

MEMORANDUM

TO: File No. S7-18-21
FROM: Division of Trading and Markets
RE: Meeting with Representatives of the Security Traders Association
DATE: December 13, 2021

On December 8, 2021, representatives of the Division of Trading and Markets (“TM”) met with representatives of the Security Traders Association (“STA”). The TM representatives were David Saltiel, David Shillman, Jeff Mooney, Alex Jadin, Josephine Tao, John Guidroz and Theresa Hajost. The STA representatives were Jim Toes and Kate McAllister.

The participants discussed, among other things, the Commission’s proposed Rule 10c-1, including the topics listed in the attached Discussion Document – December 2021, which was prepared by STA.



Discussion Document – December 2021

Who We Are

Founded in 1934, STA¹ is comprised of 24 affiliate organizations in the US and Canada. The STA national board of governors is comprised of past presidents and industry specific leaders. Our membership represents INDIVIDUALS from varying business models: asset owners; asset managers; broker dealers who service institutional, retail and self-directed retail investors; vendors; exchanges and market makers dealing in equity, ETF and derivative trading.

Proposed Rule 10c-1

Background & Timeline

-On November 18th the SEC published and requested comment on proposed Rule 10c-1 (Proposed Rule) which would for the first time require all lenders of securities to provide data and material terms of securities lending transactions for public dissemination.

-STA was among several trade associations who submitted a letter to the Commission requesting that the 30-day comment be extended to 90-days due to the extensive new reporting and disclosure requirements that will likely represent significant operational and compliance challenges for a broad range of market participants.²

-On December 1, 2021 STA held an Open Call³ on the Proposed Rule. Based on the number of listeners and subsequent feedback, we believe the industry is working diligently towards understanding the Proposed Rule's requirements and implications to work flows.

Challenges with a 30-Day Comment Period

-As STA drafts a more comprehensive comment letter we have identified specific areas where the 30-day comment period does not allow enough time to gather sufficient input in areas that **may be** critical to avoiding unforeseen negative consequences and inhibiting the effectiveness of the Proposal Rule. An initial, non-exhaustive list of these areas is below. To be clear, we are not stating at this time that these areas are in fact critical; we are simply stating that the 30-day comment period does not allow enough time to make any kind of recommendation.

Role of Reporting Broker Dealers with regards to Lending Agents

Some beneficial owners of securities rely on Lending Agents in managing their security lending programs. Some of these Lending Agents are not BDs. Under the Proposal, Lending Agents who are not BDs will need to enter into an arrangement with a Reporting BD. These relationships do not exist today.

¹ STA is a trade organization founded in 1934 for individual professionals in the securities industry. STA is comprised of 24 affiliate organizations in North America with individual members who are engaged in the buying, selling and trading of securities. STA is committed to promoting goodwill and fostering high standards of integrity in accord with the Association's founding principle, Dictum Meum Pactum – "My Word is My Bond." For more information, visit <https://securitytraders.org/>.

² Securities Industry and Financial Markets Association, SIFMA Asset Management Group, Risk Management Association the Managed Funds Association, Investment Company Institute, Investment Adviser Association, and Security Traders Association, letter to Vanessa Countryman, Secretary, Securities and Exchange Commission, November 23, 2021, <https://www.sec.gov/comments/s7-18-21/s71821-9402961-262828.pdf>.

³ STA Open Call: SEC's Proposed Rules on Securities Lending, <https://securitytraders.org/resources/from-the-hill/open-call/open-call-secs-proposed-rules-on-securities-lending/>.



Therefore, it creates challenges to understand what terms Reporting BDs may require from these Lending Agents as well as the secondary impacts such terms will have on the broader securities lending business.

Non-US Lenders & Borrowers Response, and Subsequent Impact to US Markets

The Proposed Rule creates a regime which allows for the potential for regulatory arbitrage. There is no discussion in the Proposed Rule on how the requirement may influence the behaviors of non-U.S. lenders and borrowers. It is reasonable to assume that non-U.S. entities with global footprints will consider moving their securities lending businesses and trading in dually-listed securities out of the U.S. due to certain information that would be made publicly available in a standardized format, which would allow such data to be easily mined.

Breakout of the Costs for Reporting Initial Transactions and Modifications to Loan Agreements

Under the Proposal, initial transactions and modifications to outstanding loan agreements must be reported within 15 minutes to the RNSA. The Proposal provides estimates for the initial costs to build and maintain the RNSA facility, however it does not provide a breakout of the costs associated with these two separate and distinct types of reporting requirements. We believe the industry needs to understand these costs in order to generally assess a cost benefit analysis. In particular, what are the cost and benefit differences in reporting modification information at the end of the day versus within 15 minutes.