12</sup> Unfortunately, without comprehensive information for both cash Treasuries and other Treasury-linked products being widely available, manipulations in the markets have often persisted for years. See Press Release, *NatWest Markets Pleads Guilty to Fraud in U.S. Treasury Markets*, U.S. Dep’t of Justice, Dec. 21, 2021, available at <https://www.justice.gov/opa/pr/natwest-markets-pleads-guilty-fraud-us-treasury-markets> (regarding spoofing from 2008 to 2018); see also, Press Release, *JPMorgan Chase & Co. Agrees To Pay \$920 Million in Connection with Schemes to Defraud Precious Metals and U.S. Treasuries Markets*, U.S. Dep’t

Some market venues may disseminate information to their subscribers in a timely manner. Some trading venues may sell timely access to essential order and trade information to subscribers and data providers, while others will not.<sup>13</sup> Unfortunately, there is no centralized collection of that information from all relevant sources, including the bilateral dealer-to-customer market.

Given that past private market efforts to promote transparency in US Treasury Securities trading have largely failed,<sup>14</sup> regulatory intervention is necessary to remedy this fundamental market weakness – much like what long ago occurred in the US equities markets.

Importantly, a consolidated order and trade information reporting and dissemination utility would not have to be constructed from scratch. Significant trade information is already being reported and a subset of that is aggregated and disseminated to the public. Further, for over five years, FINRA members have been required to report transactions in US Treasury Securities to its Trade Reporting And Compliance Engine (TRACE).<sup>15</sup> Unfortunately, that information is delayed significantly, and what is disseminated is done so on an aggregated basis. Its utility to market participants in informing their trading decisions or evaluating the markets is extremely limited.<sup>16</sup>

More information should be disseminated beyond FINRA’s aggregated weekly statistics.<sup>17</sup> Notably, in December 2020, FINRA proposed a number of reforms to Treasuries trade reporting to TRACE.<sup>18</sup> In particular, the FINRA TRACE Proposal would impose:

1. more granular execution timestamps;

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of Justice, Sept. 29, 2020, available at <https://www.justice.gov/opa/pr/jpmorgan-chase-co-agrees-pay-920-million-connection-schemes-defraud-precious-metals-and-us> (regarding years of spoofing in the Treasuries futures markets).

<sup>13</sup> For example, we are aware of several market participants being unable to access essential trading information from CME Group’s BrokerTec. For more on BrokerTec, see <https://www.cmegroup.com/trading/market-tech-and-data-services/brokertec.html>.

<sup>14</sup> See, e.g., Kenneth Gilpin, *Data Service on Treasuries Challenges Dow Jones Unit*, N.Y. Times, June, 17, 1991, available at <https://www.nytimes.com/1991/06/17/business/data-service-on-treasuries-challenges-dow-jones-unit.html> (exploring the launch of “Govpx Inc., a for-profit organization comprising 40 primary dealers, 3 firms that aspire to become primary dealers and 5 interdealer brokers, ... [which intended to] carry prices on about two-thirds of the \$118 billion in Government securities traded daily.”).

<sup>15</sup> *Reporting Transactions in U.S. Treasury Securities*, FINRA, Reg. Not. 16-39, Oct. 2016, available at [https://www.finra.org/sites/default/files/notice\\_doc\\_file\\_ref/Regulatory-Notice-16-39.pdf](https://www.finra.org/sites/default/files/notice_doc_file_ref/Regulatory-Notice-16-39.pdf).

<sup>16</sup> See Brian Chappatta, *Treasury’s Long-Awaited Data Release Fall Flat*, Bloomberg, Sept. 24, 2019, available at <https://www.bloomberg.com/opinion/articles/2019-09-24/treasury-s-long-awaited-market-data-release-falls-flat>.

<sup>17</sup> *Treasury Aggregate Statistics*, FINRA, available at <https://www.finra.org/finra-data/browse-catalog/treasury-weekly-aggregates> (last viewed Jan. 1, 2022).

<sup>18</sup> *Trade Reporting and Compliance Engine (TRACE): FINRA Requests Comment on Enhancements to TRACE Reporting for U.S. Treasury Securities*, FINRA, Reg. Not. 20-43, Dec. 23, 2020, available at <https://www.finra.org/sites/default/files/2020-12/Regulatory-Notice-20-43.pdf> (“FINRA TRACE Proposal”).

2. a shortened trade reporting timeframe;
3. new indicators to identify non-alternative trading system (ATS) trading venues and method of execution, the trading unit within a firm executing a trade, and the method used to clear and settle a transaction;
4. new modifiers to identify additional multi-leg transactions and whether a transaction is priced at the current market;
5. standardized price reporting; and
6. separate reporting of per-transaction ATS fees.<sup>19</sup>

Notably, while these reforms would materially reduce reporting timeframes, it would nevertheless continue to be inadequate for market participants' use as an important real-time trading tool. Notably, FINRA's TRACE currently collects this information in other fixed income securities to improve post-trade transparency, and has demonstrated that it can disseminate such information in a timely manner upon report receipt. It should just do that.

As an initial step, regulators should mandate public dissemination of all trade information in real time using TRACE (or another dissemination mechanism).<sup>20</sup> We note that, already, this information is often available – in time frames measured in milliseconds – to a portion of the market (*i.e.*, subscribers to the various private trading venues).

As former SEC Chief Economist Chester Spatt and some fellow academics recently explained,

While it may be difficult to completely eliminate such differences in information, timely price reporting in the Treasury markets would be a necessary and fundamental reform. Timely price reporting is one of the most basic features of market design.

Timely price reporting would not only enhance liquidity provision by reducing asymmetric information among those providing intermediation services, but it would add considerably to the resiliency of the markets. The presence of asymmetry in price information will cause market participants to step aside in the presence of large shocks

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<sup>19</sup> FINRA TRACE Proposal, at 1.

<sup>20</sup> We recognize that many experts believe that trade information in US Treasury Securities should be communicated to the public on the terms at least as timely as information in corporate bonds (which must be reported and disseminated in not less than 15 minutes, currently). See, e.g., Letter from Chester Spatt, Burton Hollifield, and Artem Neklyudov, to Hon. Janet Yellen, Dep't of Treasury, Sept. 7, 2022 ("Spatt, Hollifield, and Neklyudov Letter").

and dislocations in liquidity. Encouraging diversity in liquidity provision, reducing asymmetric information about prices, and reducing the reliance on the banking sector for liquidity provision all would work to reduce the vulnerability of the markets and enhance their resiliency by accommodating high volatility situations that lead to liquidity dislocations in markets. Such distortions in the Treasury market are not just hypothetical or from the distant past, but even have arisen several times in the last decade (see discussion in Tarbert (2021) regarding October 2014 and Spring 2020).<sup>21</sup>

We agree. That said, there are material differences in quotations and trading between “on-the-run” Treasuries and those that are “off-the-run.” “On-the-run” Treasuries trade much more like extremely liquid equities or other financial instruments through automated mechanisms, whereas “off-the-run” instruments are much less liquid, and often trade very differently. But there are also very significant differences in their importance to the overall fixed income markets.

Accurate, current and transparent pre-trade data is critically important for best execution and investor protection not only to market participants in US Treasury Securities markets, but also for those who engage in all the other markets that price themselves off Treasuries prices (or yields).<sup>22</sup> For example, Tradeweb last year made this point very clear: “Spread trading, in which a spread is quoted above a benchmark government bond yield, is a conventional form of transacting in investment grade credit markets, offering investors a simple way to evaluate corporate credit risk... When investors agree on a spread for a corporate bond, the trade is not always spotted against the corresponding Treasury at the same time.”<sup>23</sup>

Regulators should require all Government ATSS to report all Treasuries quotations to FINRA and potentially another public reporting and dissemination provider (i.e., competing disseminator) for public dissemination in real time. Regulation should initially focus on bringing pre-trade transparency (particularly, order information for “on the run”) US Treasury Securities out of the “club” and into the light.

Regulators should also be careful to ensure that information provided to TRACE or other reporting and dissemination providers is not first received by subscribers to the trading venues’ proprietary feeds.

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<sup>21</sup> Spatt, Hollifield, and Neklyudov Letter, at 2-3.

<sup>22</sup> See e.g., Remarks of Chris White, BondCliq, before the SEC Fixed Income Market Structure Advisory Cmte, SEC, June 1, 2020, available at <https://www.sec.gov/spotlight/fixed-income-advisory-committee/bond-cliq-presentation-june-2020.pdf>.

<sup>23</sup> Tradeweb, *Net Spotting: Reducing Trading Costs for US Corporate Bonds*, 4, available at <https://financedocbox.com/Stocks/116165527-Net-spotting-reducing-trading-costs-for-u-s-corporate-bonds.html>.

In addition to the content and timeliness of reporting and dissemination, there's also a question of who has to submit information to TRACE. All trading in US Treasury Securities should be captured by the reporting and dissemination mechanisms.

Importantly, market participants and regulators have different informational needs. While there is significant overlap between the types of information collected for each purpose, they are not the same. Information used by market participants can and should be collected and disseminated in real-time (or as close to that as feasible). Regulators, by contrast, would generally be unlikely to analyze or take action in real-time. Further, information that may be useful for regulatory supervision purposes could likely be collected at the end-of-the-day (and potentially not disseminated). TRACE is a real-time reporting system. There are significant expenses and technological challenges of cramming more information into a real-time regime. One way to address those challenges could be to bifurcate reporting so that some information goes into TRACE in real-time, while separately developing an end-of-day reporting schema.

Lastly, our recommendation would essentially vest in FINRA a market data utility that would be used by market participants and could have monopolistic characteristics. Regulators should be careful to ensure that FINRA remains sufficiently committed to investing the resources necessary to provide this important service, while also not exploiting regulatory and potential pricing powers.

## Enhance Transparency, Reduce Conflicts of Interest, and Ensure Integrity of US Treasury Securities Trading Venues

On January 26, 2022, the SEC proposed changes to the definition of “Exchange” and Alternative Trading Systems (ATSs) that trade securities, including US Treasury Securities.<sup>24</sup> This followed a September 2020 proposal from the SEC to revise Regulation ATS and Regulation Systems Compliance and Integrity (SCI) for government securities ATSs (“Government ATSs”).<sup>25</sup> Either proposal would, if adopted, increase transparency, reduce conflicts of interest, and promote the integrity of trading

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<sup>24</sup> *Amendments Regarding the Definition of “Exchange” and Alternative Trading Systems (ATSs) That Trade U.S. Treasury and Agency Securities, National Market System (NMS) Stocks, and Other Securities*, SEC, Exc. Act Rel. No. 34-94062, 87 Fed. Reg. 15496 (Mar. 18, 2022) available at <https://www.govinfo.gov/content/pkg/FR-2022-03-18/pdf/2022-01975.pdf>.

<sup>25</sup> *Regulation ATS for ATSs That Trade U.S. Government Securities, NMS Stock, and Other Securities; Regulation SCI for ATSs That Trade U.S. Treasury Securities and Agency Securities; and Electronic Corporate Bond and Municipal Securities Markets*, SEC, 85 Fed. Reg. 87106 (Dec. 31, 2020), available at <https://www.govinfo.gov/content/pkg/FR-2020-12-31/pdf/2020-21781.pdf>.

venues for Treasuries.<sup>26</sup> The Treasury Department should work with the SEC to enhance Government ATS disclosures and oversight without delay.

In addition, as mentioned above, we urge regulators to require Government ATSs to report to FINRA quotations for “on-the-run” US Treasury Securities, which often serve as the reference prices for block and other episodic-demand liquidity, as well as other fixed income securities.

## Reduce Risks of Trade Processing and Settlement -- Central Clearing

As the IAWG’s Progress Report noted, “In recent years, approximately one-half of interdealer cash trades (representing about one-quarter of the total cash market) have been centrally cleared.”<sup>27</sup> This is significantly less of the market than was centrally cleared several years ago.

The Progress Report noted that expanding central clearing for US Treasury Securities beyond the current levels could have “a range of benefits,” including:

- Allowing for more standardized, enhanced, and more transparent risk management;
- Enabling balance sheet netting (which could reduce balance sheet needs), settlement netting, and trade guarantees;
- Enhancing firm-level and market-wide visibility; and
- Proving a mechanism for additional improvements in market infrastructure.

Most notably, the Progress Report explained that:

By reducing gross exposures and flows and by providing a guarantee for centrally cleared transactions, a CCP may also reduce the likelihood that small shocks would be amplified and result in larger stress in the Treasury or other markets.<sup>28</sup>

Of course, there are some risks and costs that would come along with central clearing, including centralizing potential market-wide risks. Further, market participants will unquestionably incur costs related to the introduction of a new entity, as well as potential margin and capital contribution costs. But perhaps the greatest cost could

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<sup>26</sup> See, Letter from Tyler Gellasch, HMA, to Vanessa Countryman, SEC, Mar. 22, 2021, *available at* <https://www.sec.gov/comments/s7-12-20/s71220-8530174-230263.pdf>; and Letter from Tyler Gellasch, HMA to Vanessa Countryman, SEC, June 13, 2022, *available at* <https://www.sec.gov/comments/s7-02-22/s70222-20131093-301129.pdf>.

<sup>27</sup> Progress Report, at 6.

<sup>28</sup> Progress Report, at 30.



come from a reduction in the liquidity of the markets themselves, if participants withdraw from the marketplace as a result of the new obligations.

However, HMA believes that these risks and costs are, on balance, justified by the potential benefits of broadening access to clearing and settlement beyond the traditional market participants. Further, these risks and costs may be effectively managed by the central counterparty, along with effective oversight by regulators.

## Recent Market Evolutions Mandate Urgent Action

The need for more timely information regarding US Treasury Securities is highlighted by the rise of fixed income ETFs. Order and trade information in fixed income ETFs is reported and disseminated to market participants and the public within fractions of a second using the equities markets infrastructure.

In recent years, fixed income exchange traded products have dramatically expanded. Today, hundreds of billions of dollars in fixed income ETFs are traded on markets where order and execution information is disseminated in milliseconds. Not surprisingly, many market participants are actively engaged in trading strategies that assess and make trading decisions with knowledge of that information in milliseconds.

Since August 2022, these fixed income ETFs may even be for a single security, such as the US Treasury 10 Year ETF (UTEN), the US Treasury 2 Year ETF (UTWO); and the US Treasury 3 Month Bill ETF (TBIL).<sup>29</sup> Each of these ETFs holds a US Treasury Security; the associated “on-the-run” version of the named security.<sup>30</sup> Thus, while there is no consolidated public dissemination of individual quotations or trades in US Treasury Securities, there already is nearly instantaneous dissemination of this information for three ETFs that each hold only one US Treasury Security.

We are concerned with the yawning gap between the timeliness and quantity of information available regarding the trading of US Treasury Securities themselves and the information available (and trading) of securities built on top of them. The larger the gap, the greater risks to market integrity and stability.

This newly-created discrepancy in access to timely quotation and trade information in extremely related assets creates material risks for extremely significant threats to market stability and integrity, including the risk that market participants associated with the ETFs could use their information and positions to advantage themselves in the underlying markets (and vice versa). This advantage may be particularly acute when you consider that the shares in the ETF may be shorted or lent like other

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<sup>29</sup> Press Release, *F/m Investments Announces Launch of the US Benchmark Series*, F/m Investments, Aug. 9, 2022, available at <https://www.businesswire.com/news/home/20220808005808/en/Fm-Investments-Announces-Launch-of-the-US-Benchmark-Series>.

<sup>30</sup> Steve Johnson, *First single-bond ETFs look set to revolutionise access to Treasuries*, Financial Times, Aug. 9, 2022, available at <https://www.ft.com/content/b69a5dce-306f-4e9c-910b-b4c97abbe6c1>.



exchange-traded securities. While we don't expect many of these new single-security fixed income ETFs to ultimately attract significant assets or trading volumes, the opportunities for abuses, volatility, and disruptions are significant.

Lastly, we are concerned about the markets for US Treasury Securities being too dependent upon a small handful of market intermediaries. This dependency upon the largest banks in particular has profound implications for the liquidity of the markets in times of stress.<sup>31</sup> We urge the Treasury Department to work with other federal regulators to reduce this dependency by promoting access to market information, trading venue access, and clearing and settlement access for a more diverse set of market participants.

## Conclusion

Thank you for your consideration, and we look forward to working with you on these very important issues. If you have any questions, please have your staff contact me by email at [ty@healthymarkets.org](mailto:ty@healthymarkets.org) or by telephone at (202) 909-6138.

Sincerely,



Tyler Gellasch  
President and CEO  
Healthy Markets Association

Cc: Hon. Gary Gensler, Chair, Securities and Exchange Commission  
Robert Cook, President and CEO, FINRA

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<sup>31</sup> Robin Wigglesworth, *How to save the Treasury market*, Financial Times, Sept. 13, 2022, available at <https://www.ft.com/content/7d07879f-ef30-42d0-b10c-6ce379fd527a>.