COMMITTEE ON SECURITIES LENDING

August 11, 2015

Via Electronic Submission

Secretary, Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Investment Company Reporting Modernization
File Number S7-08-15

Ladies and Gentlemen:

The Committee on Securities Lending of the Risk Management Association (the "RMA")[1] appreciates the opportunity to provide comments to the Securities and Exchange Commission (the "Commission") on its behalf and on behalf of numerous of its members, including The Bank of New York Mellon, Brown Brothers Harriman, Deutsche Bank, Goldman Sachs, JP Morgan Chase, State Street Corporation, The Northern Trust Company and other financial institutions that participate in the securities lending industry as securities lending agents ("Agent Banks") on behalf of their clients[2]. This letter addresses the Commission's proposed new rules and forms as well as amendments to its rules and forms to modernize the reporting and disclosure of information by registered investment companies (hereinafter referred to as "mutual funds" or "funds"). We recognize the benefits of enhanced information and standardized data formats from mutual funds for the SEC, investors and other potential users of the information, and we support the Commission's efforts to increase transparency regarding funds' securities

[1] The RMA Committee acts as a liaison for RMA member institutions involved in agent lending functions within the securities lending industry by providing products and services, including hosting several forums, conferences and training programs annually and sharing aggregate composite securities lending market data free of charge.

[2] The same issues described herein with respect to agency securities lending also apply to another important activity of agency banks, agency repo transactions. Thus, while for convenience this letter focuses on agency securities lending, the RMA hereto respectfully submits that the Commission also consider these comments to apply equally to agency repo transactions.

lending activities to facilitate better evaluation of securities lending agent performance and fee arrangements. We ask that the Commission consider phasing in the public disclosure of select data to afford both the Commission and the asset management industry time to evaluate potential unintended consequences.

Our comments are organized into four parts, addressing specific questions related to securities lending as posed for 1) the new Form N-PORT, 2) amendments to Regulation S-X, 3) the new form N-CEN and 4) Form ADV. For convenience, the Commissions questions are restated below in blue.

Form N-PORT

- Form N-PORT would require funds to disclose the aggregate value of all securities on loan to each securities lending counterparty and the name and LEI (if any) of the counterparty. Should we instead require funds to report this information on a loan-by-loan or security-by-security basis? To what extent, if any, would such information be used by investors and other potential users? What, if any, additional issues would funds face in tracking and reporting such information on a loan-by-loan or security-by-security basis? Do funds currently track or have the ability to readily determine their counterparty exposure on a loan-by-loan or security-by-security basis? If securities lending counterparty information should be reported on a loan-by-loan or security-by-security basis, is there any additional or alternative information we should require funds to report, such as the rebate or compensation to the securities lending agent?

  We concur that disclosure of securities loan information at the counterparty level, as opposed to at the loan or cusip level, is appropriate. However, we believe counterparty-level information should be limited to the top five or ten counterparties with the greatest exposure. Either would provide the Commission and investors with the information necessary to understand the material exposure that a fund has to securities lending counterparties, without imposing unnecessary costs on funds and their shareholders. Limitation of reporting to the top ten counterparties by exposure would to be consistent with the N-CEN filing requirement to report exposure to brokers through trading commissions and principal trades. More detailed reporting, while generally available to each fund from its agent lender, would exponentially increase the amount of data sent and would not be expected to materially change the Commission's or investors' risk assessment of the reporting funds.

  Legal Entity Identifiers ("LEIs").

  The financial industry is beginning to adopt LEIs, but many corporate entities have not yet registered. Further, systems are not yet widely in place to track counterparty LEIs. We support providing the names of securities lending counterparties, and as and when possible agent lenders will report LEIs of both borrowers and lending funds to facilitate downstream regulatory reporting. Accordingly, we

respectfully request that disclosure of counterparty LEIs be either delayed until fully integrated into the global financial system or, alternatively, as available to the agent lenders and reporting funds.

Disclosing to the public, for each securities lending counterparty, the full name and LEI, and the aggregate value of all securities on loan to the counterparty may have unintended consequences on securities lending markets. Borrowers may be concerned about details of their exposures being made public to clients and competitors, and that concern may make borrowers less likely to borrow from registered funds and more likely to borrow from lenders who are not required to make similar disclosures. Therefore, this is one example for which we think phasing in the public disclosure of data may be prudent.

- Instead of requiring funds to report the aggregate value of all securities on loan to each securities lending counterparty, should we limit such disclosures to counterparties to which the fund has the greatest exposure, such as the top five or top ten counterparties? Alternately, should we require funds to report aggregate exposure to a given counterparty only if such exposure constitutes more than a certain percentage of the NAV of the fund (*e.g.,* one percent)? Would either approach more appropriately consider the costs of tracking and reporting such information and the benefits that increased transparency would provide to the Commission and other potential users?

  As stated previously, we believe counterparty-level information should be limited to the top five or ten counterparties with the greatest exposure for each fund.

- Alternately, or in addition, should the Commission request information regarding other types of counterparty exposures? For example, should the Commission require funds to report counterparty exposures based on the amount of unsettled trades with each counterparty? If so, should such information be reported in terms of aggregate or net exposure, and why?

  Unsettled securities lending trades generally do not create exposure for lending funds. This information is not typically reported to lenders and we do not believe it to be a meaningful measure of market risk.

- Should the Commission require funds to report information about securities on loan or reinvestment of cash collateral at the portfolio level, rather than at the individual security level? If so, what categories should be used to report such reinvestment? For example, would it be appropriate to use the same collateral categories for securities lending that we are proposing to be used for repurchase and reverse repurchase agreements?

  Securities on Loan. As the Commission states, many funds today voluntarily identify securities that are on loan in their schedules of portfolio investments prepared pursuant to Regulation S-X. Funds

have ready access to data regarding individual securities on loan from their securities lending agents and/or custodians and we believe that filing of such information in XML format will facilitate the Commission's ability to efficiently analyze it on a regular basis.

Cash Collateral Reinvestment. We support the requirement to identify securities, including cash collateral funds and/or other pooled investment vehicle, that represent the reinvestment of cash collateral and the disclosure of the dollar value of such reinvestment.

- As discussed, Form N-PORT would require funds to indicate, for each investment, whether any portion of the investment represented non-cash collateral received to secure loaned securities. To what extent would this information be helpful to brokers, dealers, and investors? To what extent do funds receive collateral other than cash?

  Mutual funds are generally limited, by way of historical No-action letters, to accepting only cash and government securities as collateral for their loans of securities and, per industry standard, beneficial owners lending via an agent are prohibited from rehypothecating securities received versus securities loans. As such, we recommend that non-cash collateral be presented in general terms (e.g., by security type and aggregate value) rather than individually as portfolio positions.

- Is there additional or alternative information regarding securities lending transactions that the Commission should require to be disclosed in reports on Form N-PORT?

  No. We agree that the Commission's proposed disclosure requirements will benefit the investor community by providing increased transparency into securities loan volumes, counterparties and a collateral types, while also appropriately balancing the costs of tracking and reporting such information.

- We believe that funds already track the characteristics of their securities lending and cash collateral reinvestment transactions that we would require to be reported on Form N-PORT. Is this belief correct? What would be the burden of reporting such information to the Commission?

  Funds have access to the securities lending program characteristics that the Commission has proposed should be required to be reported on form N-PORT. This information is frequently maintained by, and may be obtained from, a fund's securities lending agent. Obtaining and consolidating the information within the required form may be a manual process.

Regulation S-X

- We request comment on our proposed modifications in rules 12-12 and 12-12B that would require a fund to indicate where any portion of the issue is on loan. Should we include this requirement in our proposed rules? Why or why not?

  As noted previously, many funds today voluntarily identify securities that are on loan in their schedules of portfolio investments prepared pursuant to Regulation S-X. Funds have ready access to this information and we believe that filing of such information in XML format will facilitate the Commission's ability to efficiently analyze it on a regular basis.

- Would the disclosure required under proposed rule 6.03(m) concerning income and expenses in connection with securities lending activities provide meaningful information to investors or other potential users? For example, would the disclosures regarding compensation and other fee and expense information relating to the securities lending agent and cash collateral manager be useful to fund boards in evaluating their securities lending arrangements? Would these disclosures be sufficient for this purpose, or would additional information be necessary, for example, to put the fee and expense information in context (*e.g.*, the nature of the services provided by the securities lending agent and cash collateral manager)? Should the Commission instead require that these or other similar disclosures, be provided elsewhere in the fund's financial statements (*e.g.*, the Statement of Operations), or provided as part of other disclosure documents (*e.g.*, the Statement of Additional Information) or reporting forms (*e.g.*, proposed Form N-CEN)? Why or why not?

  The RMA generally supports the disclosure of securities lending income and compensation of securities lending agents and cash collateral managers. We suggest that borrower rebates, which are primarily a function of prevailing nominal short term interest rates, be excluded. If a revenue sharing percentage disclosure is requested, we recommend that funds report a calculated split based upon a fund's actual net lending income and fees paid during the reporting period.

Form N-CEN

- Should management companies be required to report any or all of the proposed information concerning securities lending activity? If not, which items should not be required, and why? Should we collect any additional information?

  We support the disclosure of information concerning securities lending activity as proposed for Form N-CEN, including reporting on indemnity rights, information on securities lending service providers and types of payments made.

With regards to reporting on borrower defaults, we respectfully propose that the Commission narrow its definition of borrower default for the purposes of reporting on Form N-CEN. As currently described, the Commission requests disclosure of any failure of a borrower "to return loaned securities or return them on time in connection with a security on loan during that period." Instead, we suggest that reportable events be limited to defaults due to events of insolvency or upon an agent lender otherwise formally declaring a default by the borrower pursuant to the relevant borrower agreement.

- Should we require, as proposed, that management companies disclose annually whether any borrower of securities defaulted on its obligations to the management company? Why or why not? Should we instead, or additionally, require management companies to report monthly on Form N-PORT whether any borrower of securities defaulted on its obligations to the management company?

  Agent lenders actively track outstanding loan recalls and work with borrowers to facilitate timely settlement. However, in the normal course of business, borrowers may, from time to time, be unable to return securities that have been recalled within the standard settlement cycle. In these instances, funds lending the securities continue to hold collateral and to accrue earnings on the loans; additionally, agent lenders may adjust the fee or rebate rate on such loans to increase borrowers' incentive to return the securities as quickly as possible. Further, per the terms of industry-standard Securities Lending Agreements, borrowers are responsible for covering buy-in costs incurred by the lender. Finally, other rules, including Rule 204, also help to ensure that settlement delays are temporary. As such, we respectfully advocate that such delays in returning securities, or technical defaults, should not be reportable.

  As stated above, we suggest that reportable events be limited to defaults due to events of insolvency or upon the agent lender otherwise formally declaring a default by the borrower pursuant to the relevant borrower agreement.

- Should we require, as proposed, that management companies report certain information about each securities lending agent and each cash collateral manager? Why or why not? Should we require that these funds disclose whether each of these external service providers is a first- or second-tier affiliate of the fund?

  We support funds reporting information about their respective securities lending agents and cash collateral managers, including first- and second-tier affiliations, as currently proposed.

- In addition to requiring management companies to report whether they made each of the proposed types of payments associated with securities lending, should the Commission also require disclosure of specific rates and/or amounts paid during the reporting period of each enumerated type of compensation, similar to the disclosures we are proposing to require in the financial statements

concerning the terms governing the compensation of the securities lending agent and collateral manager? Would that additional information be useful in proposed Form N-CEN in a structured format for risk monitoring and use by investors or other market participants, including other management company boards of directors that are evaluating securities lending agent services?

The RMA generally supports the disclosure of securities lending income and compensation of securities lending agents and cash collateral managers. As noted previously, if rates are requested, we recommend funds report a calculated revenue sharing split based upon a fund's net lending income and fees paid to a lending agent during the reporting period.

- Would the proposed reporting requirements regarding securities lending yield beneficial information? If not, what information should the Commission collect instead to conduct appropriate risk monitoring of securities lending activity by management companies? How should this information be collected?

  We agree that the Commission's proposed disclosure requirements, and the reporting of such information in a structured format, may benefit the investor community by providing increased transparency into funds' securities lending activities, while also appropriately balancing the costs of tracking and reporting such information.

- Would the proposed reporting requirements concerning securities lending activity be burdensome?

  We do not believe that the proposed reporting requirements for Form N-CEN will be especially burdensome, with the caveat that the Commission revises its definition of borrower default.

- Should proposed Form N-CEN include a specific definition for "securities lending agent"? Why or why not? If so, how should the term be defined? Should the form include a specific definition for "cash collateral manager"? Why or why not? If so, how should the term be defined?

  While the terms are generally well-understood within the fund industry, suggested definitions for both "securities lending agent" and "cash collateral manager" follow:

  Securities lending agent: A party employed by a lender to administer the lender's securities lending program according to the prescribed terms of a legal agreement.

  Cash collateral manager: A party employed by a lender to manage cash collateral received on behalf of securities loans.

- Are there other reporting requirements that the Commission should adopt for securities lending activity? If so, would these additional reporting requirements assist with Commission risk monitoring, inform the public, or both?

We believe the Commission has captured in its current proposal securities lending program information that will materially benefit investors and others in assessing risk.

Form ADV and Advisors Act Rules

- Should we require advisers to report information about the use of securities lending and repurchase agreements in separately managed accounts?

  It should be noted that advisors may not necessarily be directly involved or aware of securities lending activities in a separately managed account. Pension funds and endowments often have separately managed accounts ("SMAs") with a number of different managers. Gathering information at the manager level would require the SEC to consolidate the data to get a full picture of the beneficial owner's risk in regard to securities finance.

- If so, is there specific information we should collect, and should we require information only from advisers that manage a large amount of separately managed account assets?

  In order to monitor systemic risk associated with securities lending activities, it may be useful to monitor loan balances with specific borrowers. If the SEC chooses to collect this information at the manager level, it would be critical to also gather information about the beneficial owner's LEI in order to facilitate consolidation of the information across managers.

- Are securities lending arrangements and repurchase agreements used by separately managed accounts to such an extent that we should require all advisers that manage separately managed accounts to report this information?

  Nearly all pension plans and many endowments with separately managed accounts engage in securities lending. If they are large enough to have an SMA, then they would typically have the scale to engage in securities lending.

  Given that pensions and endowments are typically supervised in a different manner than mutual funds, the character of their securities financing activities tends to be different.

Conclusion

We appreciate the opportunity to file this letter with the Commission as it prepares its final rulemakings and forms for reporting and disclosure modernization and we encourage the Commission to consider the comments and recommendations set forth herein. If desired by the Commission, the RMA would be pleased to discuss our comments in further detail and to assist the Commission in any way.

Sincerely,

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