

FINANCIAL INFORMATION FORUM

May 17, 2024

By electronic mail to rule-comments@sec.gov

Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090
Attn: Secretary

Re: File Number SR-FINRA-2024-004: 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

File Number SR-MSRB-2024-01: 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

Dear Secretary,

The Financial Information Forum (“FIF”)¹ is submitting this comment letter in response to the above-referenced Orders Instituting Proceedings published by the Securities and Exchange Commission (the “Commission”) on April 22, 2024 (the “Orders Instituting Proceedings”)² and the associated rule filings (the “rule filings”) submitted to the Commission by the Financial Industry Regulatory Authority, Inc.

¹ FIF (www.fif.com) was formed in 1996 to provide a centralized source of information on the implementation issues that impact the securities industry across the order lifecycle. Our participants include broker-dealers, exchanges, back office service bureaus, and market data, regulatory reporting and other technology vendors in the securities industry. Through topic-oriented working groups, FIF participants focus on critical issues and productive solutions to technology developments, regulatory initiatives, and other industry changes.

² Securities Exchange Act Release No. 100003 (Apr. 22, 2024), 89 FR 32485 (Apr. 26, 2024) (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) (“MSRB Order Instituting Proceedings”). Securities Exchange Act Release No. 100006 (Apr. 22, 2024), 89 FR 32475 (Apr. 26, 2024) (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).

(“FINRA”) and the Municipal Securities Rulemaking Board (“MSRB”).³ The FINRA rule filing proposes to reduce to one minute the timeframe for reporting to the FINRA Trade Reporting and Compliance Engine system (“TRACE”) securities that are currently subject to 15-minute reporting.⁴ The MSRB rule filing similarly proposes to reduce from 15 minutes to one minute the timeframe for reporting trades in municipal securities to the MSRB’s Real-Time Transaction Reporting System (“RTRS”).⁵

FIF is submitting this comment letter as a follow-up to the comment letters that FIF submitted on February 15 and 26, 2024 (the “prior FIF comment letters”).⁶ This letter is not intended to restate the points made in the prior FIF comment letters and is instead intended to identify additional points that FIF members raised during a review and discussion of the Orders Instituting Proceedings. FIF members continue to support the recommendations set forth in the prior FIF comment letters.

FIF members continue to support the exceptions set forth in the FINRA and MRSB rule proposals

FIF members continue to support the exceptions set forth in the FINRA and MSRB rule filings for member firms with limited trading activity and for trades that are executed manually or involve manual steps for reporting.⁷ The exception for manual activity is important to avoid disruption to current trading practices for bonds. FIF members note the various trading workflows described in the comment letter being submitted by the Securities Industry and Financial Markets Association in response to the Orders Instituting Proceedings where reporting within one minute would not be feasible.

Scenario where a firm has not previously traded a bond

FIF members continue to support the proposal by FINRA and the MSRB to apply the manual exception to the scenario where a firm has not previously traded a bond. In addition to the processing challenges identified in the February 15 FIF comment letter, an additional concern is that there would be a significant cost to requiring firms (particularly smaller firms) to maintain a security master that includes many securities that a firm does not typically trade. This is a particular challenge for municipal securities given the large number of CUSIPs for these securities.

There are also two subsets of this scenario that are important to highlight. In certain cases, a firm could be the first firm to trade a bond, and the bond might not have been previously added to the security

³ SR-FINRA-2024-004, Proposed Rule Change to Amend FINRA Rule 6730 (Transaction Reporting) to Reduce the 15-Minute TRACE Reporting Timeframe to One Minute (Jan. 11, 2024), available at <https://www.finra.org/sites/default/files/2024-01/sr-finra-2024-004.pdf> (“FINRA Rule Filing”). SR-MSRB-2024-01, Proposed Rule Change to Amend MSRB Rule G-14 to Shorten the Timeframe for Reporting Trades in Municipal Securities to the MSRB (Jan. 12, 2024), available at https://www.msrb.org/sites/default/files/2024-01/SR-MSRB-2024-01_0.pdf (“MSRB Rule Filing”).

⁴ FINRA Rule Filing, at 3.

⁵ MSRB Rule Filing, at 3.

⁶ Letter from Financial Information Forum to the Securities and Exchange Commission (Feb. 15, 2024), available at <https://www.sec.gov/comments/sr-finra-2024-004/srfinra2024004-430042-1065782.pdf>. Letter from Financial Information Forum to the Securities and Exchange Commission (Feb. 26, 2024), available at <https://www.sec.gov/comments/sr-finra-2024-004/srfinra2024004-435179-1079782.pdf>.

⁷ See FINRA Rule Filing, at 9-15, and MRSB Rule Filing, at 12-20.

master list maintained by FINRA. In other cases, FINRA could have removed a defaulted bond from the TRACE security master list, and a trade could subsequently occur in the bond. In either of these scenarios, the TRACE system will reject the reporting firm's TRACE report, and the firm will need to manually submit a request (using the New Issue Form on the FINRA Gateway) for FINRA to add a symbol to the TRACE security master List. Once FINRA has approved and communicated the symbol, the firm can repair and resubmit its rejected report to TRACE. This process can take more than 15 minutes. FIF members believe that it would be appropriate for FINRA to provide guidance (for example, through an FAQ), that a firm would not be held to the applicable reporting timeframe in a scenario where FINRA is delayed in providing a symbol requested by a firm.

Corrections

In our February 15 comment letter, FIF requests clarification on how FINRA would treat a scenario where a firm reports a trade electronically within one minute after the trade time and then manually amends the trade within 15 minutes after the trade time. Which timeframe would FINRA apply to determine whether this trade has been reported on a timely basis?

In addition, in the scenario above, for both TRACE and RTRS reporting, should a firm include the manual trade indicator on the amendment? In the case where the manual trade indicator is applied to the amendment, would FINRA consider the indicator to be describing the initial trade or the amendment? Could the manual trade indicator apply for the initial trade but not for the amendment?

FIF members also request guidance on how to handle the scenario where a firm mistakenly reports a manual trade without the manual trade indicator or mistakenly reports an electronic trade with the manual trade indicator, and then seeks to amend the trade report. FIF members believe it will likely be necessary for FINRA and the MSRB to allow a firm to amend the manual trade indicator field in certain cases.

Portfolio trades

The MSRB rule filing includes the following footnote:

In instances where a dealer trades a basket of securities at a single price for the full basket, rather than individual prices for each security based on its then-current market price, such price likely would be away from the market, requiring inclusion of the "away from market" special condition indicator and qualifying for an end-of-trade-day reporting exception under proposed Rule G-14 RTRS Procedures Section (a)(ii)(A)(3).⁸

The Commission references this footnote in its Order Instituting Proceedings for the MSRB rule filing.⁹

Given the fact that many bonds trade infrequently and the lack of a national best bid and offer for bonds, FIF members have a general concern about the requirement to report a generic "away from

⁸ MSRB Rule Filing, at 17 n.42.

⁹ MSRB Order Instituting Proceedings, at 89 FR 32487 n.39.

market” indicator for TRACE or RTRS reporting. There is significant subjectivity involved in determining whether a bond trade is “away from market”. This level of subjectivity is not appropriate for a trade reporting system as it leads to inconsistency in reporting across firms, and firms do not have clear guidance on how to report.

In the past, the MSRB has identified three specific scenarios where firms are required to report the “away from market” indicator: Customer Repurchase Agreement Transactions; UIT-Related Transactions; and TOB-Related Transactions.¹⁰ FIF members are concerned about the MSRB’s new guidance, introduced in a footnote, that a basket trade would likely be away from the market. In 2022, FINRA adopted an amendment to the TRACE reporting rules to require the reporting of a new portfolio trade modifier, using similar language to that of the MSRB footnote.¹¹ FINRA’s proposed rule change was subject to public notice and comment.¹² Subsequent to rule adoption, FINRA published a series of FAQs to respond to industry questions relating to the reporting of this modifier,¹³ and FIF member firms report that FINRA staff were also very generous in making time to provide case-specific guidance to assist firms in identifying the scenarios where reporting of this modifier would be required. FIF members request that, if the MSRB wishes to introduce a new requirement that is equivalent to FINRA’s portfolio trade modifier, the MSRB should submit a rule filing to the Commission for public comment. This rule filing should include clear guidance similar to the guidance provided by FINRA for TRACE reporting, including the minimum number of securities required to be considered a basket, and whether (and, if so, which) non-municipal securities included in the basket would count toward the minimum number.

More generally, FIF members believe that usage of modifiers should be clearly limited to specific scenarios documented by the regulators, and regulators should provide sufficient guidance for firms across the industry to form a shared understanding about regulatory intent and application of the modifiers.

FIF members additionally note that RTRS, in contrast to TRACE, does not permit direct reporting through FIX. The result of this restriction is that many firms are required to report to RTRS through their clearing firms, and some clearing firms themselves further outsource this function to other third parties. This means that changes to RTRS can be quite burdensome and costly. This is an additional reason that FIF members request that the MSRB submit a rule filing if the MSRB seeks to require the reporting of a portfolio trade modifier to RTRS. Given the increased complexity, firms will likely require the same, if not more, time to effectively implement a new RTRS portfolio trade modifier as compared to the time that was provided for firms to implement the TRACE portfolio trade modifier.

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¹⁰ See Specifications for Real-Time Reporting of Municipal Securities Transactions, Version 4.1 (Nov. 2022), available at <https://www.msrb.org/sites/default/files/RTRS-Specifications.pdf>, at 80-81.

¹¹ FINRA Rule 6730(d)(4)(H).

¹² See SR-FINRA-2021-030 (Proposed Rule Change to Amend FINRA Rule 6730 (Transaction Reporting) to Require Members to Append Modifiers to Identify Delayed Treasury Spot and Portfolio Trades when Reporting to TRACE), available at <https://www.finra.org/rules-guidance/rule-filings/sr-finra-2021-030>.

¹³ See Frequently Asked Questions (FAQ) about the Trade Reporting and Compliance Engine (TRACE)), available at <https://www.finra.org/filing-reporting/trace/faq>, FAQs 3.3.6, 3.3.7, 3.3.8, 3.3.9, 3.3.10, 3.3.14 and 3.3.15.

FIF appreciates the opportunity to submit this supplemental comment letter on the FINRA and MSRB rule filings. If you would like clarification on any of the items discussed in this letter or would like to discuss further, please contact me at howard.meyerson@fif.com.

Very truly yours,

/s/ Howard Meyerson

Howard Meyerson
Managing Director, Financial Information Forum