

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-101118; File No. SR-MSRB-2024-01)

September 20, 2024

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Amend MSRB Rule G-14 to Shorten the Timeframe for Reporting Trades in Municipal Securities to the MSRB

I. Introduction

On January 12, 2024, the Municipal Securities Rulemaking Board (“MSRB”) filed with the Securities and Exchange Commission (“SEC” or “Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to (1) amend MSRB Rule G-14 (“Rule G-14”), on reports of sales or purchases, to (i) shorten the amount of time within which brokers, dealers, and municipal securities dealers (collectively, “dealers,” and each individually, a “dealer”) must report most transactions to the MSRB; and (ii) require dealers to report certain transactions with a new trade indicator, and make certain clarifying amendments, and (2) make conforming amendments to MSRB Rule G-12, on uniform practice (“Rule G-12”), and the MSRB’s Real-Time Transaction Reporting System (“RTRS”) Information Facility (“IF-1”) to reflect the shortened reporting timeframe (the “original proposed rule change”). The original proposed rule change was published for comment in the Federal Register on January 26, 2024.³ The Commission received

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Exchange Act Release No. 99402 (Jan. 19, 2024), 89 FR 5384 (Jan. 26, 2024) (“Notice”).

comments in response to the original proposed rule change.⁴ On April 22, 2024, the Commission issued an order instituting proceedings (“OIP”) under Section 19(b)(2)(B) of the Act⁵ to determine whether to approve or disapprove the proposed rule change.⁶ The Commission received comments in response to the OIP.⁷ On July 18, 2024, the Commission, pursuant to

⁴ See Letters to Secretary, Commission, from Michael Noto, FINRA Registered Representative dated Jan. 31, 2024 (“Noto Letter”); J. Ben Watkins, Director, Division of Bond Finance, State of Florida dated Feb. 13, 2024 (“State of Florida Letter”); Matthew Kamler, President, Sanderlin Securities LLC dated Feb. 14, 2024 (“Sanderlin Securities Letter”); J. D. Colwell dated Feb. 15, 2024 (“Colwell Letter”); Gerard O’Reilly, Co-Chief Executive Officer and Co-Chief Investment Officer and David A. Plecha, Global Head of Fixed Income, Dimensional Fund Advisors LP dated Feb. 15, 2024 (“Dimensional Fund Advisors Letter”); Michael Decker, Senior Vice President, Bond Dealers of America (“BDA”) dated Feb. 15, 2024 (“BDA Letter”); Sarah A. Bessin, Deputy General Counsel and Kevin Ercoline, Assistant General Counsel, Investment Company Institute dated Feb. 15, 2024 (“ICI Letter”); Kenneth E. Bentsen, Jr., President and CEO, Securities Industry and Financial Markets Association (“SIFMA”) dated Feb. 15, 2024 (“SIFMA Letter”); Howard Meyerson, Managing Director, Financial Information Forum (“FIF”) dated Feb. 15, 2024 (“FIF I Letter”); Gregory Babyak, Global Head of Regulatory Affairs, Bloomberg L.P. dated Feb. 16, 2024 (“Bloomberg Letter”); Melissa P. Hoots, CEO/COO, Falcon Square Capital, LLC (“Falcon Square Capital”) dated Feb. 16, 2024 (“Falcon Square Capital Letter”); Matt Dalton, Chief Executive Officer, Belle Haven Investments, LP (“Belle Haven”) dated Feb. 16, 2024 (“Belle Haven Letter”); and Christopher A. Iacovella, President & Chief Executive Officer, American Securities Association (“ASA”) dated Feb. 16, 2024 (“ASA Letter”). After the close of the comment period, one commenter submitted a supplemental letter. See letter to Secretary, Commission, from Howard Meyerson, FIF dated Feb. 26, 2024 (“FIF II Letter”). These comment letters are available at <https://www.sec.gov/comments/sr-msrb-2024-01/srmsrb202401.htm>.

⁵ 15 U.S.C. 78s(b)(2)(B).

⁶ See Exchange Act Release No. 100003 (Apr. 22, 2024), 89 FR 32486 (Apr. 26, 2024).

⁷ See Letters to Secretary, Commission, from David C. Jaderlund dated Apr. 23, 2024 (“Jaderlund OIP Letter”); Ronald P. Bernardi, President and CEO, Bernardi Securities, Inc. dated May 14, 2024 (“Bernardi Securities OIP Letter”); Frank Fairman, Managing Director, Piper Sandler & Co. dated May 17, 2024 (“Piper Sandler OIP Letter”); Christopher A. Iacovella, ASA dated May 17, 2024 (“ASA OIP Letter”); Michael Decker, BDA dated May 17, 2024 (“BDA OIP Letter”); Mark D. Griffin, Senior Vice President and Risk Control Manager, FHN Financial dated May 17, 2024 (“FHN

Section 19(b)(2) of the Act,⁸ designated September 20, 2024, as the date by which the Commission shall either approve or disapprove the original proposed rule change.⁹ Also on July 18, 2024, the MSRB filed a comment letter¹⁰ and an amendment to the original proposal in response to certain comments on the original proposed rule change (“Amendment No. 1”; the original proposed rule change, as modified by Amendment No. 1, the “proposed rule change”). On July 25, 2024, the Commission published notice of Amendment No. 1,¹¹ and the Commission received comment letters in response.¹² This order approves the proposed rule change.

II. Description of the Proposed Rule Change

As described more fully in the Notice and Amendment No. 1, the MSRB is proposing

Financial OIP Letter”); Howard Meyerson, FIF dated May 17, 2024 (“FIF OIP Letter”); Richard G. Wallace, Senior Vice President and Associate General Counsel, LPL Financial LLC (“LPL”) dated May 17, 2024 (“LPL OIP Letter”); Lisa Gayle Melnyk dated May 17, 2024 (“Melnyk OIP Letter”); Kenneth E. Bentsen, Jr., SIFMA dated May 17, 2024 (“SIFMA OIP Letter”). These comment letters are available at <https://www.sec.gov/comments/sr-msrb-2024-01/srmsrb202401.htm>.

⁸ 15 U.S.C. 78s(b)(2).

⁹ See Exchange Act Release No. 100557 (July 18, 2024), 89 FR 59951 (July 24, 2024).

¹⁰ See Letter to Secretary, Commission, from Ernesto A. Lanza, Chief Regulatory and Policy Officer, MSRB, dated July 18, 2024, *available at* <https://www.sec.gov/comments/sr-msrb-2024-01/srmsrb202401.htm> (“MSRB Letter”).

¹¹ See Exchange Act Release No. 100589 (July 24, 2024), 89 FR 61516 (July 31, 2024) (“Amendment No. 1”).

¹² See Letters to Secretary, Commission, from Guerras Global International, University of Providence dated July 29, 2024 (“Guerras Global Amendment No. 1 Letter”); Kenneth E. Bentsen, Jr., SIFMA dated Aug. 21, 2024 (“SIFMA Amendment No. 1 Letter”); Christopher A. Iacovella, ASA dated Aug. 21, 2024 (“ASA Amendment No. 1 Letter”); Matt Dalton, Belle Haven dated Aug. 21, 2024 (“Belle Haven Amendment No. 1 Letter”); Melissa P. Hoots, Falcon Square dated Aug. 21, 2024 (“Falcon Square Capital Amendment No. 1 Letter”); Michael Decker, BDA dated Aug. 21, 2024 (“BDA Amendment No. 1 Letter”). These comment letters are available at <https://www.sec.gov/comments/sr-msrb-2024-01/srmsrb202401.htm>.

amendments to Rule G-14, Reports of Sales or Purchases, and conforming technical changes to Rule G-12(f)(i) and IF-1.

The MSRB believes that the proposed rule change would remove impediments to a free and open market in municipal securities by making publicly available more timely information about the market and the prices at which municipal securities transactions are executed, which is central to fairly priced municipal securities and a dealer's ability to make informed quotations.¹³ Additionally, the MSRB is of the view that the new intra-day exceptions balance potential burdens for dealers with limited trading activity and address potential burdens faced by dealers engaged in complex transactions, including voice/electronically negotiated transactions involving a manual post-transaction component.¹⁴

As the proposed rule change was developed in close coordination with the Financial Industry Regulatory Authority ("FINRA"),¹⁵ the MSRB is of the view that the proposed rule change reduces the risk of potential confusion and may reduce compliance burdens resulting from inconsistent obligations and standards for different classes of securities.¹⁶ According to the MSRB, a shortened trade reporting time would promote regulatory consistency, reducing potential compliance violations caused by market participants' imperfect application of differing standards when executing and reporting various types of transactions in fixed income

¹³ See MSRB Letter at 5.

¹⁴ *Id.*

¹⁵ See Securities Exchange Act Release No. 99404 (Jan. 19, 2024), 89 FR 5034 (Jan. 24, 2024) ("FINRA Notice"), as partially amended by Securities Exchange Act Release No. 100594 (July 25, 2024), 89 FR 61514 (July 31, 2024) ("Partial Amendment No. 1," and together with the FINRA Notice, the "FINRA proposed rule change").

¹⁶ See MSRB Letter at 4.

securities.¹⁷

A. New Baseline Reporting Requirement: One Minute After the Time of Trade

The proposed amendments to Rule G-14 RTRS Procedures Section (a)(ii) generally would provide that transactions effected with a Time of Trade during the hours of an RTRS Business Day¹⁸ must be reported to an RTRS Portal¹⁹ “as soon as practicable, but no later than one minute” after the Time of Trade, subject to several existing reporting exceptions, which would be retained in the amended rule,²⁰ and two new intra-day reporting exceptions relating to dealers with limited trading activity and trades with a manual component that would be added by the proposed rule change.²¹ Except for those trades that would qualify for a reporting exception, all trades currently required to be reported within 15 minutes after the Time of Trade would, under the proposed rule change, be required to be reported no later than one minute after the Time of Trade.

i. New Requirement to Report Trades “as Soon as Practicable”

Section (a)(ii) of the proposed amendment to Rule G-14 RTRS Procedures adds a new requirement that, absent an exception, trades must be reported as soon as practicable (but no later

¹⁷ *Id.*

¹⁸ Rule G-14 RTRS Procedures Section (d)(ii) defines “RTRS Business Day” as 7:30 a.m. to 6:30 p.m., Eastern Time, Monday through Friday, unless otherwise announced by the MSRB.

¹⁹ *See* Notice, 89 at 5385 n.13 (discussing the various portals).

²⁰ *Id.* at 5385 n.14 (describing the existing exceptions).

²¹ The two new intra-day reporting exceptions, consisting of trades by dealers with limited trading activity and trades with a manual component, would be designated as Rule G-14 RTRS Procedures Sections (a)(ii)(C)(1) and (2), respectively. *See* Notice, 89 FR at 5385 n.15; Amendment No. 1.

than one minute after the Time of Trade).²² This “as soon as practicable” requirement would also apply to trades subject to longer trade reporting deadlines under the two new exceptions for dealers with limited trading activity pursuant to Rule G-14 RTRS Procedures Section (a)(ii)(C)(1) and Supplementary Material .01, or trades with a manual component pursuant to Rule G-14 RTRS Procedures Section (a)(ii)(C)(2) and Supplementary Material .02.²³ Although Rule G-14 RTRS Procedures do not currently explicitly prohibit a dealer from waiting until the existing 15-minute deadline to report a trade notwithstanding the fact that the dealer could reasonably have reported such trade more rapidly, the MSRB notes that under the proposed rule change a dealer could not simply await the deadline to report a trade if it were practicable to report such trade more rapidly.²⁴

As provided in more detail in the Notice, proposed Supplementary Material .03 would provide guidance relating to policies and procedures for complying with the “as soon as practicable” reporting requirement.²⁵ The MSRB noted that dealers must not purposely withhold trade reports, for example, by programming their systems to delay reporting until the last permissible minute or by otherwise delaying reports to a time just before the deadline if it would have been practicable to report such trades more rapidly.²⁶ For trades with a manual component,

²² See Notice, 89 FR at 5386.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.* Where a dealer has reasonably designed policies, procedures and systems in place, the dealer generally would not be viewed as violating the “as soon as practicable” requirement because of delays in trade reporting due to extrinsic factors that are not reasonably predictable and where the dealer does not intend to delay the reporting of the trade (for example, due to a systems outage).

²⁶ *Id.*

and consistent with Supplementary Material .03(b) of FINRA Rule 6730, the MSRB recognized that the trade reporting process may not be completed as quickly as, for example, where an automated trade reporting system is used.²⁷ The MSRB explained that it expected that the regulatory authorities that examine dealers and enforce compliance with this requirement would take into consideration the manual nature of the dealer's trade reporting process in determining whether the dealer's policies and procedures are reasonably designed to report the trade "as soon as practicable" after execution.²⁸

ii. Time of Trade Discussion

The "Time of Trade" is defined as the time at which a contract is formed for a sale or purchase of municipal securities at a set quantity and set price.²⁹ For transaction reporting purposes, the MSRB stated that the Time of Trade is the same as the time that a trade is "executed" and, generally, is consistent with the "time of execution" for recordkeeping purposes.³⁰

iii. Valid Contract Discussion

In general, to form a valid contract, there must be at least an offer and acceptance of that offer. As a result, the MSRB noted that dealers should consider the point in time at which an offer to buy or sell municipal securities was met with an acceptance of that offer. This "meeting

²⁷ *Id.*

²⁸ *Id.*

²⁹ *See* current Rule G-14 RTRS Procedures Section (d)(iii).

³⁰ *See* Notice, 89 FR at 5386-87 (discussing time of execution and note 22 for additional guidance on the time of execution); MSRB Letter at 13 (MSRB further explaining that the Time of Trade is the time at which a meeting of the minds has occurred, for example, where parties have already reached agreement regarding the terms and elements of execution and at what point a contract is formed for the transaction).

of the minds,”³¹ cannot occur before the final material terms, such as the exact security, price and quantity, have been agreed to and such terms are known by the parties to the transaction.³² The MSRB further explained that dealers should be clear in their communications regarding the final material terms of the trade and how such terms would be conveyed between the parties³³ to ensure that such a valid trade contract has been formed.³⁴

iv. Exceptions to the Baseline Reporting Requirement

Proposed amendments to Rule G-14 RTRS Procedures Section (a)(ii) add two new exceptions to the proposed one-minute reporting requirement: (a) New Section (C)(1) provides an exception for a dealer with “limited trading activity,” and (b) New Section (C)(2) provides an exception for a dealer reporting a “trade with a manual component.”³⁵

a. Exception for Dealers with Limited Trading Activity

Proposed new Section (a)(ii)(C)(1) would except a dealer with “limited trading activity” from the one-minute reporting requirement and would instead be required to report its trades as

³¹ See generally FINRA Regulatory Notice 16-30 (Trade Reporting and Compliance Engine (TRACE): FINRA Reminds Firms of their Obligation to Report Accurately the Time of Execution for Transactions in TRACE-eligible Securities) (Aug. 2016); MSRB Notice 2016-19 (MSRB Provides Guidance on MSRB Rule G-14, on Reports of Sales or Purchases of Municipal Securities (Aug. 9, 2016) (the “2016 RTRS FAQs”) at questions 1 and 2.

³² See generally MSRB Notice 2004-18 (Notice Requesting Comment on Draft Amendments to Rule G-34 to Facilitate Real-Time Transaction Reporting and Explaining Time of Trade for Reporting New Issue Trades) (June 18, 2004); 2016 RTRS FAQs at question 1.

³³ See Notice, 89 FR at 5386 n.26.

³⁴ *Id.* at 5387 (discussing the particulars for when transactions have been executed, confirmed, and reported).

³⁵ *Id.* (explaining how these exceptions have a narrowly tailored purpose).

soon as practicable, but no later than 15 minutes after the Time of Trade for so long as the dealer remains qualified for the limited trading activity exception, as further specified in new Supplementary Material .01.³⁶ Proposed Section (d)(xi) of Rule G-14 RTRS Procedures would define a dealer with limited trading activity as a dealer that, during at least one of the prior two consecutive calendar years, reported to an RTRS Portal fewer than 2,500 purchase or sale transactions with customers or other dealers,³⁷ excluding transactions exempted under Rule G-14(b)(v) and transactions specified in Rule G-14 RTRS Procedures Sections (a)(ii)(A) and (B). A dealer relying on this exception to report trades within the 15-minute timeframe, rather than the new standard one-minute timeframe, would have to confirm that it meets the criteria for a dealer with limited trading activity for each year during which it continues to rely on the exception (*e.g.*, the dealer could confirm its eligibility based on its internal trade records and by checking MSRB compliance tools which would indicate a dealer's transaction volume for a given year).³⁸

³⁶ The MSRB noted that transactions effected by such a dealer with a Time of Trade outside the hours of an RTRS Business Day would be permitted to be reported no later than 15 minutes after the beginning of the next RTRS Business Day pursuant to Rule G-14 RTRS Procedures Section (a)(iii). The MSRB also noted that, as is the case today, transactions for which an end-of-trade-day or post-trade-day reporting exception is available under redesignated Sections (A) and (B) would continue to have that exception available. *See* Notice, 89 FR at 5387 n.29.

³⁷ The original proposed rule change established a threshold of 1,800 trades. *See* Notice, 89 FR at 5387. The MSRB recalculated the appropriate threshold for the definition of “dealer with limited trading activity” to take into account both sell-side and buy-side inter-dealer trade reports together with reports of dealer trades with customers, regardless of whether the dealer bought or sold in the customer transaction. *See* Amendment No. 1; MSRB Letter at 22 n.81. The MSRB stated that there is no material impact to the economic analysis contained in the original proposed rule change as a result of the increased threshold. *See* MSRB Letter at 23.

³⁸ *See* Notice, 89 FR at 5387-88 (MSRB using a hypothetical to illustrate variations in dealer eligibility for the limited trading exception).

b. Exception for Trades with a Manual Component

Rule G-14 RTRS Procedures Section (a)(ii)(C)(2) would except a “trade with a manual component” as defined in new Section (d)(xii) of Rule G-14 RTRS Procedures from the one-minute reporting requirement. The MSRB noted that dealers with such trades would be required to report such trades as soon as practicable and within the time periods specified in new Supplementary Material .02, unless another exception from the one-minute reporting requirement applies under proposed Rule G-14 RTRS Procedures Sections (a)(ii)(A) and (B) (*i.e.*, transactions having an end-of-trade-day or post-trade-day reporting exception) or (a)(ii)(C)(1) (*i.e.*, transactions by dealers with limited trading activity).³⁹ Section (d)(xii) of Rule G-14 RTRS Procedures would define a “trade with a manual component” as a transaction that is manually executed or where the dealer must manually enter any of the trade details or information necessary for reporting the trade directly into an RTRS Portal (for example, by manually entering trade data into the RTRS Web Portal) or into a system that facilitates trade reporting (for example, by transmitting the information manually entered into a dealer’s in-house or third-party system) to an RTRS Portal. As described below and more fully in the Notice, a dealer reporting to the MSRB a trade meeting the definition for a “trade with a manual component” would be required to append a new trade indicator so that the MSRB can identify manual trades.⁴⁰

³⁹ As explained by the MSRB, transactions effected with a Time of Trade outside the hours of an RTRS Business Day would be permitted to be reported no later than 15 minutes after the beginning of the next RTRS Business Day pursuant to Rule G-14 RTRS Procedures Section (a)(iii). *See* Notice, 89 FR at 5388 n.38.

⁴⁰ Such new indicator would be required for any trade with a manual component, whether the dealer reports such trade within the new one-minute timeframe or the dealer seeks to take advantage of the longer timeframes permitted for trades with a manual component. *See* Notice, 89 FR at 5388 n.39.

As explained by the MSRB, this “manual” exception would apply narrowly, and would normally encompass any human participation, approval or other intervention necessary to complete the initial execution and reporting of trade information after execution, regardless of whether undertaken by electronic means (*e.g.*, keyboard entry), physical signature or other physical action. To qualify as a trade with a manual component, the manual aspect(s) of the trade generally would have to occur after the relevant Time of Trade (*i.e.*, the time at which a contract is formed for the transaction).⁴¹ As further explained by the MSRB, any manual aspects that precede the time of trade (*e.g.*, phone calls to locate bonds to be sold to a customer before the dealer agrees to sell such bonds to a purchasing customer) would normally not be relevant for purposes of the exception unless they have a direct impact on the activities that must be undertaken post-execution to enter information necessary to report the trade.⁴²

The MSRB provided the following non-exhaustive list of situations in which trades would be considered to have a manual component:

- where a dealer executes a trade by manual or hybrid means, such as voice or negotiated trading by telephone, email, or through a chat/messaging function, and subsequently must manually enter into a system that facilitates trade reporting all or some of the information required to book the trade and report it to RTRS;⁴³

⁴¹ *Id.* at 5388.

⁴² The MSRB provided various scenarios to illustrate application of the manual exception would apply. *See generally id.* at 5389 n.40. The MSRB further clarified that the exception is intended to apply only to the trade execution and reporting portions of the workflow. *See MSRB Letter* at 13.

⁴³ *See Notice*, 89 FR at 5389.

- where a dealer executes a trade (typically a larger-sized trade) that requires additional steps to negotiate and confirm details of the trade with a client and manually enters the trade into risk and reporting systems;⁴⁴
- where a dually-registered broker-dealer/investment adviser executes a block transaction that requires allocations of portions of the block trade to the individual accounts of the firm’s advisory clients that must be manually inputted in connection with a trade;⁴⁵
- where an electronically or manually executed trade is subject to manual review by a second reviewer for risk management (*e.g.*, transactions above a certain dollar or par amount or other transactions meriting heightened risk review) and, as part of or following the review, the trade must be manually approved, amended or released before the trade is reported to RTRS;⁴⁶
- where a dealer’s trade execution processes may entail further diligence following the Time of Trade involving a manual step (*e.g.*, manually checking another market to confirm that a better price is not available to the customer);⁴⁷

⁴⁴ See Notice, 89 FR at 5389.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ The MSRB noted that dealers experiencing significant levels of post-Time of Trade price adjustments due to such post-trade best execution processes should consider whether these processes are well suited to the dealer’s obligations under MSRB Rule G-18 and whether the dealer is appropriately evaluating when a contract has in fact been formed with its customer. *Id.* at 5389 n.41.

- where a dealer trades a municipal security, whether for the first time or under other circumstances where the security master information may not already be populated (*e.g.*, information has been removed or archived due to a long lapse in trading the security), and additional manual steps are necessary to set up the security and populate the associated indicative data in the dealer’s systems prior to executing and reporting the trade;⁴⁸
- where a dealer receives a large order or a trade list resulting in a portfolio of trades with potentially numerous unique securities involving rapid execution and frequent communications on multiple transactions with multiple counterparties, and the dealer must then book and report those transactions manually, one by one;⁴⁹
- where a broker’s broker engages in mediated transactions that involve multiple transactions with multiple counterparties;⁵⁰ and
- where a dealer reports a trade manually through the RTRS Web Portal.⁵¹

The MSRB noted that appropriateness of treating any step in the trade execution and reporting process as being manual must be assessed in light of the anti-circumvention provision

⁴⁸ *Id.* at 5389.

⁴⁹ The MSRB explained that 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). *See* Notice, 89 FR at 5389 n.42.

⁵⁰ *Id.* at 5389.

⁵¹ *Id.*

included in the proposed rule change with regard to the delay in execution or insertion of manual tasks for the purpose of meeting this new exception.⁵²

New Supplementary Material .02(a) would require all trades with a manual component to be reported as soon as practicable and would specify that in no event may a dealer purposely delay the execution of an order, introduce any manual steps following the Time of Trade, or otherwise modify any steps prior to executing or reporting a trade for the purpose of utilizing the exception for manual trades.⁵³

New Supplementary Material .03 would require that dealers adopt policies and procedures for complying with the as soon as practicable reporting requirement, including by implementing systems that commence the trade reporting process without delay upon execution and provides for additional guidance for regulatory authorities that enforce and examine dealers for compliance with this requirement to take into consideration the manual nature of the dealer's trade reporting process.⁵⁴

The MSRB also noted that dealers should consider the types of transactions in which they regularly engage and whether they can reasonably reduce the time between a transaction's Time

⁵² *Id.* at 5390 (discussing the prohibition on purposeful insertion of manual steps in trade reporting process).

⁵³ *Id.*

⁵⁴ For trades with a manual component, the MSRB explained that it recognized that the trade reporting process may not be completed as quickly as, for example, where an automated trade reporting system is used. The MSRB further explained that in these cases, the MSRB expects that the regulatory authorities that examine dealers and enforce compliance with this requirement would take into consideration the manual nature of the dealer's trade reporting process in determining whether the dealer's policies and procedures are reasonably designed to report the trade "as soon as practicable" after execution. *See id.* at 5388.

of Trade and its reporting, and more generally should make a good faith effort to report their trades as soon as practicable.⁵⁵ The MSRB currently collects and analyzes data regarding dealers' historic reporting of transactions to RTRS under various scenarios and such data will continue to be available to the regulators for analysis under the proposed one-minute standard. Subject to Commission approval of the proposed rule change, the MSRB explained that it would be reviewing the use of the manual exception and would share with the examining authorities any analyses resulting from such reviews.⁵⁶

1. Phase-In Period for Trades with a Manual Component

New Supplementary Material .02(b) would subject trades with a manual component to a phase-in period for timely reporting over three years (“phase-in period”). During the first calendar year of effectiveness of the exception, trades meeting this definition would be required to be reported as soon as practicable, but no later than 15 minutes after the Time of Trade.⁵⁷ For the second and third calendar years from effectiveness of the exception, such trades would be required to be reported as soon as practicable, but no later than 10 minutes after the Time of Trade.⁵⁸

Following the conclusion of the third calendar year and thereafter, such trades would be required to be reported as soon as practicable, but no later than five minutes after the Time of

⁵⁵ *Id.* at 5389.

⁵⁶ *Id.* at 5390.

⁵⁷ *Id.* at 5389; Amendment No. 1, Supplementary Material .02(b)(i).

⁵⁸ Under the original proposed rule change, trades with a manual component would have been required to be reported as soon as practicable, but no later than five minutes after the Time of Trades after the second calendar year from effectiveness and thereafter. *See* Notice, 89 FR at 5390; Amendment No. 1, Supplementary Material .02(b)(ii).

Trade.⁵⁹ The MSRB stated that dealers should remember that the “as soon as practicable” reporting obligation may, depending on the facts and circumstances, require quicker reporting than the applicable outer reporting obligation during and after the phase-in period.

2. Prohibition on Purposeful Insertion of Manual Steps in Trade Reporting Process

New Supplementary Material .02(a) would specifically prohibit dealers from purposely delaying the execution of an order, introducing any manual steps following the Time of Trade, or otherwise purposefully modifying any steps to execute or report a trade to utilize the exception for manual trades. The MSRB notes that this requirement would not prohibit reasonable manual steps that are taken for legitimate purposes and would not apply to any steps that are taken prior to the time of trade that do not have the effect of delaying the subsequent reporting of such trade.⁶⁰

3. Manual Trade Indicator

Proposed amendments to Rule G-14 RTRS Procedures Section (b)(iv) would require the report of a trade meeting the MSRB’s definition for a “trade with a manual component,” as defined in proposed Section (d)(xii) of Rule G-14 RTRS Procedures,⁶¹ to append a new trade

⁵⁹ See Notice, 89 FR at 5387. The MSRB explained that it would be monitoring the implementation of the proposed rule change and would analyze trade data to determine, among other things, whether the eventual five-minute trade reporting timeframe continues to be feasible and appropriate in light of the empirical data collected through the earlier phases of implementation. See Amendment No. 1. The MSRB further explained that any further reduction in reporting timeframe, or elimination of the manual trade exception, could not be possible without additional formal rulemaking by the MSRB that would be filed with the Commission. See Amendment No. 1.

⁶⁰ See Notice, 89 FR at 5390.

⁶¹ See generally *id.* at 5388-90.

indicator⁶² to such a trade report. The MSRB noted that this indicator would be mandatory for every trade that meets the standard to append the indicator,⁶³ regardless of whether the trade is actually reported within one minute after the Time of Trade, is reported within the applicable timeframe under the manual trade exception or is otherwise subject to another reporting exception.

v. Pattern or Practice of Late Trade Reporting

Current Rule G-14 RTRS Procedures Section (a)(iv) requires that transaction data that is not submitted in a timely and accurate manner must be submitted or corrected as soon as possible—even when a dealer is late in reporting a trade, the dealer remains obligated to report such trade as soon as possible. The proposed rule change further provides that any transaction that is not reported within the applicable time period shall be designated as “late.”⁶⁴ The MSRB stated that a pattern or practice of late reporting without exceptional circumstances or reasonable justification may be considered a violation of Rule G-14.⁶⁵ The MSRB further noted that the determination of whether exceptional circumstances or reasonable justifications exist for late trade reporting is dependent on the particular facts and circumstances and whether such

⁶² *Id.* at 5391 n.51 (discussing how the manual trade indicator would be used for regulatory purposes).

⁶³ Current Rule G-14 RTRS Procedures Section (a)(iv) requires that transaction data that is not submitted in a timely and accurate manner must be submitted or corrected as soon as possible. The manual trade indicator is not intended to be used to reflect the manual nature of any correction to a prior trade report. *Id.* at 5390 n.50.

⁶⁴ *See generally id.* at 5391 n.52 (MSRB explaining that late trade designations are currently, and would continue to be, available to regulators and, through the MSRB compliance tool described below in the Notice under “Purpose – Proposed Rule Change – Compliance Tools,” to the dealer submitting the late trade).

⁶⁵ *Id.* at 5391.

circumstances are addressed in the dealer's systems and procedures.⁶⁶ The MSRB explained that it expected that the regulatory authorities that examine dealers and enforce compliance with the reporting timeframes established under Rule G-14 RTRS Procedures would focus their examination for and enforcement of the rule's timing requirements on the consistency of timely reporting and the existence of effective controls to limit late reporting to exceptional circumstances or where reasonable justifications exist for a late trade report, rather than on individual late trade report outliers.⁶⁷ Notwithstanding such expectation, where facts and circumstances indicate that an individual late report was intentional or otherwise egregious, or could reasonably be viewed as potentially giving rise to an associated fair practice, fair pricing, best execution or other material regulatory concern under MSRB or Commission rules with respect to that or a related transaction, the MSRB noted that the regulatory authorities could reasonably determine to take action with respect to such late trade in the examination or enforcement context.⁶⁸

vi. Compliance Tools

The MSRB explained that it would continue to provide various compliance tools to assist dealers with compliance and for examining authorities to monitor for compliance.⁶⁹

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

vii. Other Proposed Amendments

a. Technical Amendments

Technical amendments to Rule G-14 RTRS Procedures Section (a)(ii) regroup and renumber its current Sections (A) through (C) to new Sections (A)(1) through (A)(3), renumber current Sections (D) and (E) to new Sections (B)(1) and B(2), and correct a cross-reference in Section (b)(iv) to certain of these Sections to be consistent with such renumbering.⁷⁰ In addition, a technical amendment to Rule G-14 RTRS Procedures Section (a)(ii) changes the word “of” to “after” and omits the word “within” in the phrase “within 15 minutes of Time of Trade” for clarity and consistency of usage throughout the Rule G-14 RTRS Procedures as amended.⁷¹

b. Clarifying Amendments – Special Condition Indicators and Trades on an Invalid RTTM Trade Date

Rule G-14 RTRS Procedures Section (b)(iv) currently sets forth information regarding certain existing special condition indicators while also referencing the existence of other special condition indicators in Section 4.3.2 of the Specifications for Real-Time Reporting of Municipal Securities Transactions. The MSRB stated that the proposed clarifying amendments to Section (b)(iv) of Rule G-14 RTRS Procedures would incorporate into the language thereof reference to all applicable special condition indicators, including the new trade with a manual component indicator and existing special condition indicators previously adopted by the MSRB but that are currently only documented explicitly in the Specifications for Real-Time Reporting of Municipal Securities Transactions.⁷² Other than the addition of the new trade with a manual component

⁷⁰ *Id.* at 5392.

⁷¹ *Id.*

⁷² *See generally id.* at 5392 n.55.

indicator, the MSRB noted that the proposed clarifying amendments to this provision would not make any changes to the types or usage of existing special condition indicators.⁷³ Rule G-14 RTRS Procedures Section (a)(iii) would be amended to reflect that, in addition to trades effected outside the hours of the RTRS Business Day, inter-dealer trades may be executed on certain holidays (other than those recognized as non-RTRS Business Days) that are not valid RTTM trade dates (“invalid RTTM trade date”), and in either case such trades are to be reported no later than within 15 minutes after the beginning of the next RTRS Business Day. Such invalid RTTM trade date transactions are already subject to this same next RTRS Business Day reporting requirement.⁷⁴ The MSRB believes that a proposed clarifying amendment to this provision would not make any changes to the circumstances or timing of reporting of such trades.⁷⁵

c. Proposed Conforming Amendments to Rule G-12 and RTRS Information Facility

Proposed amendments to Rule G-12, on uniform practice, would make conforming changes to Section (f)(i) thereof to require that each transaction effected during the RTRS Business Day shall be submitted for comparison as soon as practicable, but no later than one minute after the Time of Trade unless an exception applies. The proposed rule change would also modify the IF-1 to clarify lateness checking against the applicable reporting deadline(s) provided for in proposed amendments to Rule G-14 RTRS Procedures, as opposed to the current 15-minute requirement.⁷⁶

⁷³ *Id.* at 5392.

⁷⁴ *See* Section 4.3.2 of the Specifications for Real-Time Reporting of Municipal Securities Transactions; Exchange Act Release No. 55957 (June 26, 2007), 72 FR 36532 (July 3, 2007), File No. SR-MSRB-2007-01.

⁷⁵ *See* Notice, 89 FR at 5392.

⁷⁶ *Id.*

III. Summary of Comments Received and the MSRB's Response

As noted previously, the Commission received fourteen (14) comments letters in response to the Notice, ten (10) letters in response to the OIP, and six (6) letters in response to Amendment No. 1.⁷⁷ The MSRB responded to the comment letters received on the Notice and OIP in the MSRB Letter.⁷⁸ The MSRB reiterated that it continues to believe that the proposed rule change would promote just and equitable principles of trade because it would further reduce information asymmetry between market professionals (such as dealers and institutional investors) and retail investors by ensuring progressively increased access to more timely information about executed municipal securities transactions for all investors.⁷⁹ Additionally, the MSRB explained that the proposed rule change would foster cooperation and coordination with persons engaged in regulating and processing information, facilitating a consistent standard

⁷⁷ See *supra* notes 4, 7, and 12. Separately, the MSRB published a request for information soliciting stakeholder input regarding the impact of MSRB rules on smaller regulated entities (“Small Firm RFI”) on December 4, 2023. Eight (8) of the comments received by the MSRB in response to the Small Firm RFI discussed the original proposed rule change or a draft version of the original proposed rule change previously published for comment. See letters to Ronald W. Smith, Corporate Secretary, MSRB, from: Mike Petagna, President, Amuni Financial, Inc. dated Jan. 8, 2024 (“Amuni RFI Letter”); Mr. Kamler, Sanderlin Securities LLC dated Jan. 26, 2024 (“Sanderlin Securities RFI Letter”); Robert S. Searle, President, Searle & Co., Inc. dated Feb. 16, 2024 (“Searle RFI Letter”); Brad Harris, Director of Fixed Income – Municipal Bonds, Herold & Lantern Investments dated Feb. 22, 2024 (“HLI RFI Letter”); Jessica R. Giroux, General Counsel, ASA dated Feb. 26, 2024 (“ASA RFI Letter”); Mr. Decker, BDA dated Feb. 26, 2024 (“BDA RFI Letter”); Leslie M. Norwood, Managing Director and Associate General Counsel, Head of Municipal Securities, SIFMA dated Feb. 26, 2024 (“SIFMA RFI Letter”); and Stern Brothers & Co. dated Feb. 26, 2024 (“Stern Bros. RFI Letter”). The comment letters received in response to the Small Firm RFI are available at: <https://www.msrb.org/Regulatory-Documents?id=13895>.

⁷⁸ See *supra* note 10.

⁷⁹ See MSRB Letter at 4.

for trade reporting across many fixed income products, including municipal securities.⁸⁰ The MSRB further noted that the proposed rule change would remove impediments to a free and open market in municipal securities by making publicly available more timely information about the market and the prices at which municipal securities transactions are executed and promote investor protection and the public interest through increased market transparency.⁸¹ Commenters generally supported the MSRB’s goal of facilitating equal access to information and market transparency.⁸²

A. One-Minute Reporting

i. Benefit to Municipal Securities Market

Some commenters expressed concern that the scope of the proposed rule was overly broad and could have unintended consequences on the municipal securities market as a whole.⁸³

One commenter “generally agree[d] 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,”⁸⁴ but challenged the “benefit of an across-the-board shortening of reporting times and [had] concerns about the costs and risks associated with implementation.”⁸⁵ Another commenter

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *See, e.g.*, letters from SIFMA; BDA; ICI; Dimensional Fund Advisors; Belle Haven; Bernardi Securities; Piper Sandler; LPL.

⁸³ *See, e.g.*, letters from BDA, Noto, State of Florida, Sanderlin Securities, SIFMA, ASA, Falcon Square Capital.

⁸⁴ *See* BDA Letter at 1. BDA generally reiterated its position in the BDA OIP Letter and BDA Amendment No. 1 Letter.

⁸⁵ *See* BDA Letter at 1.

questioned “what sort of benefit this almost-immediate reporting delivers or if the rule may very well adversely impact certain types of liquidity.”⁸⁶ One commenter stated that “[a]ccelerating the timeframe for trade reporting [would] not result in any additional protection for investors and may well further inhibit capital being deployed in the marketplace,”⁸⁷ further noting that “increasing the cost and compliance burden [would] impair liquidity and the willingness of firms to commit capital to their municipal business.”⁸⁸ A further commenter noted that the “transition to one-minute reporting has neither been adequately examined or justified”⁸⁹ and did not “believe that the proposed one-minute reporting rule [could] be adopted without exposing the broker-dealer community to significant liability and creating risk to the function of some fixed income markets”⁹⁰ and that “subjecting the fixed income market to trade reporting requirements that appear to be inspired by the equities market is misguided.”⁹¹ Building on its 2022 letter, an additional commenter reiterated that the “[p]roposals lack evidence of a market failure to justify such a change” and “[would] not provide a tangible benefit to investors.”⁹² This commenter also expressed the view that “regulatory changes based upon incomplete assumptions would be

⁸⁶ See Noto Letter.

⁸⁷ See State of Florida Letter at 1.

⁸⁸ *Id.* at 2.

⁸⁹ See SIFMA Letter at 2.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² ASA Letter at 1. ASA generally reiterated its position in the ASA OIP Letter and ASA Amendment No. 1 Letter.

harmful to investors and threaten the participation of small and mid-sized broker-dealers.”⁹³ A commenter stated that the proposed rule change did “not provide evidence to support how the reporting change would result in a material improvement of the fixed-income securities market”⁹⁴ and that the proposed rule change “appear[ed] to extrapolate the effects of the 2005 change in reporting time . . . to support the claim that a further reduction in reporting time would provide more market transparency and immediate access to data for the remaining 26.3% of trades that were not reported to the MSRB within one minute during 2022.”⁹⁵ One commenter stated that the MSRB failed to “provide carefully detailed analysis of the clear and substantial benefit to the municipal securities marketplace;”⁹⁶ “provide adequate evidence upon which the SEC can reach a determination as to whether to approve or disapprove the proposed rule change;”⁹⁷ and “advance quantifiable data to support its assertion that investors will save millions of dollars through such radically reduced reporting times.”⁹⁸ A further commenter expressed “concern that the [proposed rule change] will expose broker-dealers to significant

⁹³ *Id.* at 2. ASA included its 2022 comment letter which already explained that 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.” *Id.* at 5-6.

⁹⁴ *See* Falcon Square Capital Letter at 1. Falcon Square Capital generally reiterated its position in the Falcon Square Capital Amendment No. 1 Letter.

⁹⁵ *See* Falcon Square Capital Letter at 1-2.

⁹⁶ *See* Belle Haven Letter at 3.

⁹⁷ *Id.* at 1.

⁹⁸ *Id.* Belle Haven generally reiterated its position in the Belle Haven Amendment No. 1 Letter.

regulatory risk and clients to diminished liquidity and service from their broker-dealers.”⁹⁹

Another commenter expressed a positive view by stating that “transparency fosters a fair and efficient market and that market quality is improved when public information is disseminated evenly to all market participants”¹⁰⁰ enhancing “investors’ power to negotiate with dealers, leading to reduced transaction costs.”¹⁰¹ One commenter “question[ed] whether one-minute trade reporting is suitable across the board for all fixed income markets” and believed that the “current trade reporting framework already strikes an appropriate balance between transparency, the ability to reasonably comply, and market liquidity.”¹⁰² Additionally, this commenter noted that the proposed rule change “lack[ed] sufficient evidence and reasoning as to why shortening the reporting timeframe is necessary, much less achievable.”¹⁰³

In response to comments, the MSRB explained that one way to assess the magnitude of the benefits of the proposed rule change is to compare the amount investors are paying (or might pay in the future as a result of rulemaking) to the amount they would otherwise pay in a more efficient market.¹⁰⁴ The MSRB further explained that when it previously shortened the trade reporting deadline from end-of-day to 15 minutes from the Time of Trade in 2005, the MSRB’s analysis of data collected showed a significant reduction in average customer trade effective

⁹⁹ LPL OIP Letter at 1.

¹⁰⁰ See Dimensional Fund Advisors Letter at 1.

¹⁰¹ *Id.*

¹⁰² See FHN Financial OIP Letter at 2.

¹⁰³ *Id.*

¹⁰⁴ See MSRB Letter at 6.

spreads.¹⁰⁵ The MSRB also noted that its analysis also showed that effective spreads for customer trades continued to decline in the last decade with progressively faster trade reporting due to technology improvements undertaken by the industry to execute trades more quickly and efficiently but that this downward trend had become less pronounced in recent years.¹⁰⁶ The MSRB stated that it believes that it has appropriately demonstrated the estimated costs and benefits that the proposed rule change would likely provide to the municipal securities market¹⁰⁷ because the proposed rule change would result in reduced transaction costs for investors (*i.e.*, reduced effective bid-ask spread on customer trades) and increased trading volume from the effective spread reduction because investors are more likely to trade when the cost to trade is lowered.¹⁰⁸ Further, the MSRB explained that it expects that the universe of potentially benefited transactions and trading volume would be significantly larger than one commenter¹⁰⁹ described and that a shorter trade reporting window would likely result in yield curves that more accurately reflect the prevailing market conditions because of lower information lags in reported trade prices.¹¹⁰

¹⁰⁵ *Id.* at 6-7.

¹⁰⁶ *Id.* at 7.

¹⁰⁷ *Id.* at 6.

¹⁰⁸ *Id.* at 7.

¹⁰⁹ *See* Belle Haven Letter at 3.

¹¹⁰ *See* MSRB Letter at 8 (citing the Notice, 89 FR at 5395 n.74 and 5398).

ii. Impact on Competition and Liquidity

Some commenters expressed views that shortening the reporting timeframe disproportionately impacted less active and smaller dealers, potentially leading to a decline in liquidity, capital resources, and concentration of municipal bond trading among the largest dealers in the industry. One commenter noted that the proposed rule change “grossly underestimated the costs of the proposed rule”¹¹¹ and forecasted that the proposed rule change would put many firms out of business.¹¹² Such commenter further explained that the “retail investor’s liquidity and negotiating power will be eliminated with the competitive landscape reduced to the largest of firms which do not negotiate with retail investors.”¹¹³ A further commenter raised concerns “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.”¹¹⁴ An additional commenter raised the concern that a “unilateral reduction to a one-minute reporting timeframe could create undue burdens on execution quality and liquidity with respect to large volume trades or trades in less liquid securities”¹¹⁵ because “dealers may have insufficient time to hedge their positions or allocate risk with respect to large-sized trades or transactions in thinly traded securities and therefore lead to

¹¹¹ See Belle Haven Letter at 6.

¹¹² *Id.*

¹¹³ *Id.* at 5.

¹¹⁴ See ASA Letter at 9.

¹¹⁵ See ICI Letter at 3.

less willingness by dealers to provide liquidity” for these types of trades.¹¹⁶ Another commenter noted that the proposed rule change “[p]unished”¹¹⁷ small broker-dealers and would “ultimately reduce liquidity for investors.”¹¹⁸ In response to comments, the MSRB stated that it believes that the potential adverse impacts on competition and liquidity are appropriately mitigated by the two exceptions from the one-minute reporting requirement included in the proposed rule change, which would allow dealers of all sizes, levels of market activity, manners of executing transactions, and business models to continue to engage in municipal securities activities to promote a fair, efficient, robust and more modern municipal securities market consistent with investor protection.¹¹⁹

iii. Technology Costs

Some commenters raised concerns that the proposed rule change would impose increased costs of new technology infrastructure. One commenter expressed the view that small firms that do not qualify for the limited trading exception would have to “implement more sophisticated and expensive automated reporting systems”¹²⁰ that they estimated at half a million dollars each year¹²¹ which would be “cost prohibitive to smaller firms” and would lead to “curtail[ing]

¹¹⁶ *Id.* at 2 n.4.

¹¹⁷ *See* Sanderlin Securities Letter at 3.

¹¹⁸ *Id.* at 3.

¹¹⁹ *See* MSRB Letter at 10.

¹²⁰ *See* Falcon Square Capital Letter at 2. Falcon Square Capital reiterated its position in the Falcon Square Capital Amendment No. 1 Letter.

¹²¹ *See* Falcon Square Capital Letter at 2

customer access to the fixed income securities market.”¹²² Another commenter noted that the “technology to report all transactions involving a manual component within five minutes does not currently exist and may never exist, given the structure of the market” and expressed the view that “members [would] need significant time to review systems to ensure that one-minute reporting can be accomplished; create systems, policies and procedures for manual trade indicators, and train staff” and also noted the “high costs of systems development” necessary to make operational changes to effect the original proposed rule change.¹²³ A further commenter explained that “[b]uilding compliant systems for all aspects of the Proposals [would] require major investments by dealers and vendors in technology, training, and revisions to supervisory procedures” and that “[i]mplementation [would] be especially challenging for smaller. . .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.”¹²⁴ Additionally, this commenter explained that many firms “rely on third-party vendors to report all or most of their trades to TRACE and RTRS.”¹²⁵ This commenter stated that “vendors that need to update their infrastructure to accommodate changing reporting timelines will pass on this expense to dealers that rely on their service.”¹²⁶

¹²² *Id.* at 6.

¹²³ *See* SIFMA Letter at 10.

¹²⁴ *See* BDA Letter at 4.

¹²⁵ *Id.* at 3.

¹²⁶ *Id.* at 4.

In response to comments, the MSRB observed that most small and mid-sized firms that would otherwise need to shoulder higher technology or service costs would likely qualify as dealer with limited trading activity for which the proposed exception from the one-minute reporting timeframe would apply.¹²⁷ The MSRB further explained that such firms would not need to obtain additional, and potentially more sophisticated, technology infrastructure or services beyond their current arrangements.¹²⁸ The MSRB stated that it believes that the potential adverse impacts on competition and liquidity raised by some commenters are appropriately mitigated by the two exceptions from the one-minute reporting which would allow dealers of all sizes, levels of market activity, manners or executing transactions, and business models to continue to engage in municipal securities activities to promote a fair, efficient, robust and more modern municipal securities market consistent with investor protection.¹²⁹

B. General Comments on Exceptions to One-Minute Reporting

Commenters expressed several views relating to the exceptions. One commenter believes that the “current exceptions contained in the proposals represent essential elements to ensure industry compliance” and that “[w]ith the exceptions in place, the Proposals strike a reasonable balance between regulatory modernization and operational limitations which prevent may trades from meeting the one-minute reporting standard.”¹³⁰ This commenter further emphasized that “without the exceptions for dealers with limited trading activity and for trades with a manual

¹²⁷ See MSRB Letter at 9.

¹²⁸ *Id.*

¹²⁹ *Id.* at 10.

¹³⁰ See BDA Letter at 1.

component, the Proposals would be unworkable.”¹³¹ Another commenter stated that the exceptions are critical to protect smaller dealer members and would be required if the proposed rule change moves forward.¹³² A further commenter supported the manual exception and noted that the scope of the manual trade exception should be consistent between SROs.¹³³ One commenter, however, noted that the “exceptions do not appreciably alter market dynamics”¹³⁴ and expressed concern over the idea that either of the “exceptions could be reduced over time without being proposed for public comment”¹³⁵ which “would also set a troubling precedent that would allow SROs to implement changes without an evidentiary or legal justification for doing so.”¹³⁶ One commenter advocated for the complete phase out of the exceptions so that all trades subject to the 15-minute reporting timeframe will be reported within one minute.¹³⁷ An additional commenter stated that its support for the original proposed rule change is conditioned

¹³¹ See *id.*; BDA Amendment No. 1 Letter at 2 (expressing the view that the exceptions are made stronger by the changes made by Amendment No. 1).

¹³² See, e.g., SIFMA Letter at 2. SIFMA reiterated its position in the SIFMA OIP Letter and SIFMA Amendment No. 1 Letter at 2 (expressing the view that the proposed manual trade exception “is not a panacea since a mandatory one-minute requirement remains unworkable even for certain fully-electronic trades.”).

¹³³ See FIF I Letter at 2; FIF OIP Letter at 2 (expressing the view that the proposed manual trade exception “is important to avoid disruption to current trading practices for bonds.”).

¹³⁴ See ASA Letter at 1.

¹³⁵ *Id.* at 2.

¹³⁶ *Id.*

¹³⁷ See Dimensional Fund Advisors Letter at 2.

on retaining the exceptions for firms with limited trading activity and for trades with a manual component.¹³⁸

In response to comments, the MSRB agreed that the exceptions are important components of the proposed rule change and agreed with commenters that asserted that the exceptions are critical to making the proposed rule change workable and provide for an orderly transition to a more rapid trade reporting paradigm¹³⁹ and noted that it “fully intends for the proposed new intra-day exceptions for trade reporting of municipal securities work in the same manner and at the same pace, and therefore consistent with, requirements for other fixed income securities.”¹⁴⁰ The MSRB further explained that “consideration of whether or when one or both of the proposed exceptions should be phased out is premature, because the MSRB currently lacks sufficient data so support such a decision.”¹⁴¹ The MSRB stated that it “intends to monitor trade reporting activity and potential impacts on the marketplace to determine whether any changes to the proposed rule change should be considered in the future.”¹⁴²

i. Trades With a Manual Component Exception

Commenters generally noted that the trades with a manual component exception balances shortening reporting requirements while avoiding undue disruptions to the municipal securities market. One commenter stated that it believed that the trades with a manual component

¹³⁸ See Piper Sandler OIP Letter at 1.

¹³⁹ See MSRB Letter at 11.

¹⁴⁰ *Id.* at 12.

¹⁴¹ *Id.* at 11.

¹⁴² *Id.*

exception is an “appropriate balance between shortening reporting timeframes and avoiding disruption to the marketplace or causing undue burdens.”¹⁴³ Another commenter requested that the MSRB should “implement a broad exception for manual trades.”¹⁴⁴ Several commenters raised questions about the application of the exception where manual steps may have been taken prior to trade execution but where the execution itself and the subsequent trade reporting workflow may be fully automated.¹⁴⁵ Commenters provided examples where systems processing limitations would prevent certain fully automated trades to be reported within one minute.¹⁴⁶ Some commenters requested clarification in the context of dual registrants and situations where a dealer allocates a block trade to allocate trades.¹⁴⁷ One such commenter noted that “maintaining the reporting time at 15 minutes is necessary, considering the complexities involved in the manual trade reporting process.”¹⁴⁸

With respect to qualifying as a trade with a manual component, the MSRB reiterated that “the manual aspect of the trade workflow generally would only occur after the relevant Time of Trade.”¹⁴⁹ The MSRB explained that “where trade execution and reporting processes are fully electronic, a minimal triggering action (*e.g.*, click “accept”) to prompt the electronic execution of

¹⁴³ See ICI Letter at 3.

¹⁴⁴ See LPL OIP Letter at 2.

¹⁴⁵ See, generally, BDA Letter; FIF I Letter; ICI Letter; SIFMA Letter; ASA Letter.

¹⁴⁶ See, *e.g.*, BDA Letter at 4; Searle RFI Letter at 2; SIFMA Letter at 3, 7-9; FIF I Letter at 3.

¹⁴⁷ See, *e.g.*, BDA Letter at 4; SIFMA Letter at 7; Falcon Square Capital Letter at 3-4; FIF I Letter at 3; LPL OIP Letter at 2; SIFMA OIP Letter at 5; BDA OIP Letter at 1-2.

¹⁴⁸ See ASA Letter at 2.

¹⁴⁹ See MSRB Letter at 13 (citing Notice, 89 FR 5386-87).

a trade at the beginning of the process, by itself, typically would not be sufficient to constitute a manual step qualifying the trade for the manual trade exception.”¹⁵⁰ As it relates to system processing limitations, including trades involving large post-trade automated allocations, portfolio trades, trades involving batch processing, and trades where multiples systems are involved in a trade workflow, the MSRB stated that “analysis of such scenarios related to fully automated trades under the [proposed rule change] is likely to be highly fact specific.”¹⁵¹ Because it is a facts and circumstances determination, the MSRB further explained that it is impossible to create an exhaustive list of examples and that “dealers should document the circumstances giving rise to [any reporting] delays and consider potential alternatives for reasonable ways to improve the timing of trade reporting such circumstances.”¹⁵² The MSRB reminded dealers of the “overarching obligation to report trades as soon as practicable in light of the effects of such circumstances or justification”¹⁵³ even if not within the applicable one-minute timeframe.¹⁵⁴ The MSRB further explained that “failure to report such trades as soon practicable could be a factor weighing against the determination of whether the exceptional circumstances or reasonable justification provisions of the [proposed rule change] would be available to a dealer making such late reports.”¹⁵⁵ With respect to large or block transaction, the MSRB explained

¹⁵⁰ *Id.* at 13.

¹⁵¹ *Id.* at 14.

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

that depending on the specific facts and circumstances, “where a dealer executes a large or block transaction that requires allocations of portions of the trade to individual accounts, unless the initial large or block trade independently qualifies for the manual trade exception and absent another exception, the large or block transaction normally would not qualify for the manual trade exception and instead would be subject to the one-minute reporting requirement.”¹⁵⁶ The MSRB further noted that the “manual trade exception may, however, be available for any resulting allocations to individual accounts that may be required to be reported and such reporting involves manual input or other manual steps.”¹⁵⁷

a. Phase-In Period

Several commenters addressed the phase-in of the shortening reporting timeframe for trades with a manual component.¹⁵⁸ Some commenters requested that the MSRB propose for notice and comment each reduced outer limit timeframe for the trades with a manual component exception to allow market participants the opportunity to submit valuable data and comment prior to the MSRB shortening the reporting timeframe.¹⁵⁹ One commenter expressed the view that this exception was not a true exception¹⁶⁰ and requested that the MSRB “collect data to

¹⁵⁶ See MSRB Letter at 15 and accompanying notes 55 through 57 (citing the Notice, 89 FR at 5389).

¹⁵⁷ *Id.*

¹⁵⁸ See, e.g., BDA Letter at 3; ICI Letter at 3-4; Falcon Square Capital Letter at 4; Falcon Square Capital Amendment No. 1 Letter at 3-4; SIFMA Letter at 6; SIFMA OIP Letter at 6; SIFMA Amendment No. 1 Letter at 3; ASA OIP Letter at 2; ASA Amendment No. 1 Letter at 1; Belle Haven Letter at 5-9; Belle Haven Amendment No. 1 at 3-4; BDA OIP Letter at 3, 5; LPL OIP Letter at 2.

¹⁵⁹ *Id.*

¹⁶⁰ See Belle Haven Letter at 6.

support a reduction in reporting time for manual trades before it proposes a rule to do so”¹⁶¹ as, according to this commenter, the MSRB did not “cite a scintilla of statistical or objective support for the need to “phase in” a reduction of reporting for manual reporters”¹⁶² or “provide the SEC with evidence that manual reporters are not currently reporting as fast as practicable.”¹⁶³ This commenter also raised the concern that the phase-in period may eliminate small firms which are incapable of meeting the phased-in time periods.¹⁶⁴ One commenter noted uncertainty regarding the technological capabilities to meet the proposed phase-in timeframes, and requested the MSRB to undertake ongoing monitoring, analysis, and stakeholder engagement.¹⁶⁵ A further commenter requested that the MSRB “[e]xamine impacts to liquidity, depth, concentration, and transparency prior to decreasing reporting times to shorter intervals to ensure markets are not harmed.”¹⁶⁶ One commenter also expressed being troubled by the language of the manual trade exception because it “suggests the possibility of reassessing the reporting timeframe, potentially leading to further reductions or even the elimination of the manual trade exception altogether.”¹⁶⁷

¹⁶¹ *Id.* at 9.

¹⁶² *Id.* at 7.

¹⁶³ *Id.* at 7.

¹⁶⁴ *Id.* at 5.

¹⁶⁵ *See* SIFMA Letter at 6-7. *See generally* ICI Letter at 3-4 (noting potential impacts of implementing the proposed phase-in timeframes and requesting that the MSRB propose for notice and comment each reduced outer limit timeframe to allow market participants the opportunity to submit valuable data and comments prior to potentially shortening reporting timeframes).

¹⁶⁶ *See* LPL OIP Letter at 2.

¹⁶⁷ *See* ASA Letter at 2.

The MSRB noted that “it does not have specific evidence that dealers are currently, as a matter of practice, reporting trades less rapidly than as soon as practicable”¹⁶⁸ but “believes that the new requirement for reporting as soon as practicable would have the effect of increasing the proportion of trades being reported within shorter timeframes than they currently are, without regard to a one-minute, five-minute or 15-minute deadline, potentially translating into significant improvement in market-wide average reporting times.”¹⁶⁹ The MSRB also stated that it “would monitor the implementation of the [proposed rule change] and, going forward, would analyze trade data related to the operation of the proposed two new exceptions to, among other things, determine whether the eventual five-minute trade reporting timeframe that would become applicable after two years continues to be feasible and appropriate in light of the empirical data collected through the earlier phases of implementation.”¹⁷⁰ To address concerns expressed by commenters regarding potential difficulties in meeting the shortened reporting timeframes and make the necessary changes to processes and technology to achieve such shortened timeframes, the MSRB has “determined to modify the pace of phasing-in the shortened reporting timeframe for trades with a manual component to extend the period during which such trades would be reportable by no later than 10 minutes after the Time of Trade from one year to two years.”¹⁷¹ To alleviate commenters concerns related to the the elimination of the of the trades with a manual component exception, the MSRB explained that the proposed rule change “sets out a phased-in implementation of the exception for manual trades that would provide for an ultimate

¹⁶⁸ See MSRB Letter at 17.

¹⁶⁹ *Id.*

¹⁷⁰ *Id.* at 20.

¹⁷¹ *Id.*

five-minute timeframe for the reporting of such trades. No further reductions in such timeframe, and no elimination of the manual trade exception could be possible without additional formal rulemaking by the MSRB that would be filed with the Commission, and any such change would be subject to the required notice and comment process under Section 19 of the Exchange Act.”¹⁷²

b. Manual Trade Indicator

Several commenters addressed the manual trade indicator.¹⁷³ Commenters requested that the trade indicator apply instead to fully automated trades subject to the one-minute reporting requirement.¹⁷⁴ One commenter recommended that the MSRB default the manual trade indicator for any transaction that is reported initially through the RTRS web portal.¹⁷⁵ Commenters requested that the MSRB institute an interim period where firms are permitted, but not required, to report the manual trade indicator.¹⁷⁶ One commenter also requested clarification on the use of a portfolio trade modifier in specific scenarios.¹⁷⁷

¹⁷² See MSRB Letter at 20 (citing 15 U.S.C. 78s).

¹⁷³ See BDA Letter at 3; SIFMA Letter at 9; SIFMA OIP Letter at 7-8; FIF Letter I at 3-4; FIF Letter II *generally*.

¹⁷⁴ See BDA Letter at 3; SIFMA Letter at 9; SIFMA OIP Letter at 7-8.

¹⁷⁵ See FIF I Letter at 4.

¹⁷⁶ *Id.* at 6; SIFMA OIP Letter at 8.

¹⁷⁷ See *generally* FIF I Letter (scenarios where a firm corrects a technical issue and then submits automatically); FIF II Letter (consisting of examples of such scenarios and requesting corresponding clarification); FIF OIP Letter (FIF requested clarification on the use of a portfolio trade modifier to RTRS where a dealer receives a large order or a trade list resulting in a portfolio of trades with potentially numerous unique securities involving rapid execution and frequent communications on multiple transactions with multiple counterparties, with the dealer having to book and report those transactions manually. In response, the MSRB clarified that the “Notice was not intended to create a requirement for portfolio trades to be reported with a trade indicator under MSRB Rule G-14, and no

After considering comments, the MSRB explained that “to the extent that these trades are fully automated—both the execution and the trade reporting—the manual trade indicator would not apply and should not be used, and the exception for trades with a manual component also would not apply.”¹⁷⁸ The MSRB further noted that since “dealers are already successfully processing other trade indicators that must be applied on an individualized basis in the context of manual and electronic trades[,] the MSRB believes that existing processes can be modified to include the manual trade indicator with only limited additional effort and expense.”¹⁷⁹ In response to the requested interim period for optional use, the MSRB “contemplates providing dealers with sufficient time to implement and test the use of the indicator and does not intend at this time to provide an optional reporting period.”¹⁸⁰ Additionally, the MSRB explained that since “one of the intended purposes of the manual trade indicator is to provide regulators with the information necessary to make thoughtful and pragmatic changes and identify roadblocks to achieving faster trade reporting for trades with a manual component”¹⁸¹ the MSRB stated that it “will be using the manual trade indicator to assess whether taking further action in the course of such phase-in might be warranted.”¹⁸²

such portfolio indicator is proposed or would be required pursuant to the proposed rule change.” *See* MSRB Letter at 16. The MSRB further explained “that it has not made a determination as to whether an “away from market” indicator would be required in connection with any particular portfolio transaction.”). *Id.* at 17.

¹⁷⁸ *See* MSRB Letter at 14.

¹⁷⁹ *Id.* at 18-19.

¹⁸⁰ *Id.* at 24.

¹⁸¹ *Id.* at 18 n.66.

¹⁸² *Id.*

C. Limited Trading Activity Exception

Several commenters addressed the limited trading activity exception.¹⁸³ One commenter noted that the “[limited trading activity] exception is appropriately based on trade numbers that are correctly sized to protect minority, veteran and women owned business enterprises and small dealers from incurring the significant costs associated with the proposed rule”¹⁸⁴ while the proposed two-year look back period “[would] allow newly impacted members some time to attempt to implement systems to attempt to achieve compliance.”¹⁸⁵ Another commenter supported the limited trading activity exception, believing many firms in the market will benefit greatly from this exception.¹⁸⁶ An additional commenter expressed the view that the proposed 1,800-trade threshold is “far too low”¹⁸⁷ and requested that the MSRB either significantly expand the threshold or conduct further analysis and provide data to support the 1,800 threshold.¹⁸⁸

After considering comments received, the MSRB determined to increase the threshold to 2,500 trades.¹⁸⁹ As explained by the MSRB, “the revised 2,500 threshold is expected to exempt

¹⁸³ See, e.g., SIFMA Letter; BDA Letter; Falcon Square Capital Letter; Belle Haven Letter; FIF I Letter. See also BDA OIP Letter; SIFMA OIP Letter.

¹⁸⁴ See SIFMA Letter at 9.

¹⁸⁵ *Id.*

¹⁸⁶ See BDA Letter at 2.

¹⁸⁷ See Falcon Square Capital Letter at 3.

¹⁸⁸ *Id.* at 3.

¹⁸⁹ See MSRB Letter at 22 n.81 (explaining that “upon further review of the methodology used for proposing a 1,800-trade threshold for qualifying for the dealer with limited trading activity exception in the original proposed rule change, the MSRB has determined

a clear majority of dealers, *i.e.*, 476 out of 651 dealers or approximately 73 percent of dealers based on 2021 and 2022 trade reporting data and these dealers would remain eligible to report their trades in 15 minutes or less.”¹⁹⁰ As stated by the MSRB, “these limited activity dealers account for 1.4 percent of total trades and 2.3 percent of the total par value traded, and therefore would have a minimal impact on market transparency.”¹⁹¹

D. Consistency in Implementation

Commenters recommended an implementation path for municipal securities that is staggered with other fixed income securities.¹⁹² In response to comments, the MSRB “emphasize[d] that greater consistency in implementing changes across the various fixed income

to increase the threshold to 2,500 trades based on a modification of its methodology described below. In establishing the original proposed threshold of 1,800 trades, the MSRB had used an approach consistent with other instances where MSRB rules and related transparency activities are based on inter-dealer trade report activity that rely solely on the sell-side inter-dealer trade reports so as to avoid, for those specific purposes, potential double counting if both the sell-side and buy-side were to be used. For example, the manner in which the MSRB disseminates trade reports for compared inter-dealer trades and assesses its transaction and trade count fees for inter-dealer trades under MSRB Rule A-13(d) is based solely on sell-side trade reports for the reasons described in Amendment No. 1. As a result, the calculations discussed in the MSRB Filing Notice underlying the 1,800-trade threshold in the proposed definition of “dealer with limited trading activity” was lower and did not fully account for inter-dealer trade reports since only the sell-side inter-dealer trade reports were taken into account. In order to maintain compatibility with the plain meaning of the language of the MSRB’s proposed definition of “dealer with limited trading activity,” the MSRB has recalculated the applicable threshold for such definition to be 2,500 trades, taking into account both sell-side and buy-side inter-dealer trade reports together with reports of dealer trades with customers, regardless of whether the dealer bought or sold in the customer transaction.”). *See also* Amendment No. 1.

¹⁹⁰ *See* MSRB Letter at 23.

¹⁹¹ *Id.* at 23 (referring to Table 2 in Amendment No. 1).

¹⁹² *See, e.g.*, BDA Letter at 4; FIF I Letter at 5-6; ICI Letter at 2; SIFMA Letter at 10.

markets can be better achieved if the proposed requirements are applied to the entire fixed income industry at the same time. Consistency, not only in reporting requirements but also implementation of those requirements, helps avoid confusing and different reporting standards for the industry.”¹⁹³

E. Implementation Period

Two commenters requested a two-year implementation period and requested that the MSRB remain open to the creation of FAQs or the provision of implementation guidance to achieve greater compliance.¹⁹⁴ One commenter requested an eighteen-month implementation period from the date the MSRB publishes technical specifications and guidance, requested a testing period with additional supports and enhancements ahead of final implementation, and a transitional period during which dealers would not be required to include the manual indicator on trades with a manual component.¹⁹⁵ In response to comments, the MSRB stated that it “continues to intend to maintain an implementation schedule for the proposed rule change that is aligned with the implementation for other fixed income securities.”¹⁹⁶ The MSRB also explained that it will “endeavor to publish updated technical specifications as far as possible in advance of the effective date(s) and will work with dealers to provide interpretive guidance, where needed”¹⁹⁷ as is generally the protocol for RTRS and Information Facility changes and “will

¹⁹³ See MSRB Letter at 12.

¹⁹⁴ See BDA Letter at 4; SIFMA Letter at 10.

¹⁹⁵ See FIF I Letter at 5-7; SIFMA OIP Letter at 8.

¹⁹⁶ See MSRB Letter at 24.

¹⁹⁷ *Id.*

facilitate free testing that would include test CUSIP numbers and other appropriate support to ensure that all dealers have a significant opportunity to prepare their systems and processes to achieve full compliance with the requirements of the proposed rule change, if approved.”¹⁹⁸ In response to the requested interim period for optional use of the manual trade indicator, the MSRB “contemplates providing dealers with sufficient time to implement and test the use of the indicator and does not intend at this time to provide an optional reporting period.”¹⁹⁹

F. Consistency with the Act

Some commenters challenged the proposed rule change as circumventing regulatory obligations and requested that the MSRB conduct further analysis before implementation of the proposed rule change.²⁰⁰ One commenter expressed the view that the MSRB relied on “conclusory statements without background data in support”²⁰¹ and requested that the Commission deny and return the proposed rule change to the MSRB for further study and consideration.²⁰² Another commenter asserted that the Commission “want[ed] to avoid conducting a robust economic cost/benefit analysis”²⁰³ and “strongly recommend[ed] these Proposals be abandoned in their entirety.”²⁰⁴ An additional commenter strongly encouraged the

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

²⁰⁰ *See generally* Belle Haven Letter; ASA Letter; ASA OIP Letter; Falcon Square Capital Letter.

²⁰¹ *See* Belle Haven Letter at 2.

²⁰² *Id.*

²⁰³ *See* ASA Letter at 3.

²⁰⁴ *Id.*

Commission to require the MSRB to revisit the proposed rule change in order to “consider the economic challenges of smaller firms before modifying the current rule.”²⁰⁵ Another commenter raised issues regarding whether the proposed rule change conforms with the requirements of the Administrative Procedure Act (“APA”).²⁰⁶ Some commenters defended the process undertaken by the MSRB in connection with the proposed rule change.²⁰⁷

In response, the MSRB stated that it “is confident that the current rulemaking has been undertaken fully in compliance with applicable statutory and regulatory requirements and has had the benefit of fulsome input from market participants and is backed by extensive data analysis.”²⁰⁸ The MSRB further stated that while not statutorily required, the MSRB “published a draft version of the proposal for comment in October 2022, including a preliminary economic analysis of such draft proposal, and received over 50 comment letters in response.”²⁰⁹ The MSRB explained how the MSRB “revised the draft version in response to comments received and, upon approval by the MSRB’s board of directors, filed it with the Commission as the original proposed rule change as required under Section 19(b) of the Exchange Act. Also as required by Section 19(b) of the Exchange Act, the Commission published the MSRB Filing

²⁰⁵ See Falcon Square Capital Letter at 6.

²⁰⁶ See ASA Letter at 3; ASA OIP Letter at 2.

²⁰⁷ See, e.g., Bernardi Securities OIP Letter at 2; Piper Sandler OIP Letter at 1-2.

²⁰⁸ See MSRB Letter at 24.

²⁰⁹ *Id.* at 24-25. All comment letters received in response to the 2022 Request for Comment are available at <https://www.msrb.org/sites/default/files/2023-03/All-Comments-to-Notice-2022-07.pdf>.

Notice for comment.”²¹⁰ The MSRB further explained how, in response to comments received, the Commission instituted proceedings to obtain further input on the original proposed rule change and the MSRB has now addressed the comments received on the MSRB Filing Notice in this letter.”²¹¹ The MSRB further stated that “[i]n part due to such extensive input, the MSRB has determined to file Amendment No. 1 to the original proposed rule change.”²¹² The MSRB further stated that “while the MSRB has consulted with FINRA and the Commission throughout this rulemaking process, the MSRB board of directors and staff have exercised their independent judgment in formulating the proposed rule change, which represents the culmination of MSRB deliberation on this topic stretching back to 2013.”²¹³

IV. Discussion and Commission Findings

The Commission has carefully considered the proposed rule change, as well as comment letters received, and the MSRB Letter. The Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to the MSRB.

In particular, the Commission believes that the proposed rule change is consistent with the provisions of Section 15B(b)(2)(C) of the Exchange Act and the rules and regulations thereunder.²¹⁴ Section 15B(b)(2)(C) of the Exchange Act provides, in part, that the MSRB’s

²¹⁰ See MSRB Letter at 25.

²¹¹ *Id.*

²¹² *Id.*

²¹³ *Id.* at 25 n.95 (listing MSRB Notice 2013-02 (Jan. 17, 2013); MSRB Notice 2013-14 (July 31, 2013); MSRB Notice 2014-14 (Aug. 13, 2014)).

²¹⁴ 15 U.S.C. 78o-4(b)(2)(C).

rules shall be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.²¹⁵

The Commission believes that the proposed rule change is consistent with the Exchange Act because the proposed rule change is reasonably designed to remove impediments to and perfect the mechanism of a free and open market in municipal securities by bringing about greater market transparency through more timely disclosures and dissemination of information provided through the RTRS. Accordingly, the Commission finds that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act, as further described below, because the proposed rule change will (i) promote just and equitable principles of trade; (ii) foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products; (iii) remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products; and (iv) protect investors and the public interest.

A. Promote Just and Equitable Principles Of Trade

The Commission finds the proposed rule change will promote just and equitable principles of trade by providing the market with more timely pricing information. As noted by the MSRB, some market professionals may in some circumstances have better or more rapid

²¹⁵

Id.

access to information about trade prices which retail investors do not have access.²¹⁶ The Commission believes that such reduced timeframe for trade reporting would improve market transparency by reducing information asymmetries between market participants and enhancing investor confidence in the market. The Commission also anticipates that the MSRB will monitor trade reporting activity and potential impacts on the marketplace to determine whether any changes to the proposed rule change should be considered in the future. The Commission will consider any future proposed rule changes filed with the Commission.

B. Foster Cooperation and Coordination

The Commission finds that the proposed rule change would foster cooperation and coordination between the SEC, the MSRB, and FINRA by establishing consistent trade reporting requirements across various classes of fixed income securities. As noted by the MSRB, consistent trade reporting requirements reduce the risk of potential confusion and may reduce compliance burdens resulting from inconsistent obligations and standards for different classes of securities.²¹⁷ A similar proposed rule change by FINRA, on which the MSRB closely coordinated with FINRA,²¹⁸ would result in a consistent standard for trade reporting for municipal securities and the TRACE-eligible securities covered by the FINRA proposed rule

²¹⁶ See Notice, 89 FR at 5393.

²¹⁷ *Id.*

²¹⁸ The Commission did not direct the MSRB to file the proposed rule change and is not using the MSRB as a conduit to enact the proposed rule change. One commenter cites a speech by the Chair in stating to the contrary, but that speech does not specifically address the RTRS trade reporting timeframe at all. See ASA Amendment No. 1 Letter at 2 n.4 (citing Gary Gensler, Chair, Securities and Exchange Commission, Prepared Remarks before SEC Speaks: U.S. Capital Markets and the Public Good (Apr. 2, 2024) (transcript available at <https://www.sec.gov/newsroom/speeches-statements/prepared-remarks-sec-speaks-us-capital-markets-public-good>). And, in any event, the speech reflects the views of the Chair alone, not the Commission.

change.²¹⁹ Accordingly, the Commission believes that the proposed rule change will provide regulatory clarity and would foster cooperation and coordination between the MSRB and FINRA by establishing consistent trade reporting requirements across various classes of fixed income securities. Consistent trade reporting requirements for municipal securities covered by the proposed rule change and the TRACE-eligible securities covered by the FINRA proposed rule change also may reduce compliance burdens resulting from inconsistent obligations and standards for different classes of fixed income securities. Additionally, the Commission finds that the proposed rule change will allow the municipal securities market to produce more timely transaction data which will enhance surveillance of the market by enforcement agencies.

C. Remove Impediments to and Perfect the Mechanism of a Free and Open Market in Municipal Securities and Municipal Financial Products

The Commission finds that the proposed rule change would remove impediments to, and perfect the mechanism of, a free and open market in municipal securities by making publicly available more timely transaction data at which municipal securities transactions are executed. As noted by the MSRB, prices at which transactions are executed is central to fairly priced municipal securities and a dealer's ability to make informed quotations.²²⁰ The Commission believes that the proposed rule change could mitigate certain information asymmetries that may exist, thereby enabling market participants to make more informed decisions. Further, the proposed exceptions reasonably balance the benefits to market participants of increased transparency while mitigating commenters' concern of a shortened trade reporting deadline. In

²¹⁹ See *supra* note 15.

²²⁰ See Notice, 78 FR at 5393.

this regard, the proposed rule change is reasonably designed to not permit unfair discrimination between customers, issuers, brokers, or dealers.

D. Protect Investors, Municipal Entities, Obligated Persons, and the Public Interest

The Commission finds that the proposed rule change will protect investors and the public interest by increasing market transparency and providing the market with more efficient pricing information.

In approving the proposed rule change, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation.²²¹ Exchange Act Section 15B(b)(2)(C)²²² requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

The Commission does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act because the proposed rule change takes into account competitive and liquidity concerns that could arise as a result of the costs associated with complying with a shortened reporting timeframe that could lead some dealers to exit the market, curtail their activities or consolidate with other firms. The MSRB has made efforts to minimize the impact of the proposed rule change on dealers in response to commenters including: (i) amending the definition of a dealer with limited trading activity in proposed subparagraph (d)(xi) of Rule G-14 RTRS Procedures by increasing the threshold for qualifying as a dealer with limited trading activity from 1,800 transactions to 2,500 transactions; and (ii) extending the phase-in period for the manual trade exception in proposed new Supplementary Material .02(b) of Rule G-14 RTRS

²²¹ 15 U.S.C. 78c(f).

²²² 15 U.S.C. 78o-4(b)(2)(C).

Procedures by one additional year. While the MSRB does not intend at this time to provide an interim period for optional use of the manual trade indicator, the MSRB intends to provide a sufficient implementation timeframe, publish updated technical specifications and will work with dealers to provide interpretive guidance, facilitate free testing and other appropriate support to ensure that all dealers have significant opportunity to prepare systems and processes to achieve full compliance with the proposed rule change.²²³ The Commission believes that the MSRB, through its responses and through proposed changes in Amendment No. 1 has addressed commenters' concerns.

The Commission has also reviewed the record for the proposed rule change and notes that the record does not contain any information to indicate that the proposed rule change would have a negative effect on capital formation. Further, the Commission finds that the possible increased investor protections offered by reducing the timeframe for trade reporting could foster greater faith in the integrity of the municipal securities market, increasing participation in this market, thereby increasing capital formation.

The Commission also finds that the proposed rule change includes provisions that help promote efficiency. In particular, the Commission believes that the reduced timeframe for trade reporting could further reduce information asymmetries between market professionals and retail investors by increasing access to more timely information about executed transactions.

For the reasons noted above, the Commission believes that the proposed rule change is consistent with the Act.

²²³ See MSRB Letter at 24.

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,²²⁴ that the proposed rule change (SR-MSRB-2024-01), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, pursuant to delegated authority.²²⁵

Vanessa A. Countryman,

Secretary.

²²⁴ 15 U.S.C. 78s(b)(2).

²²⁵ 17 CFR 200.30-3(a)(12).