



September 30, 2022

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1300 I Street NW
Washington, DC 20005

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
Financial Industry Regulatory Authority
1735 K Street NW
Washington, DC 20006

Re: Request for Comment on Transaction Reporting Obligations under MSRB Rule G-14; Request for Comment on Proposal to Shorten the Trade Reporting Timeframe for Transactions in Certain TRACE-Eligible Securities From 15 Minutes to One Minute

Dear Mr. Smith and Ms. Mitchell:

The American Securities Association (ASA)¹ submits these comments in response to proposals issued by the Municipal Securities Rulemaking Board (MSRB) and Financial Industry Regulatory Authority (FINRA) that would mandate corporate and municipal fixed income securities trades to be reported within one minute (the “Proposals”). As explained in more detail throughout this letter, the ASA is concerned that the MSRB and FINRA have failed to identify a market failure that warrants such a significant change, and that the Proposals would disproportionately impact smaller and mid-size broker-dealers and their customers.

Since 2005, MSRB Rule G-14 and FINRA Rule 6730 have required trades to be reported “as soon as practicable” but not later than 15 minutes after the time of trade. As noted in both of the Proposals, the vast majority of trades for both municipal and corporate securities are already reported sooner than 15 minutes. Since the previous amendments to Rule G-14 and Rule 6730

¹ The ASA is a trade association that represents the retail and institutional capital markets interests of regional financial services firms who provide Main Street businesses with access to capital and advise hardworking Americans how to create and preserve wealth. The ASA’s mission is to promote trust and confidence among investors, facilitate capital formation, and support efficient and competitively balanced capital markets. This advances financial independence, stimulates job creation, and increases prosperity. The ASA has a geographically diverse membership base that spans the Heartland, Southwest, Southeast, Atlantic, and Pacific Northwest regions of the United States.





were adopted, MSRB's Electronic Municipal Market Access (EMMA) and FINRA's Trade Reporting and Compliance Engine (TRACE) systems have greatly improved the transparency in these markets and provided investors with decision-useful information. It is unclear how a shift to a uniform one-minute timeframe (for vastly different markets and products) would benefit investors when considering the costs such a mandate would create.

More concerningly, the Proposals are being put forward at a time when other changes to the regulation of the fixed income markets – for example Securities and Exchange Commission's (SEC) Rule 15c2-11 and a pending proposal to institute a T+1 settlement window – are coming online. The ASA remains concerned that these fundamental changes to rules that govern fixed income trading will disrupt otherwise well-functioning markets and are based upon incomplete or flawed assumptions.

The ASA wishes to provide the following views regarding the Proposals:

- I. The MSRB and FINRA have not properly identified or explained a market failure – or evidence of investor harm – that would justify the Proposals;**
- II. The costs of the Proposals are likely to be substantial on broker-dealers and their customers, while the benefits are unclear – a reality implicitly acknowledged in the Proposals;**
- III. The Proposals do not properly consider the different ways in which certain trades are executed (i.e. voice vs. electronic trading) and how that can impact trade reporting timelines; and**
- IV. The Proposals would create logistical challenges for firms that have not been fully analyzed by the MSRB and FINRA.**

These views are discussed in further detail below.

- I. FINRA and MSRB have not properly identified or explained a market failure – or evidence of investor harm – that would justify the Proposals.**

The Proposals are notable in that they offer scant evidence for why current reporting requirements are inadequate or how investors would benefit by a shift to a mandated one-minute time frame. FINRA posits that reducing the reporting time frame will “solidify the benefits of the technological advancements that have occurred since 2005 by requiring timelier reporting in the rule” while MSRB makes similar claims that improved technology is a justification for its proposal.





However, simply because technology may exist that allows dealers to report some, but not all, trades within one minute is not sufficient justification for a rulemaking. Neither FINRA or MSRB offer any empirical evidence or past research that would support a one-minute requirement, and neither self-regulatory organization (SRO) identifies any specific instances of investor harm due to current requirements.

The MSRB and FINRA should consider the significant amount of resources that broker-dealers have already expended over the last fifteen years to be able to report trades within this window. The data provided by both FINRA and MSRB shows that roughly 97 percent of municipal and corporate trades are reported within five minutes. This demonstrates that with today's technological capabilities, five minutes has become the de facto "as soon as practicable" standard for the vast majority of trades. When certain factors (e.g. trade size, voice trading) are all taken into account, five minutes is typically the fastest time on average for trades to be reported.

II. The costs of the Proposals are likely to be substantial on broker-dealers and their customers, while the benefits are unclear – a reality implicitly acknowledged in the Proposals.

As noted above, the Proposals offer little explanation as to the benefits of a one-minute requirement other than "increased transparency" in the municipal and corporate bond markets. The ASA has supported many past efforts by the SROs and SEC to promote transparency in the markets, however the Proposals do not offer any evidence which shows that a one-minute timeframe would make any material difference in price than current requirements and market practice. At the same time, the Proposals acknowledge many of the costs that would be imposed on broker-dealers for implementing these changes. According to FINRA's proposal:

FINRA believes that the proposal would likely result in direct and indirect costs for firms to implement changes to their processes and systems for reporting transactions to TRACE in the new timeframe. Firms that do not have automated reporting systems in place may incur costs from establishing such systems and infrastructure. Table 3 shows that, even for very active firms that most likely have a trade reporting infrastructure in place, some trades are still reported later than one minute from the time of execution. For these trades, firms may incur costs to modify their reporting procedures to report more quickly and monitor that the trades are reported in the required timeframe.

A higher percentage of less-active reporters submitted 95 percent of their trades within one minute than moderately active reporters, possibly suggesting that use of a third-party reporting system by less-active reporters may be associated with faster reporting. While members currently using a third-party reporting service may incur less costs, those that do not currently use a third-





party reporting service may opt to do so if the costs would be lower than building their own system.²

Similarly, MSRB's proposal states:

The MSRB acknowledges that dealers would likely incur costs, relative to the baseline state, to meet the new transaction reporting time of one minute outlined in the Proposal to Rule G-14. These changes would likely include the one-time upfront costs related to adopting new technologies or upgrading existing technologies to speed up the trade reporting for some dealers, as well as setting up and/or revising policies and procedures. Since 76.9% of all relevant trades already report within one minute, the cost to comply with the proposed change would not be as significant if the current one-minute compliance rate was substantially lower.

For the upfront costs, it appears smaller firms would have difficulty with the proposed one-minute reporting requirement. The MSRB is basing this assumption on an internal analysis showing smaller firms lagging behind larger firms in reporting time...³

Thus, the SROs acknowledge that: 1) smaller broker-dealers would have difficulty coming into compliance with the new rules; and 2) some firms may have to hire a third-party in order to meet the one-minute requirement. The ASA notes that several smaller firms have already submitted letters to FINRA and MSRB outlining the challenges and costs that would be created by a one-minute requirement. We implore FINRA and MSRB to consider these real and substantial costs and weigh them against the unsubstantiated purported benefits outlined in the Proposals.

III. The Proposals do not properly consider the different ways in which certain trades are executed (i.e. voice vs. electronic) and how that can impact trade reporting timelines.

As noted previously, under current rules and existing technological capabilities, the vast majority of corporate and municipal trades are reported within five minutes. There appears to be an underlying presumption in the Proposals that due to the increase in electronic trading, in many cases it would be relatively straightforward transition for firms to begin reporting trades in one minute. However, that presumption does not consider how certain trades – particularly larger ones – are executed and the logistical challenges that a one-minute mandate would impose. For example, the MSRB proposal states:

While 80.3% of trades with trade size of \$100,000 par value or less were reported within one minute, only 40.1% of trades with trade size between \$1,000,000 and \$5,000,000 par value and 25.3% of trades with trade size above \$5,000,000 par value were reported within one minute.⁴

² FINRA Proposal at 13

³ MSRB Proposal at 10

⁴ MSRB Proposal at 4





Underlying this data is the fact that larger trades tend to be executed by voice, while smaller trades (including retail trades) have increasingly been done via electronic platforms. Voice brokerage can take substantial time to negotiate and report once the trade is executed. It is entirely possible and reasonable that large, voice-executed trades may not be able to be reported within one minute. The SROs must be careful not to equate for regulatory purposes smaller, retail trades that can be easily executed with the click of a button with larger institutional trades that take more time to be processed. Some firms may also use platforms that do not direct straight to BETA and would therefore have to take the time within one minute to manually enter trade information into BondWorks. For voice trading, doing all of this in a one-minute timeframe would in many cases be unrealistic.

Additionally, the Proposals' one-minute requirement is a hard and fast timeframe and would not provide any exception for bona fide errors when entering trades. The current time requirement allows traders to correct price or quantify numbers of transposed digits on a CUSIP. If the Proposals were adopted, firms may not have sufficient time to correct such errors and would technically be in violation of a rule if not corrected in time.

IV. The Proposals would create logistical challenges for firms that have not been fully analyzed by MSRB and FINRA.

If implemented, the Proposals would create several logistical hurdles that have not been adequately considered and would be challenging for firms to meet a one-minute reporting requirement.

For example, if a CUSIP has not been traded at a particular firm previously, that firm would have to set up a CUSIP prior to reporting the trade, something that it may eventually have to do for hundreds of securities it has not traded before. Similarly, if there is a dealer trading through an ATS that is not setup by another firm trading through the same ATS, that could create complexities for firms to comply with one minute.

Additionally, the Proposal could create an incentive for firms to "auto-route" more orders to help with compliance. This will mean that less individuals at firms are involved with handling orders which could have consequences for price improvement and best execution obligations. Firms may find themselves with no option other than to auto-route orders in order to meet the one-minute timeframe. As with other aspects of the Proposals, the ASA urges MSRB and FINRA to consider these unintended consequences before considering further action.





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Conclusion

The corporate and municipal fixed income markets have proven themselves to operate with increasing efficiency, even during times of stress that markets have experienced in recent years. We are concerned that significant regulatory changes – particularly when based upon incomplete assumptions – would be harmful to investors and threaten the participation of small and mid-sized broker-dealers in these markets. Accordingly, the MSRB and FINRA should drop the Proposals in their entirety.

Sincerely,

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