BDA Bond Dealers of America

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February 15, 2024

Secretary
Securities and Exchange Commission
100 F Street NE
Washington DC 20549

<u>In regard to File Numbers SR–FINRA–2024–004 and SR–MSRB–2024–01</u>

Dear Madam Secretary,

The Bond Dealers of America (BDA) welcomes the opportunity to comment on two related rule filings from FINRA and the MSRB, "Notice of Filing of a Proposed Rule Change To Amend FINRA Rule 6730 (Transaction Reporting) To Reduce the 15-Minute TRACE Reporting Timeframe to One Minute" (File SR–FINRA–2024–004) and "Notice of Filing of a Proposed Rule Change To Amend MSRB Rule G– 14 To Shorten the Timeframe for Reporting Trades in Municipal Securities to the MSRB" (File SR–MSRB–2024–01) (together, the "Proposals"). BDA is the only DC-based group exclusively representing the interests of securities dealers and banks focused on the US fixed income markets.

The Proposals would shorten the time under FINRA Rule 6730 and MSRB Rule G-14 for dealers to report applicable fixed income trades to FINRA's Trade Reporting and Compliance Engine (TRACE) and the MSRB's Real-time Trade Reporting System (RTRS). Under current rules, dealers have 15 minutes from the time of execution to report trades. Under the Proposals, most trades would be required to be reported within one minute with important exceptions for dealers with limited trading activity and for trades with a manual component.

BDA supports reasonable regulation to ensure fixed income market transparency. We generally agree with the proposal to have those trades which can reasonably be reported within one minute be required by rulemaking to be reported within such time. However, BDA strongly believes that a significant number of trades cannot operationally be reported within one minute or potentially even shorter reporting timeframes than the current 15-minute requirement under current market practice and available operational technologies. Further, we question the benefit of an across-the-board shortening of reporting times and have concerns about the costs and risks associated with implementation.

If the SEC were to approve the proposals as drafted, the BDA believes the current exceptions contained in the proposals represent essential elements to ensure industry compliance. With the exceptions in place, the Proposals strike a reasonable balance between regulatory modernization and operational limitations which prevent many trades from meeting the one-minute reporting standard. We emphasize that without the exceptions for dealers with limited trading activity and for trades with a manual component, the Proposals would be unworkable. We also agree with FINRA and the MSRB that the Proposals fall within FINRA's and the MSRB's statutory authorities, and we believe the Proposals are consistent with relevant current statutes.

Exceptions to shortened trade reporting requirements

Both Proposals provide an exception from one-minute reporting for dealers with limited trading activity as defined in the rule changes. The BDA supports this exception. We agree with FINRA and the MSRB that it would be inappropriate and excessively costly to expect dealers with limited trading activity who may report trades manually to build compliance infrastructures to support shortening trade reports to one minute. The number of trades that would remain subject to 15-minute reporting under the limited trading exception would not affect the markets' overall transparency. Many BDA members generally would not qualify to take advantage of the limited trading activity exception. However, we believe many firms in the market will benefit greatly from this exception.

BDA members unanimously agree that the second exception provided in the Proposals regarding trades executed or processed with a manual component is essential for dealer compliance with the Proposals.

In our joint response letter to FINRA and the MSRB regarding their initial 2022 proposals, BDA outlined a list of trades which, because they require manual intervention with respect to execution or trade processing, cannot currently be reported within one minute. These include, among others:

- If a firm has never traded a particular bond, before a trade in that CUSIP can be reported to the RTRS or TRACE, the dealer must enter or import a descriptive security record into its trade order management system, a step not necessary if a firm has traded the bond before.
- Under TRACE reporting guidance, a broker-dealer who is dually registered as a Registered Investment Advisor ("RIA") must follow additional reporting steps for trades with the affiliated RIA for single trades that are allocated among numerous RIA accounts. The dealer must report both the single trade with the RIA and the allocations to the RIA's sub-accounts, which can number in the thousands.
- Some dealers, especially small firms, enter some or all trades into RTRS and TRACE manually. This applies for some firms even for trades conducted on electronic platforms.
- Trades negotiated and executed by phone, still the predominant execution method for block-sized trades in municipals, corporates, asset-backed securities, collateralized mortgage obligations ("CMOs"), mortgage-backed securities involving specified pools, and others, require human involvement and data entry, delaying the reporting process easily past one minute. Indeed, some TRACE-eligible products like certain structured mortgage- and asset-backed securities essentially do not trade electronically at all and likely will not in the near to medium future.
- Clocks on different systems—such as clocks on reporting firms' systems versus clocks on clearing firms' systems or clocks on the RTRS or TRACE systems themselves—can be set to times which are seconds apart. With a 15-minute reporting deadline, differences in seconds are relatively insignificant. If the reporting deadline becomes one minute, every

second will count. Clocks off by a few seconds can mean the difference between being in or out of compliance.

BDA believes these and other trades which cannot be reported within one minute would be covered under the Proposals' exception for trades with a manual component.

Under the Proposals the reporting deadline for trades with a manual component would be 15 minutes during the first year the Proposals are in effect, 10 minutes during the second year, and five minutes during the third year and thereafter. We support and appreciate this important phased-down approach, though we remain concerned that shortening reporting times for these trades to five minutes or even ten minutes may prove challenging or even unachievable.

One concern, for example, is that shortened reporting times for trades with a manual component could lead to more errors, corrections, and cancellations of trade reports. As dealers have an ongoing obligation to report trade information not only within required timeframes but also accurately and completely, these shortened timeframes could interfere with this obligation. In that regard, we ask FINRA and the MSRB, to maintain close communication with the industry throughout the transition period and be alert and receptive to reported operational roadblocks that may take time for dealers and third-party service providers to solve. While we do not currently seek any changes to the phasedown to five-minute reporting for trades with a manual component, we will understandably be obligated to raise member concerns in the future if it becomes apparent that 10- or five-minute reporting of trades with a manual component is not achievable within the timeframe provided in the Proposals.

Special condition indicator or flag

Under the Proposals, trades with a manual component would be required to be reported with a new "special condition indicator," or flag. BDA recognizes the utility of distinguishing trades with a manual component from trades that are subject to the Proposals' one-minute reporting requirement. From an operational perspective, however, it may be simpler and arguably more accurate to require a flag for trades subject to the one-minute reporting requirement rather than trades which are not. Trades which would be reportable within one minute are nearly all executed on electronic platforms and are nearly all reported on an automated basis immediately upon execution. Trades with a manual component, however, can fall into any number of categories or scenarios, as the Proposals note. Flagging trades reportable within one minute rather than trades with a manual component would help ensure more accurate and efficient reporting. However, we do not believe this shortcoming should inhibit the Commission from approving the Proposals.

Reporting systems and third-party vendors

Many BDA members rely on third-party vendors to report all or most of their trades to TRACE and RTRS. These generally include providers of trade order management systems and third-party clearing banks. The ability of some BDA members to meet the Proposals' requirements will depend on the ability of key vendors to upgrade their reporting systems, which is not certain. One major vendor who provides TRACE trade reporting services has indicated to the BDA that they may need to significantly upgrade their bandwidth to accommodate high volume trading on some days. Their existing infrastructure sometimes “backs up” during very busy trading times, meaning that trades get queued for reporting until the bandwidth to report them is freed up. While this effect does not threaten compliance under a 15-minute reporting requirement—trades that are “backed up” may simply get reported a minute later—it may become relevant under a one-minute standard. It is clear that vendors that need to upgrade their infrastructure to accommodate changing reporting timelines will pass on this expense to dealers that rely on their service.

<u>Dual registrant allocations</u>

Under current FINRA rules, dealers that are dually registered as investment advisors and who execute trades for the benefit of their affiliated Registered Investment Advisor’s (RIA) customers are required to report both the street side block, or dealer, trade and the individual RIA client account allocations within 15 minutes. Under the Proposals, if a firm uses a fully automated process to allocate and report the allocation trades, which can number in the thousands, the allocations would be required to be reported in one minute because there is no manual step in the process. This is a concern for dually registered dealer/RIAs in situations when there are thousands of allocations. Trade reporting rules treat allocations as trades even though they are at same direction/price as the block trade, and all allocations must be reported individually. BDA encourages FINRA and the MSRB to consider allowing automated allocations to benefit from the trade reporting timing standard in the proposed exception for trades with a manual component. This will allow market participants to have sufficient time to adjust processes to a five-minute reporting standard and avoid the disruption related to reporting numerous allocations under a one-minute reporting requirement.

<u>Implementation period</u>

Both Proposals specify that FINRA and the MSRB will establish implementation deadlines for the Proposals if and when the Commission approves them. While neither proposal specifies a timeframe for implementation, both mention 18 months after approval in an exemplary way.

Building compliant systems for all aspects of the Proposals will require major investments by dealers and vendors in technology, training, and revisions to supervisory procedures, including both for trades already generally reported within one minute and for trades with a manual component. No element of the proposed rule changes is anticipated to be easy, quick, or reasonably affordable to implement. Building out solutions to report trades with a manual component in particular will take time as will making the necessary enhancements to accommodate the eventual stepdown to 10- and five-minute reporting. Implementation will be especially challenging for smaller BDA members who have fewer resources to commit to not only these changes, but the plethora of other new rules and amendments on the regulatory horizon. For these reasons, we ask FINRA and the MSRB to provide 24 months for implementation once the Proposals have been approved by the Commission.

Additionally, throughout the implementation period, and as we gain experience with the challenges of the rule changes embodied in the Proposals, we ask that FINRA and the MSRB remain open to the creation of FAQs or the provision of implementation guidance to achieve greater compliance.

Summary

While BDA members continue to question the overall necessity of the Proposals, we do not oppose their approval by the Commission given the considerations and comments we have provided in this letter. With respect to the exceptions for dealers with limited trading activity and for trades with a manual component, we believe FINRA and the MSRB have effectively identified those scenarios where trades cannot practically be reported within one minute. We reiterate that without those two exceptions, the Proposals would not be workable at this time.

We appreciate the opportunity to present our views. Please call or write with any questions.

Sincerely,

Michael Decker
Senior Vice President