INVESTMENT COMPANY INSTITUTE

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October 3, 2022

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Mr. Ronald W. Smith
Corporate Secretary
MSRB
1300 I Street, NW
Washington, DC 20005

Re: Notices Seeking Public Comment on Shortening the TRACE Reporting Timeframe (FINRA Regulatory Notice 22-17) and Shortening the RTRS Reporting Timeframe (MSRB Notice 2022-07)

Dear Madam and Sir:

The Investment Company Institute[1] is writing to respond to the Financial Industry Regulatory Authority's (FINRA) and the Municipal Securities Rulemaking Board's (MSRB) proposals to reduce the trade reporting timeframe for certain transactions reported to the Trade Reporting and Compliance Engine (TRACE) and the Real-Time Transaction Reporting System (RTRS), respectively.[2] ICI members are significant participants in the fixed income securities markets for corporate bonds, agency debt securities, asset-backed securities (ABS) and agency pass-through mortgage-backed securities traded to-be-announced for good delivery (TBAs), transactions in which are reported to and publicly disseminated via TRACE. ICI members are also significant participants in the municipal securities market, transactions in which are reported to RTRS and

[1] The Investment Company Institute (ICI) is the leading association representing regulated investment funds. ICI's mission is to strengthen the foundation of the asset management industry for the ultimate benefit of the long-term individual investor. Its members include mutual funds, exchange-traded funds (ETFs), closed-end funds, and unit investment trusts (UITs) in the United States, and UCITS and similar funds offered to investors in Europe, Asia and other jurisdictions. Its members manage total assets of $28.8 trillion in the United States, serving more than 100 million investors, and an additional $8.1 trillion in assets outside the United States. ICI has offices in Washington, DC, Brussels, London, and Hong Kong and carries out its international work through ICI Global.

[2] *See* FINRA, *TRACE Reporting Timeframe*, FINRA Regulatory Notice 22-17 (Aug. 2, 2022), *available at* https://www.finra.org/rules-guidance/notices/22-17#notice ("FINRA Proposal"); MSRB, *Request for Comment on Transaction Reporting Obligations under MSRB Rule G-14*, MSRB Notice 2022-07 (Aug. 7, 2022), *available at* https://www.msrb.org/-/media/Files/Regulatory-Notices/RFCs/2022-07.ashx??n=1 ("MSRB Proposal," and collectively with the FINRA Proposal, the "Proposals").

publicly disseminated via the Electronic Municipal Market Access website (EMMA). Further, while ICI members may not bear the primary burden of trade reporting obligations, ICI members utilize TRACE and RTRS/EMMA data and some may use such data to inform trading or to conduct post-trade cost analysis. For all these reasons, ICI members have a strong interest in ensuring the integrity, quality, and well-functioning of the fixed income securities markets.

The FINRA Proposal seeks comment on reducing the trade reporting timeframe for transactions in TRACE-eligible securities subject to a 15-minute reporting timeframe to as soon as practicable but no later than one minute from the time of execution. The MSRB Proposal seeks comment on a similar proposal to reduce the trade reporting timeframe for transactions in municipal securities subject to a 15-minute reporting timeframe to as soon as practicable but no later than one minute from the time of trade. Both FINRA and MSRB would continue to disseminate the reported trading data immediately, subject to the volume caps currently in place.[3] For securities not currently subject to a 15-minute reporting timeframe, such as commercial mortgage-backed securities and collateralized debt obligations,[4] the Proposals would not affect those securities' reporting and dissemination requirements. Both FINRA and MSRB believe that reducing trade reporting timeframes may lead to improved transparency in the fixed income markets and allow investors and other market participants to obtain and evaluate pricing information more quickly. FINRA and MSRB believe this would result in improved price discovery and formation, as well as enhanced negotiation power over dealers.

While ICI members are generally in favor of increased transparency in the fixed income markets and more robust reporting that will increase the reliability of publicly available information, many ICI members have concerns regarding the potential effects that broadly reducing the trade reporting timeframe to one minute may have. ICI therefore recommends that FINRA and MSRB adopt a measured and phased approach in implementing any changes to trade reporting and dissemination, similar to what each has done over the past two decades.[5] Any shortened trade reporting timeframe should be implemented through an incremental, data-driven approach, with

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[3] Currently, FINRA places notional volume caps on TRACE-eligible securities trade data subject to dissemination. Trades over $5 million in investment grade debt are disseminated as $5 million+; trades over $1 million in non-investment grade debt are disseminated as $1 million+; trades over $25 million in TBAs are disseminated as $25 million+; and trades over $10 million in ABSs are disseminated as $10 million+. *See Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1, Relating to TRACE Reporting and Dissemination of Transactions in Asset-Backed Securities*, Exchange Act Release No. 71607 (Feb. 24, 2014), *available at* https://www.sec.gov/rules/sro/finra/2014/34-71607.pdf. MSRB places similar notional volume caps on municipal securities trade data subject to dissemination. Trades over $5 million are disseminated as $5 million+. *See* MSRB, *SEC Approves Enhancement to Large Trade Price Transparency,* MSRB Notice 2012-53 (Oct. 25, 2012), *available at* https://www.msrb.org/Rules-and-Interpretations/Regulatory-Notices/2012/2012-53.aspx?n=1.

[4] *See* FINRA Rule 6730(a)(3)(A).

[5] *See infra* Section I (providing an overview of the gradual implementation of trade reporting and data dissemination that both FINRA and MSRB historically have taken).

a focus on the impacts, by asset class and transaction size, that reduced reporting times may have on liquidity, market structure, and execution quality.[6]

We recommend that FINRA and MSRB assess the notional trade data, in addition to the total trade count analysis currently provided in the Proposals, to better assess the market impact that the Proposals will have. Further, we recommend that FINRA and MSRB examine the attributes of large trades and trades in less liquid securities that are currently reported later than one minute before requiring a shorter reporting time for these transactions. Based on the data provided by FINRA and MSRB in the Proposals, large trades and trades in thinly traded securities are often reported later than a minute[7] and, according to feedback from our members, are often traded via voice or other non-electronic methods.[8] While we agree that a one-minute trade reporting timeframe may be reasonable for certain corporate bonds or smaller notional trade sizes executed

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[6] As FINRA recently noted in its comment letter to the US Treasury:

> FINRA's experience also has involved tailoring transparency approaches based on different TRACE products and their unique trading characteristics and liquidity profiles. A careful and measured approach to data collection, study, and dissemination has allowed FINRA to successfully adjust increases in transparency with particular product types in mind. Thus, FINRA has carefully implemented a range of dissemination approaches over time that have been customized to the characteristics of the particular security (*e.g.*, implementing dissemination caps, periodic dissemination, aggregate dissemination, and approaches that combine aspects of various measures).

FINRA Comment Letter to US Treasury in Response to Department of Treasury Notice Seeking Public Comment on Additional Transparency for Secondary Market Transactions of Treasury Securities (Aug. 23, 2022), *available at* https://www.regulations.gov/comment/TREAS-DO-2022-0012-0007. We ask that FINRA and MSRB take a similar approach with respect to potentially shortening trade reporting timeframes for TRACE-eligible securities and municipal securities, respectively.

[7] For example, when analyzing reporting times by asset type, FINRA noted that ABSs, which are generally less liquid than corporate bonds, only had 52% of total trades reported within a minute as compared to corporate bonds which had 82% of total trades reported within a minute. When analyzing large trades, FINRA noted that only 61% of total trades greater than $25 million for corporate bonds were reported within one minute and MSRB noted that only 25.3% of total trades greater than $5 million for municipal securities were reported within one minute, as compared with 86% of trades less than $100,000 for corporate bonds and 80.3% of trades $100,000 or less for municipal securities, respectively.

[8] For example, one member noted that where a trade requires back-and-forth negotiations, such as negotiating price and size on a large trade or inventory trades for less liquid municipal securities, voice execution generally is the preferred method as electronic platforms have more rigid protocols. Another member noted that they execute trades in ABSs, which are generally less liquid than corporate bonds, by non-electronic methods.

While FINRA does provide data regarding the percentage of total trades executed on an ATS as compared to trades not executed on an ATS, we note that non-ATS trades include trades executed electronically, such as through RFQ protocols, and therefore this data does not distinguish clearly between electronic and non-electronic means of execution. According to our members, non-electronic trades are often large trades and/or for less liquid securities, require more time for negotiation, and represent a significant percentage of notional trading volume. Data metrics for such trades are not reflected in the Proposals' analysis. We acknowledge, however, the potential difficulty in quantifying trades made electronically or non-electronically, as there are protocols available to process non-electronic trades electronically.

via electronic platforms, some members feel that transactions in less liquid securities or of larger notional volume, which are often executed through voice protocols, may not be appropriate for reporting and dissemination within a minute.[9] Further, some members believe that reporting and disseminating data regarding large trades and trades in less liquid securities within one minute may result in reduced liquidity and increased price volatility in the fixed income markets. We urge FINRA and MSRB to consider these characteristics of the fixed income markets in determining whether market participants should have more than one minute to report certain transactions. Given the greater fragmentation of liquidity in the fixed income markets, preserving the flexibility to choose among different trading protocols, including traditional voice methods offering competitive spreads, is critical to enabling market participants, such as funds, to efficiently trade less liquid securities or larger transaction sizes with minimal execution costs.

Section I of our letter summarizes the historically gradual implementation of trade reporting timeframes and data dissemination by FINRA and MSRB. Section II addresses the current fixed income market structure and the potential market structure impact these Proposals could have, if adopted. Section III analyzes how requiring a one-minute reporting timeframe and associated data dissemination, regardless of asset class or transaction size, could negatively affect liquidity and execution quality. Section IV cautions that broadly imposing a one-minute reporting timeframe, as FINRA and MSRB propose, without adequate consideration of the implications for less liquid securities or larger size transactions may result in reduced execution flexibility for some market participants and an artificial flow of order volume to electronic platforms. Section V emphasizes the importance of having accurate trade data reported and the impact that shortened reporting timeframes may have on the accuracy of reported data.

I. FINRA and MSRB Historically Have Taken an Incremental Approach to Trade Reporting and Public Dissemination

To promote transparency without negatively impacting liquidity, FINRA and MSRB historically have adopted a measured and phased approach to fixed income trade reporting and public dissemination.[10] FINRA, for example, began collecting and disseminating trade information in fixed income securities in 2002 through TRACE.[11] Reporting initially was required for trades in

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[9] One minute reporting may raise practical challenges for certain asset classes. For example, the municipal securities market is characterized by a large number of individual CUSIPs, many of which are infrequently traded. Currently in this market, dealers often have to re-upload CUSIPs into their trading systems if the CUSIP has not been traded recently. Because this process typically takes more than a minute, a one-minute trade reporting timeframe may not be appropriate for certain less liquid or infrequently traded municipal securities.

[10] *E.g.*, FINRA, *FINRA Requests Comment on a Proposed Pilot Program to Study Recommended Changes to Corporate Bond Block Trade Dissemination*, FINRA Regulatory Notice 19-12 (April 12, 2019), *available at* https://www.finra.org/rules-guidance/notices/19-12 ("To promote transparency without negatively impacting liquidity, FINRA adopted a measured, phased approach to corporate bond trade dissemination that began in 2002 with the most actively traded and liquid bonds.").

[11] FINRA, *SEC Approves Rules to Require Fixed Income Transaction Reporting and Dissemination*, FINRA Regulatory Notice 01-18 (March 11, 2001), *available at* https://www.finra.org/rules-guidance/notices/01-18. While

most corporate debt securities, but public dissemination was limited to trades in the most actively traded and liquid bonds.[12] Trades were required to be reported within 75 minutes and were publicly disseminated immediately upon receipt.[13] FINRA gradually reduced the trade reporting timeframe, establishing the current reporting timeframe of not later than 15 minutes in 2005.[14] Over time, FINRA added reporting and dissemination of trades in other fixed income securities, including non-investment grade corporate bonds,[15] agency debt,[16] ABSs,[17] TBAs,[18] and Rule 144A bonds.[19] Similar to corporate bonds, the initial trade reporting timeframe was gradually

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the initial reporting time was proposed to be one hour, that was later extended to 75 minutes. *Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment Nos. 2 and 3 to the Proposed Rule Change by the National Association of Securities Dealers, Inc., Relating to the Rule 6200 Series or the TRACE Rules*, Exchange Act Release No. 46144 (June 28, 2002).

[12] *See* FINRA Regulatory Notice 01-18, *supra* note 11 (stating that while all trades in TRACE-eligible corporate bonds must be reported, NASD (the predecessor to FINRA) would disseminate trade information only for the most liquid investment grade corporate bonds, *i.e.,* those with an initial issuance of $1 billion or greater).

[13] *Id.*

[14] FINRA, *SEC Approves Amendments to TRACE Rule 6230 to Reduce the Reporting Period to 45 Minutes*, FINRA Regulatory Notice 03-36 (June 30, 2003), *available at* https://www.finra.org/rules-guidance/notices/03-36 (reducing the trade reporting timeframe to 45 minutes); FINRA, *SEC Approves Amendments to TRACE Rule 6230 to Reduce the Reporting Period to 30 Minutes on October 1, 2004, and to 15 Minutes on July 1, 2005*, FINRA Regulatory Notice 04-51 (July 14, 2004), *available at* https://www.finra.org/rules-guidance/notices/04-51 (establishing a temporary reporting timeframe of 30 minutes to later be replaced with a reporting timeframe of 15 minutes).

[15] FINRA, *SEC Approves Amendments to TRACE Rules to Disseminate Transaction Information on All TRACE-Eligible Securities, Modify and Supplement Defined Terms, and Enhance Notification Requirements*, FINRA Regulatory Notice 04-65 (Sept. 8, 2004), *available at* https://www.finra.org/rules-guidance/notices/04-65.

[16] FINRA, *SEC Approves Amendments Expanding TRACE to Include Agency Debt Securities and Primary Market Transactions*, FINRA Regulatory Notice 09-57 (Sept. 29, 2009), *available at* https://www.finra.org/rules-guidance/notices/09-57.

[17] FINRA, *SEC Approves Reporting Asset-Backed Securities Transactions to TRACE and Related Fees*, FINRA Regulatory Notice 10-23 (April 23, 2010), *available at* https://www.finra.org/rules-guidance/notices/10-23.

[18] FINRA, *SEC Approves Amendments to TRACE Reporting Requirements and Dissemination of Agency Pass-Through Mortgage-Backed Securities Traded to Be Announced and Related Fees*, FINRA Regulatory Notice 12-26 (May 21, 2012), *available at* https://www.finra.org/rules-guidance/notices/12-26.

[19] FINRA, *SEC Approves Amendments to TRACE Rules and Dissemination Protocols to Disseminate Rule 144A Transactions in TRACE-Eligible Securities and Related Fees*, FINRA Regulatory Notice 13-35 (Oct. 30, 2013), *available at* https://www.finra.org/rules-guidance/notices/13-35. FINRA continues to assess whether trade information for other securitized assets should be publicly disseminated, given such securities' liquidity profile. *See* FINRA, *SEC Approves Amendments to Disseminate Collateralized Mortgage Obligation (CMO) Transactions and to Reduce the Reporting Time for CMO Transactions*, FINRA Regulatory Notice 16-38 (Oct. 17, 2016), *available at* https://www.finra.org/rules-guidance/notices/16-38 ("Over the past several years, FINRA has taken a phased approach to disseminating transaction information for securitized products, which were the last group of TRACE-eligible securities to be reported to FINRA but not disseminated. FINRA began with the most liquid types of securitized products . . . . Today, there are three types of securitized products not yet subject to dissemination[.]"). Accordingly, certain securities, such as collateralized debt obligations and commercial mortgage-backed securities, are not subject to a 15-minute reporting timeframe and are not affected by the FINRA Proposal. *See, e.g.*, FINRA Rule 6730(a)(3)(A).

reduced over time until the current 15-minute reporting timeframe was established. The MSRB adopted a similarly measured and phased approach for trade reporting and publicly disseminating data on transactions in municipal securities and has, over time, requested comment on whether the trade reporting timeframe should be shortened.[20]

FINRA and MSRB have acknowledged, however, that public transparency may potentially have negative effects on market liquidity, particularly for large transactions.[21] As noted by FINRA in 2019:

> [O]bservational evidence [has been presented] that finding block-size liquidity in the current market (i.e., the baseline) may be difficult because of the relatively quick publication of post-trade prices. . . . When larger trades are publicly disseminated, dealers with recently acquired blocks may be more vulnerable to adverse price movements from traders who are aware of these recent executions. This may cause larger trades to incur greater costs for dealers, which could reduce the incentive for them to provide liquidity in blocks or require them to receive greater compensation for providing block liquidity.[22]

FINRA addressed this concern in the context of an unadopted 2019 proposed pilot program that would have considered changes to corporate bond block trade dissemination rules based on recommendations of the SEC's FIMSAC.[23] Although such concerns were raised only three years ago, FINRA does not address in the current Proposal the concerns that were raised by some in the context of the proposed pilot. Similarly, in its Proposal, MSRB does not address any information gathered from its 2013 request for comment regarding potentially changing trade reporting timeframes and data dissemination with respect to large transactions.

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[20] *See* MSRB, *Request for Comment on More Contemporaneous Trade Price Information Through a New Central Transparency Platform*, MSRB Notice 2013-02 (Jan. 17, 2013), *available at* https://msrb.org/Rules-and-Interpretations/Regulatory-Notices/2013/2013-02.aspx#_ftn2 (requesting comment on whether trade reporting for municipal securities transactions should be shortened). While MSRB has, since 2005, required reporting no later than 15 minutes after a municipal security trade, it has, over time, changed the manner in which such trade information is disseminated. Initially, trade information was disseminated over a real-time transaction pricing service requiring a subscription but, beginning in 2008, was disseminated via EMMA at no charge. *See id.*

[21] Most recently, the US Securities and Exchange Commission (SEC) asked FINRA to address concerns regarding potential negative effects that transparency has had on large trade liquidity, based on a 2018 recommendation by the SEC's Fixed Income Market Structure Advisory Committee (FIMSAC). FINRA Regulatory Notice 19-12, *supra* note 10; *see also* Statement of Mr. Prager, Transcript of the SEC's FIMSAC Meeting (Jan. 11, 2018), *available at* www.sec.gov/spotlight/fixed-income-advisory-committee/fimsa-011118-transcript.txt ("I think the market still has some challenges with blocks, and we should -- the Commission consider some sort of pilot to look at the right calibration and the right delay.").

[22] FINRA Regulatory Notice 19-12, *supra* note 10.

[23] *Id.*

II. FINRA and MSRB Should Further Analyze Market Data Before Shortening Reporting Timeframes

FINRA and MSRB should adopt a measured and phased approach with regard to reducing trade reporting times, similar to what each has done over the prior two decades, with a focus on market structure impact and execution quality for market participants. The fixed income markets still rely heavily on "high touch" trading methods, such as voice protocols, to execute a substantial portion of the notional trading volume.[24] Because trades executed via electronic platforms and protocols are generally smaller in size and more numerous compared to those that are executed through "high touch" methods, electronic executions can constitute a significant portion of the total number of fixed income trades even though they account for a smaller portion of the overall notional market volume.[25] While FINRA and MSRB note that 81.9% of total trades in TRACE-eligible securities and 76.9% of total trades in municipal securities subject to a 15-minute reporting timeframe are reported within one minute of execution, neither FINRA nor MSRB provide data regarding the percentage of the notional volume those trades constitute or the execution method (*i.e.* electronic or non-electronic).[26] Certain ICI members are concerned that the trades that are reported later than one minute—18.1% and 23.1%, respectively—while a relatively small percentage by trade count, likely represent larger trades and, in the aggregate, a significant notional amount of trading activity executed via voice and other non-electronic methods.

To illustrate this issue, ICI examined corporate bond trades reported during 2021.[27] ICI calculated, in one-minute increments, the proportion of trades and their notional values that were reported within one minute through 15 minutes. This analysis shows that while 82% of the total number of corporate bond trades were reported within one minute, only 67% of the notional

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[24] *See, e.g.*, Bessembinder, Spatt, and Venkataraman, *A Survey of the Microstructure of Fixed Income Markets*, 55 Journal of Financial and Quantitative Analysis at 1-14 (Feb. 2020) (noting that except for US Treasuries and TBAs, relatively little fixed income trading occurs on electronic platforms). *See also* Kozora, Mizrach, Pepppe, Shachar, and Sokobin, *Alternative Trading Systems in the Corporate Bond Markets*, Federal Reserve Bank of New York Staff Report No. 938 (Aug. 2020), *available at* https://www.newyorkfed.org/medialibrary/media/research/staff_reports/sr938.pdf (estimating that corporate bond trades on ATS platforms accounted for only 2.1% of the trading volume and 16.1% of the trades in their sample).

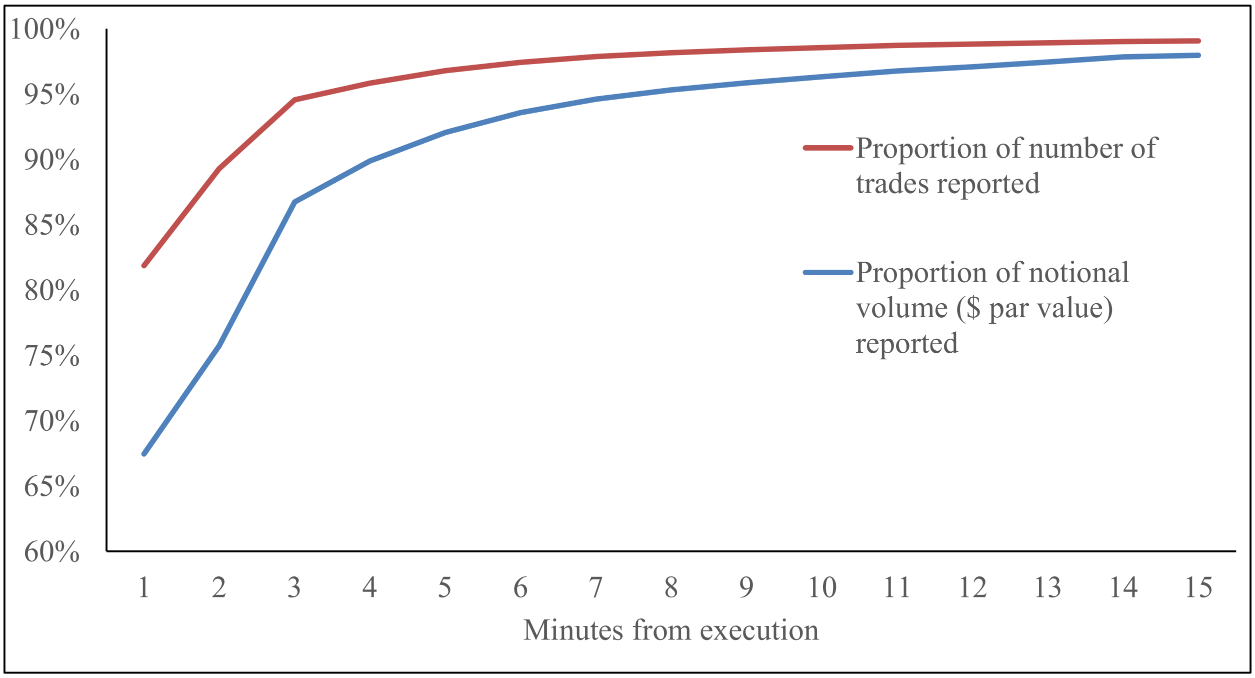
[25] MSRB Proposal at 10 ("Smaller-sized trades are more likely executed electronically[.]"). *See also* Kozora Mizrach, Pepppe, Shachar, and Sokobin, *supra note* 24 (finding that ATS platforms in the corporate bond markets primarily facilitate smaller trades and stating that "[t]he median trade size reported on ATS platforms is $15,000, compared to $35,000 across all reported trades").

[26] While FINRA does provide data regarding the percentage of the total number of trades executed on an ATS and reported within one minute as compared to trades not executed on an ATS, those "non-ATS trades" include trades executed electronically, such as through RFQ protocols. *See supra* note 8. Therefore, the comparison of electronic executions to non-electronic executions is not provided for analysis in either Proposal.

[27] To be consistent with FINRA's data analysis, ICI examined trades that were executed between 8:00 am ET and 6:15 pm ET. ICI calculations also filtered out trades that were reported in error by following the steps outlined in Dick-Nielsen, *How to Clean Enhanced TRACE Data* (Dec. 3, 2014), *available at* https://ssrn.com/abstract=2337908 (working paper).

value of all corporate bond trades were reported within one minute (Figure 1). This data shows that for the corporate bond markets nearly one-third of the corporate bond trade volume will be impacted by the FINRA Proposal. Such an impact is nearly twice as large as the overall market impact suggested by the FINRA Proposal. Further, beyond one-minute reporting, notional volume reporting lagged behind total trade reporting percentages across all reporting times, as shown in Figure 1.[28]

Figure 1: Reporting Times for Corporate Bond Trades



Source: ICI calculations of TRACE data

ICI also examined trade reporting times for transactions in ABSs during 2020.[29] This analysis shows that only 49% of the total number of ABS trades, which accounted for only 38% of the notional ABS volume, were reported within one minute (Figure 2). Thus, nearly two-thirds of the ABS market trade volume currently is reported later than one minute. Accordingly, the FINRA Proposal will affect nearly two-thirds of the ABS market, which is greater than the market

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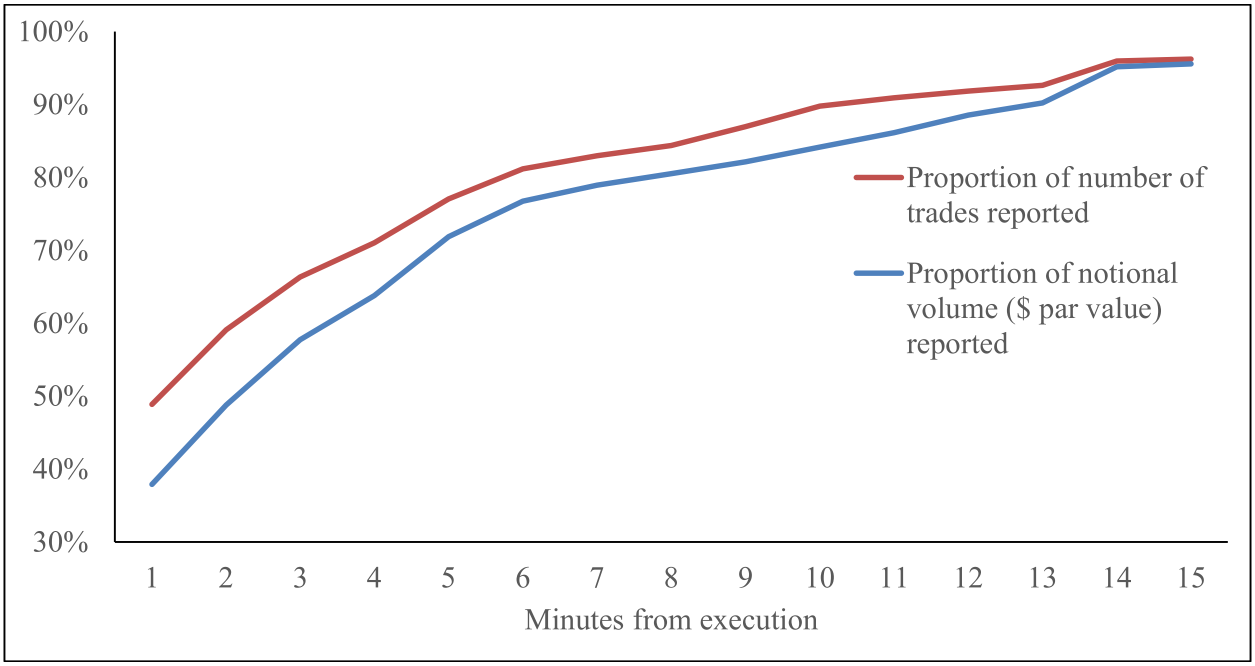
[28] These lower proportions for notional values are consistent with data in the FINRA and MSRB Proposals demonstrating that large trades are generally reported later than one minute. For example, when analyzing large trades, FINRA noted that only 61% of total trades greater than $25 million for corporate bonds were reported within one minute, and MSRB noted that only 25.3% of total trades greater than $5 million for municipal securities were reported within one minute, as compared with 86% of trades less than $100,000 for corporate bonds and 80.3% of trades $100,000 or less for municipal securities, respectively. *See supra* note 7.

[29] 2020 is the most recent year available for this analysis as TRACE data on structured products, including ABSs, is available publicly with an 18-month delay. We note that FINRA's analysis is based on 2021 data, and as a result reporting times based on the total number of trades in Figure 2 differ slightly from FINRA estimates.

impact FINRA suggests in its proposal. Additionally, the percentage of notional volume reporting lagged behind the total trade reporting percentages across all reporting times.

Figure 2: Reporting Times of ABS Trades



Source: ICI calculations of TRACE data

The Proposals therefore will affect a much larger portion of the fixed income markets, in particular less liquid markets such as the ABS market, than FINRA and MSRB suggest. Before making any changes to reporting timeframes, FINRA and MSRB should assess the data on notional trade volumes to determine the overall market impact shortened reporting timeframes may have. Additionally, FINRA and MSRB should analyze characteristics of trades, particularly large trades and trades in less liquid securities, that are reported later than a minute to better understand the potential impacts that shortened reporting timeframes may have on the fixed income markets. Based on anecdotal comments from some of our members, large trades and trades in less liquid securities are often done via "high touch" methods, such as voice protocols.[30] As discussed in Section III, many members believe that shortened reporting timeframes will

[30] For example, one member noted that large trades often involve negotiation as to price and size of the trade, and thus lend themselves to voice trades or other "high touch" methods. That member estimated, on a market-wide basis, potentially up to 60% of the investment grade corporate bond market was traded via "high touch" methods and up to 70% of the high yield corporate bond market was traded via "high touch" methods. Another member noted that up to 90% of their fixed income volume in certain asset classes is sometimes traded via "high touch" methods. Regarding less liquid securities, one member noted that they trade ABSs via "high touch" methods. Further, several members noted that the municipal securities market is primarily traded via "high touch" methods. *See also* Kozora, Mizrach, Pepppe, Shachar, and Sokobin, *supra* note 24 (showing that only a small portion of corporate bond trades are executed on ATSs, thus suggesting that the vast majority are done via "high touch" methods).

result is less liquidity or increased price volatility for large trades and trades in less liquid securities traditionally executed via "high touch" methods.

After assessing the data, FINRA and MSRB should determine which securities and/or trade characteristics, such as certain corporate bonds or small notional trade sizes executed through electronic platforms, would be appropriate for shortened reporting timeframes, consistent with the gradual approach each regulator historically has taken. As recently as August of this year, FINRA reiterated its "careful and measured approach to data collection, study, and dissemination [which] has allowed FINRA to successfully adjust increases in transparency with particular product types in mind."[31] Before FINRA and MSRB require a shorter reporting time, they should further analyze the data based on asset class, liquidity, and trade size.[32]

III. Requiring One-Minute Reporting and Dissemination Regardless of Asset Class or Transaction Size Could Negatively Affect Liquidity and Execution Quality

Many ICI members are concerned that reducing the trade reporting and dissemination timeframes for transactions in TRACE-eligible and municipal securities covered by the Proposals would detrimentally affect market participants' ability to transact in large sizes or thinly traded securities.[33] Specifically, some members are concerned that reducing the trade reporting timeframe to one minute would likely result in dealers having insufficient time to hedge their positions or allocate risk with respect to large-sized trades or transactions in thinly traded securities.[34] Some of our members believe that increasing the challenges to dealers' ability to hedge and allocate risk will likely lead to less willingness by dealers to provide liquidity for large-sized trades or transactions in thinly traded securities at competitive spreads, thus reducing important flexibility in how fixed income securities are traded.[35] If the reduction in trade

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[31] FINRA Comment Letter to US Treasury, *supra* note 6.

[32] We note that under MiFID, although the framework is complex, European markets utilize the guiding principles that securities categorized by regulators as liquid and non-block (based on security and asset class specific size thresholds) are subject to real-time dissemination of completed transactions. *See* Bessembinder, Spatt, and Venkataraman, *supra* note 24, at 30. Other transactions are not subject to such real-time dissemination. FINRA and MSRB should adopt shorter reporting and public dissemination timeframes using a similar phased approach, in line with their historical practices.

[33] Both the FIMSAC and FINRA have acknowledged that there have been challenges with large trade liquidity as trade data dissemination times have shortened, although neither went so far as to say such correlation necessarily meant causation. *Supra* notes 21 and 22 and accompanying text. On a related theme, some ICI members have noted the potential difficulty in reporting trades in certain less liquid municipal securities within one minute given the current CUSIP management infrastructure. S*upra* note 9.

[34] For example, due to concerns related to potential frontrunning, dealers taking on large trades may be more concerned about losing money when trying to sell the position as a result of other traders re-pricing their spreads to capture price advantages from the downward market pressure caused by the immediate reporting of the trade.

[35] One member estimated that, since the 2008 global financial crisis, broker-dealer holdings of municipal bonds have come down from approximately $50 to $60 billion to approximately $10 to $15 billion, while mutual fund and ETF holdings have grown from approximately $400 billion to $1.1 trillion. The member expressed concern that shortened

reporting times results in dealers exiting the fixed income markets for these transactions, market participants will lose access to a crucial source of liquidity, particularly in times of significant market stress.[36] Additionally, if dealers continue to make markets but at less competitive spreads, these increased spreads would likely result in increased price volatility for funds and increased execution costs, harming funds and their investors.

Further, if dealers are unwilling to provide liquidity at favorable prices for large trades, funds may be forced to break up large trades into a number of smaller trades and execute the trades across multiple electronic execution venues, protocol systems, or counterparties. In addition to the broader market structure impact discussed in Section IV, the potential reduction in liquidity for large trades would have a direct impact on execution costs and execution flexibility for funds. Instead of executing a large trade with a dealer via voice protocols, a fund would likely need to break up the trade into a series of smaller trades executed over an extended period of time. This could result in potential information leakage for funds and would also introduce market fluctuation and price uncertainty as the order is worked throughout the day as opposed to executed as a single transaction. Ultimately, the associated variable execution costs could increase expenses, lower performance, and harm funds and their investors. As noted above, for less liquid securities, dealers may offer spreads that are significantly larger to reflect increased hedging risk and risk of information leakage, thus negatively affecting execution costs for funds and their investors.

IV. Broadly Imposing a One-Minute Reporting Timeframe Would Likely Result in More Trading Moving to Electronic Venues and Potentially Reduce Execution Flexibility for Some Market Participants

If dealers are less willing to transact large and less liquid trades via traditional voice methods at competitive spreads, some members believe execution flexibility will be negatively affected and that a significant notional volume of the fixed income markets may potentially migrate to

reporting timeframes will only further decrease dealer liquidity and reduce execution flexibility as dealers avoid taking on additional risk due to the implications of having less time to hedge and allocate their risk before reporting the trade.

[36] For example, as part of a review of trading during the COVID-19 market crisis, ICI noted that liquidity in the credit markets had dried up by mid-March 2020. ICI, Report of the COVID-19 Market Impact Working Group – The Impact of COVID-19 on Economies and Financial Markets at 1 (Oct. 2020), *available at* https://www.ici.org/system/files/private/2021-04/20_rpt_covid1.pdf. Many ICI members anecdotally noted that they had to resort to voice trades because dealers had limited auto-streaming of quotes over electronic protocols. *See also* ICMA, The European Investment Grade Corporate Bond Secondary Market & the COVID-19 Crisis – An ICMA Secondary Market Practices Committee (SMPC) Market Report at 18 (May 2020), *available at* https://www.icmagroup.org/assets/documents/Regulatory/Secondary-markets/The-European-investment-grade-corporate-bond-secondary-market-and-the-COVID-19-crisis-280520v2.pdf ("[F]or the most part, electronic trading in the European corporate bond markets broke down as participants resorted to voice trading").

electronic execution venues.[37] While ICI supports a regulatory framework that encourages growth and greater access to electronic trading platforms and functionalities in the fixed income markets, the regulatory framework must account for the liquidity profiles and trading dynamics of the existing fixed income markets. Electronic trading protocols have helped provide an additional means for asset managers to develop a broader view of liquidity across different trading platforms and asset types, which has become more important as the fixed income market landscape has changed.[38] While electronic trading execution volume continues to grow, it is critical that such growth continue to be organic in response to the development of the market and the needs of market participants, rather than the result of shortened trade reporting timeframes. Electronic platforms may be less desirable for trading less liquid instruments or for obtaining liquidity in large-sized trades, due in part, for example, the greater risk of information leakage on these platforms.[39] Additionally, without further analysis, it is unclear whether a significant portion of non-electronic execution volume could adequately be handled by the existing electronic platforms and protocols.[40]

V. Implications of Shortened Reporting Timeframes for Late Reporting, Revisions, and Data Accuracy

Data accuracy is important, both to the usefulness of the data that is reported and the data that is disseminated publicly. If a sizable percentage of trades must be revised or are reported late due

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[37] Certain ICI members believe that, in the municipal securities market, which is characterized by numerous CUSIPs and inventory trades that generally require negotiation, order flow for certain municipal securities is likely not amenable to being traded over electronic platforms at this time. Nonetheless, as discussed above in Section III, some members believe that reducing trade reporting timeframes may still result in negative market impacts to the municipal securities market, such as price volatility as dealers increase their spreads to reflect the additional risk of data leakage and potential reduced liquidity.

[38] Economic and regulatory changes have led dealers to hold fewer corporate bonds in inventory and make markets more frequently in an agency capacity. Letter from Dan Waters, Managing Director, ICI Global, to Alp Eroglu, International Organization of Securities Commissions, on Examination of Liquidity of the Secondary Corporate Bond Markets at 2 (Sept. 30, 2016), *available at* https://www.iosco.org/library/pubdocs/537/pdf/ICI%20Global.pdf.

[39] Kozora, Mizrach, Pepppe, Shachar, and Sokobin, *supra* note 24. The authors note that while ATS platforms reduce search costs by providing access to more counterparties, traders on these platforms also face higher risk of information leakage, which is an important issue for large trades. Consistent with this trade-off, the authors find that the size of trades on ATSs are smaller and only 2% of trades with a notional value of more than $1 million are traded on these platforms.

[40] One concern with large order flow migrating to electronic execution venues suddenly as opposed to over time is that the fixed income markets may not be prepared to respond to potential instantaneous drops in liquidity, such as "flash crashes," that have occurred in other primarily electronic markets. *See* Report of the Staffs of the CFTC and the SEC to the Joint Advisory Committee on Emerging Regulatory Issues, Findings Regarding the Market Events of May 6, 2010 at 1 (Sept. 30, 2010), *available at* https://www.sec.gov/files/marketevents-report.pdf (discussing the 2010 flash crash in US equity markets); Joint Staff Report: The U.S. Treasury Market on October 15, 2014 at 1 (July 13, 2015), *available at* https://home.treasury.gov/system/files/276/joint-staff-report-the-us-treasury-market-on-10-15-2014.pdf (analyzing the 2014 flash crash in US Treasuries). Not knowing how the fixed income markets would respond to a flash crash is another reason why we recommend that FINRA and MSRB continue to utilize their historically incremental approach to trade reporting timeframes and data dissemination.

to practical limitations regarding dealer operational workflow, that may result in inaccurate data being reported to FINRA and MSRB and disseminated publicly, thus undercutting a key purpose of adopting the shortened reporting timeframes. To the extent that FINRA and MSRB shorten the trade reporting timeframes for any transactions, we encourage FINRA and MSRB to analyze operational workflow issues raised by dealers with respect to such shortened reporting timeframes.[41] We support measures that seek to ensure that reported data is accurate and that provide adequate flexibility for manual "high touch" execution trade reporting.

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[41] For example, in 2013, MSRB requested comment on changing trade reporting and dissemination. *See* MSRB Notice 2013-02, *supra* note 20. MSRB provided data showing that, between 2011 and 2012, 73.4% of all trades were reported within one minute but only 40.9% of trades larger than $1 million were reported within one minute. In the current MSRB Proposal, released nearly 10 years later, only 40.1% of trades larger than $1 million dollars but less than $5 million were reported within one minute. While technology has evolved dramatically over the last 10 years, large municipal trades have not been reported more quickly. In considering whether to shorten reporting timeframes, we encourage FINRA and MSRB to analyze the reasons for delayed reporting for large trades, including any operational challenges dealers may face.

Further, we note that some of our members engage in portfolio trades, which requires members to give certain information to the dealers. Many members also send large trades to dealers that are worked throughout the day. These trading practices, among others, may have implications for dealers' ability to report transactions within one minute or an otherwise shortened timeframe. We encourage FINRA and MSRB to explore these potential operational issues fully.

We appreciate the opportunity to provide input on the FINRA and MSRB Proposals to shorten the reporting timeframes in TRACE and RTRS, respectively. Please let us know if we and our members may be of assistance. We would be glad to discuss our comments with you or answer any questions you may have. You may contact me at (202) 326-5835, Nhan Nguyen at (202) 326-5810, or Kevin Ercoline at (202) 326-5410.

Sincerely,

/s/ Sarah A. Bessin

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