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May 28, 2024

Ms. Vanessa Countryman, Secretary
U.S. Securities and Exchange Commission
100 F Street NE, Washington, DC 20549

Re: File No. SR-FINRA-2024-007 Notice of Filing of a Proposed Rule Change to Adopt the FINRA Rule 6500 Series (Securities Lending and Transparency Engine (SLATE™))

Dear Ms. Countryman:

The Center for the Study of Financial Market Evolution ("CSFME" or the "Center") writes today to provide our comments on the Securities and Exchange Commission's ("Commission") May 1, 2024 Release 34-100046 "Notice of Filing of a Proposed Rule Change to Adopt the FINRA Rule 6500 Series (Securities Lending and Transparency Engine (SLATE™))" (the "Proposal").¹

About CSFME

Founded in 2006, CSFME is an independent, nonprofit organization whose mission is to improve transparency, reduce risks, support research, and promote sound regulation of financial markets. It conducts data-driven analysis, provides investor education and outreach, and supports regulatory reviews in otherwise opaque markets.

The Center serves individual and institutional investors, banks, brokers, other financial market participants, academic institutions, and government regulatory agencies. Since its founding, CSFME has focused its research on securities lending, repo, and securities finance activities and has a long history of working with securities lending data.

Our principals have over 45 years of directly relevant experience evaluating securities finance transactions and lending programs. Before forming the Center, CSFME's founder created the first securities loan pricing and benchmarking systems and pioneered many of the securities lending metrics used today.

¹ <https://www.federalregister.gov/d/2023-23052>

Summary of the Proposal

The Securities and Exchange Commission (SEC) adopted Rule 10c-1a under the Securities Exchange Act of 1934, mandating Covered Persons to report Covered Securities Loan information to a registered national securities association (RNSA).² In response, the Financial Industry Regulatory Authority (FINRA), currently the only RNSA, proposed the FINRA Rule 6500 Series, known as the Securities Lending and Transparency Engine (SLATE). This new rule aims to (1) establish reporting requirements for covered securities loans by requiring Covered Persons to submit Covered Securities Loan information to SLATE, which includes information about loan modifications, key terms, and specific identifiers and modifiers; and (2) provide for public dissemination of individual and aggregate covered securities loan information and loan rate statistics, which would be available on FINRA's website.

The Commission is mandating that FINRA make specific securities lending data publicly available, but the SEC allows FINRA to charge fees for access to this data.³ The Proposal states that FINRA will make some SLATE data available for free on its website for personal, non-commercial purposes. For other uses, FINRA will propose fees for SLATE data products in a separate rule change that FINRA will submit to the SEC for approval. Interested parties will be able to subscribe to these fee-liable data products.⁴

Exempting Lenders from Commercial Access Fees

We submit this letter to express concerns about the potential fees associated with accessing the SLATE data for commercial purposes. Our position aligns with our previously submitted comments to the SEC on the Rule 10c-1a proposal. In those comment letters to the Commission, we argued that the burden of compliance costs of providing data under Rule 10c-1a would fall primarily on lenders. Most beneficial owners participate in securities lending to generate income, and if lenders have to bear the entire cost of compliance, it may cut their margins.

We also pointed out that this allocation of compliance costs would constitute a “free-rider” problem because, while the potential benefits of disclosures under Rule 10c-1a would flow to all participants in the securities lending market, the costs would be borne solely by lenders. With Rule 10c-1a now final, we remain concerned about the disproportionate allocation of compliance costs.

² <https://www.federalregister.gov/d/2023-23052>

³ <https://www.federalregister.gov/d/2023-23052/p-944>

⁴ <https://www.federalregister.gov/d/2024-09847/p-53>

Given the substantial burden lenders must assume, we strongly urge FINRA to reconsider any plans to charge lenders for accessing SLATE data for commercial use. Imposing fees on lenders for accessing commercially valuable data they are mandated to provide creates an unfair "double-dipping" scenario. It also unfairly burdens lenders' participation in a system intended to enhance transparency.

Therefore, CSFME proposes that FINRA exempt lenders from any fees associated with accessing SLATE data for commercial purposes. Such an exemption would ensure that those who bear the primary costs of the SLATE system have equitable access to the industry-wide data, fostering a more balanced and transparent securities lending market.

Exempting Lender Data Trusts from Commercial Access Fees

Our comment letters on the SEC's Rule 10c-1a proposal explained that lenders can benefit from pooled industry data through a data trust model.

1. Cost Savings: Lenders can reduce reliance on third-party data aggregators and consultants by pooling their data, leading to cost savings. The data trust can negotiate collectively for services, potentially lowering costs.⁵
2. Improved Risk Management: A data trust can facilitate the development of more sophisticated risk management systems. By aggregating data on counterparty exposures, lenders can gain a more comprehensive understanding of systemic risks, similar to the situation with Archegos.⁶
3. Enhanced ESG and Proxy Voting Compliance: Pooled data can enable lenders to track better and ensure compliance with ESG principles and proxy voting guidelines.⁷
4. End-to-End Loan Mapping: A data trust can enable lenders to trace the flow of securities loans from the original lender to the ultimate borrower. This enhanced transparency can help identify and potentially mitigate risks associated with short selling, collateral management, and regulatory compliance.⁸

We highlighted that lenders often lack a comprehensive view of the securities lending market under the current system. This lack of transparency can create an information disadvantage,

⁵ <https://www.sec.gov/comments/s7-18-21/s71821-20109658-264014.pdf>

⁶ <https://www.sec.gov/comments/s7-18-21/s71821-20146484-311684.pdf>

⁷ <https://www.sec.gov/comments/s7-18-21/s71821-20111702-265034.pdf> and <https://www.sec.gov/comments/s7-18-21/s71821-20119858-272649.pdf>

⁸ <https://www.sec.gov/comments/s7-18-21/s71821-20109658-264014.pdf> and <https://www.sec.gov/comments/s7-18-21/s71821-20150128-316327.pdf>

Ms. Vanessa Countryman, Secretary
U.S. Securities and Exchange Commission
Page 4

potentially leading to suboptimal lending terms and reduced returns. A data trust can address these challenges by empowering lenders with greater control and insight into the broader securities lending market.

Consequently, we have proposed that lenders organize a data trust pooling industry-wide transaction-level data and regulatory filings. Because the trust's owners will be the lenders already required to submit their data to the SLATE platform and bear the associated costs, we request that such a data trust also be exempt from fees for the commercial use of SLATE data.

Conclusion

We appreciate the opportunity to comment on the Proposal and hope you will consider our recommendations. CSFME believes that exempting lenders and lender data trusts from any fees associated with accessing SLATE data for commercial purposes is a reasonable step toward mitigating lenders' compliance burdens. We look forward to continuing our work with the SEC and FINRA in the shared mission to foster market transparency and improve the quality of securities lending data. Should you have any questions about this letter, please do not hesitate to contact us.

Sincerely,



David Schwartz, Executive Director

Cc: Edmon W. Blount, Director Emeritus