



December 6, 2024

Ms. Vanessa A. Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street NE
Washington, D.C. 20549-1090

**RE: File No. SR-FINRA-2024-007; Notice of Partial Amendment No. 1 to
Proposed Rule Change to Adopt the FINRA Rule 6500 Series (Securities
Lending and Transparency Engine (SLATE™))**

Dear Ms. Countryman:

The Securities Industry and Financial Markets Association (“SIFMA”)¹ and the Asset Management Group of SIFMA² appreciate the opportunity to respond to the request for comment by the U.S. Securities and Exchange Commission (the “Commission” or “SEC”) regarding the partial amendment (the “Partial Amendment”) by the Financial Industry Regulatory Authority, Inc. (“FINRA”) to its proposal to adopt the FINRA Rule 6500 Series to implement its Securities Lending and Transparency Engine (“SLATE”).³ FINRA filed the initial SLATE proposal

¹ SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry's one million employees, we advocate on legislation, regulation and business policy affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit <http://www.sifma.org>.

² SIFMA AMG brings the asset management community together to provide views on U.S. and global policy and to create industry best practices. SIFMA AMG's members represent U.S. and global asset management firms whose combined assets under management exceed \$45 trillion. The clients of SIFMA AMG member firms include, among others, tens of millions of individual investors, registered investment companies, endowments, public and private pension funds, UCITS and private funds such as hedge funds and private equity funds.

³ Notice of Partial Amendment No. 1 to Proposed Rule Change to Adopt the FINRA Rule 6500 Series (Securities Lending and Transparency Engine (SLATE™)), Release No. 34-101645, File No. SR-FINRA-2024-007 (Nov. 15, 2024), 89 FR 92228 (Nov. 21, 2024).

(“Initial Proposal”)⁴ and the Partial Amendment pursuant to its obligations under Rule 10c-1a under the Securities Exchange Act of 1934 (“Exchange Act”),⁵ which the Commission adopted in October 2023 with the goal of increasing transparency in the securities lending market.

Overall, SIFMA and SIFMA AMG greatly appreciate the significant improvements FINRA made in the Partial Amendment to address commenters’ concerns with certain aspects of the Initial Proposal, particularly in those areas where the Initial Proposal would have required reporting of data elements and/or dissemination of information not required under Rule 10c-1a. However, we would like to provide some additional comments and recommendations on the Partial Amendment and the implementation timeframe for SLATE as FINRA works to finalize the SLATE rules by the January 2, 2025 deadline set by the Commission.

SIFMA and SIFMA AMG recognize that FINRA is obligated to complete the SLATE rules by this January 2, 2025 deadline. We continue to believe that this is a very aggressive deadline for FINRA to do so, given the need for FINRA to solicit and appropriately address public feedback on the SLATE proposal, which will establish an entirely new reporting regime for the securities industry. Accordingly, SIFMA and SIFMA AMG request that the Commission work with FINRA to afford it an appropriate amount of additional time to address the feedback FINRA may receive on the Partial Amendment, such as by allowing FINRA to consent to additional time for Commission consideration of the SLATE proposal under Section 19(b)(2)(B)(ii) of the Exchange Act.

Support for Changes to the Initial Proposal

SIFMA and SIFMA AMG believe that the SLATE proposal, as amended by the Partial Amendment, is much better aligned with the SEC’s limited mandate to FINRA under Rule 10c-1a to “implement rules regarding *the format and manner of* its collection of information described in paragraphs (c) through (e) of [Rule 10c-1a] and make publicly available such information in accordance with rules promulgated pursuant to [Section 19(b) and Rule 19b-4] of the Exchange Act.”⁶ Specifically, SIFMA and SIFMA AMG support the changes FINRA is proposing in the Partial Amendment, including:

- Deleting Supplementary Material .01 (Intraday Loan Modifications) and .02 (Changes to the Parties to a Covered Securities Loan);
- Deleting the proposed modifier and indicator requirements;

⁴ Notice of Filing of a Proposed Rule Change to Adopt the FINRA Rule 6500 Series (Securities Lending and Transparency Engine (SLATE™)), Release No. 34-100046, File No. SR-FINRA-2024-007 (May 1, 2024), 89 FR 38203 (May 7, 2024).

⁵ 17 CFR § 240.10c-1a (“Rule 10c-1a”). See Release No. 34-98737 (Oct. 13, 2023), 88 FR 75644 (Nov. 3, 2023) (Reporting of Securities Loans) (“SEC Adopting Release”).

⁶ See Rule 10c-1a(f) (emphasis added).

- Deleting the requirement that covered persons report whether the covered person is the lender, borrower, or intermediary;
- Deleting the requirement that a FINRA member monitor its reporting agent's compliance with Rule 10c-1a and FINRA Rule 6530; and
- Removing the sub-categories of volume data from the aggregate loan transaction activity to be publicly disseminated.⁷

SIFMA and SIFMA AMG appreciate FINRA's engagement with SIFMA, SIFMA AMG and other trade associations, as well as with individual firms, to hear and consider the industry's comments and recommendations. We believe that the resulting Partial Amendment will yield better, more coherent loan data being reported to SLATE, while not diminishing the transparency goals of Rule 10c-1a.

Continuing Concerns with the Reporting Regime Established by Rule 10c-1a

SIFMA and SIFMA AMG recognize that in proposing the SLATE reporting regime, FINRA is following through on its obligations under Rule 10c-1a. Nonetheless, we continue to have fundamental concerns regarding the scope of Rule 10c-1a, the requirements contained within it, and the potential adverse impacts to the markets, and market participants, as previously described, for example, in SIFMA's comment letters regarding Rule 10c-1a.⁸ Accordingly, any comments we provide on the SLATE proposal should not be viewed as support for, or an endorsement of, the reporting regime required under Rule 10c-1a.

Additional Issues for the Commission and FINRA to Consider as SLATE is Finalized

As noted, we appreciate the significant improvements to the Initial Proposal by FINRA and the Commission through the Partial Amendment. However, SIFMA and SIFMA AMG have certain remaining concerns and questions regarding the Partial Amendment that we believe FINRA should address prior to finalizing SLATE.

⁷ As FINRA acknowledged in the Partial Amendment, SIFMA and other commenters had noted in particular that the proposed "borrower type" sub-category raised significant concerns that sensitive, proprietary trading strategy information — including loan amount data that the Commission expressly sought to delay publishing under Rule 10c-1a — could be disclosed next-day. *See* Partial Amendment, 89 FR at 92232 ("Some commenters expressed concern . . . that bucketing data by borrower type, in particular, may permit market participants to discern individual loan amounts that are subject to delayed dissemination under SEA Rule 10c-1a.").

⁸ Letters re: File No. S7-18-21 from Kenneth E. Bentsen, Jr., President and CEO, SIFMA to Ms. Vanessa A. Countryman, Secretary, U.S. Securities and Exchange Commission dated Jan. 7, 2022 (<https://www.sec.gov/comments/s7-18-21/s71821-20111680-265019.pdf>) and Apr. 1, 2022 (<https://www.sec.gov/comments/s7-18-21/s71821-20122364-278394.pdf>), and from Robert Toomey, Head of Capital Markets and Managing Director & Associate General Counsel, SIFMA to Ms. Vanessa A. Countryman, Secretary, U.S. Securities and Exchange Commission dated May 15, 2023 (<https://www.sec.gov/comments/s7-18-21/s71821-189679-372803.pdf>).

Unsettled Loans/Loans that Never Settle

SIFMA and SIFMA AMG reiterate our view that, notwithstanding the statements made in the SEC Adopting Release, unsettled loans are not transactions, and therefore should not be required to be reported to SLATE as initial covered securities loans.⁹ Because no loan transaction occurs, an unsettled loan should not constitute a covered securities loan that is reportable under Rule 10c-1a. Loans that are dropped and therefore never settle also offer no meaningful information, and publishing information about them would be misleading and would increase investor confusion and the risk of data misinterpretation. Further, 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.

If despite our position that unsettled loans are not covered securities loans and that there may be incremental costs incurred to report them to SLATE for some covered persons, the Commission nonetheless requires them to be reported to SLATE, then the Commission and FINRA should require that these loans be excluded from any public dissemination of individual loan transaction data pursuant to proposed Rule 6540(a)-(b), and from any daily loan statistics published pursuant to proposed Rule 6540(c). SIFMA and SIFMA AMG do not see the value to the market in publishing data regarding unsettled loans. To the contrary, we are concerned that including unsettled loans in publicly disseminated loan information would be misleading and cause investor confusion.¹⁰

Reporting of Rates

SIFMA and SIFMA AMG agree with and appreciate FINRA's decision to remove the stand-alone "any other fees or charges" loan data element under proposed Rule 6530(a)(2). However, we are still concerned that the amended requirements to report "[f]or a Covered Securities Loan collateralized by cash, the rebate rate or any other fee or charges" and "[f]or a

⁹ Commission statements in the SEC Adopting Release that touch upon unsettled loans are primarily focused on when a loan is "effected," and not whether a loan actually occurs. See, e.g., SEC Adopting Release, 88 FR at 75681 ("Nonetheless, 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 the final rule.") Our comments here are addressing loans that never occur.

¹⁰ FINRA's Initial Proposal, for example, appears to indicate that FINRA would publicly disseminate unsettled loan transaction information, but "filter" it in any published aggregate data (although the footnote was in the context of the now-deleted Unsettled Loan indicator). See 89 FR at 38208, n. 47 ("FINRA expects to use the unsettled loan indicator to filter the aggregate data that it would disseminate pursuant to SEA Rule 10c-1a(g)(5), and the indicator would be publicly disseminated with the loan-level data that FINRA would disseminate pursuant to SEA Rule 10c-1a(g)(1) through (3).").

Covered Securities Loan not collateralized by cash, the securities lending fee or rate, or any other fee or charges” will not always enable covered persons to provide a complete depiction of the specific fee arrangement used for certain reported covered securities loans (given that there are many possible permutations of loan fee/rate arrangements) within the limited space of the SLATE field for the rebate rate or lending fee. SIFMA and SIFMA AMG appreciate FINRA’s clarification in the Partial Amendment that (notwithstanding FINRA’s deletion of the proposed modifier and indicator requirements) firms may choose to append additional modifiers and indicators to their SLATE reports voluntarily, and that FINRA would not disseminate these voluntarily provided data points to the public.¹¹ To allow this, SIFMA and SIFMA AMG recommend that SLATE include a check box labeled as “Rate does not reflect all economic terms” in which a covered person can indicate that a covered securities loan includes additional rate terms not practically capable of being reported completely or accurately as a single (or multiple) percentage or spread to a benchmark. An example of such a securities loan could be an exclusive arrangement whereby a fee is charged by the lender for the borrower’s exclusive right to borrow its securities over a period of time, irrespective of the covered securities loans ultimately entered into by the parties during such period, or that may only be calculable after such period of time has elapsed based on the extent to which covered securities loans were entered into during such period.

SLATE Security List

SIFMA and SIFMA AMG appreciate FINRA’s announcement in its Response to Comments that it is planning to establish a SLATE securities list that consists of a list of securities that, when loaned, would be reportable to FINRA.¹² However, rather than the approach set forth in the Response to Comments and proposed Rule 6530(c)(3), we recommend that FINRA publish a SLATE securities list daily based on a consolidated feed of Trade Reporting and Compliance Engine (“TRACE”), Real-Time Transaction Reporting System (“RTRS”), and Consolidated Audit Trail (“CAT”) eligible securities. We believe that it is inefficient for each covered person to uniquely design and build its own securities lending reporting system to attempt to identify whether securities subject to a securities loan would be reportable under TRACE, RTRS, or CAT. In addition to the inefficiency of potentially thousands of reporters building their own logic, some covered persons may not be responsible for, or have any relevant experience with respect to, trade reporting under TRACE, RTRS, or

¹¹ See 89 FR at 92230, n. 22. We continue to emphasize that such additional data should remain confidential and only available to regulators.

¹² See Letter from Racquel L. Russell, Senior Vice President, Director of Capital Markets Policy, Office of General Counsel, FINRA, to Ms. Vanessa A. Countryman, Secretary, U.S. Securities and Exchange Commission dated Nov. 14, 2024, 15-16 (Nov. 14, 2024) (responding to comments regarding File No. SR-FINRA-2024-007) (“Response to Comments”).

CAT.¹³ Additionally, it is unreasonable to expect that market participants that rely on the FINRA CAT list that is published daily to identify securities that are CAT reportable to have to quality check that list against FINRA's own SLATE list. FINRA would be best and most appropriately situated to reconcile its own published lists rather than imposing that responsibility individually on all of the users of SLATE.

Implementation Timeline

As the Commission and FINRA are aware, Rule 10c-1a establishes an unprecedented reporting regime. Given that Rule 10c-1a introduces an entirely new reporting process for securities loan transactions, with terms and statuses that change throughout the lifecycle of the securities loan, the Commission provided a 12-month period for FINRA to implement rules pursuant to Rule 10c-1a before covered persons must begin reporting securities loans. Implementing SLATE reporting will be highly technical, and it will take covered persons a significant amount of time to update their systems to address all of the potential securities loan reporting scenarios contemplated under Rule 10c-1a and the FINRA SLATE rules. SIFMA and SIFMA AMG expect that these various reporting scenarios will be addressed in greater detail in the final SLATE Technical Specifications that will be released at some point in the beginning of next year. As with all large IT builds, firms cannot start building their reporting systems until the final (or near final) Technical Specifications have been released. This building process could be extremely compressed, as FINRA has announced that testing for the new SLATE system is currently estimated to begin in July 2025.¹⁴ Moreover, we anticipate that FINRA may need to provide market participants with guidance during the implementation period as various technical reporting questions come up during this period. Given the amount of time and resources members will need to devote to building their reporting systems and consistent with the time period the Commission contemplated when approving Rule 10c-1a, we request that reporting to SLATE not be required until *one year* after the publication of the final version of the SLATE

¹³ As noted, SIFMA and SIFMA AMG recommend that FINRA take a different approach to the SLATE securities list. To the extent that FINRA does not do so, we anticipate that FINRA may need to provide the industry with further guidance during the implementation period. SIFMA and SIFMA AMG acknowledge the requirement in proposed Rule 6530(c)(3) that covered persons "promptly notify and provide FINRA Operations, in the form and manner required by FINRA, . . . such other information as FINRA deems necessary to enter the Reportable Security for reporting through SLATE." However, we believe it is important for firms to have a clear understanding of their obligations with respect to notifying FINRA of securities that are not on FINRA's SLATE securities list.

¹⁴ See (<https://www.finra.org/filing-reporting/slate>).

Technical Specifications¹⁵ or the final version of the SLATE pricing rules,¹⁶ whichever is later.¹⁷

SLATE System Hours

As discussed, SIFMA and SIFMA AMG appreciate that FINRA has proposed expanding the closing time for SLATE from 8:00:00 p.m. ET to 11:59:59 p.m. ET. That said, we join other commenters in requesting that FINRA consider further whether it continues to make sense to open the SLATE system at 6:00:00 a.m. ET, or whether the SLATE system should instead be open continuously (or, at a minimum, open at a time earlier than 6:00:00 a.m. ET).

De Minimis Threshold

SIFMA and SIFMA AMG appreciate that FINRA has proposed changing the *de minimis* exception for aggregate loan transaction activity from a discretionary option to exclude a security in which there were three or fewer types of initial covered securities loan and loan modification events reported to SLATE on the prior business day, to a mandatory requirement to exclude 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). That said, we request that FINRA consider further whether 10 distinct covered securities loans may still be too low a threshold. In our view, a higher threshold such as 25 unique 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.

* * *

SIFMA and SIFMA AMG appreciate the opportunity to respond to FINRA's Partial Amendment to the proposed SLATE rules. We would welcome the opportunity to meet with Commission and/or FINRA staff to further discuss our questions, comments, and recommendations. If you have any questions or need any additional information, please contact Robert Toomey at (212) 313-1124 or Joe Corcoran at (202) 962-7383, or Lindsey Keljo at (202) 962-7312 or William Thum at (202) 932-7381.

¹⁵ Draft available at, (<https://www.finra.org/sites/default/files/2024-05/slate-participant-specification.pdf>).

¹⁶ Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adopt Fees in FINRA Rule 7720 (Securities Lending and Transparency Engine (SLATE™)), Release No. 34-101697, File No. SR-FINRA-2024-020 (Nov. 21, 2024), 89 FR 93750 (Nov. 27, 2024).

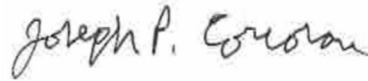
¹⁷ We note that SEC Commissioner Peirce referenced the short implementation timeframe for Rule 10c-1a as one of the reasons why she voted against the final rule. See (<https://www.sec.gov/newsroom/speeches-statements/peirce-statement-securities-lending-101323>).

Ms. Vanessa Countryman
U.S. Securities and Exchange Commission
December 6, 2024
Page 8

Sincerely,



Robert Toomey
Managing Director and Associate General
Counsel
Head of Capital Markets



Joseph Corcoran
Managing Director and Associate General
Counsel



Lindsey Weber Keljo, Esq.
Head – Asset Management Group
SIFMA AMG



William C. Thum
Managing Director and Assistant General Counsel
SIFMA AMG

Cc: Ms. Lauren Schreur, Associate General Counsel, FINRA
Ms. Racquel Russell, Senior Vice President and Director of Capital Markets, FINRA
The Hon. Gary Gensler, Chair, SEC
The Hon. Hester M. Peirce, Commissioner, SEC
The Hon. Caroline A. Crenshaw, Commissioner, SEC
The Hon. Mark T. Uyeda, Commissioner, SEC
The Hon. Jaime Lizárraga, Commissioner, SEC
Mr. Haoxiang Zhu, Director, Division of Trading and Markets, SEC
Mr. David Saltiel, Deputy Director, Division of Trading and Markets, SEC
Mr. Kevin J. Campion, Sidley Austin LLP
Ms. Erin N. Kauffman, Sidley Austin LLP