April 14, 2025

Via Electronic Mail

The Honorable Paul. S. Atkins
Chairman
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Request for Postponement and Review of the SEC's Final Rule 10c-1a and FINRA Implementing Rules 6500 & 7720

Dear Chairman Atkins,

The International Securities Lending Association Americas ("ISLA Americas")[1], on behalf of its members, which include securities lending agents, beneficial owners, institutional investors, borrowers, and other market practitioners, continues to fully support additional transparency in the securities lending market and is submitting this letter to the Securities and Exchange Commission (the "SEC" or the "Commission") to raise its continuing concerns regarding (i) SEC Rule 10c-1a (the "Final Rule")[2] under the Securities and Exchange Act of 1934; (ii) Financial Industry Regulatory

[1] Incorporated in May 2024, ISLA Americas is a non-profit industry association, presently representing the common interests of securities lending agents, beneficial owners, institutional investors, borrowers, and other market practitioners in the Americas region. ISLA Americas works with the industry, as well as national, regional, and global regulators and policy makers, to advocate for, among other things, the importance of securities lending to well-functioning capital markets.

ISLA Americas is an affiliate of the International Securities Lending Association, a leading non-profit industry association representing the common interests of securities financing market participants across Europe, the Middle East, and Africa (focusing primarily on securities lending and borrowing activity). Its geographically diverse membership of over 200 firms includes institutional investors, asset managers, custodial banks, prime brokers and service providers. ISLA Americas, together with ISLA, serve the broader membership across regions, where a collective "Group ISLA" can produce a more cohesive output, reflecting multi-jurisdictional operating models and the need for one global advocacy voice.

[2] *See* 17 CFR § 240.10c-1a (the "Final Rule"); Release No. 34-98737 (Oct. 13, 2023), 88 FR 75644 (Nov. 3, 2023).

Authority, Inc. ("FINRA") Rule 6500 Series[3] (the "Original Proposal") as amended by Partial Amendment No. 1 to the Original Proposal;[4] (iii) related draft Participant Specifications for Securities Lending and Transparency Engine (SLATE™), which were also filed with the SEC during May of 2024 and as amended on February 13, 2025;[5] and (iv) FINRA's Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adopt Fees in FINRA Rule 7720 (Securities Lending and Transparency Engine (SLATE™)) (the "Fee Proposal")[6] (the Partial Amendment and the Fee Proposal, together with the Final Rule, the "Rule").

INTRODUCTION

For the reasons discussed below in this letter, ISLA Americas urges the Commission to undertake a comprehensive review of the Rule and repropose, amend, or otherwise provide relief to simplify and clarify the reporting requirements and reduce the impact of the costs and fees on beneficial owners and lending agents. If it is not possible to appropriately revise the Rule, we would recommend that the SEC consider its rescission.

Procedurally, each part of the Rule was subject to a short comment period -- often spanning holiday seasons, which served to discourage comments and to limit the ability of market participants to provide thoughtful and comprehensive analysis and recommendations. The last two FINRA filings (Partial Amendment 1 and the Fee Proposal) had overlapping 21-day comment periods that fell between the Thanksgiving and Christmas holidays, leaving market participants only eight days from the end of the first comment period to gather data and attempt to evaluate the impact of FINRA's Fee Proposal and provide meaningful analysis and commentary. We agree with the recent comment from Commissioner Mark T. Uyeda in his capacity as Acting Chair of the SEC, that that the SEC should return to its "historical rulemaking comment periods" of 60 days, as reflected in the "notice and comment approach to rulemaking that is a key procedural requirement of the Administrative Procedure Act"[7] and endorsed by the Administrative Conference of the United States for significant regulatory actions and recognized by multiple past presidents from both political parties.[8]

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[3] *See* Securities Exchange Act Release No. 100046, SR-FINRA-2024-007 (May 1, 2024), 89 FR 38203 (May 7, 2024) (Notice of Filing of a Proposed Rule Change to Adopt the FINRA Rule 6500 Series (Securities Lending and Transparency Engine (SLATE))) (the "SLATE Rules").

[4] *See* Securities Exchange Act Release No. 34-101645 (Nov. 14, 2024), 89 FR 92228 (Nov. 21, 2024) (Notice of Partial Amendment No. 1 to Proposed Rule Change to Adopt the FINRA Rule 6500 Series (Securities Lending and Transparency Engine (SLATE™)) (the "Partial Amendment").

[5] *See* https://www.finra.org/filing-reporting/slate/technical-notices/updated-participant-guide-021325.

[6] *See* Securities Exchange Act Release No. 34-101697, File No. SR-FINRA-2024-020 (Nov. 21, 2024), 89 FR 93750 (November 27, 2024) (the "Fee Proposal").

[7] *See* Mark T. Uyeda, Remarks at the Investment Company Institute's 2025 Investment Management Conference, (March 18, 2025), available at https://corpgov.law.harvard.edu/2025/03/18/remarks-by-acting-chair-uyeda-to-the-investment-company-institutes-2025-investment-management-conference/#4.

[8] *Id*.

ISLA America asks the Commission to consider the following recommendations:

1. Delay the Compliance Date of the Rule
2. Simplify and Clarify the Reporting Requirements
3. Change the Fee Structure.

Adoption of the above recommendations would have the benefits listed below.

- Clear, consistent, accurate and usable data would be provided to borrowers, investors, the public, and regulators.
- Unintended consequences that could impact market liquidity would be avoided.
- The costs of implementation and of the ongoing collection of data would be reduced.
- The burdens and costs borne by beneficial owners and their agents would be lightened.
- The technology build requirements would be mitigated.

COMMENTS AND RECOMMENDATIONS

1. Delay the Compliance Date

ISLA Americas has had several productive discussions with FINRA staff, from which, we understand that FINRA is in the process of asking the SEC to delay the compliance date of the Final Rule until late September 2026. We fully support this effort and also note that significant uncertainty remains that prevents covered persons[9] from beginning to assess and build the required technology. Two examples of this uncertainty include (1) the fact that the Final Rule is subject to ongoing litigation in the Fifth Circuit case National Assoc. Priv. Fund Mgr. v. SEC, No. 23-60626 (5th Cir.) in conjunction with the companion short selling disclosure rule, Rule 13f-2, that was finalized on the same day as the Final Rule[10]; and (2) FINRA's Participant Specification for Securities Lending and Transparency Engine (SLATE™), which was revised in January, 2025, is still in draft form. In addition, any changes made in accordance with our recommendations to simplify the reporting would result in further revised technical requirements. Notwithstanding these hurdles, a simplified reporting regime should lessen the period needed to complete the technology build. While we support FINRA's request for an extended compliance date, we note that the ability to build the applicable technology and meet any compliance date will depend on the removal of this uncertainty, which of course, may ultimately result in the need to further delay implementation.

2. Simplify and Clarify the Reporting Requirements

The Rule creates a complex and burdensome reporting regime, the costs of which far outweigh any expected benefits to investors or the public. It requires reporting of non-essential data items, some of which are likely to be confusing or misleading to data recipients. The use of technical legal concepts

[9] *See* the Final Rule, 88 FR 75644, at 75650 for a description of persons with reporting obligations.

[10] *See* 17 CFR 240.13f-2 ("Rule 13f-2"), Release No. 34-98738 (Oct. 13, 2023), 88 FR 75100 (Nov. 1, 2023).

in the Rule, such as "effectuating a loan", could be subject to multiple interpretations leading to inconsistent reporting across covered persons. In addition, the Rule places the burden of this complex reporting and its associated costs primarily on lenders (pension funds, retirement accounts, endowments, mutual funds) and their agents who typically engage in securities lending on a voluntary basis to earn incremental revenue. The additional expenses covered persons will incur to build systems to comply with these complex rules along with the significant fees proposed by FINRA to cover the costs necessary to develop and maintain the technology necessary to comply with the covered securities lending reporting and data dissemination requirements of the Rule may negatively impact liquidity in markets that already trade at exceedingly thin spreads, such as the US Treasury securities lending market.

We urge the Commission to consider simplifying the reporting by: (a) requiring an end-of day position report on T+1 of all omnibus level loans; (b) eliminating the requirement to report modifications as modifications would be reflected in the T+1 end-of-day position; and (c) removing the complicated legal concepts of (i) "effectuating a loan" and (ii) the reporting of the time at which a loan is "effected".

Requiring a daily end-of-day report of all completed loans on a T+1 basis would (a) ensure greater accuracy and efficiency, (b) reduce reporting errors and subsequent corrections and (c) allow reconciliation of all completed and settled loans. On occasion, there are breaks between lender and borrower records relating to loan terms, including, for example, rebate rates, lot sizes, etc. To ensure these breaks are addressed, the current market practice is to perform a daily reconciliation of all securities loan transactions. This daily contract compare process is performed each morning for the loan activity from the previous business day. This reconciliation involves the validation of each key field between borrower and lender records with any breaks highlighted and remediated.

It is our recommendation to submit loan data once this process is completed at the end of each business day, ensuring what is provided to the public is accurate and usable while reducing operational burdens on covered reporters and preventing excessive reporting costs. This approach would also align with the broader market settlement cycle, contributing to consistency. By providing a daily T+1 report, the need for reporting modifications would be eliminated.

Omnibus level loan information is all that is required to provide the public data currently described in the Final Rule. Information with respect to underlying beneficial owners participating in omnibus loans is constantly changing as those beneficial owners engage in various daily market transactions, such as long sales, hedging, option settlement, and pledging assets as collateral for a myriad of other transactions. These activities serve to change the underlying beneficial owners' supply of available securities and their ability to participate in current or future loans. Reporting this changing information would be burdensome, duplicative and of little additional value, especially given that the economics of the underlying transaction have remained the same. Accordingly, we do not see a need for reporting the constantly changing allocations of omnibus loans to underlying beneficial owners. Lending agents currently provide each borrower with a file every day after the close of trading which identifies the beneficial owners participating in each loan as of the close of business on that day. That information is currently available to regulators through the entities that they regulate and is not a data item that the SEC would require to be reported in public disclosure.

The Final Rule requires a covered reporter to determine the time at which a loan is "effected." The use of this term creates further complexity and will be difficult to determine. Each covered reporter will need to come to its own determination of when a loan is "effected". This will likely result in multiple interpretations leading to inconsistent reporting across covered reporters. In addition, it is unclear as to what benefit investors or the public will derive from knowing the exact time a loan is "effected." Providing an end-of-day report on a T+1 basis would include all fully reconciled loans completed and settled on that date.

3. Change the Fee Structure

Beneficial owners engage in securities lending on a voluntary basis. They view securities lending as an investment overlay strategy, whereby they seek to generate incremental alpha on their long positions. Lenders and their lending agents earn the smallest share of the revenue in the securities lending value chain. This revenue is offset by expenses that lenders must cover, which can include rebate fees, lending agent fees, and sometimes transaction costs. The Commission acknowledged that the likely impact of the Final Rule will be to reduce lending revenue earned by beneficial owners and transfer that lost revenue to borrowers.[11] Recapturing FINRA costs primarily through transaction fees, which are borne predominately by lenders (pension plans, endowments, mutual funds) and their lending agents adds expense to this reduced revenue stream which could cause lenders to change their behavior and potentially withdraw from lending, especially in those markets that already trade at thin spreads.

As an example, loans in the US Treasury securities lending market are not tied directly to a benchmark. However, loan pricing changes frequently, sometimes daily in response to changes in short-term interest rates. Under the current fee structure, this would result in excessive transaction fees on loans of US Treasury securities. In addition, during periods of market volatility, the volume of securities lending transactions tends to increase. This would result in increased transaction fees for lenders and their lending agents that could cause them to withdraw liquidity at the times when it is needed most.

FINRA's SLATE reporting fees are excessive and in effect act as a regressive tax on lenders and their lending agents. We have serious concerns regarding the unintended impact of FINRA's SLATE reporting fees on the broader market. The vast majority of securities lending activity is priced at thin margins *(i.e.*, 10 basis points or less). Adding FINRA's SLATE reporting fees to existing securities loan transaction costs would make the vast majority of the loans economically inefficient. This outcome would change market behavior; securities lending activity done in the past would not happen in the future.

We recommend that FINRA's SLATE development and operating costs be recouped through annual user/connection fees and market priced data subscriber fees as described in our comment letter[12] as well as the comment letter submitted by SIFMA on FINRA's SLATE Fee proposal. This would reduce the complexity and volatility inherent in transaction-based fees. It would also more equitably allocate the cost of the reporting across market participants and prevent market liquidity issues especially during periods of volatility. We also note that if the reporting is simplified, then the costs to build the

[11] *See* the Final Rule, 88 FR 75644, at 75707, footnote 845 and at 75715, footnote 948.

[12] *See* https://www.sec.gov/comments/sr-finra-2024-020/srfinra2024020-548895-1572762.pdf, at 4.

reporting system should also be simplified resulting in a reduction in the costs that FINRA needs to recoup. These costs should easily be recouped through user and data subscription fees.

CONCLUSION

ISLA Americas would like to take a moment to congratulate you on your confirmation as Chair of the Commission. We are looking forward to working with you to facilitate the SEC's mission. We would be happy to engage in a more comprehensive dialog with the Commission or its staff to assist in the development of any of the recommendations discussed in this letter or in any other manner. We believe that achieving effective and efficient reform requires healthy and robust collaboration between supervisors and market participants. We appreciate your consideration.

Sincerely,

Fran Garritt

CEO and President
International Securities Lending
Association Americas

Mark Whipple

Chairman of the Board of Directors
International Securities Lending
Association Americas

Cc: Mr. Robert Cook, President and CEO, FINRA