INSTITUTE OF INTERNATIONAL BANKERS

Briget Polichene
Chief Executive Officer
E-mail: [redacted]

299 Park Avenue, 17th Floor
New York, N.Y. 10171
Direct: [redacted]
Facsimile:
Main:
www.iib.org

January 7, 2022

BY ELECTRONIC SUBMISSION

Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549

Release No. 34-93613
File No. S7-18-21
RIN 3235-AN01

Re: ***Proposed Exchange Act Rule 10c-1 Regarding Securities Lending***

Dear Sir or Madam:

The Institute of International Bankers (the "IIB") appreciates the opportunity to submit this letter to the Securities and Exchange Commission (the "SEC") on proposed Rule 10c-1 (the "Proposed Rule") under the Securities Exchange Act of 1934 (the "Exchange Act") (17 CFR § 240.10c-1) regarding transparency in the securities lending market.[1] The IIB represents internationally headquartered financial institutions from over 35 countries around the world doing business in the United States. Our members consist principally of international banks that operate branches and agencies, bank subsidiaries and broker-dealer subsidiaries in the United States.

The Proposed Rule would implement Section 984(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"), which directs the SEC to promulgate rules "designed to increase the transparency of information available to brokers, dealers, and investors with respect to the loan or borrowing of securities."[2] In particular, the Proposed Rule would require beneficial owners of securities and their agents to provide certain terms of their securities lending

[1] 86 Fed. Reg. 69802 (the "Proposing Release").
[2] Pub. L. 111-203.

transactions to a registered national securities association ("RNSA"), such as the Financial Industry Regulatory Authority, which then would make terms of those trades available to the public.

The IIB supports the fundamental goals of the Proposed Rule: to increase market efficiency and integrity by enhancing transparency and supervision. As an organization whose members have operations across the globe, the IIB also supports regulation that promotes alignment with financial disclosure requirements in other jurisdictions, such as the European Union's Securities Financing Transactions Regulation ("SFTR"). Our members are concerned, however, that the Proposed Rule is vague and overly broad in its current form. We are also concerned that the proposed approach to reporting fails to reflect key aspects of the way that securities loans are priced and effected.

Due to the very limited amount of time that the SEC has provided for comment, the IIB's members have not been able to analyze all aspects of the proposal, gather relevant data or answer many of the 97 questions posed by the SEC in its proposal. This letter focuses on issues of particular relevance to our members as international banking organizations and what we have been able to quickly identify as the most significant legal and operational issues.

I. Executive Summary

The Proposed Rule would create substantial uncertainty for participants in non-U.S. securities markets and therefore requires further elaboration, particularly as to its application to offshore securities lending. If adopted as proposed, the Proposed Rule also would require reporting of incomplete and unstable data that would have relatively little value within the timeframes proposed and that are fundamentally inconsistent with the process of pricing and effecting securities loans.

To address these concerns, the SEC should make the following changes or clarifications:

- The SEC should set clear guidelines for cross-border application that provide clarity for non-U.S. lenders and borrowers by explicitly defining when non-U.S. parties are to be subject to reporting requirements. To promote competitive equity and minimize the necessity of additional industry documentation exercises, the SEC should employ the same "territorial approach" to reporting requirements as it applies to broker-dealer registration requirements under the Exchange Act.

- To further tailor reporting to the U.S. market, reporting requirements should apply to transactions in securities that are actively loaned and borrowed in the U.S. marketplace, namely, National Market System ("NMS") stock.

- The SEC should require end-of-day reporting on a T+1 basis, rather than intraday reporting, which would be impractical, vastly multiply the frequency and amount of data transmission required and its supporting infrastructure and offer no material incremental benefits to market participants and the public.

- The SEC should not require lenders to report securities deemed to be "available to lend" because the data generated would be inaccurate for a variety of reasons and could be a deterrent to participation in the marketplace for some lenders.

- The SEC should provide a regulatory definition for the term "securities loan," which should be based on the purpose of a loan in order to distinguish clearly between securities loans and structurally similar transactions with different purposes and economics.

- To the extent that lending intermediaries that are banks are required to report on behalf of beneficial owners, the SEC should clarify that reporting obligations shift to such an intermediary only when acting as an agent with discretionary authority to lend on behalf of its principal.

- The SEC should expand the types of entities eligible to act as reporting agents to include any service providers willing and able to make appropriate undertakings to the SEC.

- The SEC should clarify that lending agent responsibility for reporting information that must be obtained from a beneficial owner is subject to receipt of timely and accurate information from their principal.

- The SEC should adopt, and require the RNSA to adopt, appropriate data security measures, including by providing for options to mask or encrypt party information.

- The SEC should provide reporting entities an initial compliance period of at least 18 months to develop necessary systems and otherwise prepare for compliance with the requirements of the rule.

II. General Considerations Relating to Securities Lending Contract Formation and Pricing

In substantial part, the SEC modelled the proposed reporting regime for securities lending on a number of existing reporting regimes for "spot" cash markets as described in the Proposing Release.[3] As context for the IIB's specific recommendations, we offer the following observations about difference in practices and pricing in the two markets.

Cash market trading involves the purchase and sale of fungible objects on largely identical terms other than price, volume and time. Price differences between transactions that occur close in time depend largely on the presence and significance of intervening information relevant to the securities involved. In contrast, securities loans involve longer term credit exposures and are priced based on a wider variety of factors, including the credit of the counterparty, the type and amount of collateral provided, the ability of the lender to deploy collateral profitably, the negotiated terms regarding

[3] 86 Fed. Reg. 69802 at n. 73 (referencing the Alternative Display Facility, OTC Transparency, OTC Reporting Facility, Trade Reporting and Compliance Engine and the Trade Reporting Facility).

volume and broader relationship elements, relevant market interest rates and credit spreads, as well as other factors idiosyncratic to the parties. Accordingly, in the securities lending market, "last transaction" information is much less significant for price discovery. The SEC acknowledges this difficulty in the Proposing Release:

> "The Commission recognizes that these benefits [of the proposed reporting system] are somewhat limited because the data will not contain all information necessary to perfectly compare the fees on different loans…. While recognizing this limitation, the Commission does not believe this limitation could be solved by adding information on counterparty risk. In particular, the Commission is unaware of reliable measures for counterparty risk that would be informative when attached to transaction information."[4]

These observations underscore that data reporting and dissemination in the securities lending market should reflect the particular characteristics of the market rather than following the cash market model where the differences are relevant. Where reporting requirements fail to reflect the particularities of price and contract formation in the particular market, the quality and utility of the data is likely to be compromised. The data integrity issues become all the more compelling given the cost of implementing frameworks of this scope, which highlights the importance of ensuring that the value of the data production and dissemination outweigh the financial and operational burdens that would be imposed on the industry and those participating in it.

III. Specific Recommendations

A. The SEC should explicitly define the jurisdictional scope of reporting requirements by employing concepts from its historical "territorial approach" to broker-dealer regulation.

The Proposed Rule currently fails to provide any explicit guidance as to its cross-border application. Without such guidance, the Proposed Rule would create a high degree of uncertainty for non-U.S. borrowers and lenders as to when reporting might apply to their transactions. Indeed, given the potential breadth of court-based jurisdictional doctrines, even a pair of non-U.S. counterparties engaged in borrowing and lending a security neither issued by a U.S. issuer nor traded on a U.S. exchange could have reason to worry that SEC reporting requirements could potentially apply to their transaction based on unspecified "conduct or effects" in the United States.[5] Such uncertainty does not serve the purposes of Section 984(b). Besides leaving non-U.S. market participants with substantial legal risk, in its current form, the Proposed Rule would ultimately produce inconsistencies between the reporting practices of such market participants, thereby degrading the quality and reliability of data reported to the SEC and ultimately published to the market.

[4] Id. at 69839.
[5] *See, e.g.*, SEC v. Scoville, 913 F.3d 1204 (10th Cir. 2019); 12 U.S.C. § 78aa(b) (added by Section 929P(b) of the Dodd-Frank Act, codifying the "conduct and effects" test).

In setting such guidance, the SEC should seek to capture transactions most relevant to the U.S. securities lending market while providing assurance that transactions that are primarily relevant to non-U.S. markets need not be reported. To the extent possible, such rules should also foster competitive equity and avoid the dead-weight costs of new industry-wide documentation efforts. Historically, the SEC has applied a "territorial" approach to its jurisdiction that has served the marketplace well on these issues. The IIB submits that such a territorial approach would be well adapted for securities lending reporting and that leveraging concepts already in common use would be appropriate. The use of new definitions of a "U.S. person" or similar concepts to define the reach of reporting requirements can and should be avoided.

Specifically, the IIB supports adopting the same "territorial approach" to jurisdiction that the SEC uses for broker-dealer registration requirements. Under such an approach, a lender acting for itself or as an agent would be required to report to the RNSA to the extent that it: (1) operates from a permanent U.S. location for purposes of soliciting, negotiating or executing the loan; or (2) directs communications to a U.S. location of a counterparty that is permanently resident in, or has a permanent office in, the U.S. in order to solicit, negotiate or execute a loan.[6] This approach would (when combined with an appropriate definition of the securities loans subject to reporting) appropriately capture the U.S. market by including all transactions where one of the parties is actually transacting from a permanent location in the U.S. Given that engaging in the business of securities lending has long been understood to be subject to the Exchange Act and Rule 15a-6, this approach is also likely to be well understood by the marketplace and international lenders and would minimize the need for creating unnecessary additional documentation.

B. <u>Transaction reporting should apply to securities actively traded in the U.S. market, specifically NMS securities.</u>

While the Proposed Rule would require reporting loans of any type of security, because securities lending is primarily a means to provide liquidity in the trading markets, the IIB submits that only securities actively traded in the U.S. as a primary trading market provide a compelling justification for the Proposed Rule's reporting requirements. Focusing regulatory reporting and data dissemination requirements on securities that are both (i) primarily traded in the United States and (ii) sufficiently liquid would provide multiple benefits by aligning the reporting regime with the SEC's mission of fostering fair, honest and safe national markets and by ensuring that reporting is required for securities with enough transaction data to be useful rather than misleading, particularly given the substantial variability in securities loan pricing based on factors idiosyncratic to the parties. Such an approach would also serve to protect from the risk that data publication could

[6] *See* 17 C.F.R. § 240.15a-6. The SEC should also explicitly provide that a securities loan should not be subject to reporting when a non-U.S. person lends an otherwise in-scope security to a non-U.S counterparty represented by a U.S. investment adviser, which would be generally in line with the SEC's "offshore client letter" relating to foreign broker-dealers. *See e.g.*, Letter re: Transactions in Foreign Securities by Foreign Brokers or Dealers with Accounts of Certain Foreign Persons Managed or Advised by U.S. Resident Fiduciaries from Catherine McGuire, Chief Counsel, Division of Market Regulation to Giovanni P. Prezioso, Cleary, Gottlieb, Steen & Hamilton (Jan. 30, 1996), https://www.sec.gov/divisions/marketreg/mr-noaction/1996/bearstearns-012096-15a6.pdf.

actually reduce liquidity by deterring market participation in thinner markets where publication of transaction data may reveal a market participant's position or strategy.

Specifically, the SEC should define the scope of securities covered by the rule to be equity securities that are subject to transaction reporting as part of the NMS (effectively stocks listed or traded on a U.S. national securities exchange), which would capture securities meeting both the U.S. nexus and liquidity criteria. The rule should exclude U.S. debt securities from the scope of reporting because such securities are lent less frequently and are vastly more numerous than equity securities in terms of the number of unique securities issues. The corporate and asset-backed debt markets in particular are characterized by relatively small issuance sizes and very substantial differences in instrument characteristics. Given these factors, lending data for any given debt security is likely to be very intermittent and represent a small number of transactions, which would mean that idiosyncratic factors determining the pricing of specific transactions could skew the data such that even average pricing numbers would likely be unreliable.

For separate cost-benefit reasons, the SEC should also exclude U.S. government securities (as defined in Section 3(a)(42) of the Exchange Act). The market for these products is already fairly transparent because there is sufficient liquidity and demand for loans of these types of securities on platforms and venues that have a high degree of transparency. For these securities, imposing reporting obligations would not provide sufficient additional data to justify the compliance burden.

C. <u>The requirement to provide reports to the RNSA intraday after a loan is effected or modified should be changed to end-of-day reporting on a T+1 basis.</u>

Requiring reporting on an intraday basis would be operationally impractical and result in misleading data being disseminated to the public. Unlike transactions in the cash markets, many securities loan terms are either highly subject to intraday revision or not determined until the end of the day. While parties may agree to basic terms at a particular point in time, many terms of securities loans are revisited during the course of a day as borrowers engage in cash-market selling of the relevant securities, securities on loan are returned (or not returned) and the portfolio characteristics of a lending relationship change with trading/lending activity.[7] In particular, loan size may be revisited throughout the day as actual need (from short sales) and supply (from securities in inventory as well as securities actually returned from other borrowers during the day) are determined. Pricing may also be adjusted as these supply and demand characteristics are adjusted on a portfolio basis, credit concentrations develop or decrease or negotiated volume or portfolio thresholds are reached.

In addition, certain reportable terms under the Proposed Rule simply are not determined until the end of the day. For example, non-cash collateralization is often managed under processes whereby portfolio exposure is aggregated at the legal-entity or counterparty level, and collateral is applied to

[7] Due in substantial part to the fluidity of loan terms intraday, standard contractual terms included in a Securities Industry and Financial Markets Association ("<u>SIFMA</u>") Master Securities Loan Agreement provide that a loan "shall not occur" until the loaned securities and collateral are actually transferred by the parties.

the underlying loan as part of an end-of-day allocation process. A reporting entity would be unable to report collateralization on a loan-by-loan basis without first running an allocation process to attribute the collateral received on a portfolio basis to the individual loans in the portfolio. Similarly, as a general matter, lending agents execute loans with borrowers on a bulk basis and only allocate loans to individual beneficial owners that they represent at the end of the day. In both cases, lending agents simply could not report the relevant data until after end-of-day processes were completed.

End-of-day reporting on a T+1 basis will also allow for reporting of validated data and substantially reduce errors and report corrections. As a general matter, lenders and borrowers engage in bilateral trade confirmation and validation during the day on a T+1 basis. Such processes ensure that potential breaks between lender and borrower data (*e.g.*, rebate rates, underlying beneficial owner accounts, lot sizes) are identified and remediated as part of the contract comparison process.

As these examples indicate, data reported during the course of the day would be unstable and incomplete in many respects and would include erroneous data. On the other hand, these issues could be mitigated if borrowers and lenders were given the ability to report end-of-day data showing transaction sizes, pricing and other terms as finalized by the end of the day (taking into account intraday alterations and corrections) and conduct reconciliations prior to reporting. In a congressional study cited in the Proposing Release, the SEC's Division of Economic and Risk Analysis acknowledged similar concerns in the context of a report mandated by Section 417(a)(2) of the Dodd-Frank Act (which obligated the SEC to study the feasibility of requiring reporting of short-sale positions in publicly listed securities in real time) (the "Short Sale Reporting Study"). The Short Sale Reporting Study stated that: "[i]n discussions with the Division, most market participants said that they would not be likely to trust identified Real-Time Short Position Reporting data, and would prefer verified data with a time delay, which they believe would likely be more accurate than real-time data."[8] Indeed, the limited data available in reports cited in the Proposing Release suggests that there may be little to no market information gained by reporting securities lending pricing over time periods less than several days.[9]

We also submit the additional burden of real-time reporting would be very substantial and drive institutions for which the requisite operational builds would be particularly costly to reconsider participation in the market. Real-time loan reporting would: (1) require each reporting institution to build fully-automated data capture and reporting systems; (2) limit flexibility around data capture

[8] Congressional Study, "Short Sale Position and Transaction Reporting," at 76, *available at* https://www.sec.gov/files/short-sale-position-and-transaction-reporting%2C0.pdf.

[9] *See* Fábio Cereda, Fernando Chague, Rodrigo De-Losso, Alan Genaro and Bruno Giovannetti. "Price transparency in OTC equity lending markets: Evidence from a loan fee benchmark," São Paulo School of Economics, Fundação Getulio Vargas, Working Paper Series, Working Paper 524 (Feb. 2020) (finding that shortening a benchmark calculated from the mean loan fee of securities loans over a set amount of trading days improved pricing characteristics of the underlying loans when the benchmark was set to three trading days from 15 but finding no significant improvements to pricing characteristics when the benchmark was set to one trading day from three). The official paper of the study is forthcoming in January 2022, but the same team released a working paper in February 2020 that we use as a proxy for the upcoming study prior to its release.

and aggregation; (3) exponentially multiply the volume of reports; and (4) place high demands around the process and timing for data validation and reconciliation. Next-day reporting would provide more flexibility for developing systems and processes for reporting at substantially lower cost and would put the U.S. regime in line with SFTR, which imposes next-day reporting requirements for securities lending. Many of our members and other lenders in the space have also implemented SFTR reporting regimes, so moving to a reporting regime with similar timing would allow such lenders to leverage existing processes and systems while enhancing uniformity in information collection across jurisdictions.

D. The requirement to report securities available to lend should be eliminated.

Requiring lenders to report securities available to lend would provide little to no tangible benefit for the securities lending market or the public as the data would be so inaccurate as to be potentially meaningless. As the SEC acknowledges in the Proposing Release, the metric proposed for reporting available to lend data—all securities held or owned that are not subject to legal or other restrictions that prevent a specific security from being lent—is artificial and will often considerably overstate the securities that a party with outstanding loans would actually be willing to lend.[10] Portfolio limits, concentration limits and simple lending preferences and strategies may substantially limit both the individual securities that a party may be willing to lend and the amount of lending they are willing to provide on aggregate. At the same time, willing lenders who do not happen to have loans in the market on a given day would be completely absent from reporting. Not only would these factors make "available to lend" data highly inaccurate, they would also likely cause the data to be highly unstable with large changes from day to day, and there would likely be no effective way to judge the magnitude (or even directionality) of the bias in the data.

Moreover, the data would be particularly misleading for large international banking organizations with substantial operations outside of the United States. For such firms, the amount of securities owned that are actually intended to be available for lending in the U.S. could be a small percentage of aggregate securities owned and intended to be loaned (or otherwise used); such securities instead could be intended to be loaned exclusively outside the United States or used for entirely other purposes. Yet, under the Proposed Rule, if a non-U.S. entity chose to lend a single proprietary security into the United States as principal, it would be obligated to report its global portfolio of securities (or at least securities that the SEC ultimately considers to be covered by the rule) that it is not legally restricted from lending notwithstanding that it had no intent or capacity to deploy most of those securities in the U.S.

The reporting requirement also could drive up costs of reporting transactional data by deterring lenders from using reporting agents as many lenders are likely to be reluctant to share sensitive portfolio data with broker-dealer reporting agents. This requirement might induce such lenders to self-report, which the SEC has estimated would be roughly twice as expensive as using a reporting

[10] 86 Fed. Reg. at 69818 ("The Commission recognizes that the definition of 'available to lend' may overstate the quantity of securities that could actually be lent because the data would include securities that may become restricted if a limit is reached.").

agent. In addition, this requirement would create a very substantial cybersecurity risk for financial institutions arising from the fact that such data would be held in a centralized database that provides a high target value to hackers and cybercriminals. As a result, many lenders may choose to exit the U.S. market entirely rather than suffer the risk of portfolio reporting, reducing liquidity and driving up loan prices here and abroad.

Finally, we note that, for the purpose of estimating the actual supply of securities available to lend, estimates of supply can be extrapolated from fluctuations in transaction volumes, securities on loan and fees that the SEC proposes to collect pursuant to the Proposed Rule. In this regard, it is noteworthy that other reporting regimes such as the SFTR do not require lenders to provide data on availability.

E. The SEC should define a "securities loan" covered by the rule as a transaction entered into for the purpose of earning a profit by making securities temporarily available for a borrower's use.

While the SEC's authority under Section 984(b) is to provide transparency with respect to the lending of securities (as distinct from, for example, transactions in the repo markets), neither the statute nor the Proposed Rule defines the term "securities loan." Leaving this core concept undefined would create tremendous market uncertainty and confusion given that securities loans can be legally and operationally similar to a number of other types of transactions entered into for other purposes, including margin loans, repos or secured commodity loans (among others).

Each of these transactions contemplates delivery of a security at a specified time subject to an obligation of the recipient to deliver the same or an equivalent security at a later time together with the simultaneous delivery and return of cash or some other asset. While structurally similar, each of these transactions has a different economic purpose, which informs their pricing. Without a definition of "securities loan," the Proposed Rule would leave uncertainty as to which of these transactions to report, create inconsistent reporting practices and "noisy" data with some number of transactions that do not provide pricing data relevant to the securities lending market and create uncertainty for consumers of such data.

To distinguish between securities loans and these other kinds of transactions, the IIB proposes to define the reporting requirement to apply to any transactions involving a transfer of securities that is subject to a return obligation and that lenders (or their agents) intend to be for the purpose of earning a profit through providing temporary use of the securities to the borrower without transferring beneficial ownership. Transactions for the purpose of obtaining cash financing or another asset (*e.g.*, as a "collateral upgrade") would not be reportable by the "lender." To create greater certainty, such a purpose should be presumed when the value of the reciprocal assets received as collateral or credit support exceeds the market price of the securities delivered, and the reverse presumption should apply when the cash or other assets received are less than the amount of securities delivered. For further clarity, the definition should also specifically exempt repurchase transactions, margin loans and secured commodity loans.

For the purpose of publicly disseminating data about economically similar transactions, the rule also should provide flexibility to the RNSA to exclude certain loans from dissemination and/or aggregation if they are not arm's length transactions that would be representative of the market and to prevent evasion of the rule. For example, inter-affiliate loans frequently do not represent market prices and, therefore, should be excluded from such dissemination even if reported to an RNSA.

F. The SEC should clarify that the duty to report transactions applies to a lending agent only when such an agent has discretionary authority to lend on behalf of its principal.

The Proposed Rule currently defines lending agent very broadly as "[a] bank, clearing agency, broker, or dealer that acts as an intermediary to a loan of securities."[11] The term "intermediary" could be interpreted broadly to include any party that helped facilitate the loan but otherwise took no part in the arranging or negotiation of the loan itself and therefore is not in a position to provide the data required by the Proposed Rule. To clarify this point, the SEC should explicitly provide in the rule that reporting obligations apply to banks as intermediaries only when they act as agents for the beneficial owners on a discretionary basis to lend their securities or otherwise arrange or negotiate the full terms on the beneficial owners' behalf.[12]

G. Lending agent responsibility for information that must be provided by their principals should be explicitly limited.

Similar to the approach proposed for "reporting agents," the rule should explicitly acknowledge limits on lending agent responsibility and liability when reporting information controlled by a beneficial owner. Such agents should not be liable for the failure to report any information that they do not control as the intermediary unless such information has been provided to them by the principal in a timely manner. The rule should also reflect that a lending agent should not be liable for the content of information provided to it by a principal unless the agent has actual knowledge that the information is inaccurate.

H. The entities eligible to act as reporting agents should include non-broker-dealers.

Under the Proposed Rule, lenders would be permitted to enter into a written agreement with a service provider responsible for providing reportable information to an RNSA on the lender's behalf only if such service provider were a registered broker-dealer. While IIB understands that broker-dealers may be well positioned to play this role as SEC-supervised entities that are frequently the borrowers, many lenders are likely to be averse to using broker-dealers as reporting agents since they are competitors. Many lenders already rely on third-party vendors to perform similar functions, and such vendors would likely both be willing to provide securities lending reporting services and be low-cost providers. Moreover, Section 10(c) of the Exchange Act should provide sufficient authority for the SEC to supervise non-broker-dealer "reporting agents," as it

[11] Id. at 69851.
[12] A clearing agency would still report as an intermediary when it provides a program for its members to engage in securities lending using its facilities.

authorizes rulemaking over the facilitation of transactions involving the lending and borrowing of securities.

I. The SEC should establish appropriate mandatory cybersecurity measures as part of the reporting regime.

The Proposed Rule would require beneficial owners and their agents to report sensitive information to the RNSA and the SEC, in particular by tying transaction, available to lend and outstanding loan data to identified lenders. The IIB appreciates that the SEC intends to exclude lender identifying information from the data that an RNSA is required to publicly disseminate. Dissemination of individual party information is not necessary to achieve the desired level of pricing and activity transparency and might unnecessarily harm individual market participants and the market as a whole if disclosed. With that same risk in mind, the SEC should ensure that there are strong and specific security protocols in place at the SEC and RNSA levels to ensure that the private lender data is not accessible to cybercriminals. In addition to data security best practices related to who and how one can access the private lender information, such protocols should include a system to report transactions and loan availability information pseudonymously or, at the very minimum, to require separation of the RNSA database that contains lender information from transaction data and the linkage of the two through appropriately transformed and protected party IDs. Pseudonymous reporting would provide for appropriately robust cyber-protection while still allowing the SEC to identify the relevant parties to specific transactions by querying the relevant reporting parties when necessary. Alternatively, separating the lender data and transaction data would at least make it more difficult for hackers to obtain the full set of data necessary to connect parties to transactions.

J. The SEC should permit reporting entities at least 18 months to comply with the requirements of the rule.

Compliance with these new reporting requirements will require extensive preparation and new systems and operations builds as the SEC acknowledges. To give reporting entities sufficient time to implement the necessary systems and operational routines needed to comply with the requirements, the SEC should provide a compliance period of at least 18 months following the adoption of the rule and development of the necessary technical specifications by the designated RNSA before requiring reporting entities to begin reporting under the rule.[13]

* * *

We appreciate your consideration of the issues raised in this letter and stand ready to provide any further information that may be helpful. Please contact the undersigned [redacted]) or our General Counsel, Stephanie Webster [redacted].

[13] We understand this is in line with the recommendation of SIFMA.

Very truly yours,

Briget Polichene

Briget Polichene
Chief Executive Officer