

COMMENT LETTER

August 15, 2013

ICI Comment Letter on TRACE Reporting Proposal (pdf)

August 15, 2013 Elizabeth M. Murphy Secretary Securities and Exchange Commission 100 F Street, NE Washington, DC 20549 Re: Proposed Rule Change Relating to Dissemination of Transactions in TRACE Eligible Securities that are Effected Pursuant to Securities Act Rule 144A (File No. SR-2013-029) Dear Ms. Murphy: The Investment Company Institute¹ is pleased to respond to the Securities and Exchange Commission's ("SEC") proposal related to the dissemination of information on certain securities transactions eligible for reporting on the Trade Reporting and Compliance Engine ("TRACE").² Registered investment companies ("funds") are significant investors in the fixed-income markets.³ As such, funds and their shareholders benefit from fixed-income markets characterized by transparency and liquidity. FINRA currently requires its members to report to TRACE all secondary transactions in certain fixed-income securities within fifteen minutes of the time of execution.⁴ The information for non-Rule 144A transactions in investment grade corporate debt securities and agency debt securities disseminated from TRACE includes the exact par value on all such transactions with a par value of \$5 million.⁵ The Investment Company Institute is the national association of U.S. investment companies, including mutual funds, closed-end funds, exchange-traded funds (ETFs), and unit investment trusts (UITs). ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. Members of ICI manage total assets of \$14.9 trillion and serve more than 90 million shareholders.

² See SR-FINRA-2013-029, Proposed Rule Change Relating to the Dissemination of Transactions in TRACE-Eligible Securities that are Effected Pursuant to Securities Act Rule 144A, which is available on the SEC's website at <http://www.sec.gov/rules/sro/finra/2013/34-70009.pdf> ("Proposal" or "Release").

³ At year-end 2012, investment companies held 14 percent of the total of United States and international corporate bonds. See 2013 Investment Company Fact Book, A Review of Trends and Activity in the U.S. Investment Company Industry, Investment Company Institute, at p. 12, which is available at www.icifactbook.org.

⁴ See FINRA Rule 6730. Ms. Elizabeth M. Murphy August 15, 2013 Page 2 of 3

⁵ million ("5M") or less and includes an indicator of "5MM+" in place of the exact par value on transactions where the par value is greater than \$5 million.

⁶ With respect to non-Rule 144A transactions in non-investment grade TRACE-eligible securities, the exact par value on all transactions with a par value of \$1 million ("1M") or less is disseminated and any transaction in excess of \$1 million is disseminated as "1MM+." (The \$1M and \$5M thresholds are referred to collectively in this letter as "dissemination caps.") Information regarding Rule 144A transactions currently is not required to be disseminated.

Under the Proposal, transactions effected pursuant to Rule 144A would be required to be disseminated subject to the same dissemination caps

that are currently in effect for any non-Rule 144A transaction in the applicable security (e.g., a non-Rule 144A transaction in an investment grade corporate bond). This means that transaction information for investment grade TRACE-eligible securities effected in transactions pursuant to Rule 144A would be disseminated subject to a \$5MM dissemination cap and non-investment grade Rule 144A transactions would be disseminated subject to a \$1MM dissemination cap.⁷ The Proposal seeks comment on this change to TRACE reporting.⁸ Funds are qualified institutional buyers that participate in the Rule 144A market. As with the publicly traded bond market, funds and their shareholders benefit from being able to participate in a Rule 144A market that is sufficiently transparent and liquid. The Rule 144A market has, over time, become a more mature and liquid market with no corresponding enhancement in its transparency. We therefore support requiring information regarding Rule 144A transactions to be disseminated to the same extent as comparable non-Rule 144A transactions. Such a change will provide enhanced transparency in a manner that addresses the potential negative impact that dissemination of all Rule 144A transactions could have on liquidity.⁹

5 Disseminated TRACE transaction data includes, among other information, price, time of execution, and size. 6 See FINRA Rule 6750(b)(1). 7 See Release at pp. 5 and 7. The Proposal also notes that FINRA is not proposing to change any of the existing dissemination caps at this time for transactions in publicly traded corporate bonds, agency debt securities, or asset-backed securities. See Release at note 20. 8 FINRA issued a Notice last year which sought input on, among other things, whether information regarding Rule 144A transactions should be disseminated in the same manner as publicly traded corporate debt securities. See FINRA Regulatory Notice 12-39 (September 2012) (“Notice”), which is available at <http://www.finra.org/web/groups/industry/@ip/@reg/@notice/documents/notices/p163711.pdf>. The Institute filed a letter supporting the dissemination of this information. See Letter to Marcia S. Asquith, Office of the Corporate Secretary, FINRA from Dorothy Donohue, Deputy General Counsel – Securities Regulation, Investment Company Institute, dated November 12, 2012 (“Letter”). 9 The Institute previously supported retaining the existing dissemination caps for non-Rule 144A transactions in corporate bonds and agency debt securities based on the belief that these thresholds provide adequate transparency regarding transaction prices and the concern that increasing or eliminating the current dissemination caps would negatively affect liquidity for corporate debt securities and agency debt securities. The Letter also noted that we would not object to FINRA Ms. Elizabeth M. Murphy August 15, 2013 Page 3 of 3 * * * * We appreciate the opportunity to comment on the Proposal. If you have any questions regarding our comments, please feel free to contact me at (202) 218-3563. Sincerely, /s/ Dorothy Donohue Dorothy Donohue Deputy General Counsel—Securities Regulation cc: Sharon Zackula, Associate Vice President and Associate General Counsel Kathryn Moore, Associate General Counsel Office of General Counsel FINRA again seeking comment on modifying the dissemination cap for publicly traded corporate bonds and agency debt securities after some period of time has passed to allow market participants to better understand the long-term implications of recent changes in the market and recent regulatory changes. Likewise, we would not object to FINRA again seeking comment on modifying the dissemination caps for Rule 144A transactions after the market has had an opportunity to absorb and gain experience with the change currently being proposed.