SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-102093; File No. SR-FINRA-2024-007)

January 2, 2025

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change, as Modified by Partial Amendment No. 1, to Adopt the FINRA Rule 6500 Series (Securities Lending and Transparency Engine (SLATE™))

I. Introduction

On May 1, 2024, the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "SEA"),[1] and Rule 19b-4 thereunder,[2] a proposed rule change to adopt the new FINRA Rule 6500 Series (Securities Lending and Transparency Engine (SLATE™)) to (1) require reporting of securities loans; and (2) provide for the public dissemination of loan information. The proposed rule change was published for comment in the Federal Register on May 7, 2024.[3] On June 10, 2024, the Commission extended until August 5, 2024, the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[4] On August 5, 2024, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change, and allow for additional analysis of, and input from commenters with respect to, the scope and implementation of the proposed rules.[5] On October 28, 2024, the Commission designated

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

3 See Securities Exchange Act Release No. 100046 (May 1, 2024), 89 FR 38203 (May 7, 2024) ("Notice").

4 See Securities Exchange Act Release No. 100305 (June 10, 2024), 89 FR 50644 (June 14, 2024).

5 See Securities Exchange Act Release No. 100655 (August 5, 2024), 89 FR 65441 (August 9, 2024) ("OIP").

January 2, 2025, as the date by which the Commission shall either approve or disapprove the proposed rule change.[6] On November 14, 2024, FINRA filed a partial amendment to the original proposed rule change. On November 15, 2024, the Commission published notice of Partial Amendment No. 1.[7] The Commission received comment letters in response to publications of the Notice, OIP, and Partial Amendment No. 1,[8] as well as a response letter from FINRA.[9] This order approves the proposed rule change, as modified by Partial Amendment No. 1 (collectively, "Proposal").[10]

II. Description of the Proposed Rule Change, as Modified by Partial Amendment No. 1

As described in more detail in the Notice[11] and in Partial Amendment No. 1,[12] FINRA stated that it proposed, consistent with Exchange Act Rule 10c-1a ("Rule 10c-1a"),[13] to adopt the new FINRA Rule 6500 Series (Securities Lending and Transparency Engine (SLATE™)) to establish reporting requirements for Covered Securities Loans and to provide for the dissemination of individual and aggregate Covered Securities Loan information and loan rate statistics. These proposed rules would define key terms for the reporting of Covered Securities Loans and specify the reporting requirements with respect to both Initial Covered Securities

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6 See Securities Exchange Act Release No. 101450 (October 28, 2024), 89 FR 87448 (November 1, 2024).

7 See Securities Exchange Act Release No. 101645 (November 15, 2024), 89 FR 92228 (November 21, 2024) ("Partial Amendment No. 1"). All defined terms herein have the same meaning as they do in the Notice and in Partial Amendment No. 1, as applicable.

8 Comments are available at: https://www.sec.gov/comments/sr-finra-2024-007/srfinra2024007.htm.

9 See Letter from Racquel L. Russell, Senior Vice President, Director of Capital Markets Policy, Office of General Counsel, FINRA (November 14, 2024), available at https://www.sec.gov/comments/sr-finra-2024-007/srfinra2024007-540615-1548002.pdf ("FINRA Letter").

10 The term "Proposal" as used herein refers to the proposed rule change, as amended by Partial Amendment No. 1.

11 See Notice, 89 FR 38204–06.

12 See Partial Amendment No. 1, 89 FR 92229.

13 17 CFR 240.10c-1a.

Loans and Loan Modifications. FINRA stated its intent to file, and has filed, separately a proposed rule change to establish Covered Securities Loan reporting fees and securities loan data products and associated fees.[14]

According to FINRA, the proposed Rule 6500 Series is designed to improve transparency and efficiency in the securities lending market, consistent with Section 15(A)(b)(6) of the Exchange Act, Rule 10c-1a, and Section 984 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.[15] FINRA stated that the proposed rule change would do so by facilitating the collection of specified securities loan information from Covered Persons and Reporting Agents, both of which may include non-FINRA members, and providing access to such information to market participants, the public, and regulators.[16]

A. Reporting Initial Covered Securities Loans

Proposed Rule 6530(a) would govern the reporting requirements applicable to Covered Persons for reporting Initial Covered Securities Loans.[17] Proposed Rule 6510[18] would define "Initial Covered Securities Loan" as a new Covered Securities Loan not previously reported to SLATE. The definitions of "Covered Person" and "Covered Securities Loan" for the purposes of this proposed rule change would be the same as set forth in Rule 10c-1a. Initial Covered Securities Loans would be required to be reported within the time periods outlined in proposed Rule 6530(a)(1) (When and How Initial Covered Securities Loans Are Reported). Specifically, as

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14 Notice, 89 FR 38206. See infra Part III.I.

15 Notice, 89 FR 38213.

16 Notice, 89 FR 38213.

17 As described in more detail in the Notice, as well as below, in Part II.C, a Covered Person may engage a Reporting Agent to comply with the reporting obligations on its behalf.

18 Partial Amendment No. 1 modified originally proposed Rule 6510 by removing the subparagraph providing the definition of "Affiliate," re-lettering all subsequent subparagraphs under proposed Rule 6510, and updating cross-references in proposed Rule 6510 to other SLATE provisions.

modified by Partial Amendment No. 1, for Initial Covered Securities Loans effected on a business day at or after 12:00:00 a.m. Eastern Time ("ET") through 7:00:00 p.m. ET the required information must be reported the same day by 11:59:59 p.m. ET.[19] Additionally, as modified by Partial Amendment No. 1, for Initial Covered Securities Loans effected on a business day after 7:00:00 p.m. ET, the required information must be reported no later than the next business day (T+1) by 11:59:59 p.m. ET;[20] Initial Covered Securities Loans effected on a Saturday, a Sunday, a federal or religious holiday, or other day on which SLATE is not open at any time during that day (determined using ET) must be reported the next business day (T+1) by 11:59:59 p.m. ET.[21]

Proposed Rule 6530(a)(2) (Loan Information To Be Reported) would specify the items of information that must be reported to FINRA. Specifically, as modified by Partial Amendment No. 1,[22] proposed Rule 6530(a)(2)(A) through (L) would require that Initial Covered Securities Loan reports must contain the below non-confidential data elements:

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19 See proposed Rule 6530(a)(1)(A). As originally proposed in the Notice, an Initial Covered Securities Loan effected on a business day at or after 12:00:00 a.m. ET through 7:45:00 p.m. ET would have been reported the same day before 8:00:00 p.m. ET.

20 See proposed Rule 6530(a)(1)(B). As originally proposed in the Notice, an Initial Covered Securities Loan effected on a business day after 7:45:00 p.m. ET would have been reported no later than the next business day (T+1) before 8:00:00 p.m. ET.

21 See proposed Rule 6530(a)(1)(C). As originally proposed in the Notice, an Initial Covered Securities Loan effected on a Saturday, a Sunday, a federal or religious holiday, or other day on which SLATE is not open at any time during that day (determined using ET) would have been reported the next business day (T+1) before 8:00:00 p.m. ET.

22 As originally proposed in the Notice, each SLATE report would have contained the expected settlement date of the Covered Securities Loan. Partial Amendment No. 1 removed this proposed data element. In addition, as originally proposed in the Notice, each SLATE report would have contained the data element "[a]ny other fees or charges" separately from the data element concerning the rebate rate, as applicable to a Covered Securities Loan collateralized by cash or a Covered Securities Loan not collateralized by cash. FINRA stated that, when reporting a rebate rate or lending fee pursuant to (originally) proposed Rule 6530(a)(2)(I) or (J), respectively, a Covered Person must report the rebate rate or lending fee as a percentage, and separately report the dollar cost of any other fees or charges. See Notice, 89 FR 38206 n.30. The data element "[a]ny other fees or charges" has been removed by Partial Amendment No. 1. In light of the removal of these data elements, Partial Amendment No. 1 re-lettered the paragraphs under proposed Rule 6530(a)(2). Changes from Partial Amendment No. 1 regarding specific data elements are discussed below with respect to such data elements.

(A) The legal name of the security issuer and the Legal Entity Identifier ("LEI") of the issuer (if the issuer has a non-lapsed LEI);

(B) Security symbol, CUSIP, ISIN, or FIGI, or other security identifier;[23]

(C) The date the Covered Securities Loan was effected;

(D) The time the Covered Securities Loan was effected;

(E) The name of the platform or venue where the Covered Securities Loan was effected;[24]

(F) The amount of the Reportable Securities loaned;[25]

(G) The type of collateral used to secure the Covered Securities Loan;

(H) For a Covered Securities Loan collateralized by cash, the rebate rate or any other fee or charges;[26]

(I) For a Covered Securities Loan not collateralized by cash, the securities lending fee or rate, or any other fee or charges;[27]

(J) The percentage of collateral to value of Reportable Securities loaned required to secure such Covered Securities Loan;

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23 Partial Amendment No. 1 added the text "or other security identifier" to this list.

24 Partial Amendment No. 1 added the text "name of the" before the word "platform." FINRA stated that it will make available a list of platforms/venues and their associated identifiers for reporting purposes; if a loan occurs on a platform/venue not yet included on the FINRA list, the Covered Person must enter the name of the platform/venue in the SLATE report. See Notice, 89 FR 38206 n.28.

25 Proposed Rule 6530(a)(3) specifies that, for a Covered Securities Loan of a security reportable to CAT, a Covered Person must report the number of shares loaned. For a Covered Securities Loan of a security reportable to Trade Reporting and Compliance Engine ("TRACE") or the Municipal Securities Rulemaking Board's Real-Time Transaction Reporting System ("RTRS"), a Covered Person must report the total par value of the securities loaned. Notice, 89 FR 38206 n.29.

26 Partial Amendment No. 1 modified this proposed data element by adding the text "or any other fee or charges."

27 Partial Amendment No. 1 modified this proposed data element by adding the text "or rate, or any other fee or charges."

(K) The termination date of the Covered Securities Loan;[28]

(L) Whether the borrower is a Broker or Dealer, a customer (if the person lending securities is a Broker or Dealer), a Clearing Agency, a Bank, a Custodian, or other person.[29]

As modified by Partial Amendment No. 1,[30] proposed Rule 6530(a)(2)(M) through (U) would also require that Initial Covered Securities Loan reports contain the below confidential data elements:

(M) If known, the market participant identifier ("MPID") of the Covered Person;[31]

(N) If known, the legal name of each party to the Covered Securities Loan (other than the customer from whom a Broker or Dealer borrows fully paid or excess margin securities pursuant to SEA Rule 15c3-3(b)(3));

(O) If known, the CRD Number or Investment Adviser Registration Depository ("IARD") Number of each party to the Covered Securities Loan;[32]

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28 As originally proposed in the Notice, such information would have been provided in connection with a Covered Securities Loan with a specified term. Partial Amendment No. 1 modified this data element by removing the modifying text "[f]or a Covered Securities Loan with a specified term."

29 Proposed Rule 6510 would define the terms "Broker," "Dealer," "Clearing Agency," "Bank," and "Custodian" by reference to their respective definitions under section 3(a) of the Exchange Act. See Notice, 89 FR 38207 nn.32–36.

30 As originally proposed in the Notice, each SLATE report would have specified whether the Covered Person is the lender, borrower or intermediary; if the Covered Securities Loan is an allocation of an omnibus loan effected pursuant to an agency lending agreement, the unique internal identifier for the associated omnibus loan assigned by the Covered Person responsible for reporting the Covered Securities Loan to SLATE; and such modifiers and indicators as required by either the Rule 6500 Series or the SLATE Participant (defined in proposed Rule 6510(g)) specification. Partial Amendment No. 1 removed these proposed data elements. Changes from Partial Amendment No. 1 regarding specific data elements are discussed below with respect to such data elements.

31 Partial Amendment No. 1 added this data element to the list of loan information to be reported. FINRA stated that the conforming change to proposed Rule 6530(a)(2) to require a Covered Person to submit their MPID, if known, when reporting an Initial Covered Securities Loan, consistent with the requirement in proposed Rule 6530(b)(2)(C) for Loan Modification reports, will identify in the audit trail the party on whose behalf a SLATE report is submitted. Partial Amendment No. 1, 89 FR 92231.

32 Partial Amendment No. 1 removed the text "if applicable" at the end of this data element.

(P) If known, the MPID of each party to the Covered Securities Loan;

(Q) If known, the LEI of each party to the Covered Securities Loan;

(R) If known, whether each party to the Covered Securities Loan is the lender, the borrower, or an intermediary between the lender and the borrower;

(S) If the person lending securities is a Broker or Dealer and the borrower is its customer, whether the security is loaned from the Broker's or Dealer's securities inventory to a[33] customer of such Broker or Dealer;

(T) If known, whether the Covered Securities Loan is being used to close out a fail to deliver pursuant to Rule 204 of SEC Regulation SHO or to close out a fail to deliver outside of Regulation SHO; and[34]

(U) Where a Covered Person's daily submission includes two or more reports related to the same Covered Securities Loan (e.g., an Initial Covered Securities Loan and a Loan Modification to terminate the Covered Securities Loan) and FINRA has not yet assigned a unique identifier to the Initial Covered Securities Loan, a unique identifier assigned to the Covered Securities Loan by the Covered Person responsible for reporting the loan to SLATE.[35]

FINRA originally proposed six modifiers and indicators set forth in proposed Rule 6530(c), which would have applied to specific scenarios where additional detail is appropriate to

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33 Partial Amendment No. 1 replaced the word "the" with the word "a" before the text "customer of such Broker or Dealer."

34 Partial Amendment No. 1 added the word "and" between originally proposed paragraphs (a)(2)(T) and (a)(2)(U).

35 As originally proposed in the Notice, this data element would have provided the following: "The unique internal identifier assigned to the Covered Securities Loan by the Covered Person responsible for reporting the loan to SLATE."

clarify the information required to be reported pursuant to proposed Rule 6530(a)(2) and (b)(2).[36] These modifiers or indicators would have been appended to all SLATE reports.[37] FINRA stated that it planned to use these modifiers for data validation purposes (e.g., in instances where FINRA's data validation logic identified the reported rate as potentially erroneous).[38] Partial Amendment No. 1 removed the proposed requirement to append to each SLATE report specified modifiers and indicators. Partial Amendment No. 1 also modified proposed Rule 6510 (Definitions) by removing the definition of the term "affiliate" because that term is no longer needed given the deletion of the related indicator.[39]

Partial Amendment No. 1 added proposed Rule 6530(a)(4) (Reporting Loan Rates Based on a Spread to a Benchmark or Reference Rate) to permit Covered Persons to—as an alternative to reporting the rebate rate or lending fee or rate for a Covered Securities Loan—report the spread and identity of the benchmark or reference rate for Covered Securities Loans that are priced based on a spread to a benchmark or reference rate. Specifically, new proposed Rule 6530(a)(4)(B) would provide that, where a rebate rate or lending fee or rate is determined based on a spread to a benchmark or reference rate, a Covered Person may report: (1) the rebate rate or lending fee or rate as of the date the Covered Securities Loan was effected; (2) the spread; and (3) the identity of the benchmark or reference rate. Alternatively, a Covered Person may report only the rebate rate or lending fee or rate.

B. Reporting Securities Loan Modifications

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36 See Notice, 89 FR 38207–08.

37 These modifiers and indicators would have been the following: Exclusive Arrangement; Loan to Affiliate; Unsettled Loan; Terminated Loan; Rate or Fee Adjustment; and Basket Loan. For a discussion of each of these modifiers and indicators, see Notice, 89 FR 38208.

38 See Notice, 89 FR 38208.

39 See supra note 18.

Proposed Rule 6530(b) would govern the reporting requirements applicable to Covered Persons for reporting Loan Modifications. Proposed Rule 6510 would define "Loan Modification" as a change to any "Data Element" with respect to a Covered Securities Loan (irrespective of whether such Covered Securities Loan was previously reported to SLATE), where "Data Element" refers to the required non-confidential data elements reported pursuant to proposed Rule 6530(a)(2). Proposed Rule 6530(b)(1) (When and How Loan Modifications Are Reported) would require that Loan Modifications be reported within the same timeframes applicable to the reporting of Initial Covered Securities Loans. Specifically, as modified by Partial Amendment No. 1, for Loan Modifications effected on a business day at or after 12:00:00 a.m. ET through 7:00:00 p.m. ET, the required information must be reported the same day by 11:59:59 ET.[40] As modified by Partial Amendment No. 1, for Loan Modifications effected on a business day after 7:00:00 p.m. ET, the required information must be reported no later than the next business day (T+1) by 11:59:59 ET;[41] Loan Modifications effected on a Saturday, a Sunday, a federal or religious holiday, or other day on which SLATE is not open at any time during that day (determined using ET) must be reported the next business day (T+1) by 11:59:59 ET.[42]

Proposed Rule 6530(b)(2) (Loan Modifications – Information To Be Reported) would specify the items of information that must be reported to FINRA. Specifically, as modified by

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40 As originally proposed in the Notice, a Loan Modification effected on a business day at or after 12:00:00 a.m. ET through 7:45:00 p.m. ET would have been reported the same day by 8:00:00 p.m. ET.

41 As originally proposed in the Notice, a Loan Modification effected on a business day after 7:45:00 p.m. ET would have been reported no later than the next business day (T+1) by 8:00:00 p.m. ET.

42 As originally proposed in the Notice, a Loan Modification effected on a Saturday, a Sunday, a federal or religious holiday, or other day on which SLATE is not open at any time during that day (determined using ET) would have been reported the next business day (T+1) by 8:00:00 p.m. ET.

Partial Amendment No. 1,[43] proposed Rule 6530(b)(2)(A) through (E) would require that each Loan Modification report contain the information below:

(A) The unique identifier assigned by FINRA to the Initial Covered Securities Loan, or where a Covered Person's daily submission includes two or more reports related to the same Covered Securities Loan and FINRA has not yet assigned a unique identifier to the Covered Securities Loan, the identifier reported pursuant to paragraph (a)(2)(U) of this Rule;[44]

(B) If known, the MPID of the Covered Person;[45]

(C) The date of the Loan Modification;

(D) The time of the Loan Modification; and[46]

(E) (i) If the Loan Modification occurs after the Data Elements for such Covered Securities Loan are reported to SLATE, and results in a change to information previously required to be reported to SLATE, the specific modification and the specific Data Elements being modified, or (ii) If the Loan Modification is to a

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43 As originally proposed in the Notice, for Loan Modifications, each SLATE report would have contained the following data elements: if the Covered Securities Loan is an allocation of an omnibus loan effected pursuant to an agency lending agreement, the unique internal identifier for the associated omnibus loan; the expected settlement date for modifications to the loan amount (if the expected settlement date is a date other than the date of the Loan Modification), or the effective date for all other Loan Modifications (if the effective date is a date other than the date of the Loan Modification); whether the Covered person is the lender, borrower or intermediary; and such modifiers and indicators as required by either the Rule 6500 Series or the SLATE Participant specification. Partial Amendment No. 1 removed these proposed data elements. In light of the removal of these data elements, Partial Amendment No. 1 re-lettered the paragraphs under proposed Rule 6530(b)(2). Changes from Partial Amendment No. 1 regarding specific data elements are discussed below with respect to such data elements.

44 As originally proposed in the Notice, the following information concerning this requirement would have been reported with respect to Loan Modifications: the unique identifier assigned by FINRA to the Initial Covered Securities Loan, or, if a unique identifier has not yet been assigned by FINRA, the unique internal identifier assigned to the Covered Securities Loan by the Covered Person responsible for reporting the loan to SLATE.

45 Partial Amendment No. 1 added the text "[i]f known" to the beginning of this data element.

46 Partial Amendment No. 1 added the word "and" between paragraphs (b)(2)(D) and (b)(2)(E).

Covered Securities Loan for which reporting to SLATE was not required on the date the loan was agreed to or last modified and results in a change to any of the Data Elements, all Data Elements as of the date of modification and an identifier described in paragraph (a)(2)(U) of this Rule.[47]

As originally proposed in the Notice, Rule 6530.01 (Intraday Loan Modifications) would have addressed a Covered Person's reporting obligations when multiple Loan Modifications occur on a given day. Specifically, if a Covered Securities Loan (whether or not previously reported to SLATE) were modified multiple times throughout the day, proposed Rule 6530.01 would have set forth the requirement for a Covered Person to report each Loan Modification that occurred on a given day as set forth in proposed Rule 6530(b).[48] Partial Amendment No. 1 removed proposed Rule 6530.01.

As originally proposed in the Notice, Rule 6530.02 (Changes to the Parties to a Covered Securities Loan) would have provided that, with respect to a previously reported Covered Securities Loan, following the addition or removal of a party required to be identified pursuant to Rule 6530(a)(2)(O) a Covered Person must: (1) report the termination of the previously reported Covered Securities Loan as a Loan Modification pursuant to Rule 6530(b) that reflects the date and time the party was added or removed and select the Terminated Loan indicator; and (2) report an Initial Covered Securities Loan pursuant to Rule 6530(a) that reflects the new parties to the loan, if known (other than the customer from whom a Broker or Dealer borrows fully paid or

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47 As originally proposed in the Notice, this data element would have concerned "[t]he modified Data Elements for a Loan Modification to a Covered Securities Loan previously reported to SLATE or all Data Elements for a Loan Modification to a Covered Securities Loan that was not previously required to be reported to SLATE." Partial Amendment No. 1 replaced that text with the text included above.

48 See Notice, 89 FR 38209.

excess margin securities pursuant to SEA Rule 15c3-3(b)(3)). Partial Amendment No. 1 removed originally proposed Rule 6530.02.

C. Compliance with Reporting Obligations

FINRA proposed to adopt, as modified by Partial Amendment No. 1, proposed Rule 6530(c) (Compliance with Reporting Obligations) to implement provisions regarding Covered Persons' ongoing reporting obligations and the use of third parties in meeting Exchange Act Rule 10c-1a and FINRA 6500 Rule Series obligations.[49] Specifically, proposed Rule 6530(c)(1) provides that Covered Persons (other than Covered Persons that engage a Reporting Agent) have an ongoing obligation to report Initial Covered Securities Loans and Loan Modifications to FINRA timely, accurately, and completely. In addition, a Covered Person may employ an agent for the purpose of submitting loan information to SLATE; however, unless the Covered Person has retained a Reporting Agent as permitted under Exchange Act Rule 10c-1a, the primary responsibility for the timely, accurate, and complete reporting of loan information to SLATE remains the non-delegable duty of the Covered Person with the reporting obligation. Similar to requirements that exist with respect to reporting obligations under other FINRA rules,[50] proposed Rule 6530(c)(2) provides that a member's pattern or practice of late reporting without exceptional circumstances may be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of FINRA Rule 2010.

As originally proposed in the Notice, even where a member employs a Reporting Agent consistent with Rule 10c-1a(a)(2), the member would nonetheless have been required to take reasonable steps to ensure that the Reporting Agent is in fact complying with the securities

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49 Partial Amendment No. 1 re-lettered this provision paragraph to (c).

50 See, e.g., FINRA Rule 6380A(a)(4); FINRA Rule 6622(a)(4); FINRA Rule 6623; FINRA Rule 6730(f).

lending reporting requirements of Rule 10c-1a and proposed FINRA Rule 6530 on its behalf. Originally proposed Rule 6530(d)(3)[51] would have provided that a member relying on a Reporting Agent has an obligation under FINRA Rule 3110 (Supervision) to take reasonable steps to ensure that the Reporting Agent is complying with Rule 10c-1a and FINRA Rule 6530 on its behalf. Partial Amendment No. 1 removed this proposed requirement.

As modified by Partial Amendment No. 1, proposed Rule 6530(c)(3)[52] would provide that, if a Covered Person makes a good faith determination that it has a reporting obligation under Rule 10c-1a,[53] the Covered Person or Reporting Agent, as applicable, must report the Covered Securities Loan as provided in proposed Rule 6530. If the Reportable Security is not entered into the SLATE system, proposed Rule 6530(c)(3) would also require the Covered Person or Reporting Agent, as applicable, to promptly notify and provide FINRA Operations, in the form and manner required by FINRA, the information specified in Rule 6530(a)(2)(A) and (B), along with such other information as FINRA deems necessary to enter the Reportable Security for reporting through SLATE. FINRA stated that this requirement would enable FINRA to set the security up in its systems and facilitate reporting of the Covered Securities Loan to SLATE, as required by Rule 10c-1a and proposed Rule 6530.[54]

D. Participation in SLATE

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51 See supra note 49.

52 As originally proposed in the Notice, this paragraph would have been (d)(4). Partial Amendment No. 1 re-lettered and re-numbered this paragraph to (c)(3).

53 As originally proposed in the Notice, this requirement would have applied with respect to a reporting obligation under both Rule 10c-1a and SLATE. Partial Amendment No. 1 removed the text "and this Rule 6500 Series" from proposed Rule 6530(c)(3).

54 Notice, 89 FR 38210.

Proposed Rule 6520 (Participation in SLATE) would establish the requirements applicable to Covered Persons and Reporting Agents with respect to participation in SLATE. Rule 6510 would define a "SLATE Participant" as "any person that reports securities loan information to SLATE, directly or indirectly." "SLATE Participant" therefore would include both persons who connect to SLATE directly to report Covered Securities Loan information, including Reporting Agents, as well as any Covered Person who has engaged a Reporting Agent or other agent.

Paragraph (1) of proposed Rule 6520(a) (Mandatory Participation) would provide that participation in SLATE is mandatory for purposes of reporting Covered Securities Loans. Such mandatory participation would obligate a Covered Person to submit Covered Securities Loan information to SLATE in conformity with Rule 10c-1a and the FINRA Rule 6500 Series. Proposed Rule 6520(a)(2) would provide that participation in SLATE would be conditioned on the SLATE Participant's initial and continuing compliance with specified requirements. Specifically, SLATE Participants must: (1) obtain an MPID for reporting Covered Securities Loans to SLATE; (2) execute and comply with the SLATE Participant application agreement and all applicable rules and operating procedures of FINRA and the SEC; and (3) maintain the physical security of the equipment located on the premises of the SLATE Participant to prevent unauthorized entry of information into SLATE. Proposed Rule 6520(a)(3) would provide that SLATE Participants would be obligated to inform FINRA of non-compliance with, or changes to, any of the participation requirements set forth in paragraph (a)(2) of this Rule.

Proposed Rule 6520(b) (Reporting Agents) would set forth the participation requirements specific to Reporting Agents. Proposed Rule 6520(b) would require a SLATE Participant acting as a Reporting Agent to provide FINRA with a list naming each Covered Person on whose behalf

the Reporting Agent is providing information to SLATE and any updates[55] to the list of such persons by the end of the day on which any such change occurs, in the form and manner specified by FINRA. FINRA stated that this requirement is consistent with Rule 10c-1a(b)(4).[56]

Finally, proposed Rule 6520(c) (SLATE Participant Obligations) would provide that, upon execution and receipt by FINRA of the SLATE Participant application agreement, a SLATE Participant may commence input of Covered Securities Loan reports into SLATE. Proposed Rule 6520(c) also would require that a SLATE Participant must report Covered Securities Loan information using its MPID and would provide that a SLATE Participant may access SLATE via a FINRA-approved facility during SLATE System Hours.[57]

E. Dissemination of Loan Information

Proposed Rule 6540 (Dissemination of Loan Information) would provide for the public dissemination of securities loan data reported to SLATE and information pertaining to the aggregate loan transaction activity and distribution of loan rates for each Reportable Security. The publicly available data would include: (1) next day (T+1) loan-level data dissemination for Initial Covered Securities Loans and Loan Modifications (except for the loan amount); (2) T+20 dissemination of the loan amount for Initial Covered Securities Loans and Loan Modifications; and (3) daily loan statistics (i.e., aggregate loan activity and distribution of loan rates).

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55 Partial Amendment No. 1 changed the word "changes," as originally proposed in the Notice, to "updates."

56 Notice, 89 FR 38210.

57 As originally proposed in the Notice, SLATE System Hours would have meant the hours SLATE is open, which would be 6:00:00 a.m. ET through 7:59:59 p.m. ET on a business day, unless otherwise announced by FINRA. Partial Amendment No. 1 modified this proposed text from "7:59:59 p.m. Eastern Time" to "11:59:59 p.m. Eastern Time."

1. T+1 Loan-Level Data Dissemination

Under proposed Rule 6540(a) (Next Day Dissemination), as modified by Partial Amendment No. 1, for each Initial Covered Securities Loan and Loan Modification reported to SLATE on a given business day, no later than the morning of the next business day, FINRA would make publicly available: (1) for an Initial Covered Securities Loan,[58] the unique identifier assigned by FINRA to the Covered Securities Loan; (2) for a Loan Modification, the unique identifier assigned by FINRA to the Covered Securities Loan if reported to SLATE or otherwise identified by FINRA;[59] (3) the security identifier(s) specified in Rule 6530(a)(2)(A) or (B) that FINRA determines is appropriate to disseminate; and (4) the requisite Data Elements,[60] except the amount of Reportable Securities loaned.[61]

2. T+20 Loan Amount Dissemination

As discussed in greater detail in the Notice,[62] and as described in Partial Amendment No. 1,[63] pursuant to Rule 6540(b) (Delayed Dissemination), for each Initial Covered Securities Loan and Loan Modification reported to SLATE, 20 business days after the date on which the Initial Covered Securities Loan was effected or the loan amount was modified, FINRA would make publicly available: (1) for an Initial Covered Securities Loan,[64] the unique identifier assigned by FINRA to the Covered Securities Loan; (2) for a Loan Modification, the unique identifier

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58 Partial Amendment No. 1 added the text "for an Initial Covered Securities Loan."

59 Partial Amendment No. 1 added this paragraph (a)(2) to proposed Rule 6540 and re-numbered the subsequent paragraphs under proposed Rule 6540(a).

60 See Notice, 89 FR 38211.

61 See Partial Amendment No. 1, 89 FR 92234–35.

62 See Notice, 89 FR 38211.

63 See Partial Amendment No. 1, 89 FR 92235.

64 Partial Amendment No. 1 added the text "for an Initial Covered Securities Loan."

assigned by FINRA to the Covered Securities Loan if reported to SLATE or otherwise identified by FINRA;[65] (3) the security identifier(s) specified in Rule 6530(a)(2)(A) or (B) that FINRA determines is appropriate to disseminate; and (4) the amount of Reportable Securities loaned reported to SLATE. FINRA stated that, for Initial Covered Securities Loans, the 20-day delay period would begin the day after the Covered Securities Loan is effected (even in the case of late reports).[66]

3. Daily Loan Statistics

In addition to T+1 loan-level data disseminated pursuant to proposed Rule 6540(a), FINRA would disseminate statistics regarding Covered Securities Loans reported to FINRA, including aggregate loan activity and distribution of loan rebate rates and lending fees.

Pursuant to paragraph (1) (Aggregate Loan Transaction Activity) of proposed Rule 6540(c), for each Reportable Security for which an Initial Covered Securities Loan or Loan Modification is reported to SLATE on a given business day, FINRA would disseminate, no later than the morning of the next business day, aggregated loan activity in the Reportable Security (along with the security identifier specified in Rule 6530(a)(2)(A) or (B) that FINRA determines is appropriate to disseminate). As modified by Partial Amendment No. 1, the aggregated data would include, for each Reportable Security, under proposed Rule 6540(c)(1), the aggregate volume of securities[67] subject to an Initial Covered Securities Loan or modification to the amount of Reportable Securities loaned, reported on the prior business day.

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65 Partial Amendment No. 1 added this paragraph (b)(2) to proposed Rule 6540 and re-lettered the subsequent paragraphs under proposed Rule 6540(b).

66 Notice, 89 FR 38211.

67 Partial Amendment No. 1 removed the text "(both in total and by collateral type)" following the word "securities."

FINRA stated that these data would provide the public with useful information concerning the daily lending activity in Reportable Securities, including insight into how this activity is distributed across collateral types.[68] To that end, proposed Rule 6540.01 (De Minimis Loan Transaction Activity), as modified by Partial Amendment No. 1, would state that FINRA will not include aggregate volume information for a Reportable Security unless there were reports submitted to SLATE on the prior business day for at least ten distinct Covered Securities Loans in the Reportable Security (represented by different FINRA-assigned unique loan identifiers).[69]

Partial Amendment No. 1 also removed four other originally proposed provisions related to FINRA's dissemination of aggregate loan transaction activity. As originally proposed in the Notice, the aggregated loan transaction activity data disseminated pursuant to proposed Rule 6540(c)(1) would also have included under: (1) proposed Rule 6540(c)(1)(B), the aggregate volume of securities (both in total and broken down by collateral type) subject to a rebate rate or fee modification reported on the prior business day; (2) proposed Rule 6540(c)(1)(C), the aggregate volume of securities subject to an Initial Covered Securities Loan or modification to the amount of Reportable Securities loaned subject to a loan with a specified term and subject to a loan without a specified term reported on the prior business day; (3) proposed Rule 6540(c)(1)(D), the aggregate volume of securities subject to an Initial Covered Securities Loan or modification to the amount of Reportable Securities loaned to one or more borrower types specified in Rule 6530(a)(2)(N) reported on the prior business day; and (4) proposed Rule

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68 Notice, 89 FR 38212.

69 As originally proposed in the Notice, Rule 6540.01 (De Minimis Loan Transaction Activity) would have provided that FINRA may omit from the aggregate loan activity volume information for Reportable Securities for which there were three or fewer types of Initial Covered Securities Loan and Loan Modification events reported to SLATE in total on the prior business day. Notice, 89 FR 38212 n.74.

6540(c)(1)(E), the aggregate number of Initial Covered Securities Loans and terminated Covered Securities Loans (both in total and broken down by collateral type) reported on the prior business day.

Pursuant to paragraph (2) (Loan Rate Distribution Data) of proposed Rule 6540(c), for each Reportable Security for which an Initial Covered Securities Loan or Loan Modification is reported to SLATE on a business day, FINRA would also disseminate, not later than the morning of the next business day, the security identifier (specified in Rule 6530(a)(2)(A) or (B)) that FINRA determines is appropriate to identify the relevant Reportable Security and information pertaining to the distribution of loan rebate rates or lending fees or rates, as applicable,[70] including: the highest rebate rate, lowest rebate rate, and volume weighted average of the rebate rates by U.S. currency and non-U.S. currency, as applicable,[71] reported to SLATE for Initial Covered Securities Loans collateralized by cash and, separately, for Loan Modifications collateralized by cash (where the Loan Modification involved a change to the rebate rate). FINRA would also disseminate the highest lending fee or rate, lowest lending fee or rate, and volume weighted average of the lending fees or rates reported for Initial Covered Securities Loans not collateralized by cash and, separately, for Loan Modifications not collateralized by cash (where the Loan Modification involved a change to the lending fee or rate). FINRA stated that these rate distribution metrics would provide market participants with both an overall view

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70 FINRA stated that, in addition to the items of information specified in paragraphs (A) and (B) of proposed Rule 6540(c)(2), FINRA may, in its discretion, publish or distribute additional metrics regarding loan rebate rates and lending fees free of charge. Notice, 89 FR 38212 n.79.

71 Partial Amendment No. 1 added the text "by U.S. currency and non-U.S. currency, as applicable." FINRA stated that the modification made by Partial Amendment No. 1 is appropriate because the currency used as collateral will impact the rebate rate reported to SLATE and, therefore, separating the rate information by U.S. currency collateral and non-U.S. currency collateral will make the disseminated information more useful. Partial Amendment No. 1, 89 FR 92232.

of the range of daily loan pricing for each Reportable Security, as well as insight into the relationship between loan rates/fees and loan amounts.[72]

Proposed Rule 6540(d) (Loan Transaction Information Not Disseminated), as modified by Partial Amendment No. 1, would specify that FINRA will not disseminate any Confidential Data Elements reported to SLATE.[73] As proposed in Rule 6540.02 (Means of Data Dissemination), FINRA would make the data pursuant to proposed Rule 6540(a) through (c) available on FINRA's website free of charge for personal, non-commercial purposes only. For other uses, FINRA would publish or distribute SLATE data for fees that have been filed with the SEC pursuant to Rule 19b-4 under the Exchange Act.

F. Other Provisions

Proposed Rule 6550 (Emergency Authority) would provide that, as market conditions may warrant, FINRA, in consultation with the Commission, may suspend the reporting or dissemination of certain Covered Securities Loans, or the reporting of certain Data Elements or Confidential Data Elements or the dissemination of certain Data Elements for such period of time as FINRA deems necessary. FINRA stated that this proposed rule is consistent with FINRA's rules governing other reporting facilities that it operates.[74]

FINRA stated that, if the Commission approves the proposed rule change, unless an extension is provided pursuant to Commission order, the implementation date of the proposed FINRA rules establishing the reporting requirements will be January 2, 2026; and the

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72 Notice, 89 FR 38212.

73 As originally proposed in the Notice, FINRA would not have disseminated any modifier or indicator required by either the Rule 6500 Series or the SLATE Participant specification that FINRA determines shall not be publicly disseminated. Partial Amendment No. 1 removed this language.

74 Notice, 89 FR 38212 (citing FINRA Rule 6770).

implementation date of the proposed FINRA rules establishing the dissemination requirements will be April 2, 2026.[75]

III. Summary of Comments, FINRA's Response, and Commission Findings

After reviewing the Notice, Partial Amendment No. 1, and comment letters received, the Commission finds that the Proposal is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities association.[76] In particular, the Commission finds that the Proposal is consistent with Section 15A(b)(6) of the Exchange Act,[77] which requires, among other things, that FINRA rules be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Commission also finds that the Proposal is consistent, in particular, with Section 15A(b)(9) of the Exchange Act,[78] which requires that FINRA rules do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

In adopting Rule 10c-1a, the Commission stated that the rule's requirements are designed to increase the transparency of information available to brokers, dealers, and investors with

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75 Notice, 89 FR 38213.

76 In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f). See also infra Part III.E.

77 15 U.S.C. 78o-3(b)(6).

78 15 U.S.C. 78o-3(b)(9).

respect to loans or borrowing securities.[79] Rule 10c-1a requires, among other things, that FINRA implement rules regarding the format and manner of its collection of information described in Rule 10c-1a(c) through (e) and make publicly available such information in accordance with rules promulgated pursuant to Section 19(b) and Rule 19b-4.[80] Rule 10c-1a also requires that FINRA make publicly available, in accordance with Rule 10c-1a's specified timeframes, certain securities loan information that FINRA receives.[81] As discussed in greater detail below, in Part III, the Proposal is consistent with these requirements.

Price transparency plays a fundamental role in promoting fairness and efficiency of U.S. capital markets. The Proposal, by implementing the applicable requirements of Rule 10c-1a, would increase transparency in the securities lending market through improvements to the comprehensiveness, breadth, accuracy, and accessibility of securities lending data.[82] The loan information filed in SLATE reports and disseminated by FINRA will be more comprehensive and include additional data fields than the data currently offered by commercial data vendors.[83] Moreover, this information will be available to all market participants.[84] This increased transparency will, among other things, allow end borrowers and beneficial owners to determine the extent to which their broker-dealers and lending agents are obtaining terms that are better, worse, or consistent with current market conditions for loans with similar characteristics.[85] The

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79 Reporting of Securities Loans, Securities Exchange Act Release No. 98737 (October 13, 2023), 88 FR 75644 (November 3, 2023) ("Rule 10c-1a Adopting Release"), at 75646.

80 17 CFR 240.10c-1a(f).

81 See 17 CFR 240.10c-1a(g).

82 See Rule 10c-1a Adopting Release, 88 FR 75706.

83 See Rule 10c-1a Adopting Release, 88 FR 75706–7

84 See Rule 10c-1a Adopting Release, 88 FR 75707.

85 See Rule 10c-1a Adopting Release, 88 FR 75707.

Proposal would facilitate this comparison by providing comprehensive transaction-by-transaction information about the cost to borrow and other loan characteristics that are currently mostly unavailable to end borrowers and beneficial owners.[86] Furthermore, the Proposal, by implementing the applicable requirements of Rule 10c-1a, will increase transparency in the securities lending market, which will have positive effects on capital formation, in particular, by improving price discovery in securities markets and improving balance sheet management by financial institutions.[87]

The Proposal, by improving transparency and efficiency in the securities lending market consistent with Rule 10c-1a, would thus help protect investors and promote just and equitable principles of trade, consistent with Section 15A(b)(6). By implementing the requirements of Rule 10c-1a, the Proposal would improve upon current data sources that identifies the parties to the loans, indicates when a broker-dealer loans its own securities to its customers, and indicates whether the purpose of such a loan was to close out a failure to deliver.[88] Further, the improved access and comprehensiveness and reduced bias of the publicly available data will also accrue to FINRA and the Commission, as well as any other regulators using these data.[89] This access will benefit investors by enhancing regulatory tools employed to promote fair and orderly securities markets. In particular, investors may benefit from improved surveillance and enforcement uses, market reconstruction uses, and market research uses.[90]

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86 See Rule 10c-1a Adopting Release, 88 FR 75707.

87 See Rule 10c-1a Adopting Release, 88 FR 75724.

88 See Rule 10c-1a Adopting Release, 88 FR 75715–16.

89 See Rule 10c-1a Adopting Release, 88 FR 75716.

90 See Rule 10c-1a Adopting Release, 88 FR 75716.

The disclosure of party identities and purpose information under the Proposal may facilitate better surveillance by FINRA for regulatory compliance by its members and may improve its ability to enforce such regulations. For example, for FINRA, the information on whether the security is loaned from a broker-dealer's securities inventory to its customer may assist FINRA in determining whether a broker-dealer is charging lending fees or paying rebates commensurate with the market. Thus, beneficial owners and end borrowers, who engage in securities lending transactions, will be better protected against potential unfair pricing of securities loans by broker-dealers.[91] FINRA's enhanced surveillance capabilities facilitated by the Proposal could better protect investors by helping to ensure that entities engaging in certain securities lending transactions are authorized to do so and are in compliance with applicable regulations.[92] FINRA can also use the information to monitor when broker-dealers are building up risk, thereby protecting broker-dealers' customers against potential instabilities.[93] FINRA can use data on the identity and activity of its members to provide an early warning with regard to the behavior of its members during a short squeeze.[94]

The Commission received comments on the proposed rule change.[95] Some commenters expressed general support for the proposed rule change.[96] One commenter stated that the

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91 See Rule 10c-1a Adopting Release, 88 FR 75716.

92 See Rule 10c-1a Adopting Release, 88 FR 75716.

93 See Rule 10c-1a Adopting Release, 88 FR 75716.

94 See Rule 10c-1a Adopting Release, 88 FR 75716.

95 See supra note 8.

96 See, e.g., Letter from Anonymous (May 14, 2024); Letter from Jimit Raithatha (August 7, 2024); Letter from Patrick O'Ney (August 9, 2024); Letter from Heinrich M. (August 9, 2024); Letter from Corey (September 12, 2024); Letter from Anonymous (September 16, 2024). See also Form Letter A; Form Letter D; Form Letter E; Letter from Freddy Lo (August 9, 2024); Letter from Graham Ladner (August 9, 2024); Letter from Kevin McNulty, Managing Director, Head of RegTech, EquiLend Holdings LLC (August 27, 2024) ("EquiLend Letter 2"), at 1; Letter from Jane Plumberg (September 10, 2024); Letter from Traci Olafson (September 12, 2024).

proposed rule change will "aid in the protection of investors by ensuring they are appropriately informed about the terms of securities loans and the parties involved" and that the proposed "requirement to report comprehensive data elements will contribute to a fair and orderly market."[97] Another commenter stated that the proposed rule change "is a great idea."[98] One commenter stated its agreement with the proposed rule change and that it will "build a stronger market."[99] Comments regarding specific aspects of the proposed rule change are discussed below, in Parts III.A through III.J.

A. Loan Information to Be Reported

1. Data Elements Not Included in Rule 10c-1a

Some commenters stated that the proposed rule change, as originally proposed in the Notice, would impose on market participants reporting requirements that go beyond the requirements of Rule 10c-1a.[100] Some commenters identified the data elements that would be

97 Letter from Jennifer (May 15, 2024).

98 Letter from Suzanne Shatto (May 22, 2024). See also Letter from Suzanne Shatto (August 21, 2024).

99 Letter from Derek Madden (September 12, 2024).

100 See, e.g., Letter from Robert Toomey, Managing Director and Associate General Counsel, and Joseph Corcoran, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association (May 28, 2024) ("SIFMA Letter"), at 3; Letter from Sarah A. Bessin, Deputy General Counsel, Investment Company Institute, et al. (May 24, 2024) ("Associations Collective Letter"), at 2; Letter from Paul Cellupica, General Counsel and Kimberly Thomasson Assistant General Counsel, Investment Company Institute, et al. (July 30, 2024) ("ICI Letter"), at 2; Letter from Brian P. Lamb, CEO, EquiLend Holdings LLC (May 28, 2024) ("EquiLend Letter 1"), at 6–7; Letter from Fran Garritt, Head of Business, and Mark Whipple, Chairman of the Board of Directors, International Securities Lending Association Americas (July 16, 2024) ("ISLA Americas Letter 1"), at 4; Letter from Tony Holland, Director of Market Practice, International Securities Lending Association (May 28, 2024) ("ISLA Letter 1"), at 2–3; Letter from Jennifer W. Han, Executive Vice President, Chief Counsel and Head of Global Regulatory Affairs, Managed Funds Association (July 31, 2024) ("MFA Letter"), at 2; Letter from Lindsey Weber Keljo, Esq., Head – Asset Management Group, and William C. Thum, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association Asset Management Group (May 28, 2024) ("SIFMA AMG Letter 1"), at 2; Letter from William C. Thum, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association Asset Management Group (July 31, 2024) ("SIFMA AMG Letter 2"), at 2; Letter from Matt Billings, President, Robinhood Financial, LLC and Robinhood Securities, LLC (August 30, 2024) ("Robinhood Letter"), at 2; Letter from Robert Sloan, Managing Partner, S3 Partners, LLC (August 5, 2024) ("S3 Partners Letter"), at 4.

required to be reported under the proposed rule change, as originally proposed in the Notice, that they stated were not included under Rule 10c-1a, including: (1) the expected settlement date of the Covered Securities Loan; (2) any other fees or charges (i.e., the dollar cost of any other fees or charges in addition to the rebate rate or securities lending fee separately required to be reported);[101] (3) whether the Covered Person is the lender, borrower, or intermediary; (4) if the Covered Securities Loan is an allocation of an omnibus loan effected pursuant to an agency lending agreement, the unique internal identifier for the associated omnibus loan assigned by the Covered Person responsible for reporting the Covered Securities Loan to SLATE; (5) the expected settlement date for modifications to the loan amount (if the expected settlement date is a date other than the date of the Loan Modification), or the effective date for all other Loan Modifications (if effective date is a date other than the date of the Loan Modification); (6) such modifiers and indicators as are required by FINRA under the Rule 6500 Series or the SLATE Participant specification; and (7) the unique internal identifier assigned to the Covered Securities Loan by the Covered Person responsible for reporting the loan to SLATE.[102] Some commenters stated that the additional data and information requirements that are not specifically mentioned in Rule 10c-1a should be removed.[103] Some commenters stated that the proposed rule change, as originally proposed in the Notice, would result in the disclosure of highly sensitive information and contribute to significant increased costs, burdens, and complexity for implementation and

101 See Notice, 89 FR 38206 n.30.

102 See SIFMA Letter, at 3–4. See also EquiLend Letter 1, at 6–7; ISLA Letter 1, at 2, 5, 8.

103 See, e.g., EquiLend Letter 1, at 1, 6–7; SIFMA Letter, at 4; ICI Letter, at 2–3; MFA Letter, at 7.

compliance due to the introduction of additional data elements that go beyond the requirements of Rule 10c-1a.[104]

Some commenters stated that the "increased complexity" of the securities loan information in the proposed rule change, as originally proposed in the Notice, as compared to the Rule 10c-1a information, could increase Covered Persons' reliance on Reporting Agents for compliance purposes, which could increase costs and data security risks for the industry.[105] One commenter stated that the expansion of the number of reportable fields under the proposed rule change, as originally proposed in the Notice, could require Covered Persons using a Reporting Agent to share with that Reporting Agent "very sensitive transaction level details, including the identity of each party to the transaction."[106] The commenter also stated its concern that, if this data were to become exposed by a data security incident, "lenders would choose to restrict lending, which could negatively impact lendable supply and market liquidity."[107]

One commenter stated that some of the additional data fields in the proposed rule change, as originally proposed in the Notice, may not currently be captured by market participants at the trade level and were not considered in the Commission's cost-benefit analysis of Rule 10c-1a.[108] Another commenter stated that the addition of these data elements in the proposed rule change, as originally proposed in the Notice, "would constitute an impermissible end-run around the Commission rulemaking process . . . without being subject to the public comments and economic

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104 See, e.g., SIFMA AMG Letter 1, at 2; SIFMA AMG Letter 2, at 2, 4–6; SIFMA Letter, at 4; ISLA Letter 1, at 2; ISLA Americas Letter 1, at 4, 9; ICI Letter, at 3–4; EquiLend Letter 1, at 1, 6–7. See also Associations Collective Letter, at 2; MFA Letter, at 2; Letter from Senator Bill Hagerty (October 25, 2024) ("Hagerty Letter"), at 1.

105 See ISLA Americas Letter 1, at 8–9; ISLA Letter 1, at 7; SIFMA AMG Letter 2, at 7.

106 ISLA Americas Letter 1, at 9.

107 ISLA Americas Letter 1, at 9.

108 See EquiLend Letter 1, at 7.

analyses required to be performed under such rulemaking process."[109] Another commenter stated that the proposed rule change, as originally proposed in the Notice, "significantly exceed[s]" FINRA's rulemaking mandate under Rule 10c-1a.[110] Another commenter stated that "the significant increase in reportable fields and complexity" of the proposed rule change, as originally proposed in the Notice, warrants "a proper cost-benefit analysis as required under Federal agency rulemaking."[111]

In response, Partial Amendment No. 1 removed the following data elements from the proposed rule change's reporting requirements for Initial Covered Securities Loans and Loan Modifications: (1) the expected settlement date of the Covered Securities Loan; (2) any other fees or charges (i.e., the dollar cost of any other fees or charges in addition to the rebate rate or securities lending fee separately required to be reported); (3) whether the Covered Person is the lender, borrower, or intermediary;[112] (4) if the Covered Securities Loan is an allocation of an omnibus loan effected pursuant to an agency lending agreement, the unique internal identifier for the associated omnibus loan assigned by the Covered Person responsible for reporting the Covered Securities Loan to SLATE; (5) the expected settlement date for modifications to the

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109 SIFMA Letter, at 4. See also Robinhood Letter, at 2; MFA Letter, at 2–3.

110 MFA Letter, at 2–3.

111 ISLA Americas Letter 1, at 4–5. See also SIFMA AMG Letter 2, at 7–8; Hagerty Letter, at 1–3. FINRA rule filings are not agency rulemakings. As discussed above, in Part I, FINRA filed the Proposal with the Commission pursuant to Section 19(b)(1) Exchange Act and Rule 19b-4 thereunder.

112 FINRA stated that the removal of this data element is appropriate because it simplifies the initial reporting framework. FINRA also stated that the file submission process would provide information sufficient to allow FINRA to identify the submitting party and therefore the ability to ascertain whether a SLATE report is being submitted by the Covered Person, a Reporting Agent, or another party. See Partial Amendment No. 1, 89 FR 92231. Some commenters supported Partial Amendment No. 1's removal of originally proposed Rules 6530(a)(2)(V) and 6530(b)(2)(G). See Letter from Fran Garritt, Head of Business, and Mark Whipple, Chairman of the Board of Directors, International Securities Lending Association Americas (Dec. 6, 2024) ("ISLA Americas Letter 2"), at 5; Letter from Robert Toomey, Managing Director and Associate General Counsel, et al. (December 6, 2024) ("SIFMA and SIFMA AMG Letter"), at 3.

loan amount (if the expected settlement date is a date other than the date of the Loan Modification), or the effective date for all other Loan Modifications (if effective date is a date other than the date of the Loan Modification); and (6) such modifiers and indicators as are required by FINRA under the Rule 6500 Series or the SLATE Participant specification. With the exception of the data element concerning the unique identifier assigned to the Covered Securities Loan by the Covered Person responsible for reporting the loan to SLATE, where a Covered Person's daily submission includes two or more reports related to the same Covered Securities Loan, and FINRA has not yet assigned a unique identifier to the Initial Covered Securities Loan,[113] all of the additional data elements listed above that commenters objected to as being beyond the scope of Rule 10c-1a were removed in Partial Amendment No. 1.

In light of the removal of the text "any other fees or charges" as a data element that must be reported separately from the rebate rate (for a Covered Securities Loan collateralized by cash) or the securities lending fee (for a Covered Securities Loan not collateralized by cash), as applicable, Partial Amendment No. 1 also added the text "or any other fee or charges" to the Covered Securities Loan information specified in proposed Rule 6530(a)(2)(H) and the text "or rate, or any other fee or charges" to the Covered Securities Loan information specified in proposed Rule 6530(a)(2)(I). Proposed Rules 6530(a)(2)(H) and 6530(a)(2)(I) mirror Rule 10c-1a(c)(8) and (c)(9), respectively, which helps to ensure the collection of data elements required to be reported pursuant to Rule 10c-1a(c) through (e). The Proposal is reasonably designed to

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113 See infra Part III.A.3 (discussing why the Proposal's data element concerning the unique identifier assigned to the Covered Securities Loan by the Covered Person responsible for reporting the loan to SLATE is necessary to be reported in order for FINRA to comply with the requirements of Rule 10c-1a(g)).

facilitate the collection of pricing information, which is a material term of a Covered Securities Loan, consistent with Rule 10c-1a.[114]

FINRA stated that, while Partial Amendment No. 1 removed several of the originally proposed fields and the indicators and modifiers to facilitate a timely initial implementation of SLATE, the absence of these elements may impact the quality and completeness of the resultant SLATE data.[115] FINRA stated that, in some cases, FINRA has identified alternative means of addressing the data gap.[116] In other cases, FINRA plans to reassess the need for the data after gaining experience with the operation of SLATE and the initial data set and will revisit whether changes are appropriate,[117] including to improve the quality and completeness of SLATE data, and that any such efforts would be subject to a separate proposed rule change filed with the Commission and subject to notice and comment.[118]

The data elements required to be included in SLATE reports are consistent with the data elements required to be reported pursuant to Rule 10c-1a. Further, as discussed below, in Part III.A.3, the data element concerning the unique identifier assigned to the Covered Securities Loan by the Covered Person responsible for reporting the loan to SLATE is consistent with Rule 10c-1a. The Proposal is reasonably designed to facilitate the collection of loan information

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114 See Rule 10c-1a Adopting Release, 88 FR 75669.

115 Partial Amendment No. 1, 89 FR 92229 n.21.

116 FINRA Letter, at 4. FINRA provided the example that a Covered Person that agrees to a Covered Securities Loan that ultimately does not settle would still be required to report the termination of that loan pursuant to proposed Rule 6530(b)(2) by submitting a Loan Modification to terminate a Covered Securities Loan. However, because the securities were never transferred to the borrower, the Loan Modification termination report would not modify the loan amount to zero (unlike in the case of a loan that was terminated because the shares were returned, which would modify the loan amount to zero), which would allow FINRA to identify the loan as being terminated because it was unsettled as opposed to a return of shares. FINRA Letter, at 4 n.19.

117 FINRA Letter, at 4.

118 Partial Amendment No. 1, 89 FR 92229 n.21. See FINRA Letter, at 4.

consistent with Rule 10c-1a. FINRA's inclusion of the data elements in proposed Rules 6530(a)(2) and 6530(b)(2) is reasonably designed to facilitate the timely implementation of SLATE while helping to ensure the collection of data elements required to be reported pursuant to Rule 10c-1a(c) through (e) and the publication of data required pursuant to Rule 10c-1a(g).

2. Modifiers and Indicators Not Included in Rule 10c-1a

Commenters identified modifiers and indicators in the proposed rule change, as originally proposed in the Notice, as data elements that they stated were not specified in Rule 10c-1a: (1) Exclusive Arrangement; (2) Loan to Affiliate; (3) Unsettled Loan; (4) Terminated Loan; (5) Rate or Fee Adjustment; and (6) Basket Loan.[119] Some commenters stated that the additional data and information requirements that are not specifically mentioned in Rule 10c-1a should be removed.[120]

Some commenters stated that the Loan to Affiliate indicator would not provide useful information and could potentially expose confidential information.[121] Some commenters stated that the intermediary negotiating a loan may not be aware of an affiliate relationship between the borrower and lender, requiring additional resources to monitor whether an affiliate relationship was established.[122] Another commenter stated that, because requiring the reporting of the Loan to Affiliate indicator "may be costly" and require "additional resources" for compliance, this proposed requirement "at least warrants a cost-benefit analysis."[123] One commenter stated that

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119 See, e.g., SIFMA Letter, at 3–4; EquiLend Letter 1, at 6–7; ICI Letter, at 2–3. See also ISLA Americas Letter 1, at 13–14.

120 See, e.g., EquiLend Letter 1, at 1, 6–7; SIFMA Letter, at 4; ICI Letter, at 2–3; MFA Letter, at 7.

121 See ISLA Americas Letter 1, at 14; SIFMA AMG Letter 2, at 6; ISLA Letter 1, at 8.

122 See ISLA Letter 1, at 8; ICI Letter, at 4–5; ISLA Americas Letter 1, at 14; SIFMA AMG Letter 2, at 6. See also S3 Partners Letter, at 5.

123 ISLA Americas Letter 1, at 14.

the inclusion of the Unsettled Loan indicator will greatly increase reporting complexity and increase the odds that reported data will be "unclear or confusing."[124] The commenter stated that the Unsettled Loan indicator is unnecessary because, according to the commenter, it is "generally accepted market practice to cancel loans that remain unsettled" and because the cancelation of a previously reported trade is already contemplated elsewhere within the proposed rule change.[125]

In the Notice, FINRA stated that it planned to use the proposed modifiers for data validation purposes.[126] One commenter stated that there is "increased complexity" and that "significantly increasing the number of reportable data fields, requiring the reporting of all intraday activity, and imposing a data validation process has created commercial opportunities for data service providers at the expense of market participants, and ultimately end investors."[127] One commenter requested clarification of the use of the Rate or Fee Adjustment modifier for data validation and whether "FINRA will be performing validation testing to a defined tolerance level and a rejection/correction process."[128] The commenter stated that, if FINRA were to perform such validations, "there is the potential for a large number of rejections that could result in a substantial amount of manual intervention."[129]

In response, Partial Amendment No. 1 removed the originally proposed requirement to append the applicable modifiers or indicators as specified by FINRA to all SLATE reports: (1)

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124 ISLA Americas Letter 1, at 11.

125 ISLA Americas Letter 1, at 11.

126 See Notice, 89 FR 38208.

127 ISLA Americas Letter 1, at 9.

128 ISLA Letter 1, at 7. See Robinhood Letter, at 2.

129 ISLA Letter 1, at 7.

Exclusive Arrangement; (2) Loan to Affiliate; (3) Unsettled Loan; (4) Terminated Loan;[130] (5) Rate or Fee Adjustment; and (6) Basket Loan. FINRA stated that it removed these modifiers and indicators in the interest of achieving the timely implementation of SLATE and the new Rule 6500 Series.[131] In proposing the inclusion of these modifiers and indicators in SLATE reports, FINRA stated that it intended to use the modifiers and indicators to provide regulators and the public with important information regarding the reported securities loan.[132] In later removing this proposed requirement, FINRA stated its plans to (1) reassess the need for the data after gaining experience with the operation of SLATE and the initial data set and (2) revisit whether changes are appropriate. FINRA stated that any such efforts would be subject to a separate proposed rule change filed with the Commission and as such, subject to notice and comment.[133] All of the modifiers and indicators listed above that commenters objected to as being beyond Rule 10c-1a were removed in Partial Amendment No. 1. Some commenters supported Partial Amendment No. 1's removal of these modifiers and indicators.[134]

The Proposal is reasonably designed to facilitate the collection of loan information consistent with Rule 10c-1a. The list of data elements in proposed Rules 6530(a)(2) and 6530(b)(2) is reasonably designed to facilitate the timely implementation of SLATE while

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130 FINRA stated that, while FINRA removed the requirement that Covered Persons append a Terminated Loan indicator, FINRA is retaining the requirement that Covered Persons populate a field with the termination date of the Covered Securities Loan, which is expressly required to be reported to an RNSA under Rule 10c-1a(c)(11). Accordingly, FINRA stated that, when reporting to SLATE an Initial Covered Securities Loan that is an open loan, a Covered Person would be required to leave the termination date field blank; when reporting an Initial Covered Securities Loan that is a term loan, a Covered Person would report the loan's termination date in the termination date field. Partial Amendment No. 1, 89 FR 92229 n.20.

131 See FINRA Letter, at 4.

132 See Notice, 89 FR 38208.

133 Partial Amendment No. 1, 89 FR 92229 n.21. See FINRA Letter, at 4.

134 See ISLA Americas Letter 2, at 4; SIFMA and SIFMA AMG Letter, at 2.

helping to ensure the collection of data elements required to be reported pursuant to Rule 10c-1a(c) through (e).

3. Data Elements Modified by Partial Amendment No. 1

The Commission received comments on the proposed rule change, as originally proposed in the Notice, addressing the reporting to SLATE of rebate rates based on a spread to a benchmark. Commenters requested flexibility to report the loan fees as a lending fee, a loan rebate rate, or a spread to a benchmark rate along with the associated benchmark rate, reducing the number of modifications that would be required to be reported as a result of fluctuations in the benchmark.[135] Some commenters stated that FINRA should allow for the reporting of a spread and a benchmark rate because reporting benchmark rate changes would be onerous and costly and would not provide useful information.[136] In addition, one commenter recommended that FINRA ensure that SLATE can accommodate negative rebates, stating that even for cash collateral loans, there may be scenarios where the loan is negotiated at a fee rather than a rebate (e.g., when a security is particularly hard to borrow).[137]

In response, Partial Amendment No. 1 added proposed Rule 6530(a)(4) to permit Covered Persons to—in addition to reporting the rebate rate or lending fee or rate for a Covered Securities Loan—also report the spread and identity of the benchmark or reference rate for Covered Securities Loans that are priced based on a spread to a benchmark. Specifically, proposed Rule 6530(a)(4)(B) provides that, where a rebate rate or lending fee or rate is determined based on a spread to a benchmark or reference rate, a Covered Person may report: (1)

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135 See ISLA Americas Letter 1, at 12; ICI Letter, at 7; SIFMA AMG Letter 2, at 7; FIF Letter, at 7.

136 See SIFMA AMG Letter 2, at 7; ICI Letter, at 7; FIF Letter, at 7.

137 ISLA Americas Letter 1, at 11.

the rebate rate or lending fee or rate as of the date the Covered Securities Loan was effected; (2) the spread; and (3) the identity of the benchmark or reference rate. Alternatively, a Covered Person may report only the rebate rate or lending fee or rate. One commenter on Partial Amendment No. 1 supported proposed Rule 6530(a)(4).[138]

FINRA stated that this will provide Covered Persons with additional options regarding the manner in which they may report a rebate rate or lending fee or rate, and that these proposed amendments are appropriate to provide Covered Persons flexibility with how they must report the rebate rate or lending fee.[139] FINRA stated that this flexibility should address commenters' concern that Covered Persons would be required to report loan rate modifications when the rebate rate changes solely as a result of a change to the underlying benchmark rate (where there is no change in the negotiated spread or identity of the benchmark). To accommodate market practices and rebate rate variability, FINRA stated that it intends to accept negative values in the rebate rate field if the collateral type is reported as cash. SLATE's validation logic will accept a wide range of values in the rebate rate/lending fee or rate fields, and SLATE will not reject reports because a cash collateral loan is reported with a negative rebate rate.[140]

Proposed Rule 6530(a)(4) (Reporting Loan Rates Based on a Spread to a Benchmark or Reference Rate) is reasonably designed to facilitate the collection of pricing information, which

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138 See ISLA Americas Letter 2, at 4–5.

139 See Partial Amendment No. 1, 89 FR 92230. FINRA stated that a Covered Person would be required to report a Loan Modification pursuant to proposed Rule 6530(b)(2) in the event of a change to the negotiated spread or to the identity of the benchmark or reference rate. Partial Amendment No. 1, 89 FR 92230 n.29. See Rule 10c-1a Adopting Release, 88 FR 75672 (stating that if a registered national securities association ("RNSA") chooses to allow market participants to report a spread and a benchmark, then no modification would be required to be reported from day to day unless there were a change in the negotiated spread or benchmark).

140 See FINRA Letter, at 8.

is a material term of a Covered Securities Loan.[141] It also is consistent with Rule 10c-1a(c)(8).[142] Proposed Rule 6530(a)(4) is reasonably designed to provide the flexibility that commenters requested while helping to ensure the collection of data elements required to be reported pursuant to Rule 10c-1a(c) through (e).

As discussed above in Part III.A.2, commenters stated that the internal loan and omnibus loan identifiers, as originally proposed in the Notice, extended beyond the data elements specified in Rule 10c-1a and increased the proposed rule change's complexity and implementation burdens.[143] In response, Partial Amendment No. 1 removed these provisions.[144] However, to allow FINRA to link same-day T+0 reports that relate to the same Covered Securities Loan in fulfilling its data dissemination obligations under Rule 10c-1a(g), Partial Amendment No. 1 added proposed Rule 6530(a)(2)(U), which is a targeted provision providing that, where a Covered Person's daily submission includes two or more reports related to the same Covered Securities Loan (e.g., an Initial Covered Securities Loan and a Loan Modification to terminate the Covered Securities Loan), and FINRA has not yet assigned a unique identifier to the Initial Covered Securities Loan, the Covered Person must report a unique identifier assigned to the Covered Securities Loan by the Covered Person responsible for reporting the loan to SLATE. FINRA stated that this requirement is limited to instances where a Covered Person's

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141 See Rule 10c-1a Adopting Release, 88 FR 75669.

142 See Rule 10c-1a Adopting Release, 88 FR 75668–71.

143 See, e.g., SIFMA Letter, at 3; ICI Letter, at 2. As originally proposed in the Notice, Rules 6530(a)(2)(W) and 6530(b)(2)(A) would have required Covered Persons to report the unique internal identifier assigned to the covered securities loan. With respect to an allocation of an omnibus loan effected pursuant to an agency lending agreement, proposed Rules 6530(a)(2)(X) and 6530(b)(2)(B) would have required Covered Persons to report the unique internal identifier for the associated omnibus loan.

144 See Partial Amendment No. 1, 89 FR 92231. FINRA stated that it had intended originally to use the reported information to identify where multiple loan reports were related to a single omnibus loan, thereby providing additional clarity in the loan activity statistics disseminated to the public and to improve the completeness of the audit trail available to regulators. Partial Amendment No. 1, 89 FR 92231.

daily submission includes two or more T+0 reports related to the same Covered Securities Loan—which is the circumstance that gives rise to the audit trail gap sought to be addressed by the requirement.[145] Similarly, with respect to Loan Modifications, where a Covered Person's daily submission includes two or more T+0 reports related to the same Covered Securities Loan, the Covered Person must report the identifier that was provided with respect to the associated same-day report for that Covered Securities Loan. One commenter supported proposed Rule 6530(a)(2)(U).[146]

FINRA stated that, without a way to link such reports, it would be unable to accurately incorporate modifications into the daily loan statistics where FINRA cannot identify the amount of securities impacted by the modification.[147] Further, it would be unable to determine the information necessary to incorporate the modification into the volume information described in proposed Rule 6540(c)(1). FINRA stated that this requirement involving a unique identifier is appropriate and necessary in that it streamlines initial SLATE reporting requirements while continuing to allow FINRA to accurately record and disseminate information on transactions reported pursuant to Rule 10c-1a. FINRA stated that this requirement is necessary to allow FINRA to link same-day reports that relate to the same Covered Securities Loan, which allows FINRA to accurately record transactions reported pursuant to Rule 10c-1a and to incorporate modifications into the daily loan statistics.[148]

Proposed Rule 6530(a)(2)(U) is reasonably designed to allow FINRA to link same-day reports that relate to the same Covered Securities Loan and accurately record transactions

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145 See Partial Amendment No. 1, 89 FR 92231.

146 See ISLA Americas Letter 2, at 5.

147 Partial Amendment No. 1, 89 FR 92231.

148 FINRA Letter, at 5.

reported pursuant to Rule 10c-1a.[149] The Proposal addresses comments that the originally proposed internal loan and omnibus loan identifiers reporting requirements are not included in Rule 10c-1a while helping to ensure the collection of data elements required to be reported pursuant to Rule 10c-1a(c) through (e) and the publication of data required by Rule 10c-1a(g). Rule 10c-1a(g) requires that an RNSA, as soon as practicable, and not later than the morning of the business day after the covered securities loan is effected, assign a unique identifier to the covered securities loan and make certain information publicly available.[150] In adopting Rule 10c-1a, the Commission stated that the assignment of unique identifiers is necessary for an RNSA to easily track certain covered securities loans and facilitate the identification and reporting of any subsequent modifications.[151] Although the data element in proposed Rule 6530(a)(2)(U) does not mirror a particular data element included in Rule 10c-1a, as one commenter stated,[152] its reporting is necessary for FINRA to accurately record, incorporate, and disseminate modifications to daily loan statistics to fulfill the requirements of Rule 10c-1a(g). The Proposal is reasonably designed to facilitate the collection and dissemination of loan information consistent with Rule 10c-1a.

4. Data Elements Not Modified by Partial Amendment No. 1

One commenter stated that the proposed data element concerning the LEI of the issuer should be removed or made optional to include in a SLATE report because, according to the commenter, issuer LEIs are not easily accessible and are not always available.[153] Another

149 See Rule 10c-1a Adopting Release, 88 FR 75667 n.365.

150 See Rule 10c-1a(g)(1)(i)(A), (g)(3).

151 See Rule 10c-1a Adopting Release, 88 FR 75685.

152 See SIFMA Letter, at 3–4.

153 ISLA Letter 1, at 7. See EquiLend Letter 2, at 2; SIFMA AMG Letter 2, at 7.

commenter stated that it would be "highly costly" for market participants to build out their systems to obtain LEI information (as compared to using existing identifiers) because LEI information is "not available to market participants in a systematic way."[154] One commenter stated that it should be optional to use the LEI of a "third-country issuer" (i.e., a non-European Union ("EU") issuer) because "a large percentage of third-country issuers have not obtained LEIs."[155] Another commenter requested that FINRA clarify whether a Covered Person would be permitted to report an issuer's LEI even if such LEI has lapsed.[156]

In response, FINRA stated that the comments regarding the reporting of an issuer's LEI, if the issuer has a non-lapsed LEI, are examples of requirements that are established directly by Rule 10c-1a and cannot be amended by FINRA.[157] FINRA also stated that proposed Rule 6530(a)(2)(A)'s requirement to report the LEI of an issuer, if non-lapsed, mirrors the requirement in Rule 10c-1a(c)(1).[158] The Commission agrees that this proposed requirement that the LEI of the issuer must be included in a SLATE report if the issuer has a non-lapsed LEI is consistent with Rule 10c-1a(c)(1). FINRA's proposed limitation for SLATE regarding the LEI of an issuer, which requires reporting only if the issuer has a non-lapsed LEI (i.e., instead of including lapsed LEIs, too), is consistent with the requirements of Rule 10c-1a(c)(1).[159] The reporting of the issuer's LEI, to the extent the issuer has a non-lapsed LEI, facilitates the identification of the security about which the Covered Securities Loan information is being provided. The proposed

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154 SIFMA AMG Letter 2, at 7.

155 ISLA Americas Letter 1, at 15. See ISLA Americas Letter 2, at 8.

156 FIF Letter, at 10.

157 FINRA Letter, at 10.

158 FINRA Letter, at 10 n.39.

159 See 17 CFR 240.10c-1a(c)(1).

inclusion of an issuer's LEI, if the issuer has a non-lapsed LEI, is reasonably designed to facilitate the collection and dissemination of loan information consistent with Rule 10c-1a.[160]

One commenter recommended that, as opposed to each SLATE reporter tracking the status of a Covered Securities Loan, the SLATE system "should perform the calculations of loan status" (e.g., Initial Covered Securities Loan, Loan Modification, pre-existing Loan Modifications) and other derived information, centrally.[161] This commenter stated that "[c]entralization within SLATE of these functions should not only reduce costs but also increase data quality."[162] The commenter's suggestion that SLATE should "perform the calculations of loan status" would require the daily reporting of the full list of loan positions, including those that were effected prior to SLATE implementation, and those that have not changed. Such information is not included in the securities loan information that is required to be reported pursuant to Rule 10c-1a nor did FINRA include it in its proposal. As discussed above, in Parts III.A.1 and III.A.2, the Proposal aligns the loan information reported to SLATE with the data elements in Rule 10c-1a(c) through (e) and is reasonably designed to facilitate the timely implementation of SLATE while helping to ensure the collection of data elements required to be reported pursuant to Rule 10c-1a(c) through (e). Rule 10c-1a requires, among other things, that Covered Persons provide to FINRA specified loan information that relates to the loan status.[163] Further, the reporting of loan information as it relates to loan status is necessary for FINRA to link reports and disseminate volume information as is required in Rule 10c-1a(g)(5). The Proposal, which requires Covered Persons to track the status of a reported Covered Securities

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160 See Rule 10c-1a Adopting Release, 88 FR 75670–71.

161 See S3 Partners Letter, at 2.

162 S3 Partners Letter, at 2–3.

163 See, e.g., 17 CFR 240.10c-1a(d)(1), (d)(2).

Loan, is reasonably designed to facilitate the collection and dissemination of loan information consistent with Rule 10c-1a.

Some commenters stated, without providing any specificity, that "broader transparency measures" than those required by Rule 10c-1a are necessary and beneficial to the market.[164]

Rule 10c-1a sets forth a list of specified loan information that Covered Persons must report and that FINRA must collect and make publicly available. Further, the Commission also agrees with the comment discussed above that the proposed rule change will "aid in the protection of investors by ensuring they are appropriately informed about the terms of securities loans and the parties involved" and that the proposed "requirement to report comprehensive data elements will contribute to a fair and orderly market."[165] The Proposal's list of required data elements is appropriately tailored to help increase the transparency of information available to brokers, dealers, and investors with respect to the loan or borrowing of securities consistent with the transparency goals of Rule 10c-1a.[166]

5. Requests for Clarification

One commenter on the proposed rule change, as originally proposed in the Notice, requested confirmation whether, if FINRA does not generate a "UTI" for a Covered Securities Loan, the Covered Person responsible for reporting it would be required to generate a UTI.[167] The commenter also stated that, under the EU's Securities Finance Transaction Regulation

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164 See Form Letter D; Letter from Freddy Lo (August 9, 2024); Letter from Jane Plumberg (September 10, 2024); Letter from Traci Olafson (September 12, 2024); Letter from Anonymous (September 16, 2024).

165 Letter from Jennifer (May 15, 2024).

166 See Rule 10c-1a Adopting Release, 88 FR 75715.

167 ISLA Letter 1, at 9. The proposed FINRA rules do not use the acronym "UTI," which the commenter did not define but may refer to the term "unique transaction identifier" and, under the proposed rule change, as originally proposed in the Notice, the "unique internal identifier assigned to the Covered Securities Loan by the Covered Person responsible for reporting the loan to SLATE." Notice, 89 FR 38207, 39209.

("SFTR"), firms agree which party will be responsible for generating and distributing the UTI prior to a trade.[168] The commenter recommended that FINRA "follow the SFTR waterfall protocol, where possible for generation and distribution of UTI's, as many firms will already be familiar with this method for the purposes of reporting their EU securities loans."[169]

As discussed above, proposed Rule 6530(a)(2)(U) would provide that, where a Covered Person's daily submission includes two or more reports related to the same Covered Securities Loan for which FINRA has not yet assigned a unique loan identifier, the Covered Person must report a unique identifier assigned to the Covered Securities Loan by the Covered Person responsible for reporting the loan to SLATE. This is the only scenario in which the Covered Person is responsible for generating and reporting a unique loan identifier. In response to the commenter's suggestion that FINRA follow the SFTR waterfall protocol, the assignment of a unique identifier may be appropriate for consistency with FINRA's rules and systems, even if a Covered Securities Loan already has an identifier that is reported to the SFTR.[170] FINRA is required by Rule 10c-1a(g)(1) to assign a unique identifier to each covered securities loan. Proposed Rule 6530(a)(2)(U) is reasonably designed to facilitate the dissemination of accurate loan information consistent with Rule 10c-1a(g).

B. Timing for SLATE Reports

One commenter on the proposed rule change, as originally proposed in the Notice, recommended that "FINRA develop the SLATE system so that it can accept files transmitted

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168 ISLA Letter 1, at 9.

169 ISLA Letter 1, at 9. Another commenter recommended that FINRA "assign a Submission Unique Identifier based on the concatenation of fields in the full data inventory file that will uniquely identify a submission." S3 Partners Letter, at 3. As discussed in the Rule 10c-1a Adopting Release, it is appropriate to allow the administrative details of the process of assigning a unique identifier under Rule 10c-1a to be left to the discretion of an RNSA. See Rule 10c-1a Adopting Release, 88 FR 75685.

170 See Rule 10c-1a Adopting Release, 88 FR 75685.

outside of [the SLATE system] hours for processing the following business day."[171] The commenter stated that restricting SLATE file submissions to U.S. hours, given the "extra-territorial scope" of Rule 10c-1a, could cause compliance difficulties because firms have staff located outside of the U.S.[172] Other commenters also recommended an expansion of the SLATE reporting hours in the proposed rule change, as originally proposed in the Notice.[173] One commenter asked whether the SLATE system would provide feedback outside of the SLATE system hours.[174]

In response, Partial Amendment No. 1 extended the reporting deadline to 11:59:59 p.m. ET and made a corresponding change to the definition of "SLATE System Hours" in proposed Rule 6510 to specify that the SLATE system is open through 11:59:59 p.m. ET. FINRA stated that the extension of SLATE System Hours is appropriate to provide additional time to process SLATE submissions at the end of the day. FINRA stated that, while the SLATE system will provide reporters feedback on submissions that are submitted during SLATE System Hours, the SLATE system will not accept reports submitted after the close of the SLATE system.[175] One commenter on Partial Amendment No. 1 stated that the extension of the SLATE System Hours will ease the reporting burden on covered firms.[176] Another commenter on Partial Amendment No. 1 stated that it appreciates that FINRA extended the cut-off time for SLATE reports to be

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171 ISLA Americas Letter 1, at 17. Other commenter letters provided similar comments on Partial Amendment No. 1. See ISLA Americas Letter 2, at 7; SIFMA and SIFMA AMG Letter, at 7 (providing an alternative that the SLATE system could open at 6:00:00 a.m. ET).

172 ISLA Americas Letter 1, at 17.

173 See FIF Letter, at 4–5 (stating that SLATE should accept files until 11:59 p.m. ET); EquiLend Letter 2, at 1–2 (stating that the reporting deadline should be extended to 8:30 p.m. ET for Reporting Agents to allow for additional time to collect and prepare Covered Persons' data).

174 See FIF Letter, at 4.

175 FINRA Letter, at 9 n.34.

176 See ISLA Americas Letter 2, at 7.

filed.[177] The Proposal's timing requirements for filing a SLATE report regarding an Initial Covered Securities Loan are reasonably designed to facilitate the collection of transaction data. FINRA's response to the comments regarding the extension of SLATE System Hours to provide additional time to process SLATE submissions, as well as provide reporters feedback on such submissions, at the end of the day, is reasonable and appropriate, as well as consistent with Rule 10c-1a's end-of-day reporting requirements for covered securities loans. Additionally, the Proposal's timing requirements for filing a SLATE report, including those with respect to filing a SLATE report outside of SLATE System Hours, are consistent with FINRA's experience in establishing and maintaining systems that are designed to capture transaction reporting.[178]

Some commenters stated that the originally proposed 7:45:00 p.m. ET cut-off time for same-day reporting would not capture certain end-of-day activity, which would make end of day processes challenging.[179] One commenter stated that the cut-off time for same-day reporting should be moved up to 4:00 p.m. ET to align with the "close of trading" such that loans effected after 4:00 p.m. would not need to be reported until the next business day.[180]

In response, Partial Amendment No. 1 changed the reporting cut-off time in proposed Rule 6530(a)(1)(A) and (b)(1)(A) to 7:00:00 p.m. ET. FINRA stated that the modification of the proposed loan cut-off time from 7:45:00 p.m. ET to 7:00:00 p.m. ET would provide additional time to report loans that are effected near the end of the day, including time to complete any necessary security set up in SLATE.[181] The Proposal's inclusion of 7:00:00 p.m. ET instead of

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177 See SIFMA and SIFMA AMG Letter, at 7.

178 See, e.g., Rule 10c-1a Adopting Release, 88 FR 75682, 75685; FINRA Rule 6730(a); FINRA Rule 6273.

179 See EquiLend Letter, at 1; FIF Letter, at 4–5.

180 See FIF Letter, at 5.

181 See Partial Amendment No. 1, 89 FR 92232.

4:00 p.m. ET, as the commenter suggested, for the cut-off time for same-day reporting is reasonable because it provides, in response to comments,[182] additional time to process submissions to SLATE (that contain Rule 10c-1a information) and to provide feedback on such submissions, at the end of the day.[183] Thus, the Proposal is reasonably designed to facilitate the collection of loan information consistent with Rule 10c-1a.

C. When and How Loan Information Is Reported

1. Initial Covered Securities Loans

One commenter on the proposed rule change, as originally proposed in the Notice, requested a "clear and concise" definition of the term "effected."[184] The commenter stated that it would like to understand if the term "effected" means (1) "an 'event date' file i.e., the event date that the trade took place," (2) "an execution timestamp that would carry both date and time," or (3) the date when a trade is verbally agreed upon.[185] Another commenter recommended that the "interpretation for time 'effected' and 'agrees to a covered securities loan' is prior to loan settlement but only once all contractual terms, including the identity of the lender, are agreed."[186] The commenter further stated that, until all contractual terms of a securities loan, including the final details related to the identity of the lender, are agreed between the lending agent, as agent for the lender and the borrower, the trading desk will view the borrower's offer discussions as a

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182 See, e.g., EquiLend Letter, at 1; FIF Letter, at 4–5.

183 Rule 10c-1a Adopting Release, 88 FR 75648 n.72. FINRA stated that, given the operation of the securities lending market, including that many loans will not be finalized until after the traditional 4:00 p.m. ET close of the U.S. equities markets, FINRA does not believe it would be appropriate to move the cut-off time for same-day reporting to 4:00 p.m. ET. FINRA also stated that the fixed income markets generally have later trading hours, and the same-day reporting cut-off time for transactions in many TRACE-eligible securities is 6:15:00 p.m. ET. FINRA Letter, at 9 n.34.

184 ISLA Letter 1, at 4.

185 ISLA Letter 1, at 3–4.

186 ISLA Americas Letter 1, at 6.

"potential loan— not an actual loan" and will book the securities loan into its system when all contractual terms are agreed upon.[187] This commenter stated that "[o]nly when the securities loan is booked into the lending agent's trading system, will the lending agent view it to be 'effected'— an actual securities loan pending settlement."[188] Whether a securities loan must be reported as an Initial Covered Securities Loan will depend upon the facts and circumstances, including the structure of such lending program.[189]

The requirement for covered persons to report to FINRA, by the end of the day on which a covered securities loan is effected, specified loan information—which includes, among others, the date the covered securities loan was effected, the time the covered securities loan was effected, and the name of the platform or venue where the covered securities loan was effected—is established by Rule 10c-1a(c)(3)–(c)(5). In adopting Rule 10c-1a, the Commission stated that whether or not a loan has been effected is a legal/factual question, and a delay in settlement (or if one of the agreed to loan terms is modified the next day) does not impact the initial requirement to report all loans (and modifications) within the required timeframes under Rule 10c-1a.[190]

Further, the Commission stated that use of the term "agrees to" in the definition of covered person under Rule 10c-1a clarifies that covered securities loans are required to be reported after the parties agree to the loan, which is before settlement.[191] Parties to a securities loan may agree to some of the basic terms initially, but some or many of the securities loan terms may not be agreed to (or may be updated throughout the day and, thus, not finalized) until the

187 ISLA Americas Letter 1, at 6.

188 ISLA Americas Letter 1, at 6.

189 See, e.g., Rule 10c-1a Adopting Release, at 88 FR 75664.

190 See Rule 10c-1a Adopting Release, 88 FR 75681.

191 See Rule 10c-1a Adopting Release, 88 FR 75666, 75666 n.358.

end of the day.[192] The Proposal's requirement for end-of-day reporting after a Covered Securities Loan has been "effected" is consistent with the requirement in Rule 10c-1a(c) that a covered person shall provide specified loan information to FINRA by the end of the day on which the covered securities loan is effected. The Proposal's end-of-day reporting requirement, therefore, is reasonably designed and is appropriately balanced to facilitate the collection of timely information while helping to prevent an excessive number of incomplete or slightly modified reports that otherwise would occur throughout the day yet without providing sufficient incremental value.[193]

One commenter stated that a Covered Person should instead be required to file a SLATE report only for a loan that has been settled, whereby the Covered Person would report the date and time that it recorded the Covered Securities Loan in its books and records.[194] The commenter stated that in many cases where a lending agent is involved, the parties to the loan do not know the identity of the counterparty until the loan is settled.[195]

Consistent with the requirements of Rule 10c-1a, an Initial Covered Securities Loan is required to be reported prior to settlement.[196] As discussed above, in this Part, settlement does not impact the initial requirement to report all loans (and modifications) within the required timeframes under Rule 10c-1a.[197] With respect to the comment that the parties to the loan do not know the identity of the counterparty until the loan is settled,[198] proposed Rule 6530(a)(2)(N)

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192 See, e.g., Rule 10c-1a Adopting Release, 88 FR 75680–81.

193 See Rule 10c-1a Adopting Release, 88 FR 75680.

194 See FIF Letter, at 4.

195 See FIF Letter, at 4.

196 See Rule 10c-1a Adopting Release, 88 FR 75666.

197 See Rule 10c-1a Adopting Release, 88 FR 75681.

198 See FIF Letter, at 4.

uses the qualifier "if known" with respect to the requirement for a SLATE report for an Initial Covered Securities Loan to include the legal name of each party to the Covered Securities Loan (other than the customer from whom a Broker or Dealer borrows fully paid or excess margin securities pursuant to Rule 15c3-3(b)(3)). FINRA's use of the qualifier "if known" in proposed Rule 6530(a)(2)(N) mirrors that used in Rule 10c-1a(e)(1), which concerns the legal name of each party to a covered securities loan. Proposed Rule 6530(a)(2)(N), therefore, is reasonably designed to facilitate the collection of loan information consistent with Rule 10c-1a(e)(1).

One commenter on Partial Amendment No. 1 stated that unsettled loans are not transactions because no loan transaction "occurs" and that, therefore, unsettled loans should not be required to be reported to SLATE.[199] The commenter stated that a Covered Person may have to incur incremental costs to report unsettled loans to SLATE, given that these "unconsummated transactions" may not be captured on the books and records of the Covered Person "comparably to how consummated loan transactions are recorded."[200]

The term "Covered Securities Loan" under proposed Rule 6510(j) mirrors the definition under Rule 10c-1a, which means a transaction in which any person on behalf of itself or one or more other persons lends a reportable security to another person. In adopting Rule 10c-1a, the Commission stated that the reporting requirement did not require "that the loan be settled" and also acknowledged that various entities will incur costs in developing recording and reporting systems to comply with Rule 10c-1a.[201] The Proposal's requirement regarding the reporting of

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199 See SIFMA and SIFMA AMG Letter, at 4.

200 SIFMA and SIFMA AMG Letter, at 4.

201 See Rule 10c-1a Adopting Release, 88 FR 75662, 75662 n.288, 75717.

unsettled loans that are Covered Securities Loans is consistent with Rule 10c-1a. The Proposal is reasonably designed to facilitate the collection of loan information consistent with Rule 10c-1a.

2. Loan Modifications

Proposed Rules 6530.01 (Intraday Loan Modifications) and 6530.02 (Changes to the Parties to a Covered Securities Loan), as originally proposed in the Notice, included a requirement that all intraday changes to a Covered Securities Loan be reported as Loan Modifications, which several commenters stated is inconsistent with the requirements of Rule 10c-1a.[202] One commenter stated that the proposed rule change's inclusion of intraday activity as required reporting would be misleading to the public.[203] One commenter stated that the intraday reporting requirements in the proposed rule change, as originally proposed in the Notice, are "costly and burdensome" and that "the costs and complexity of reporting these intraday loan modifications greatly undermines any purported utility."[204] Another commenter stated that it is not clear that FINRA has "adequately analyzed the costs and benefits" of the proposed rule change's intraday reporting requirement.[205] One commenter recommended consolidating Loan Modification and Loan Correction events, as well as Loan Cancellation and Delete Loan events, stating that tracking multiple event types would be complex and burdensome.[206]

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202 See ISLA Americas Letter 1, at 6–8; ISLA Letter 1, at 4; SIFMA AMG Letter 1, at 2; SIFMA AMG Letter 2, at 2–4; SIFMA Letter, at 4–6; Associations Collective Letter, at 2; ICI Letter, at 5–7; FIF Letter, at 2–3; Robinhood Letter, at 2. See also S3 Partners Letter, at 2.

203 See ISLA Americas Letter 1, at 8.

204 ISLA Americas Letter 1, at 8. See ICI Letter, at 6–7; Robinhood Letter, at 2.

205 Associations Collective Letter, at 2.

206 See ISLA Americas Letter 1, at 17; ISLA Americas Letter 2, at 8.

In response, FINRA stated that Covered Persons must report Loan Modifications consistent with Rule 10c-1a.[207] FINRA stated that proposed Rule 6530 is not intended to alter when loan events are required to be reported as Loan Modifications (including terminations) or when new loans must be reported under Rule 10c-1a.[208] To the extent a loan event is not reportable under Rule 10c-1a, there would likewise be no SLATE reporting obligations. FINRA stated that, to make this clearer, Partial Amendment No. 1 removed originally proposed Rules 6530.01 (Intraday Loan Modifications) and 6530.02 (Changes to the Parties to a Covered Securities Loan).[209] Some commenters supported Partial Amendment No. 1's removal of these two originally proposed provisions.[210]

The Commission agrees that the Proposal's inclusion of an end-of-day reporting requirement for Initial Covered Securities Loans and Loan Modifications is consistent with the requirements of Rule 10c-1a. Consistent with Rule 10c-1a, which requires the individual reporting of the specific modification and the specific data element being modified,[211] under proposed Rule 6510(e), the term Loan Modification means a change to any Data Element with respect to a Covered Securities Loan (irrespective of whether such Covered Securities Loan was previously reported to SLATE). This definition is reasonably designed to facilitate the collection of Loan Modification information and is consistent with the requirements of paragraphs (d)(1)(ii) and (d)(2) of Rule 10c-1a, which require the reporting of modified data elements by the end of the day on which a covered securities loan is modified.

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207 See Partial Amendment No. 1, 89 FR 92229.

208 See Partial Amendment No. 1, 89 FR 92229.

209 See Partial Amendment No. 1, 89 FR 92229. See also FINRA Letter, at 5.

210 See ISLA Americas Letter 2, at 3–4; SIFMA and SIFMA AMG Letter, at 2.

211 See Rule 10c-1a Adopting Release, 88 FR 75671.

Commenters on the proposed rule change, as originally proposed in the Notice, recommended that FINRA clarify that loan information concerning intraday events is not required to be reported until all terms of a loan are agreed upon.[212] In response, FINRA stated its understanding that, based on the Rule 10c-1a Adopting Release, Loan Modifications are required to be reported to an RNSA pursuant to Rule 10c-1a once the Loan Modification is finalized, and that indicative terms are not reportable.[213] FINRA stated that the Rule 10c-1a Adopting Release explains that Rule 10c-1a's "final end-of-day requirement was intended to better capture final loan information."[214] FINRA also stated that whether or not a loan has been effected is a legal/factual question and that Covered Persons must report loan events, including Loan Modifications, in a manner consistent with Rule 10c-1a.[215] FINRA's response regarding the reporting of information concerning Loan Modifications, as well as the Proposal's requirement for the reporting of information concerning Loan Modifications, are consistent with the requirements of Rule 10c-1a. Further, the Proposal is reasonably designed to facilitate the collection of information regarding Loan Modifications consistent with Rule 10c-1a.

One commenter on the proposed rule change, as originally proposed in the Notice, requested clarification as to whether intraday reporting of "lifecycle events" is required, and whether there is a specific sequence in which firms must report.[216] As discussed above, in this Part, FINRA stated that Covered Persons must report Loan Modifications consistent with Rule

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212 See ICI Letter, at 8. See also FIF Letter, at 3.

213 FINRA Letter, at 6 (citing Rule 10c-1a Adopting Release, 88 FR 75679–80).

214 FINRA Letter, at 6 (citing Rule 10c-1a Adopting Release, 88 FR 75679–80).

215 FINRA Letter, at 6 (citing Rule 10c-1a Adopting Release, 88 FR 75681).

216 ISLA Letter 1, at 9–10 (suggesting that reporting "lifecycle events" be done in "chronological order for ease").

10c-1a.[217] The Proposal is consistent with Rule 10c-1a's requirement for the end-of-day reporting of same-day loan modifications. In adopting Rule 10c-1a, the Commission stated that whether there is a change that will trigger the reporting of a Loan Modification data element may involve a facts-and-circumstances-based determination.[218] There may be certain lifecycle events in the course of an open-ended loan and that some market participants may view as a modification to an existing loan that other market participants might view as a termination of an existing loan and the entry into a new loan.[219] In these cases, the Covered Person (or Reporting Agent) may elect to report the required information as either a termination (and therefore a modification) of an existing loan and a creation of a new loan, or as two modifications to an open-ended loan.[220] SLATE does not impose a timing sequence for the reporting of Loan Modifications that are effected on the same day, as the commenter asked,[221] and the Proposal would not prohibit a Covered Person (or its Reporting Agent) from reporting Loan Modifications in chronological order so long as such reporting is done in accordance with the Proposal and Rule 10c-1a.

One commenter stated that it sought clarity as to whether a market participant who "books a loan" that is not reported "at the time," and such loan is modified that same day, could report the Initial Covered Securities Loan along with all "subsequent lifecycle events," at 6:00 p.m., by reporting the Initial Covered Securities Loan and Loan Modification.[222] Proposed Rule 6530(a)(2)(U) and proposed Rule 6530(a)(b)(A) are designed to permit such reporting (i.e.,

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217 See FINRA Letter, at 6.

218 See, e.g., Rule 10c-1a Adopting Release, 88 FR 75672.

219 See Rule 10c-1a Adopting Release, 88 FR 75672.

220 See Rule 10c-1a Adopting Release, 88 FR 75672.

221 See ISLA Letter 1, at 9–10.

222 See ISLA Letter 1, at 9.

reporting the Initial Covered Securities Loan along with all "subsequent lifecycle events," at 6:00 p.m., by reporting the Initial Covered Securities Loan and Loan Modification) while allowing FINRA to link same-day reports that relate to the same Covered Securities Loan, accurately record transactions reported pursuant to Rule 10c-1a, and incorporate Loan Modification information into the daily loan statistics.[223] The Proposal is reasonably designed to facilitate end-of-day reporting for same-day Initial Covered Securities Loans and Loan Modifications not previously reported consistent with Rule 10c-1a.

One commenter suggested that, to differentiate from "other securities lending industry participants, such as prime brokers, engage[d] in intraday activities that could be reported as lifecycle events, . . . FINRA and the Commission . . . [should] consider the inclusion of a flag that identifies a party as a lending agent, in which case, such intraday lifecycle events would not need to be reported."[224] As discussed above, in this Part, FINRA stated that Covered Persons must report Loan Modifications consistent with Rule 10c-1a.[225] The commenter's suggested flag is not required by Rule 10c-1a to be reported to an RNSA. FINRA's decision not to include a flag that identifies a party as a lending agent, as suggested by the commenter,[226] is consistent with Rule 10c-1a.[227]

Another commenter sought clarification on the "treatment of corporate actions" under the proposed rule change, as originally proposed in the Notice, where, according to the commenter,

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223 See FINRA Letter, at 5.

224 ISLA Americas Letter 1, at 8.

225 See Rule 10c-1a Adopting Release, 88 FR 75681–82.

226 ISLA Americas Letter 1, at 8.

227 See Rule 10c-1a Adopting Release, 88 FR 75667 n.365 (describing Rule 10c-1a as allowing FINRA "the necessary flexibility to propose and implement rules regarding the format and manner with respect to the collection of information").

firms may need to adjust the terms of an existing Covered Securities Loan (e.g., during a tender offer).[228] This commenter stated that FINRA should "propose specific guidelines that recognize such changes and adjustments and consider the utility to investors of reporting based on what may be outlier events and that may occur long after the actual lending activity," without providing any specificity as to what the "guidelines" should address.[229] FINRA's decision not to include in the Proposal "specific guidelines," as the commenter suggested, is reasonable because covered Persons must report Loan Modifications consistent with Rule 10c-1a, and Loan Modifications are required to be reported once they are finalized.[230] The Proposal is reasonably designed to facilitate the reporting of Loan Modification information consistent with Rule 10c-1a(d).

With regard to allocations of securities loans by lending agents, one commenter stated that, "until the reallocation is finalized, there is no utility to requiring a covered person to report potential loan modifications."[231] Another commenter requested confirmation that an intermediary would not report a block (i.e., omnibus) transaction to SLATE and would instead report the allocations for the block transaction once the allocations have been finalized.[232] One commenter stated that requiring the reporting of allocations of an omnibus loan contradicted the Commission's decision in Rule 10c-1a "not to treat reallocations among a pooled loan's underlying constituents as a new covered loan or as a modification."[233]

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228 See Robinhood Letter, at 2.

229 Robinhood Letter, at 2.

230 See Rule 10c-1a Adopting Release, 88 FR 75667 n.365.

231 ISLA Americas Letter 1, at 6.

232 FIF Letter, at 6.

233 ICI Letter, at 7. See FIF letter, at 6 (requesting confirmation that an intermediary would not be required to report an omnibus transaction to SLATE and would report only finalized allocations). In response, FINRA

As discussed above, FINRA stated its understanding that, under Rule 10c-1a(d), loan modifications are required to be reported once they are finalized, and that indicative terms are not reportable.[234] FINRA stated that, in the context of omnibus loans and reallocations, proposed Rule 6530 does not alter which entities must be reported as parties to a loan, whether a change to the parties to a loan triggers a reporting obligation, or whether such report must reflect a modification or a new loan (and therefore, also a termination of the prior loan); rather, these obligations are prescribed by Rule 10c-1a as discussed in the Rule 10c-1a Adopting Release.[235] FINRA stated its understanding that Rule 10c-1a generally requires that a change in the parties to a loan be reported as a termination of the prior loan and the initiation of a new loan (reflecting the new parties, if known).[236] In adopting Rule 10c-1a, the Commission stated that whether a reallocation of a loan among participants in a lending program requires the reporting of a new covered securities loan depends upon the facts and circumstances, including the structure of such lending program.[237] The Proposal's information reporting requirements concerning omnibus loans that are Covered Securities Loans, by mirroring the requirements in Rule 10c-1a(e)(1), are reasonably designed to facilitate the collection of loan information consistent with Rule 10c-1a.[238]

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cited the Rule 10c-1a Adopting Release, which states that "[w]hether the parties to a covered securities loan change for purposes of the reporting requirements under final Rule 10c-1a(e)(1) depends on how a pool or lending program is structured (e.g., whether the pool or lending program itself or the individual underlying participants are the party or parties identified as the lender for the loan)." Rule 10c-1a Adopting Release, 88 FR 75664 (citation omitted).

234 FINRA Letter, at 6.

235 FINRA Letter, at 7.

236 FINRA Letter, at 7 (citing Rule 10c-1a Adopting Release, 88 FR 75664).

237 See Rule 10c-1a Adopting Release, 88 FR 75664.

238 See Rule 10c-1a Adopting Release, 88 FR 75664.

Another commenter stated that the proposed rule change, as originally proposed in the Notice, would require that "all Partials and Full Returns to be checked for settlement first, prior to being reported."[239] This commenter suggested to align SLATE with the SFTR, which the commenter stated "only requests the final close out of a trade to be reported, i.e., under SFTR, partials only have to be reported on a contractual settlement basis as opposed to an actual settlement basis."[240] The commenter stated that, under the proposed rule change, as originally proposed in the Notice, "market participants would have to consider how to monitor settlement separately to what they are reporting for regulatory purposes," which the commenter stated would be challenging for systems from a books a records perspective.[241] The commenter also stated that "[i]ncluding partials that follow the settlement driven reporting requirement i.e., the need to check for successful settlement prior to regulatory reporting, is going to create several challenges for market participants."[242]

As discussed above in Part III.A.1, Partial Amendment No. 1 removed the originally proposed requirement for the reporting of certain information, including the Unsettled Loan indicator, the expected settlement date for Covered Securities Loans, and the expected settlement date for modifications to the loan amount (if the expected settlement date is a date other than the date of the loan modification). FINRA stated that it eliminated the settlement-related elements in the interest of achieving the timely implementation of SLATE.[243] FINRA also stated that it plans to reassess the need for some data after gaining experience with the operation of SLATE and the

239 ISLA Letter 1, at 4.

240 ISLA Letter 1, at 4.

241 ISLA Letter 1, at 4. See S3 Partners Letter, at 4.

242 ISLA Letter 1, at 4–5.

243 FINRA Letter, at 4.

initial data set, and that any such efforts would be subject to a separate proposed rule change filed with the Commission and as such, subject to notice and comment. SLATE is designed to be consistent with Rule 10c-1a, which imposes a unique and different regulatory regime from the SFTR, with differences in their underlying objectives.[244] FINRA's decision in the Proposal not to require the reporting of settlement-related data elements—the Unsettled Loan indicator, the expected settlement date for Covered Securities Loans, and the expected settlement date for modifications to the loan amount (if the expected settlement date is a date other than the date of the loan modification)—addresses comments concerning the potential need to monitor the settlement of Covered Securities Loans.[245] Further, the Proposal is consistent with Rule 10c-1a because above-mentioned settlement-related data elements are not required to be reported pursuant to Rule 10c-1a(c) through (e).

Commenters stated that the proposed rule change, as originally proposed in the Notice, should allow reporters to submit a single, consolidated daily file. One commenter stated that the proposed rule change should "implement the single, consolidated, end-of-day reporting requirement contemplated by SEC Rule 10c-1a."[246] Another commenter recommended to allow reporters to submit a single daily file of all required elements associated with their current inventory" including "every loan required to be reported including new and modified loans."[247] FINRA's decision not to accept SLATE reports in the form of a single daily file is reasonable . In adopting Rule 10c-1a, the Commission provided FINRA with the necessary flexibility to propose and implement rules regarding the format and manner with respect to the collection of

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244 See Rule 10c-1a Adopting Release, 88 FR 75681.

245 See, e.g., ISLA Letter 1, at 4; S3 Partners Letter, at 4.

246 See SIFMA Letter, at 6. See also Robinhood Letter, at 2; SIFMA AMG Letter 2, at 3.

247 S3 Partners Letter, at 1.

information.[248] As such, the Proposal's requirements concerning the manner of reporting are consistent with FINRA's experience in establishing and maintaining systems that are designed to capture transaction reporting[249] as well as the requirements of Rule 10c-1a.[250] As discussed above, in Part III.C.2, the Proposal's requirement for reporting information concerning Loan Modifications is consistent with the requirements of Rule 10c-1a.

D. Definitions

One commenter stated that the proposed rule change, as originally proposed in the Notice, appears to sustain "the ongoing lack of clarity regarding whether certain uses of securities that are not documented or priced as securities loans in the market may nonetheless be reportable under Rule 10c-1a as 'covered securities loans.'"[251] The commenter stated that rehypothecating shares to make delivery on short positions should not be treated as a Covered Securities Loan for purposes of Rule 10c-1a.[252] Another commenter stated that the delivery by a broker-dealer of securities to settle a short sale—and the consequent carrying of a short position in a brokerage account—is not reportable under Rule 10c-1a as a "covered securities loan."[253]

In response, FINRA stated that whether a particular transaction is a "covered securities loan" is an example of an issue that is not related to determinations that FINRA has made regarding the proposed reporting requirements or dissemination provisions of SLATE.[254] FINRA stated that these comments are addressed in the Rule 10c-1a Adopting Release. Further, FINRA

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248 See Rule 10c-1a Adopting Release, 88 FR 75667 n.365.

249 See, e.g., Rule 10c-1a Adopting Release, 88 FR 75682, 75685; FINRA Rule 6730.

250 See Rule 10c-1a Adopting Release, 88 FR 75671.

251 MFA Letter, at 5.

252 See MFA Letter, at 5.

253 SIFMA Letter, at 8–9.

254 See FINRA Letter, at 9–10.

stated that, with respect to a Covered Securities Loan used to close out a fail-to-deliver pursuant to Rule 204 of Regulation SHO, where the broker-dealer is complying by entering into a bona fide arrangement to borrow the security by no later than the beginning of regular trading hours on the settlement day following the settlement date in question, firms would view such loans as having been agreed to in the morning consistent with the timing parameters of Rule 204 of Regulation SHO (albeit that the loan is not required to be reported until the end of the day under Rule 10c-1a).[255] One commenter on Partial Amendment No. 1 sought clarity on whether certain conduct constitutes "effecting, accepting, or facilitating" a lending transaction.[256]

The Commission agrees with FINRA that the definition of "covered securities loan" is addressed by Rule 10c-1a(j)(2) and is discussed in the Rule 10c-1a Adopting Release.[257] In adopting Rule 10c-1a, the Commission stated that the definition of covered securities loan excludes the use of margin securities by a broker or dealer (e.g., rehypothecation) other than the lending of such margin securities by a broker or dealer, as well as a position at a clearing agency that results from certain central counterparty or central securities depository services.[258] Because the definitions of Covered Securities Loan and Reportable Security in SLATE mirror the definitions of "covered securities loan" and "reportable security" in Rule 10c-1a, respectively, FINRA has reasonably set forth the scope of SLATE reports and distinguished Covered Securities Loans from other types of transactions that are not required to be reported.[259] The

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255 FINRA Letter, at 6–7. The Commission agrees with FINRA. See 17 CFR 242.204(b).

256 See Letter from Tony Holland, Director of Market Practice, International Securities Lending Association (December 20, 2024).

257 See, e.g., Rule 10c-1a Adopting Release, 88 FR 75658, 75661–67, 75689.

258 Rule 10c-1a Adopting Release, 88 FR 75649.

259 See Rule 10c-1a Adopting Release, 88 FR 75666–67.

definitions under the Proposal are reasonably designed to facilitate compliance with, and clarify the scope of, SLATE reporting consistent with Rule 10c-1a.

Commenters on the proposed rule change, as originally proposed in the Notice, sought clarity on the jurisdictional scope of the proposed rule change, including the applicability to foreign entities and foreign securities.[260] One commenter asked whether securities that are traded within the U.S. and have "'F-share' tickers" are Reportable Securities under Rule 10c-1a.[261] With regard to foreign securities traded outside of the U.S., the commenter asked if a transaction would be reportable under Rule 10c-1a in the U.S. if the security has multiple SEDOLs/tickers, where only one of which is Consolidated Audit Trail ("CAT") reportable, and the securities lending trade references one of the other SEDOLs/tickers (i.e., the foreign ticker traded on a foreign exchange, and thus not the "F-shares ticker").[262]

In response, FINRA listed these comments as examples of issues not related to determinations that FINRA has made regarding the proposed reporting requirements or dissemination provisions of SLATE but instead are addressed in the Rule 10c-1a Adopting Release.[263] As discussed above, in this Part, Rule 10c-1a(j) defines the terms "reportable security," which in part sets the scope of Rule 10c-1a(a). Accordingly, a security is a "reportable security" under Rule 10c-1a if it is a security or class of an issuer's securities for which information is reported or required to be reported to the consolidated audit trail as required by Rule 613 of the Exchange Act and the CAT NMS Plan, TRACE, or RTRS, or any reporting

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260 See, e.g., SIFMA Letter, at 8; ISLA Letter 1, at 2.

261 Letter from Tony Holland, Director of Market Practice, International Securities Lending Association (July 16, 2024) ("ISLA Letter 2"), at 2–3.

262 ISLA Letter 2, at 4–5. The acronym "SEDOL" stands for "Stock Exchange Daily Official List," which is a list of security identifiers used in the United Kingdom and Ireland for clearing purposes.

263 See FINRA Letter, at 9–10.

system that replaces one of these systems.[264] With respect to the cross-border application of Rule 10c-1a, the Commission stated that, section 10(c) of the Exchange Act, by its terms, requires reporting when, directly or indirectly, a person has "effect[ed], accept[ed], or facilitate[d]" a transaction involving the loan or borrowing of securities.[265] Based on that language, the Commission concluded in the Rule 10c-1a Adopting Release that the relevant domestic conduct that triggers the Commission's regulatory authority under section 10(c) is conduct within the U.S. that comprises (in whole or in part) effecting, accepting, or facilitating of a borrowing or lending transaction.[266] The Commission further stated that, because Rule 10c-1a is intended to be co-extensive with the regulatory scope of section 10(c), it is of the view that Rule 10c-1a's reporting requirements will generally be triggered whenever a covered person effects, accepts, or facilitates (in whole or in part) in the U.S. a lending or borrowing transaction.[267]

E. Compliance with Reporting Obligations

One commenter stated that the proposed rule change, as originally proposed in the Notice, differs from Rule 10c-1a because the proposed rule change would allow third-party service providers, who may not be registered in any capacity with the Commission, to provide the same service as a Reporting Agent "without the oversight or regulatory responsibility of a Reporting Agent," whereas Rule 10c-1a "specifically allows for Covered Persons to use the services of a Reporting Agent only."[268] The commenter stated that "the permissible activities" of these third-party service providers "demands further clarification and an express set of

264 See 17 CFR 240.10c-1a(j)(3).

265 Rule 10c-1a Adopting Release, 88 FR 75689.

266 Rule 10c-1a Adopting Release, 88 FR 75689.

267 Rule 10c-1a Adopting Release, 88 FR 75689.

268 See EquiLend Letter 1, at 1.

qualification criteria that distinguishes such permissible activities from those that are inherent" with respect to Reporting Agents and Covered Persons to avoid providing "a back door" through which the third-party service providers "can escape SEC and FINRA oversight and liability" as a Reporting Agent.[269]

In response, FINRA stated that nothing in the Proposal modifies the parameters the Commission set forth regarding the use of a "reporting agent," which is a defined term under Rule 10c-1a(j), for purposes of reporting loan information pursuant to Rule 10c-1a. FINRA stated that, while the Commission established the role of a reporting agent (in the Rule 10c-1a Adopting Release), it did not preclude firms from using other types of third parties to facilitate reporting (albeit that covered persons may not rely on such other parties in the same manner reserved for reporting agents under Rule 10c-1a).[270]

The Commission agrees with FINRA that the Proposal does not, and cannot, modify Rule 10c-1a's definition of "reporting agent." In adopting the definition of "reporting agent" under Rule 10c-1a, the Commission stated that the definition strikes a balance between increasing participation and competition in the marketplace for such services, while applying the definition only to entities over which the Commission has direct oversight.[271] The ability to use a Reporting Agent does not prevent Covered Persons from contracting privately with third-party vendors to assist in reporting. The use of other third-party vendors that are not Reporting Agents would not relieve a Covered Person of its obligation to report Rule 10c-1a information to FINRA, as reliance on a Reporting Agent would.[272] Allowing clearing agencies, as well as brokers or

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269 EquiLend Letter 1, at 6.

270 See FINRA Letter, at 15 (citing Rule 10c-1a Adopting Release, 88 FR 75655).

271 See Rule 10c-1a Adopting Release, 88 FR 75655.

272 See 17 CFR 240.10c-1a(a)(2); Rule 10c-1a Adopting Release, 88 FR 75655.

dealers, to act as reporting agents under Rule 10c-1a should help facilitate low-cost service providers, introduce more competition, and not unduly restrict the market for Reporting Agent services to only brokers or dealers.[273]

Commenters on the proposed rule change addressed Rule 6530(c)(3),[274] which requires, among other things, that, if a Covered Person makes a good faith determination that it has a reporting obligation under Rule 10c-1a and the Rule 6500 Series, the Covered Person or Reporting Agent, as applicable, must report the Covered Securities Loan as provided in proposed Rule 6530, and if a Reportable Security is not entered into the SLATE system, the Covered Person or Reporting Agent, as applicable, must promptly notify and provide FINRA Operations, in the form and manner required by FINRA, the information specified in Rule 6530(a)(2)(A) and (B), along with such other information as FINRA deems necessary to enter the Reportable Security for reporting through SLATE.[275] Commenters stated that requiring a Covered Person or Reporting Agent to notify FINRA to add securities to SLATE would be burdensome,[276] inefficient,[277] open to manual error,[278] and duplicative and unnecessary.[279] One commenter stated that this is a highly manual process that could "lead to a time-lag when setting up new static data that does not already exist within the SLATE system."[280] One commenter recommended that the

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273 Rule 10c-1a Adopting Release, 88 FR 75655.

274 As originally proposed in the Notice, this provision was included as proposed Rule 6530(d)(4). See supra Part II.C.

275 ISLA Letter 1, at 3; ISLA Americas Letter 1, at 15; ISLA Americas Letter 2, at 9; ICI Letter, at 8.

276 ICI Letter, at 8; ISLA Americas Letter 1, at 15; ISLA Americas Letter 2, at 9.

277 ICI Letter, at 8; ISLA Letter 1, at 3; ISLA Americas Letter 1, at 15.

278 ISLA Letter 1, at 3.

279 FIF Letter, at 8–9.

280 See ISLA Letter 1, at 3.

notification requirement be revised or removed, and stated that it is "not an appropriate delegation of duties" to require a Covered Person to notify FINRA Operations of Reportable Securities not included in the SLATE system.[281] One commenter stated that FINRA should have primary responsibility for adding Reportable Securities to the SLATE system and not impose this obligation on Covered Persons.[282] One commenter requested clarification on if the Covered Person could be subject to "liability" for failing to notify FINRA about Reportable Securities not entered into SLATE.[283] Another commenter stated that FINRA should consider the example of the CAT, where, the commenter stated, "there is no separate process for an industry member to request that a symbol be added to CAT."[284]

In response, FINRA stated that, under Rule 10c-1a, it is the covered person's (or, where applicable, a reporting agent's) responsibility to ensure that it submits required reports in compliance with applicable rules; Rule 10c-1a does not assign to an RNSA the responsibility to identify all reportable securities.[285] FINRA stated that, as FINRA typically does with its other over-the-counter facilities, FINRA intends to create a SLATE security list that it will make available to Covered Persons and other SLATE participants (leveraging reference data from the CAT NMS list, TRACE, and the MSRB).[286] FINRA stated, however, that a Covered Person remains obligated to determine whether a securities loan transaction that it has engaged in is reportable under Rule 10c-1a, regardless of whether the security appears on FINRA's SLATE

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281 ISLA Americas Letter 1, at 15. See ISLA Americas Letter 2, at 9.

282 ICI Letter, at 8.

283 ISLA Letter 1, at 13.

284 See FIF Letter, at 8–9.

285 See FINRA Letter, at 15.

286 FINRA Letter, at 15–16.

security list.[287] FINRA stated that, for this reason, proposed Rule 6530(c)(3), as modified by Partial Amendment No. 1, requires that, if a Covered Person makes a good faith determination that it has a reporting obligation under Rule 10c-1a with respect to a securities loan, and the Reportable Security is not already entered into the SLATE system, the Covered Person (or its Reporting Agent) must promptly notify FINRA and work with FINRA Operations to enter the Reportable Security into the SLATE system.[288] One commenter on Partial Amendment No. 1 stated that FINRA should publish a SLATE securities list daily based on a consolidated feed of TRACE, RTRS, and CAT eligible securities.[289]

FINRA's decision to require Covered Persons or Reporting Agents, as applicable, to promptly notify and provide FINRA Operations with a Reportable Security that is not entered into the SLATE system is reasonable.[290] In proposing Rule 6530(c)(3), FINRA stated that the requirement would enable FINRA to set the security up in its systems and facilitate reporting of the Covered Securities Loan to SLATE, as required by Rule 10c-1a and proposed Rule 6530.[291] The proposed requirement to add Reportable Securities to the SLATE system is reasonably designed to facilitate the collection of loan information consistent with Rule 10c-1a.[292]

Some commenters addressed the statement in the Notice that "the member must nonetheless take reasonable steps to ensure that the Reporting Agent is in fact complying with

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287 FINRA Letter, at 16.

288 FINRA Letter, at 16.

289 SIFMA and SIFMA AMG Letter, at 5.

290 See Rule 10c-1a Adopting Release, 88 FR 75667 n.365. In adopting Rule 10c-1a, the Commission stated that there may be costs for reporting entities associated with determining whether a loan is a covered securities loan, including whether a particular security is a reportable security. Rule 10c-1a Adopting Release, 88 FR 75718 n.974.

291 Notice, 89 FR 38210.

292 See Rule 10c-1a Adopting Release, 88 FR 75667 n.365.

the securities lending reporting requirements of SEA Rule 10c-1a and proposed FINRA Rule 6530 on its behalf."[293] One commenter stated that such a requirement deviates from Rule 10c-1a and could impact "the very point of engaging a reporting agent" because it "shift[s] reporting compliance (outside of a written agreement and timely access to data) back to the covered person creating a reconciliation loop that will be time consuming, costly and operationally intensive."[294] Another commenter stated that the costs of increased reliance on Reporting Agents for compliance purposes would be compounded by the proposed requirement that Covered Persons ensure that Reporting Agents file timely, accurate, and complete data.[295]

In response, Partial Amendment No. 1 removed from the proposed rule change the requirement that a Covered Person take reasonable steps to ensure that the Reporting Agent is in fact complying with the securities lending reporting requirements of Rule 10c-1a. In doing so, FINRA stated that, in its oversight of member compliance with Rule 10c-1a, in addition to reviewing whether members have complied with the requirements of Rule 10c-1a(a)(2) with respect to the use of Reporting Agents, FINRA also will review the timeliness and accuracy of SLATE reports submitted by Reporting Agents in light of a Reporting Agent's obligations under Rule 10c-1a(b) and the underlying requirements of Rule 10c-1a. FINRA stated that, after gaining experience with the SLATE program, FINRA will reevaluate whether any additional measures are appropriate.[296] Any such efforts would be subject to a separate proposed rule change filed with the Commission and subject to notice and comment. Some commenters supported Partial

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293 See Notice, 89 FR 38210.

294 ISLA Americas Letter 1, at 10.

295 SIFMA AMG Letter 2, at 7.

296 Partial Amendment No. 1, 89 FR 92229 n.21.

Amendment No. 1's removal of this originally proposed requirement.[297] The Proposal, which is consistent with Rule 10c-1a[298] and similar requirements in rules concerning other FINRA trade reporting systems,[299] is reasonably designed to facilitate the oversight of compliance with Rule 10c-1a, given FINRA's expertise in administering other FINRA trade reporting systems.[300]

F. Participation in SLATE

One commenter requested that FINRA confirm its enforcement rules for non-U.S. firms for incorrect reporting.[301] This commenter requested clarity on FINRA's proposed enforcement policy on non-FINRA members, specifically as it related to compliance for reporting to the SLATE system and violations or failures to pay SLATE reporting fees.[302] The commenter also asked, from a cybersecurity perspective, what processes, policies, or procedures FINRA members have in place and whether the proposed requirement in Rule 6520(a)(2)(C) regarding the maintenance of the physical security of the equipment located on the premises of the SLATE Participant would apply to both domestic and non-U.S. trading parties.[303]

In response to comments regarding incorrect reporting, FINRA stated that it will review the timeliness and accuracy of reports to the SLATE system in light of the requirements under Rule 10c-1a(b) and the underlying requirements of Rule 10c-1a. FINRA also stated that, after gaining experience with the SLATE program, FINRA will reevaluate whether any additional

297 See ISLA Americas Letter 2, at 5; SIFMA and SIFMA AMG Letter, at 3.

298 See 17 CFR 240.10c-1a(a), (b).

299 See, e.g., FINRA Rule 6730(f).

300 See Rule 10c-1a Adopting Release, 88 FR 75683.

301 ISLA Letter 1, at 2.

302 ISLA Letter 1, at 14.

303 ISLA Letter 1, at 13.

measures are appropriate.[304] Any such efforts would be subject to a separate proposed rule change filed with the Commission and subject to notice and comment. Further, in the Notice, FINRA stated that it may validate and reject submissions to SLATE that FINRA believes are noncompliant or otherwise inconsistent with Rule 10c-1a or with the form and manner specified by FINRA for the data (as provided in FINRA rules, guidance, and technical documents and specifications), and may exclude any such information from disseminated SLATE data. FINRA stated that it may also block or reject any activity to the extent such activity puts the normal functioning of the SLATE system at risk.[305]

Incorrect reporting can result in a violation of Rule 10c-1a.[306] The Proposal, which contains security- and confidentiality-related provisions that supplement existing FINRA cybersecurity-related rules for certain SLATE Participants,[307] is reasonably designed to address cybersecurity concerns regarding the SLATE system. The proposed requirement for a SLATE Participant to maintain the physical security of the equipment located on its premises to prevent unauthorized entry of information into SLATE is reasonably designed to help prevent risk to the SLATE system that could hamper access to information regarding securities loans or compromise the integrity of the data reported to and disseminated by SLATE. The Proposal is

304 FINRA Letter, at 4 n.18.

305 Notice, 89 FR 38206.

306 See Rule 10c-1a(a).

307 Cybersecurity, FINRA (last visited December 16, 2024), https://www.finra.org/rules-guidance/key-topics/cybersecurity#rules. In adopting Rule 10c-1a, the Commission stated that the rule collects sensitive information and that the costs of a data breach could be substantial. See Rule 10c-1a Adopting Release, 88 FR 75721 n.1011. While Reporting Agents that are not FINRA members (e.g., registered clearing agencies and certain brokers or dealers) are not subject to these cybersecurity-related FINRA rules, they nevertheless may be subject, as applicable, to existing Commission rules designed to address cybersecurity-related concerns, such as Regulation SCI, which has provisions requiring, among other things, that policies and procedures be in place to help ensure the robustness and resiliency of market technology systems, see 17 CFR 242.1001(a)(1), or Regulation S-P, which has provisions requiring policies and procedures aimed at protecting customer records or information and customer report information, see 17 CFR 248.30.

consistent with the requirement in Rule 10c-1a(h)(4) that FINRA establish, maintain, and enforce reasonably designed written policies and procedures to maintain the security and confidentiality of the confidential information required to be reported to it. It also is reasonably designed to address the risk that disclosure of certain loan information would identify market participants or reveal information about the internal operations of market participants.[308] The Proposal is reasonably designed to facilitate and enforce the integrity of the collected data that is designed to improve transparency and efficiency in the securities lending market consistent with Rule 10c-1a.

G. Dissemination of Loan Information

Under the proposed rule change, as originally proposed in the Notice, FINRA would have disseminated, by the morning of the next business day, aggregate loan transaction activity, including information broken down into several subcategories (e.g., by borrower type or whether a loan is an open or term loan).[309] Some commenters addressed the granularity of the aggregated data that FINRA would disseminate pursuant to the proposed rule change, as originally proposed in the Notice. Two commenters stated that, in Rule 10c-1a, the Commission had afforded FINRA deference as to the manner in which aggregate information is compiled and presented publicly.[310] One commenter stated that such "deference is limited to the manner in which aggregate data at the level of the entire dataset of reported coved securities loans is reported," without permitting FINRA to break down the dataset into smaller published subsets, or "slices," based on specific criteria.[311] Some commenters also stated such granular data (e.g., data broken down by borrower

308 See Rule 10c-1a Adopting Release, 88 FR 75687.

309 See Notice, 89 FR 38212.

310 See SIFMA Letter, at 7; ISLA Americas Letter 1, at 16.

311 SIFMA Letter, at 7. See SIFMA AMG Letter 2, at 5.

type) raises significant concerns that sensitive, proprietary trading strategy information may be disclosed.[312] Commenters stated their concerns that the publication of more granular aggregated data potentially could allow market participants to "extrapolate" or "back into" individual loan amounts on a T+1 basis.[313] One commenter stated that the proposed rule change's breakdown for aggregate transaction activity and distribution of loan rates should have been included in the proposing release for Rule 10c-1a and subjected to a cost-benefit analysis and formal rulemaking notice and comment period.[314] The commenter recommended that FINRA "reevaluate its proposed structure and instead propose a revised, less granular structure."[315]

In response, Partial Amendment No. 1 removed the subcategories of volume data from the aggregate loan transaction activity to be disseminated until experience is gained with the impact of disseminating volume data.[316] In particular, Partial Amendment No. 1 removed paragraphs (c)(1)(A) through (E) and amended proposed Rule 6540(c)(1) to provide that FINRA will disseminate the aggregate volume of securities subject to an Initial Covered Securities Loan or Modification to the amount of Reportable Securities loaned, reported on the prior business day. In the FINRA Letter, FINRA stated that Rule 10c-1a requires an RNSA to disseminate "information pertaining to the aggregate transaction activity and distribution of loan rates for each reportable security."[317] FINRA stated that the Commission did not specify the precise manner in which aggregate transaction activity or the distribution of loan rates would be

312 SIFMA Letter, at 7. See ICI Letter, at 9; SIFMA AMG Letter 2, at 5; Hagerty Letter, at 3.

313 See SIFMA Letter, at 7; ISLA Americas Letter 1, at 16; MFA Letter, at 5–6.

314 See SIFMA Letter, at 6–7.

315 SIFMA Letter, at 7. See MFA Letter, at 7; SIFMA AMG Letter 2, at 5.

316 See FINRA Letter, at 14.

317 FINRA Letter, at 13 (citing 17 CFR 240.10c-1a(g)(5)).

compiled and disseminated by an RNSA, thereby providing FINRA with discretion as to the formulation of the data (so long as the "aggregate transaction activity" represented the absolute value of loan transactions).[318] FINRA stated that, in determining what aggregate data is appropriate for public dissemination, it remains very sensitive to concerns regarding potential information leakage.[319]

Further, in response to comments, FINRA stated that this change is appropriate and that FINRA would revisit the possibility of enhancing the aggregate loan transaction activity in the future, after gaining experience with the impact of disseminating volume data and analyzing what additional information could be useful (while continuing to be sensitive to potential information leakage concerns).[320] FINRA stated that any future amendments to the dissemination provisions would be subject to a separate proposed rule change filed with the Commission and subject to notice and comment. Some commenters supported Partial Amendment No. 1's removal of the subcategories of volume data from the aggregate loan transaction activity to be publicly disseminated,[321] one of whom supported FINRA's decision to revisit SLATE's dissemination provisions.[322] The Proposal is reasonably designed to facilitate access to data that market participants can use to mitigate information asymmetries while taking account of commenter concerns regarding data security and confidentiality. The Proposal also is consistent with the

318 FINRA Letter, at 14 (citing Rule 10c-1a Adopting Release, 88 FR 75684).

319 FINRA Letter, at 14.

320 See Partial Amendment No. 1, 89 FR 92232.

321 See ISLA Americas Letter 2, at 6; SIFMA and SIFMA AMG Letter, at 3.

322 See ISLA Americas Letter 2, at 6.

requirements for the publication of data in Rule 10c-1a(g) and the broader transparency goals of Rule 10c-1a.[323]

The Proposal is reasonably tailored to help ensure that the absolute value of transactions is disseminated such that net position changes should not be discernable in the data. This should help to address commenter concerns regarding potential exposure of proprietary information while still providing volume transparency to market participants. The Proposal is reasonably designed to facilitate the dissemination of loan information consistent with Rule 10c-1a.

One commenter on Partial Amendment No. 1 stated that the Commission and FINRA should require that unsettled loans be excluded from any public dissemination of individual loan transaction data pursuant to proposed Rule 6540(a) and (b) and from any daily loan statistics published pursuant to proposed Rule 6540(c).[324] The commenter stated that it does not see the value to the market in publishing data regarding unsettled loans and that including unsettled loans in publicly disseminated loan information "would be misleading and cause investor confusion."[325] The Commission disagrees that the inclusion of unsettled loans (that are Covered Securities Loans) in data disseminated pursuant to proposed Rule 6540 would be misleading and cause investor confusion, as the commenter suggested and instead believes that the omission of this data would be inconsistent with Rule 10c-1a's broader transparency goals.[326] For instance, the dissemination of data regarding unsettled loans that are Covered Securities Loans would provide information regarding the material terms of securities loans that have been agreed to.[327]

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323 See Rule 10c-1a Adopting Release, 88 FR 75726. See also Rule 10c-1a Adopting Release, 88 FR 75707 n.849.

324 See SIFMA and SIFMA AMG Letter, at 4.

325 SIFMA and SIFMA AMG Letter, at 4.

326 See, e.g., Rule 10c-1a Adopting Release, 88 FR 75707.

327 See Rule 10c-1a Adopting Release, 88 FR 75662 n.288.

FINRA's decision to disseminate, pursuant to proposed Rule 6540, data regarding unsettled loans that are Covered Securities Loans is consistent with Rule 10c-1a(g), which applies to "covered securities loans," generally, without distinguishing those that are unsettled.

Some commenters stated that the de minimis loan transaction activity threshold, as originally proposed in the Notice, was set too low.[328] One commenter stated that the threshold of three loans is too low, "especially when viewed in conjunction with the possibility that FINRA will publish granular volume buckets."[329] Commenters stated that FINRA should consider whether the application of the threshold "should be mandatory and not an optional exclusion for confidentiality reasons."[330] Another commenter stated that the discretionary authority to exclude de minimis loan transaction activity would "have no mitigating effect whatsoever" on the consequences of publicly disclosing sensitive, granular loan information.[331] One commenter requested clarification as to whether FINRA "will" or "may" omit de minimis loan transaction activity.[332]

In response, Partial Amendment No. 1 modified proposed Rule 6540.01 to clarify that FINRA's application of the de minimis threshold will be non-discretionary and to provide that FINRA will not include aggregate volume information for a security unless there were reports submitted to SLATE on the prior business day for at least 10 distinct Covered Securities Loans in the Reportable Security (represented by different FINRA-assigned unique loan identifiers).[333] In

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328 See, e.g., ISLA Letter 1, at 10; ISLA Americas Letter 1, at 16; ICI Letter, at 9; SIFMA AMG Letter 2, at 5.

329 ISLA Americas Letter 1, at 16.

330 ISLA Letter 1, at 10. See ICI Letter, at 9.

331 MFA Letter, at 6.

332 ISLA Americas Letter 1, at 16.

333 FINRA stated that it will not have insight into all of the relevant loan details necessary to generate the statistics described in proposed Rule 6540(c) with respect to modifications to loans for which reporting was

the FINRA Letter, FINRA stated that the de minimis exclusion was not intended to provide FINRA with discretion on a case-by-case basis as to whether to omit volume information that met the de minimis criteria.[334] Some commenters supported Partial Amendment No. 1's increase to the de minimis threshold and clarification that application of the de minimis threshold is non-discretionary.[335] One commenter stated that FINRA should consider further whether 10 distinct Covered Securities Loans may still be too low of a threshold.[336] The commenter stated, without providing any support for its suggested figure, that a higher threshold of 25 distinct Covered Securities Loans would be more appropriate to address concerns that sophisticated market participants could use the aggregated volume information to extrapolate sensitive information by pairing the aggregate transaction activity data with data on individual loan transactions.[337] Another commenter, however, stated that the threshold of 10 distinct Covered Securities Loans—in addition to the provision's use of the phrase "will not include" to clarify that the application of the de minimis threshold is non-discretionary—will facilitate the prevention of information leakage and enhance the integrity of securities loan reporting.[338] The Commission agrees with this comment and that the Proposal's de minimis threshold of 10 distinct Covered Securities Loans is reasonable. The threshold of 10 distinct Covered Securities Loans will facilitate the

not required pursuant to Rule 10c-1a(c) at the time the loan was agreed to or last modified (i.e., modifications reported to SLATE pursuant to Rule 10c-1a(d)(2)). FINRA stated that, therefore, the daily loan statistics that FINRA will publish will only reflect modifications to Covered Securities Loans that were previously reported to SLATE.

334 FINRA Letter, at 14 n.52. This proposed de minimis provision is intended to address potential information leakage in circumstances where there are multiple reported events associated with the same loan on a given day. Partial Amendment No. 1, 89 FR 92233 n.49.

335 See ISLA Americas Letter 2, at 6; SIFMA and SIFMA AMG Letter, at 7.

336 SIFMA and SIFMA AMG Letter, at 7.

337 SIFMA and SIFMA AMG Letter, at 7.

338 See ISLA Americas Letter 2, at 6.

prevention of information leakage and is less likely than the commenter's suggested threshold of 25 distinct Covered Securities Loans to reduce the transparency value of the disseminated information. The Proposal is consistent with the publication of data requirements of Rule 10c-1a(g), the data protection requirements in Rule 10c-1a(h)(4), and the broader transparency goals of Rule 10c-1a.[339]

H. Other Provisions

1. Emergency Authority

Some commenters stated that the proposed suspension of the reporting or dissemination of certain Covered Securities Loans or Data Elements for periods deemed necessary by FINRA, as discussed above in Part II.F, would undermine the transparency that the proposed FINRA Rule 6500 Series aims to promote.[340] These commenters stated that the proposed suspension "would inadvertently create an information asymmetry, thus disadvantaging end borrowers and beneficial owners who rely on this data for making prudent investment decisions" and "strongly advocate[d] for stringent guidelines governing the suspension of reporting requirements to avoid undermining these goals."[341] Another commenter "strongly advocate[d] for . . . the publication of the reasons and timeframe for suspension to avoid undermining [the proposed rule's] goals."[342]

In response, FINRA stated that it does not believe that the proposed provision, which would provide FINRA with limited, emergency authority regarding the suspension of the reporting or dissemination of certain Covered Securities Loans or Data Elements, would reduce

339 See Rule 10c-1a Adopting Release, 88 FR 75726. See also Rule 10c-1a Adopting Release, 88 FR 75687–88, 75707 n.849.

340 See, e.g., Form Letter A; Form Letter D.

341 See, e.g., Form Letter A; Form Letter D.

342 Letter from Jennifer (May 15, 2024).

the transparency intended to be provided under Rule 10c-1a. FINRA stated that, should the proposed emergency authority be used, any such action would be taken only as market conditions warrant and only in consultation with the SEC.[343] FINRA stated that it has similar authority in connection with other transaction reporting facilities that it operates, and that it believes that such emergency authority is appropriate to maintain fair and orderly markets.[344] This emergency authority is consistent with existing FINRA rules governing other transparency regimes.[345] The Commission agrees that the proposed Emergency Authority provision of SLATE is reasonably designed to maintain fair and orderly markets as market conditions may warrant. Such authority, pursuant to proposed Rule 6550, could be exercised only in consultation with the Commission, which should help to ensure that the emergency authority is used in a manner consistent with the requirements and goals of Rule 10c-1a.

I. Costs and RNSA Fees

Commenters stated that FINRA has yet to publish information about its contemplated Covered Securities Loan reporting fees and securities loan data products and associated fees, and requested that FINRA provide such information.[346] Commenters stated that market participants and the Commission cannot adequately assess the costs and benefits of the Proposal without knowing what reporting fees FINRA plans to charge.[347] Commenters also requested time to

343 FINRA Letter, at 13.

344 FINRA Letter, at 13.

345 See, e.g., FINRA Rule 6770 (Emergency Authority); Securities Exchange Act Release No. 60726 (September 28, 2009), 74 FR 50991 (October 2, 2009), at 50996.

346 See Notice, 89 FR 38206. See, e.g., ISLA Letter 1, at 12; Associations Collective Letter, at 3; MFA Letter, at 2 n.7; Robinhood Letter, at 3 n.14; EquiLend Letter 1, at 7; SIFMA AMG Letter 1, at 2.

347 See Associations Collective Letter, at 3; ICI Letter, at 9; ISLA Americas Letter, at 5.

consider FINRA's contemplated SLATE reporting fees and data product fees.[348] One commenter recommended in the absence of a proposed fee schedule "that any final rule promulgated by FINRA be conditional upon publication of proposed costs and public comment."[349]

On November 20, 2024, FINRA filed this proposed rule change with the Commission. Specifically, pursuant to Section 19(b)(1) of the Exchange Act and Rule 19b-4 thereunder, FINRA filed a proposed rule change to set forth in new FINRA Rule 7720 securities loan reporting fees and securities loan data products with associated fees.[350] FINRA designated the SLATE Fee Filing as "establishing or changing a due, fee or other charge" under Section 19(b)(3)(A)(ii) of the Act and Rule 19b-4(f)(2) thereunder, which renders it effective upon filing with the Commission. In addition, within the SLATE Fee Filing, FINRA estimates the costs it expects, at this juncture, to incur to build and operate SLATE, as well as the revenues it expects to receive from its proposed fees.[351] To solicit comments on the proposed rule change from

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348 See SIFMA Letter, at 7–8; SIFMA AMG Letter 1, at 2; EquiLend Letter 1, at 7.

349 ISLA Americas Letter, at 11.

350 See Securities Exchange Act Release No. 101697 (Nov. 21, 2024), 89 FR 93750 (Nov. 27, 2024) ("SLATE Fee Filing"). With respect to reporting, proposed FINRA Rule 7720 sets forth fees for: (1) SLATE system connectivity; (2) Initial Covered Securities Loan reporting; (3) Loan Modification reporting; (4) late reporting; and (5) reporting cancellations, corrections, or deletions. These reporting fees would be paid by SLATE Participants. See SLATE Fee Filing, 89 FR 93751. With respect to data products, proposed FINRA Rule 7720 sets forth fees for: (1) SLATE Loan-Level Data and Daily Loan Statistics, which refers to the data described in proposed FINRA Rule 6540(a)–(c); and (2) Historic SLATE Data, which refers to SLATE Loan-Level Data and Daily Loan Statistics from the beginning of SLATE data reporting through the end of the most recent calendar year. See SLATE Fee Filing, 89 FR 93751. These data product fees would be paid by any person or organization subscribing to receive from FINRA downloadable files of SLATE data for commercial purposes. See SLATE Fee Filing, 89 FR 93751. Pursuant to proposed FINRA Rule 6540.02, which is part of the Proposal, FINRA would display (i.e., make viewable) SLATE data free of charge on its website for personal, non-commercial uses. See SLATE Fee Filing, 89 FR 93751. Additional detail regarding FINRA's proposed SLATE reporting fees and SLATE data product fees, as well as FINRA's related cost and revenue estimates, can be found in the SLATE Fee Filing.

351 SLATE Fee Filing, 89 FR 93753. FINRA stated in the SLATE Fee Filing that it intends to reassess the SLATE reporting fees and data products and associated fees after the commencement of SLATE reporting and dissemination and obtaining additional information regarding reporting volumes and data product subscription interest. See SLATE Fee Filing, 89 FR 93753. And FINRA stated that, to the extent it determines that a change to the SLATE fee structure would be appropriate to better align SLATE revenues with the incremental direct ongoing costs incurred in connection with the SLATE program, FINRA would

interested persons, the Commission published notice of the SLATE Fee Filing on its website on November 21, 2024, and publication of that notice in the Federal Register occurred on November 27, 2024, with a 21-day comment period beginning on the date of Federal Register publication and expiring on December 18, 2024.[352] The SLATE Fee Filing is responsive to commenters seeking the ability and time to understand what fees FINRA proposes to charge in connection with SLATE reporting and public dissemination of SLATE data, and what costs FINRA expects to incur, at this juncture, to build and operate SLATE.

Commenters on the Proposal also expressed views on how FINRA should allocate, via SLATE fees, the SLATE costs that it incurs.[353] One commenter recommended that the Commission ensure FINRA imposes "the costs of building and operating the reporting system equally on lenders and borrowers, instead of solely on lenders."[354] Similarly, another commenter stated that the SLATE fees should "be borne by market participants more broadly" rather than solely by Covered Persons submitting data.[355] One commenter expressed concern regarding the "disproportionate allocation of compliance costs" to lenders and urged FINRA to exempt lenders (including lenders who may pool their data) from any fees associated with accessing SLATE data for commercial purposes to ensure equitable access to industry wide-data.[356]

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file a proposed rule change with the Commission to revise the proposed SLATE fees. See SLATE Fee Filing, 89 FR 93753.

352 See SLATE Fee Filing, 89 FR 93750. Comments received in response to the SLATE Fee Filing can be found on the Commission's website at https://www.sec.gov/comments/sr-finra-2024-020/srfinra2024020.htm.

353 See, e.g., ICI Letter, at 9–10; ISLA Letter 1, at 12, 14; Letter from David Schwartz, Executive Director, Center for the Study of Financial Market Evolution (May 28, 2024) ("CSFME Letter"), at 2–3. See also ISLA Americas Letter 2, at 9.

354 ICI Letter, at 9–10.

355 ISLA Letter 1, at 12, 14.

356 CSFME Letter, at 2–3.

That FINRA will incur costs to build and maintain SLATE and proposes to pass them to market participants through SLATE fees is consistent with Rule 10c-1a and what the Commission stated when adopting the rule, and also consistent with the Exchange Act.[357] Rule 10c-1a requires Covered Persons to report to an RNSA the required data elements set forth in the rule for Covered Securities loans, and requires the RNSA to make reported data publicly available. In the Adopting Release, the Commission stated that Rule 10c-1a will impose costs on an RSNA, and that the RNSA may pass on these costs by imposing fees on entities that provide Rule 10c-1a information to the RNSA and/or consumers of the Rule 10c-1a data.[358] This is what FINRA, the lone RNSA, has proposed to do in the SLATE Fee Filing. The proposed SLATE reporting fees would be paid by SLATE Participants under the SLATE Fee Filing, the effect of which may be that SLATE reporting fees are paid primarily by, and related SLATE costs borne by, Covered Person lenders and lending agents, i.e., entities that will provide Rule 10c-1a information to FINRA. And the proposed SLATE data product fees would be paid by, and related SLATE costs borne by, any person or organization subscribing to receive from FINRA downloadable files of SLATE data for commercial purposes, i.e., consumers of the Rule 10c-1a data.

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357 As stated elsewhere herein, the Commission has found that the Proposal, by implementing Rule 10c-1a, would help protect investors and promote just and equitable principles of trade, consistent with Section 15A(b)(6) of the Exchange Act. See, e.g., supra Part III.

358 See Rule 10c-1a Adopting Release, 88 FR 75693. The Commission also understands that lenders may pass on their reporting costs to their customers. See Rule 10c-1a Adopting Release, 88 FR 75693. In addition, a commenter has stated that it is more than likely that lending agents will pass on any fees that they bear. See ISLA Americas Letter 2, at 9. The Commission believes, however, that investors will ultimately benefit from the improved transparency provided by SLATE, as a result of enhanced price discovery and an improved ability to determine the extent to which their broker-dealers and lending agents are obtaining terms consistent with market conditions for loans with similar characteristics. See supra notes 79–90 and accompanying text.

To the extent commenters express views on what SLATE fees FINRA should charge or how FINRA should allocate SLATE fees,[359] these comments are relevant to the Slate Fee Filing and not to this Proposal. Pursuant to the Section 19(b)(3)(A) and Rule 19b-4 procedures applicable to the SLATE Fee Filing, the Commission will separately consider whether the proposed fees set forth in the SLATE Fee Filing are consistent with Section 15A of the Exchange Act, and in particular Section 15A(b)(5),[360] which requires that FINRA's rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which FINRA operates or controls. If it appears to the Commission that it is necessary or appropriate in the public interest, for the protection of investors, and otherwise in furtherance of the purposes of the Act, the Commission summarily may temporarily suspend the SLATE Fee Filing and institute proceedings to determine whether the SLATE Fee Filing should be approved or disapproved.[361]

J. Other Issues Raised by Commenters Regarding the Proposal

1. Comment Period Extension

Commenters on the proposed rule change, as originally proposed in the Notice, stated that the length of the comment period for FINRA's proposed rule change was too short,

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359 See, e.g., ISLA Americas Letter 2, at 9 (urging the Commission and FINRA to ensure that the cost structure related to the reporting of covered securities loans is equitable, and expressing an intention to submit comments with respect to the SLATE Fee Filing in a separate letter); CSFME Letter at 2–3 (urging that lenders be exempt from fees for SLATE data products to ensure equitable access to data).

360 See 15 U.S.C. 78o-3(b)(5).

361 See 15 U.S.C. 78s(b)(3)(C), 78s(b)(2)(B). The proposed SLATE reporting fees would not be implemented before January 2, 2026, and the proposed SLATE data product fees would not be implemented before April 2, 2026. See SLATE Fee Filing, 89 FR 93753–54 (stating that implementation of SLATE reporting fees and data product fees will correspond with Rule 10c-1a's compliance dates for the commencement of reporting to SLATE and SLATE data dissemination, respectively); Rule 10c-1a Adopting Release, 88 FR 75691 (setting forth Rule 10c-1a's compliance schedule). Should the Commission determine to suspend and institute proceedings on the SLATE Fee Filing, those proceedings would conclude before the January 2, 2026, implementation date for SLATE reporting fees. See 15 U.S.C. 78s(b)(3)(C), 78s(b)(2)(B).

requesting that the comment period be extended.[362] Commenters stated that a longer comment period was necessary to consider certain aspects of the proposed rule change, as originally proposed in the Notice.[363] One commenter stated that, given that the proposed rule change, as originally proposed in the Notice, included requirements beyond those of Rule 10c-1a, "it is especially important for the Commission to ensure it takes the time necessary to closely review FINRA's proposed rules and obtain fulsome public feedback."[364]

As discussed above, in Part I, the Commission extended until August 5, 2024, the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change. On August 5, 2024, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change, and allow for additional analysis of, and input from commenters with respect to, the scope and implementation of the proposed rules. On October 28, 2024, the Commission designated January 2, 2025, as the date by which the Commission shall either approve or disapprove the proposed rule change.

Following the Commission's publication of its Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change to Adopt the FINRA Rule 6500 Series, some commenters submitted comments stating their concerns about—what commenters called—a 45-day "delay" in implementing SLATE. Some commenters opposed the Commission's designation of a longer period within which to take action on FINRA's proposed rule change.[365] Some

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362 See, e.g., ISLA Letter 1, at 1–2; SIFMA AMG Letter 1, at 2; Associations Collective Letter, at 3; SIFMA AMG Letter 2, at 2, 8.

363 See SIFMA AMG Letter 1, at 2; SIFMA Letter, at 7–8.

364 Associations Collective Letter, at 3.

365 See, e.g., Form Letter C.

commenters called the extension "unacceptable" or stated that the delay in the implementation of the FINRA rules could undermine the stability and transparency of the financial system and weaken investor confidence.[366] The Commission's publication of its Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change to Adopt the FINRA Rule 6500 Series did not delay the implementation of SLATE. Pursuant to Rule 10c-1a, the date for the Proposal to be effective is no later than 12 months after the effective date of Rule 10c-1a, which is January 2, 2025.[367]

2. SLATE Compliance Period(s)

One commenter recommended that FINRA provide SLATE Participants with six months of user acceptance testing.[368] The commenter stated that such testing "will be a critical component of the development lifecycle - reducing risk and increasing the quality of submissions."[369] Whether FINRA decides to provide for such testing, taking account of the applicable Rule 10c-1a compliance periods, is within FINRA's discretion to structure its systems and processes as it sees fit.[370]

A commenter stated that the Commission should pause the Rule 10c-1a compliance dates until the legal challenge regarding Rule 10c-1a is resolved.[371] Another commenter stated that the

366 See, e.g., Form Letter C.

367 See Rule 10c-1a Adopting Release, 88 FR 75691 (requiring that the proposed FINRA rules are effective no later than 12 months after the effective date of final Rule 10c-1a, and that covered persons must start reporting Rule 10c-1a information to an RNSA starting on the first business day 24 months after the effective date of final Rule 10c-1a).

368 S3 Partners Letter, at 5.

369 S3 Partners Letter, at 5.

370 See, e.g., Rule 10c-1a Adopting Release, 88 75667 n.365.

371 See Robinhood Letter, at 3 (referencing Nat'l Assoc. Priv. Fund Mgr. v. SEC, No. 23-60626 (5th Cir.)).

SEC and FINRA should "avoid pursuing" the Proposal until the legal challenge is adjudicated.[372] In general, the filing of a legal challenge to an agency rule does not itself alter the compliance date(s) set forth in the rule. Accordingly, the challenge to Rule 10c-1a does not change the compliance date(s) set forth therein or the need for affected parties to comply with Rule 10c-1a.

Another commenter stated that the Commission should work with FINRA to afford FINRA an appropriate amount of additional time to address the feedback FINRA may receive on Partial Amendment No. 1, such as by allowing FINRA to consent to additional time for Commission consideration of the Proposal.[373] As discussed above, in Parts I and III.J.1, January 2, 2025, is the date by which the Commission shall either approve or disapprove the Proposal and is the compliance date under Rule 10c-1a for the Proposal to be effective. The commenter's suggestion to allow additional time for the Proposal to be considered would extend consideration of the Proposal beyond, and therefore would be inconsistent with, the Rule 10c-1a compliance date for the Proposal to be effective.

K. Issues Outside the Scope of the Proposal

The Commission received comments on the Draft SLATE Participant Reporting Specifications.[374] The SLATE Participant Reporting Specifications were not filed or required to

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372 See Hagerty Letter, at 3.

373 See SIFMA and SIFMA AMG Letter, at 2. The commenter suggested that the Commission "allow[] FINRA to consent to additional time for Commission consideration of the SLATE proposal under Section 19(b)(2)(B)(ii) of the Exchange Act." SIFMA and SIFMA AMG Letter, at 2.

374 See, e.g., ISLA Americas Letter 1, at 13–14, 17; ISLA Americas Letter 2, at 4, 8; FIF Letter, at 3–4. See also FIF Letter, at 6, 8. FINRA has included on its website additional information regarding SLATE, including the Participation Specification for Securities Lending and Transparency Engine (SLATE™). See Securities Lending and Transparency Engine, FINRA (last visited December 19, 2024), https://www.finra.org/filing-reporting/slate. Some commenters stated that reporting the data elements in proposed Rule 6530(a)(2)(I) and (J) will not always enable Covered Persons to provide a complete depiction of the specific fee arrangement used for certain reported covered securities loans within the limited space of the SLATE field for the rebate rate or lending fee. See SIFMA and SIFMA AMG Letter, at 4–5; ISLA Americas Letter 2, 6–7. The structuring of particular data fields within a SLATE report is

be filed with the Commission as part of the Proposal. These issues are outside the scope of the Proposal, which, as discussed above in Parts III.A through III.J, is consistent with Section 15A(b)(6) of the Exchange Act. FINRA responded to comments regarding the Technical Specifications for SLATE Reporting in the FINRA Letter.[375]

L. Consultation with the Treasury Department

Pursuant to Section 19(b)(6) of the Act,[376] the Commission has considered the sufficiency and appropriateness of existing laws and rules applicable to government securities brokers, government securities dealers, and their associated persons in approving the proposed rule change. Pursuant to Section 19(b)(5) of the Act,[377] the Commission consulted with and considered the views of the Treasury Department in determining whether to approve the proposed rule change. The Treasury Department did not object to the proposed rule change.

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discussed in the SLATE Participant Reporting Specifications, which were not filed or required to be filed with the Commission as part of the Proposal.

375 See FINRA Letter, at 11–12.

376 15 U.S.C. 78s(b)(6).

377 15 U.S.C. 78s(b)(5) (providing that the Commission "shall consult with and consider the views of the Secretary of the Treasury prior to approving a proposed rule filed by a registered securities association that primarily concerns conduct related to transactions in government securities, except where the Commission determines that an emergency exists requiring expeditious or summary action and publishes its reasons therefor").

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,[378] that the proposed rule change (SR-FINRA-2024-007), as modified by Partial Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[379]

J. Matthew DeLesDernier,

Deputy Secretary.

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378 15 U.S.C. 78s(b)(2).

379 17 CFR 200.30-3(a)(12).