SUBMITTED ELECTRONICALLY

May 17, 2024

Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: File Number SR-MSRB-2024-01; Release No. No. 34–100003; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change Consisting of Proposed Rule Change To Amend MSRB Rule G–14 To Shorten the Timeframe for Reporting Trades in Municipal Securities to the MSRB

File Number SR-FINRA-2024-04; Release No. 34–100006; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend FINRA Rule 6730 (Transaction Reporting) To Reduce the 15-Minute TRACE Reporting Timeframe to One Minute.

Dear Ms. Countryman,

SIFMA,[1] jointly with its Asset Management Group[2], reiterates its comments set forth in its letter of February 15, 2024,[3] and provides further comment in light of the SEC's instituting proceedings on FINRA and the MRSB's (together, the "SROs") proposals to shorten trade reporting timelines in fixed-income markets ("Proposals").

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[1] SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry's nearly 1 million employees, we advocate for legislation, regulation and business policy, affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA).

[2] SIFMA's Asset Management Group (SIFMA AMG) brings the asset management community together to provide views on U.S. and global policy and to create industry best practices. SIFMA AMG's members represent U.S. and global asset management firms whose combined assets under management exceed $45 trillion. The clients of SIFMA AMG member firms include, among others, tens of millions of individual investors, registered investment companies, endowments, public and private pension funds, UCITS and private funds such as hedge funds and private equity funds. For more information, visit http://www.sifma.org/amg.

[3] https://www.sec.gov/comments/sr-finra-2024-004/srfinra2024004-429700-1065023.pdf.

The Proposals request further comment on shortening the trade reporting timeframe for certain transactions in covered fixed income securities. The MSRB's Real-Time Transaction Reporting System ("RTRS") is the system operated by the MSRB for the reporting of trades in most municipal securities,[4] and the Trade Reporting and Compliance Engine ("TRACE" and, together with RTRS, the "Reporting Systems") is the system operated by FINRA for the reporting of trades in most dollar-denominated debt securities of corporate issuers, federal agencies, government-sponsored enterprises and the U.S. Treasury (collectively, "TRACE-Eligible Securities").[5] Except where otherwise specifically provided, our comments in this letter apply to both Proposals and with respect to both Reporting Systems.

I. Executive Summary

SIFMA supports improvements to TRACE and RTRS requirements that enhance transparency for market participants while balancing costs and benefits. We believe the current transparency framework achieves timely reporting and strikes an appropriate balance between benefits to market participants and associated burdens. We do not believe the transition to one-minute reporting has been adequately examined or justified and we do not believe that the proposed one-minute reporting rule can be adopted without exposing the broker-dealer community to significant regulatory risk and clients to diminished liquidity and service from their broker-dealers.

Imposing equity market-derived trade reporting requirements on the fixed-income markets is misguided and infeasible due to the material structural differences between the markets. The over-the-counter fixed income markets, including the municipal securities market, are not centralized and exchange-based, in contrast to the equity market. Elements of trading and post-execution processing in the fixed income markets rely on manual or only partially automated processes such as phone calls or chat. Full automation of these processes to enable consistent reporting in one minute in some cases is impossible, and in other cases is prohibitively expensive, particularly for smaller firms.

Accordingly, if the Commission intends to move forward with a reduction in trade reporting timelines in the fixed-income markets, the SROs' Proposals to create a manual trade exception and a de minimis exception to protect smaller broker-dealers are critical to allowing broker-dealers to achieve a modicum of compliance. However, the proposed manual trade exception is not a panacea since a mandatory one-minute requirement remains unworkable even for certain fully-electronic trades.

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[4] Reporting of trades in municipal securities to RTRS is governed by MSRB Rule G-14, on Reports of Sales or Purchases.

[5] TRACE-Eligible Securities are defined in, and the reporting of trades in TRACE-Eligible Securities to TRACE is governed by, the FINRA Rule 6700 Series, on Trade Reporting and Compliance Engine (TRACE).

As we discussed in our previous letter, FINRA and the MSRB should reconsider if a one-minute trade reporting requirement is appropriate for fixed income markets in the first place,[6] but if a decision is made to proceed with this proposal, then FINRA and the MSRB should:

- Implement a broad exception for manual trades;
- Examine impacts to liquidity, depth, concentration, and transparency prior to decreasing reporting times to shorter intervals to ensure markets are not harmed;
- Provide relief for certain electronic trades where system processing limitations prevent one-minute reporting, including allocation trades; and
- Implement the proposed de-minimis exception.

This letter also discusses certain comments on the Proposal that have been published in the public comment file.

II. <u>Discussion</u>

A. A Manual Trade Exception Is Necessary If One-Minute Reporting Is Implemented

Any final rules must contain appropriate distinctions between markets where trading is more automated and features more straight-through processing (STP), and those that rely on voice trading and other manual forms of communication. In this context, the proposed manual trade exception is an attempt to accommodate current market structure and technology and promoting the continued liquidity of the subject fixed-income markets. Without a manual exception, the risk of significant harm to liquidity in important sectors of the fixed income markets is extreme, given the share of trading in those markets that involves manual processes.

There are common situations where trades involve manual processing, and a one-minute reporting requirement is neither appropriate nor feasible. They include, but are not limited to:

- *Trade is Not Negotiated on a Platform that Enables Straight-Through Processing (STP)* – Many counterparties insist upon the use of telephone, e-mail, chat, or other messaging systems for trade negotiation. After the time of execution or trade, the details of the trade then need to be input or transferred into other systems. For example, a trade may be negotiated over a chat system and then manually keyed into multiple order and risk management systems for processing and reporting. It would be impossible for a broker-dealer to consistently report these trades within one minute without the manual trade exception. Even with the exception, while these trades may be subject to later than one-minute reporting, they remain subject to the "as soon as practicable" requirement.

- *Post-Trade Confirmation of Certain Trade Details* - There may be a need to confirm certain information such as factors, net monies, and settlement dates (e.g., for securitized

[6] Given that FINRA-member broker-dealers are required to report trades as soon as is practicable, and that there is no history of widespread violation of this provision of the rules, it stands to reason that FINRA-member broker-dealers are currently reporting trades as soon as is practicable, in other words, as quickly as they can.

products or other amortizing bonds), or the specifics of trades done at a spread to or with reference to another security (e.g., security to be spotted, time of spot) after the time of trade. The time required for this process increases when trading multiple securities at the same time for a client, such as when they are liquidating a portfolio or several holdings via a bid list.

- *Institutional Client Interactions* - When trades are agreed it can be the result of broker-dealers sourcing a client's interest to trade from other buyers or sellers in the marketplace, which will often result in the need to execute and report nearly simultaneous buy and sell trades. Clients and broker-dealers can also agree to swap trades where one CUSIP is exchanged for another, again requiring the execution of nearly simultaneous trades, which take more time to report but may have nearly identical times of trade.

- *Trading on the Break* - To further challenge an institutional desk's ability to report trades in one minute, when a new corporate bond issuance becomes free to trade in the secondary markets, broker-dealers who participate in the syndication of that bond are often flooded with interest from clients to buy and sell that bond. Issuances often have multiple CUSIPs, and multiple new issuances can occur around the same time. This creates a challenge to reporting in less than 60 seconds, given that a large number of trades may be executed contemporaneously and require manual processing before they may be reported. Without more time for reporting, dealers would have to throttle client activity, which may result in worse execution for their clients.

- *Transactions Involving Multiple CUSIPs* -
    - *BWICs (and sometimes OWICs)* – Client-initiated bid wanted in competition solicitations ("BWICs") and offer wanted in competition solicitations ("OWICs") are prevalent, including in securities currently subject to the 15-minute TRACE reporting requirement. In BWICs, a client asks multiple broker-dealers to bid on a list of CUSIPs. Clients generally trade with the broker-dealers who have provided the best bids for each CUSIP, and often this will result a trade of a list of CUSIPs ranging from a few securities to dozens or even hundreds of securities. Executing, processing, and reporting each of these trades takes time, and broker-dealers cannot reasonably be expected to report all of them in less than 60 seconds. Compounding this, broker-dealers may have organized offsetting trades with other clients for some or all of the securities on the BWIC list, and this will result in an agreement, or multiple agreements, to trade another list of CUSIPs nearly simultaneously. Executing and reporting each of these trades takes time.
    - Similarly, TBA and other agency MBS transactions are often traded as large package transactions (e.g., TBA traded vs. specified pools, trades of large lists of specified pools) that require individual manual entry of TRACE-reportable fields for each trade. The volume of data points to be manually entered in these cases poses a significant impediment to satisfaction of a one-minute reporting requirement.

The challenges described above are exacerbated on higher volume days. This can be driven by factors that include the calendar (e.g., trading driven by release of monthly jobs data, or release of an FOMC statement), higher market volatility, or more new issuance activity in the market than usual.

- *Post-Trade Allocation to Advised Subaccounts* – Large trades often must be allocated to a counterparty's subaccounts, which are not always known at the time of trade and can number from the dozens to the thousands or more. Where a FINRA member that is dually registered as both a broker-dealer and an investment advisor must manually input these allocations (pursuant to FINRA's TRACE FAQ item 3.1.47), that manual component may make it impossible for all allocations to be reported in the one-minute period.[7] FINRA notes that only "[f]ive out of 29 reporters that reported allocation trades were able to report 90 percent of their allocation trades within one minute."[8] FINRA also notes that seven out of 29 reporters "were able to report 90 percent of their allocation trades within five minutes."[9] A one-minute reporting rule is patently unworkable without a manual trade exception that accounts for trade allocation.

- *Bond Set Up* – The municipal securities market alone has over 1.1 million individual securities, 99% of which do not trade on any given day, and there are hundreds of thousands of corporate bonds and ABS CUSIPs subject to this rule. When a broker-dealer trades a bond for the first time, or trades a bond that it has not traded within the past year, the trade often necessitates the details of the security to be input into the broker-dealer's security master database. Furthermore, bonds that are new or that have not been traded in a significant period of time may not be on the regulator's (FINRA or MSRB) master file and may need to be manually set up. The setup process takes well over one minute, making the manual trade exception critical.

- *Basket/Portfolio Trades* – Transactions where the reported price results from an aggregation of the prices of underlying securities (such as with reference to an index) often involve a manual component of calculation and significant booking burdens, and also require an exception from the general one-minute reporting rule.

- *Brokers-Broker Trades* - In the municipal markets, brokers-brokers distribute balances from both competitive and negotiated deals and provide aggregated offerings of available secondary bonds. In the retail and bank-qualified sector, brokers-brokers are commonly used to as an efficient source to access multiple markets as a part of the process to help fulfill Best Execution responsibilities that can lead to liquidation of bid lists and execution of exchange trades. While a given Firm is the single point of contact with end account, the brokers-broker routinely has multiple counterparties associated with what is essentially a "single trade" consisting of multiple line items. In each instance, there will

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[7] We discuss concerns related to large, automated allocations in Section C of this letter.

[8] 89 Fed. Reg. 5034, 5041 (January 25, 2024) (The "FINRA Notice").

[9] Id.

be post-trade human intervention before the trade can be routed to the RTRS system and it is impossible to coordinate multiple counterparties all within the same minute. A "simple bond swap" consisting of 10 purchases and 10 sales with a single account could conceivably consist of 80 trades, all to be reported in one minute by 22 unique counterparties. In the absence of a manual trade exception, market participants may decide to reduce their level of activity or exit the market entirely, which would have far-reaching negative consequences.

- *Compliance and Risk Management Reviews* – Many broker-dealers conduct pre-trade compliance and risk management reviews that in some cases will extend the time between trade execution and submission beyond one minute, such as checking client activity against trading limits that may involve multiple trading desks. Firms should not have to reduce the rigor of their review and monitoring of trading activity in pursuit of an arbitrarily faster trade reporting timeline and a manual trade exception allows for effective risk management and fewer compliance violations.

- *Risk Management Requirements*- A single transaction on hedged positions can lead to multiple additional transactions in different sectors of the market to recalibrate the hedge. The responsibility of the trader is protecting the capital of the firm as soon as possible after the initial trade. Unless all components of the trade are completely synchronized and automated, the likelihood of compliance with all reporting requirements is very remote.

B. The Reduction From 15-Minute Reporting for Manual Trades Should Include an Impact Assessment Prior to Implementation of Five-Minute Reporting Requirements.

The technology to report all transactions with a post-time of trade or time of execution manual component within five minutes does not currently exist. Because of the evolutionary nature of faster reporting, the SROs should implement a pause at ten minutes to give the industry and the SROs a meaningful opportunity to examine and discuss the results of the shorter reporting time, considering the effects on trading costs, bid/ask spreads, concentration of trading activity, and market liquidity, and then decide on the best pathway to shorter reporting periods. Hard coding of two annual five-minute reductions oversimplifies the task at hand.

C. Certain Fully Electronic Transactions, Such as Trades with Numerous Post-Trade Allocations to Advisory Accounts and Large Portfolio Trades, Cannot Feasibly Be Reported in One Minute and Should Be Excluded From the One-Minute Requirement

Some fully automated transactions cannot be reported within one minute of the time of execution because the processing pipelines are not large enough to complete all required operational, allocation, and trade reporting processes in one minute. Allocations where the reporting party is a dually registered broker-dealer and investment adviser must be reported as separate transactions pursuant to FINRA's TRACE FAQ item 3.1.47. Due to the added complexity of a two-stage reporting process (a block trade report, then advisory account allocation reports), combined with extremely large numbers of allocations (such as when a portfolio is rebalanced, which could involve 10,000 to 20,000 individual allocations), there are limits to how many allocations can be processed and reported in one minute. This limit may vary from firm to firm.

As described in our prior letter, the need for separate reporting of allocations should be re-examined, as allocation trades provide no new information and in fact may create potentially misleading information as to the volume of trades and liquidity in a particular security. Allocation reports also create the misperception that smaller trade sizes would trade at the preferential block-level trade price, which they generally do not. Allocation trades should not be subject to immediate submission to TRACE.

Large portfolio trades can engender similar system processing limitations that impact reporting times and should be treated similarly to large block allocations.

D. *A De-Minimis Exception Is Appropriate If One-Minute reporting Is Implemented*

The de minimis exception is appropriately based on trade numbers that are correctly sized to protect minority, veteran and women owned business enterprises and small broker-dealers from incurring the significant costs associated with the proposed rule. The proposed two-year look back period should help prevent surprise application of the rules and allow newly impacted broker-dealers some time to attempt to implement systems to achieve compliance. Without such an exception, smaller firms with limited resources would need to develop their own systems, purchase vendor solutions, or exit the markets. One commenter estimates that a system to comply with a one-minute reporting requirement would cost $500,000 annually to establish and maintain.[10] Another commenter asserts that subscription to a broadly-available vendor system (not including integration costs, etc). is priced at $250,000 per year.[11] Whether the actual cost realized by any particular firm is at the low or high end of these estimates, many firms will simply choose to exit the market as spending hundreds of thousands of dollars per year to upgrade a trade reporting system will not be offset by increased revenue or otherwise make financial sense. Small firms like these are critical to the fixed income markets, and the Commission must ensure that they can continue to be viable in the face of an ever-increasing regulatory burden.

III. Discussion of Comments Received on the Proposals

Operational/Implementation Concerns

SIFMA continues to believe that the manual trade indicator should be revised to be an STP trade indicator and instead be appended to fully-electronic trades. In particular, the manual trade indicator will be difficult to implement because it will require personnel to identify a particular manual component and then add an indicator. That type of process cannot be effectively implemented or monitored for compliance and is likely to further delay reporting. On the other hand, an STP trade indicator would give firms a way to uniformly and automatically indicate

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[10] See letter from Falcon Square Capital to MSRB (February 16, 2024), at 2.

[11] See letter from Sanderlin Securities to MSRB (February 14, 2024) at 1.

which trades were subject to STP, would remove a decision-making process for traders, and would result in greater compliance certainty without sacrificing data integrity for the SROs.[12]

To the extent that the final rules retain the requirement to flag non-electronic trades, we agree with the FIF[13] that FINRA and the MSRB should provide an interim period during which firms are permitted, but not required, to report the manual trade indicator. We share FIF's concern regarding having to implement the TRACE and RTRS changes simultaneously, given that for many firms, overlapping resources would be required to develop, test, and implement the required changes to the two systems and to resolve issues when the changes are first introduced in production.

Additionally, SIFMA encourages FINRA to eliminate its charge for testing, and instead follow the MSRB's policy of no-cost testing. Charging industry members for testing creates a disincentive to doing so. Testing is important for firms to ensure accurate trade reporting and dissemination of trade information to the market. The MSRB should provide test CUSIPs in the production environment, as this is a standard and long-standing practice for many reporting systems, including FINRA's TRACE, and allows firms to safely test without the risk of impact to the market.

Investor Reactions

It is important to note that concerns have been raised on the Proposal not just by sell-side broker-dealers, but also by buy-side investors, including SIFMA's Asset Management Group, and other commenters representing buy-side interest. [14]

Criticism of the Manual Trade Exception Reflect a Lack of Understanding of How Fixed Income Markets Work

Some commenters advocate for one minute trade reporting with no exceptions, which evidences a fundamental lack of information about current market structure and mechanics.[15] For the reasons we have discussed in this letter and in our previous letters, such proposals are unworkable and would greatly diminish the ability of broker-dealers to provide the liquidity upon which investors and other market participants rely, including governmental, municipal, corporate and consumer finance issuers. There must be a balance between transparency and liquidity for the markets to function efficiently.

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[12] Indeed, the submitted information for electronic trades would simply be the inverse of manual trades.

[13] *See*: https://www.sec.gov/comments/sr-msrb-2024-01/srmsrb202401-430459-1066563.pdf.

[14] *See*: https://www.sec.gov/comments/sr-msrb-2024-01/srmsrb202401-429679-1064882.pdf.

[15] *See*: https://www.sec.gov/comments/sr-finra-2024-004/srfinra2024004-430019-1065642.pdf.

Alternative Proposal

Two commenters suggested an alternative construct of five-minute trade reporting without a manual trade exception. If the Commission were to move forward with this or another approach that materially differs from the Proposal, the alternative must be subject to notice and comment rulemaking and an economic analysis.

IV. Conclusion

Reductions in trade reporting timelines should not expose members to excessive non-compliance risk and jeopardize the liquidity of the underlying fixed-income markets, which are diverse and important to the U.S. economy. Should these Proposals move forward, a manual trade exemption must be included, and a phased-in implementation that recognizes the evolving nature of the fixed-income markets is essential to prevent market disruption.

We welcome the opportunity to discuss our comments or provide any assistance that would be helpful. If you have any questions, please do not hesitate to contact the undersigned at 202-962-7300, or with respect to municipal securities, Leslie Norwood at 212-313-1130, or with respect to TRACE-Eligible Securities, Chris Killian at 212-313-1126, or with respect to the SIFMA AMG, William Thum at 202-962-7381.

Respectfully submitted,

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President and CEO

cc:

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