

January 21, 2022

Ms. Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington D.C. 20549

Re: Reporting of Securities Loans (File No. S7-18-21)

Dear Ms Countryman,

The Standards Board for Alternative Investments (“SBAI”) welcomes the opportunity to submit comments on the U.S. Securities and Exchange Commission’s (“SEC”) Proposed Exchange Act Rule 10c-1.¹

The SBAI is a neutral standard setting body which ensures the quality and efficacy of the alternative investment industry through responsible standards and industry guidance. We support efforts to facilitate fair, orderly, and efficient markets, reduce systemic risk, and enable investors to make well informed investment decisions. Institutional Investors with over USD 4tn in assets support our work and managers with USD 2tn in assets are signed up to the SBAI Alternative Investment Standards². SBAI is an Affiliate Member of the International Organization of Securities Commissions (IOSCO).

This letter does not answer all the specific questions raised but highlights key positions (and their rationale) that we view as important when developing rules in the area of disclosure of securities loans.

1. We agree with the SEC’s assessment of the important role of the securities lending market and support its objective to increase transparency in this area.

- Securities lending adds liquidity to markets and reduces trading costs.
- It provides a source of income to institutional investors.
- It enables short selling, thereby facilitating better risk management and contributing to better price formation in the marketplace.

2. We support single sided reporting, i.e., requiring the lenders (or their agents) to report, but not duplicating the framework by requiring borrowers to report as well.

3. The proposed 15-minute reporting window is impractical, operationally complex, and costly. Instead, end of day reporting on T+1 basis is more suitable and accurate, and consistent with approaches in other jurisdictions (e.g., EU Securities Financing Transaction Regulation (SFTR)).

- Securities lending is not an intraday market. Terms are often adjusted throughout the day until the trades settle.

¹ <https://www.sec.gov/news/press-release/2021-239>

² <https://www.sbai.org/standards/>

- The informational value of intraday data is unclear and will not justify the potential incremental implementation costs of an intraday reporting framework. The costs will ultimately be borne by institutional investors (reduced stock lending returns for those acting as lenders and increase costs for those acting as borrowers).

4. Public dissemination of data should be limited to aggregate information, and not include loan level data.

- Loan level data poses the risk of revealing investors' investment and trading strategies and can encourage harmful practices (e.g., front running, short squeezes, reverse engineering of investment strategies, etc.), particularly if loan level data is combined with the 15-minute reporting window.

5. Data collection should be limited to the so called "wholesale" segment, where the actual lending takes place, not the "retail segment".

- Provision of individual "retail transaction" data (between broker dealers and hedge funds) increases the risk of reverse engineering of proprietary investment and trading strategies, given that transaction data can be combined with other publicly available information (e.g., fund holdings through Form 13F and a fund's list of Prime Brokers via form ADV), potentially exposing a fund (and its investors, many of which may be public pensions, university endowments, insurance companies, or other types of institutional investors) to harmful and manipulative practices such as front running, short squeezes and copy-catting or herd behaviour.
- "Retail transactions" are governed by client brokerage agreements, factoring in service levels and client specific considerations, making the specific terms of the transactions difficult to compare to wholesale market transactions.
- "Retail transactions" are usually not structured as "securities lending" and therefore do not lend themselves to standardised data collection similar to the "wholesale" side.

6. It might not be possible to accurately calculate the proposed "utilization rate" that could help evaluate whether the security will be difficult or costly to borrow.

- Calculation of the utilization rate requires an accurate measure of the "securities available to lend" for all market participants.
- However, funds managed under 1940 Act regulations have restrictions on their approach to securities lending (e.g., limit on lending: A fund may not have on loan at any time securities representing more than one-third of the fund's total value), thereby not allowing an accurate calculation of "securities available to lend" on an individual security basis.

7. We support a phased approach before the rules are finalized, starting with equity securities lending transactions, and an evaluation of a further expansion of the framework at a later point in time.

8. We encourage further clarification of the cross-border application of the rules and avoidance of inappropriate extraterritorial reach.

Thank you for the opportunity to provide comments on the Proposal. If you have any questions on our comment letter, please feel free to contact Thomas Deinet at +44 203 405 9043.

Respectfully Submitted

Thomas Deinet
Executive Director – The Standards Board for Alternative Investments www.sbai.org