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February 15, 2024

Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Notice of Filing of a Proposed Rule Change to Amend FINRA Rule 6730 (Transaction Reporting) to Reduce the 15-Minute TRACE Reporting Timeframe to One Minute
Release No. 34-99404; File No. SR-FINRA-2024-004

Dear Ms. Countryman:

The FIA Principal Traders Group ("FIA PTG")[1] appreciates the opportunity to submit this letter to the Securities and Exchange Commission ("SEC" or the "Commission") in response to the Proposed Rule Change to Amend FINRA Rule 6730 (Transaction Reporting) to Reduce the 15-Minute TRACE Reporting Timeframe to One Minute (the "Proposal").[2] FIA PTG has consistently supported efforts to shorten reporting times across bond markets including with respect to the transactions subject to this proposal such as corporate bonds, agency debt securities, and asset-backed securities, among others.

While we supported FINRA's Request for Comment that preceded this Proposal,[3] we cannot support FINRA's new Proposal because it will not increase transparency and could harm competition and efficiency in the fixed income markets. In particular, the Commission should reject FINRA's broad and newly introduced "manual trade exception." This new exception undermines any potential transparency benefits FINRA claims and may harm broader market

[1] FIA PTG is an association of firms, many of whom are broker-dealers, who trade their own capital on exchanges in futures, options and equities markets worldwide. FIA PTG members engage in manual, automated and hybrid methods of trading, and they are active in a wide variety of asset classes, including equities, fixed income, foreign exchange and commodities. FIA PTG member firms serve as a critical source of liquidity, allowing those who use the markets, including individual investors, to manage their risks and invest effectively. The presence of competitive professional traders contributing to price discovery and the provision of liquidity is a hallmark of well-functioning markets. FIA PTG advocates for open access to markets, transparency and data-driven policy.

[2] https://www.sec.gov/files/rules/sro/finra/2024/34-99404.pdf.

[3] *See:* Letter from Joanna Mallers, Secretary, FIA PTG, to Jennifer Piorko Mitchell, Office of the Corporate Secretary, FINRA, dated October 3, 2022.

dynamics. Additionally, FINRA failed to examine the practical or economic effects of including this new exception in its proposal.

For the reasons described below, we encourage the Commission to increase transparency using alternatives that, unlike the Proposal, do not discriminate against specific modes of execution. As discussed in more detail below, we would encourage FINRA to require members to report trades as soon as practicable, but no later than five minutes from execution, and eliminate the problematic manual trade exception.

The Manual Trade Exception Makes the Transparency Benefits Illusory.

For the first time, FINRA proposes to create a post-trade transparency framework that establishes different transparency requirements solely based on mode of execution and/or method of trade processing. The proposed new manual trade exception is harmful and problematic for many reasons, none of which were addressed by FINRA in its filing. As an initial matter, the proposed manual trade exception is extremely broad and will apply to any trade that "requires manual intervention at any point to complete the trade execution or reporting process."[4] The exception would apply to all trades executed using hybrid or manual means, including any voice trade, trades executed by chat, or trades subject to any type of manual review (whether for risk or compliance reasons). While FINRA attempts to characterize the exception as "narrowly" tailored,[5] its discussion makes clear that this new exception will be widely used.[6] All trades subject to the exception will not be subject to the one-minute reporting, but instead will be subject to a separate 5-minute outer limit that will be phased in over a three-year period.

FINRA's claim that the Proposal will reduce reporting times to under a minute for an additional approximately 16.4% of transactions is completely unsupported. FINRA notes that in 2022, 82.9% were reported within one minute of execution. As a result, FINRA argues that the Proposal will "likely result in quicker reporting and thus dissemination of transaction information for at least a portion of the approximately 17 percent of transactions that are not currently reported within one minute of execution."[7] And after adjusting for the separate *de minimis* exception, FINRA claims that the Proposal will increase transparency for up to 16.4% of trades.

FINRA failed to quantify, or attempt to estimate, how its proposed manual trade exception would undermine the anticipated benefits of the Proposal. FINRA attempts to explain this by simply noting that its estimate would need to be further adjusted to account for manual trades, "which FINRA is currently unable to identify in the TRACE data." But that is clearly not sufficient. Contrary to FINRA's optimistic projection, it is far more reasonable to conclude that all or most of the 17% of trades that are not currently executed within one minute involve some form of

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[4] Proposal at 5036.
[5] *Id.*
[6] *See e.g.,* Proposal at 5043 ("Given trading in the fixed income products covered by the proposed rule change in many instances continues to involve manual intervention at some point to complete the trade execution or reporting process (e.g., trades executed by telephone, email, or chat or trades subject to manual review), requiring these trades to be reported in one minute could negatively impact market efficiency and competition").
[7] Proposal at 5042.

manual intervention. This is particularly true given that firms are already required to report transactions "as soon as practicable," and there are few other explanations other than manual intervention as to why member firms reporting would currently extend beyond one minute.

The Manual Trade Exception is Inconsistent With the Exchange Act and May Harm Efficiency and Competition.

The Commission is obligated to reject self-regulatory organization rule changes if it is unable to make an affirmative finding that a proposed rule change is consistent with the Exchange Act.[8] FINRA Rules may "not unduly burden competition or efficiency" and must be designed "to promote just and equitable principles of trade." [9] "The burden to demonstrate that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder … is on the self-regulatory organization that proposed the rule change … A mere assertion that the proposed rule change is consistent with those requirements … is not sufficient."[10] The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding. [11] FINRA failed to provide the Commission with the information needed to find the Proposed rule change is consistent with the Exchange Act. As described below, the Proposal is also inconsistent with the Exchange Act because it may undermine efficiency and competition in the fixed income markets.

Establishing the proposed disparate reporting requirements, along with an inexhaustive, but lengthy list of manual intervention exceptions, may reduce efficiency, competition, and introduce opportunities for abuse. As previously noted, FINRA failed to estimate the percentage of transactions that will rely on the manual trade exception. FINRA also failed to analyze the potential harms and inefficiencies that may result from the Proposal. The Proposal, for example, could incentivize market participants to trade using voice or manual means for purposes of delaying public dissemination of their trades. This risk is even greater in the context of large trades, where parties to a trade can be incentivized to delay reporting potentially market moving information.[12] Because large trades involve a disproportionate amount of the total notional value traded, FINRA should have considered the percentage of total notional value that may be delayed under its novel exception. Even qualitatively, the Proposal is inconsistent regarding the treatment of large trades. On one hand, FINRA claims that more large trades will be reported within a minute under the Proposal. On the other, FINRA recognizes that large trades are more likely to be subject to manual intervention and thus not subject to the one-minute reporting requirement. *Compare* Proposal at 5038 ("large trades are more likely to be more complex or a voice trade, <u>or otherwise require manual handling</u>) *with* Proposal at 5043 ("To the extent the proposed rule change results in faster

[8] See 15 U.S.C. 78s(b)(2)(C)(ii); see also 17 CFR 201.700 (b)(3)
[9] 15 U.S.C. § 78o-3(b)(6)
[10] *Id*.
[11] *Id*.
[12] Proposal at 5038.

dissemination of pricing information for large trades, the market could benefit from earlier access to information that could be more indicative of market movement").[13]

The Proposal is likely to have other harmful unintended consequences. The Proposal could disincentivize market participants from increasing reporting capabilities because of the overbroad manual trade exception, undermining the growth of electronic fixed income markets, among others. Notably, FINRA failed to consider any of the potential harmful effects of its proposed manual trade exception, instead characterizing the exception as solely beneficial.

FINRA Should Instead Require Reporting of All Trades Within 5-Minutes of Execution and Eliminate the Manual Trade Exception.

FINRA considered amending existing FINRA Rule 6730 by simply reducing the outer-limit reporting timeframe from 15 minutes to 5 minutes, with no novel exception for manual trades. FINRA's entire basis for rejecting this alternative was that 97.6% of all trades are already reported within 5 minutes of executions, compared to 82.9% of trades reported within one minute. Thus, by imposing a one-minute reporting timeframe instead of a five-minute, FINRA argues the Proposal would move up the reporting timeframe for 17.1% of trades instead of 2.4%. However, FINRA completely failed to consider the impact of its newly created manual trade exception, and for the reasons described above, its claim that the Proposal would move up the reporting timeframe for 17.1% of transactions is completely illusory.

The Commission must reject the Proposal on the table. As long proponents of enhancing transparency, we encourage FINRA to reduce reporting timeframes to "as soon as practicable but no later than five minutes from execution."[14] This alternative would incrementally improve transparency, but would not risk the harmful unintended consequences of the manual trade exception described above.

In conclusion, FIA PTG urges the Commission to reject this Proposal and encourages FINRA to make the amendments suggested above and then repropose. If you have any questions or need more information, please contact Joanna Mallers (jmallers@fia.org).

[13] *See also* Proposal at 5043 ("Faster reporting of large trades may also level the information playing field in the market between dealers and other investors").

[14] FIA PTG would not be opposed to a phased approach to reducing the outer-limit reporting timeframe, such as by shortening the reporting window for all referenced transactions to ten minutes within one year and five minutes within two years.

Respectfully,

FIA Principal Traders Group

Joanna Mallers
Secretary

cc: Gary Gensler, Chair
Hester M. Peirce, Commissioner
Caroline A. Crenshaw, Commissioner
Mark T. Uyeda, Commissioner
Jaime Lizárraga, Commissioner