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SEC Adopts Rule to Enhance the Transparency of Securities Lending Market: Ropes & Gray

On October 13, 2023, the SEC issued a release (the "Release") adopting new Rule 10c-1(a) (the "Rule") under the Exchange Act "to increase the transparency and efficiency of the securities lending market" by requiring certain persons to report information about securities loans to a registered national securities association (an "RNSA"). In addition, the Rule requires (i) certain confidential information to be reported to an RNSA to enhance its oversight and enforcement functions and (ii) an RNSA to make certain information it receives, including daily information pertaining to aggregate transaction activity and the distribution of loan rates for each reportable security, available to the public. Currently, FINRA is the only RNSA.

Summary Rule Requirements

- For each "covered securities loan," the Rule requires a "covered person" to provide to an RNSA the material terms of the transaction – in the format and manner required by the RNSA – by the end of the day on which the securities loan is effected or the terms of the loan are modified.
- Covered persons may rely on reporting agents to provide the required information to an RNSA.
- An RNSA is required to make publicly available certain information about reported securities loans, either on a transaction-by-transaction basis or an aggregate basis.

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