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SEC Adopts Share Lending Disclosure Rules

The SEC has adopted [new Rule 10c-1a](#), which will require disclosure to a registered national securities association (“RNSA”)¹ of specified details regarding securities loans on a same day basis. The RNSA will then publish certain information regarding such loans. Rule 10c-1a will become effective 60 days after its publication in the *Federal Register*, and disclosure will be required on the first business day 24 months after Rule 10c-1a becomes effective.

Who will be required to disclose share lending activity?

Under new Rule 10c-1a, securities loan intermediaries, or, where there are none, lenders themselves, and brokers and dealers where borrowing fully paid or excess margin securities, must disclose any loan of “reportable securities.” “Reportable securities” are defined as any security or class of an issuer’s securities for which information is reported or required to be reported to the consolidated audit trail pursuant to the CAT NMS Plan, the Financial Industry Regulatory Authority’s Trade Reporting and Compliance Engine or the Municipal Securities Rulemaking Board’s Real-Time Transaction Reporting System (or any reporting system that replaces one of these systems). The disclosure requirements do not attach to the use of margin securities by a broker or dealer unless the broker or dealer lends such margin securities to another person.

There are no reporting thresholds – all loans will trigger the disclosure requirement.

What information must be provided?

The following information must be disclosed, and will, as noted below, be mostly subject to publication by the RNSA:

- Information to be provided that the RNSA will publicize:
- legal name of the issuer of the securities to be borrowed;
- ticker symbol of those securities;
- time and date of the covered securities loan;
- name of the platform or venue, if one is used;

¹ Currently, FINRA is the only RNSA.

- amount of reportable securities loaned;
- rates, fees, charges, and rebates for the loan;
- type of collateral provided for the covered securities loan and the percentage of the collateral to the value of the reportable securities loaned;
- termination date of the covered securities loan;
- borrower type, e.g., broker, dealer, bank, customer, bank, clearing agency, custodian; and
- Information to be provided that the RNSA will not make public:
 - the legal names of the parties to the loan;
 - when the lender is a broker-dealer, whether the security loaned to its customer is loaned from the broker-dealer's inventory; and
 - whether the loan will be used to close out a fail to deliver pursuant to Rule 204 of Regulation SHO or whether the loan is being used to close out a fail to deliver outside of Regulation SHO.

Modifications to any of these terms will also need to be communicated on a same day basis.

When must the information be reported?

Loan participants must provide this information on a same day basis to the RNSA. The RNSA must publicize the required information (see above) by morning of the following business day, except for the amount of the loan, which must be publicized by the 20th business day. The RNSA must also publicize aggregate transaction activity and distribution of loan rates for those securities it determines appropriate.

When will these disclosure requirements become effective?

Rule 10c-1a will become effective 60 days after the release is published in the Federal Register. Rules to implement Rule 10c-1a must be proposed by the RNSA within four months of the effective date of Rule 10c-1a and must become effective no later than 12 months after the effective date of Rule 10c-1a. Disclosure will be required starting on the first business day 24 months after the effective date of Rule 10c-1a (the "reporting date"); and the RNSA must make specified information publicly available within 90 calendar days of the reporting date.

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This memorandum is not intended to provide legal advice, and no legal or business decision should be based on its content. Questions concerning issues addressed in this memorandum should be directed to:

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