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Secretary
Securities and Exchange Commission
100 F Street NE
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Comments on File Number S7-2024-05

Dear Madam Secretary,

The Bond Dealers of America (BDA) is pleased to provide comments on "Financial Data Transparency Act Joint Data Standards" (the "Proposal"). BDA is the only DC-based group exclusively representing the interests of securities dealers and banks focused on the US fixed income markets.

The Proposal is a joint rulemaking proposed by nine federal agencies (the "Agencies") and is designed to be the first regulatory step in implementing the 2022 Financial Data Transparency Act (FDTA). BDA supports the goals of the Proposal. We believe the data standards contained in the Proposal generally meet the statutory requirements imposed by Congress in the FDTA and are reasonable. We offer these comments as a means of refining the Proposal. Because BDA's focus is the US fixed income markets, we are limiting our comments to the effects of the Proposal on the bond markets and on our members' fixed income businesses.

Legal Entity Identifiers

The Proposal would establish the system of Legal Entity Identifier (LEI), developed and managed by the Global Legal Entity Identifier Foundation, as "a common nonproprietary legal entity identifier that is available under an open license for all entities required to report to" regulators. We generally agree with this approach. However, we ask the Commission and other regulators to consider the following issues with respect to LEIs.

- Investor customers of broker-dealers and banks active in the capital markets should not be required to obtain LEIs, especially retail customers. LEIs are available to natural persons only in limited circumstances, and it would be overly burdensome to expect investor customers to obtain and maintain LEIs.
- Because LEIs require that the party holding the LEI pay an annual maintenance fee, LEIs can and do lapse. We ask the Agencies to specify that lapsed LEIs are acceptable to use.
- We ask the Agencies to consider other entity identification schemes that are already well established and used for regulatory reporting as alternatives or supplements to LEIs such as Central Index Keys, Central Registration Depository numbers, or Taxpayer Identification Numbers.

Financial Instrument Global Identifiers

The Agencies have proposed to establish the Financial Instrument Global Identifier (FIGI) system for financial instrument identification. While we do not oppose the use of FIGI for the purpose of the FDTA, we oppose any additional mandated use of FIGI in securities regulation without a thorough legal and economic review.

We recognize that the long-established scheme for securities identification, the Committee on Uniform Securities Identification Procedures (CUSIP) system, does not meet the Agencies' goal that the FDTA system for financial instrument identification must be nonproprietary. However, CUSIP, despite its limitations, has been the accepted means of identifying securities for 60 years. CUSIP is embedded in many elements of SEC, FINRA, and MSRB regulations and is an integral part of the way bond market participants—issuers, dealers, and investors—communicate efficiently. Moving the industry and the markets away from CUSIP and towards FIGI for use cases other than FDTA reporting would be an enormous undertaking. It is important that if the Agencies in the future consider expanding the use of FIGI as a replacement for CUSIP, it should come only after very thorough study and consideration and not in the context of FDTA rulemaking.

Also, as the Proposal points out, "an implementing Agency will determine the applicability of the joint standards to the collections of information specified in the FDTA under its purview." The Proposal also states that "to the extent an Agency has separate authority to adopt data standards, the Agency may adopt other standards beyond the joint standards." Footnote 20 of the Proposal states "in connection with an Agency-specific rulemaking, an Agency could determine to use an identifier that is not in the joint standards, including an Agency-specific identifier, rather than, or in addition to or in combination with, an identifier established by the final joint rule if, for example, the Agency exercised its authority to tailor the joint standards in its Agency-specific rulemaking…or the Agency determined either that using the identifier established by the final joint rule was not feasible…or that using an identifier that is not in the joint standards, including an Agency-specific identifier, would minimize disruptive changes to the persons affected by those standards." This means the Commission will have flexibility in specifying standards for data collection mandates under its jurisdiction in the next round of rulemaking. We urge the Commission to use this authority to provide as much flexibility as possible around data reporting standards.

Economic analysis

The Commission should conduct a robust cost-benefit analysis of the Proposal with respect to its effect on entities under the SEC's jurisdiction. That analysis should include the industry's perspective on the anticipated costs associated with the data standards in the Proposal (for example, costs related to system modifications, reporting changes, maintenance and similar issues). That analysis should also include the possibility of grandfathering certain existing data standards as a compliance cost minimization strategy and providing as much flexibility as possible to dealers who will be subject to FDTA regulations.

An economic analysis is particularly important in light of pending regulatory initiatives in the fixed income markets. An example is the parallel rulemaking projects from FINRA and the MSRB, recently approved by the Commission, to shorten the time dealers have to report most trades to TRACE and RTRS from 15 minutes to one minute. None of the analysis with respect to the effect of these rule changes has

focused on how a requirement that dealers adhere to FDTA-related data standards in reports they make to regulators might affect trade reporting and the ability to report trades within one minute. In this respect, we urge the Commission to consider fully the effects of the Proposal from a cost-benefit perspective.

Municipal issuer disclosure

There is an expectation that FDTA regulations will eventually lead to a requirement that issuers of municipal securities make financial statement filings in "machine readable" format similar to how corporate issuers are currently required to adhere to the Extensible Business Reporting Language (XBRL) scheme for financial reporting. As the SEC moves to the second stage of FDTA rulemaking, we ask the Commission to minimize the role and burden underwriters have in policing municipal issuer disclosure and to minimize the reporting burdens on municipal issuers, especially small issuers.

Disclosure regulation for municipal issuers is treated differently in securities law and regulation than for corporate issuers. The SEC and the MSRB are explicitly prohibited in statute from requiring municipal issuers to produce offering documents for a new securities issue in the way that a corporate issuer is required to produce a prospectus before a securities offering. Instead, SEC Rule 15c2-12 imposes a requirement on underwriters, not issuers, to obtain and distribute the issuer's official statement before offering securities for sale. Similarly, the SEC is not permitted under law to require municipal issuers to file periodic financial statements. Instead, SEC rules require underwriters to obtain a contractual commitment from the issuer to make specified financial filings before underwriting the bonds.

In addition, underwriters are required as part of their diligence obligations on a municipal securities issue to determine whether issuers are in compliance with past disclosure commitments before underwriting a new issue. This imposes an undue compliance burden on underwriters that does not exist in any other sector of the capital markets. We are concerned that if or when municipal issuers are required to begin filing financial statements in machine readable format, the burden on underwriters to police issuer compliance with reporting standards would further magnify the compliance risks associated with underwriting new issues. If the SEC imposes a machine readable reporting requirement on municipal issuers, it is important that underwriters not be burdened with policing issuer compliance.

Further, we ask the Commission to be mindful of the burdens that would be imposed by a machine readable reporting requirement on small municipal issuers. The municipal market is characterized by thousands of small towns, school districts, counties, nonprofits like hospitals and universities, and other borrowers with limited resources. Mandating reporting in machine readable format would impose a significant compliance expense that would ultimately be borne by tax- and rate-payers in these communities with questionable benefits for the market. As the Proposal states, issuing agencies like the SEC "may scale data reporting requirements to reduce any unjustified burden on smaller entities affected by the regulations." We ask the Commission to be mindful of imposing new reporting requirements on small communities.

Moreover, a requirement to file in machine readable format would be yet another burden on municipal issuers who choose to use the public bond markets versus bank loans or other private credit. Already, issuers who choose to sell bonds publicly must produce Official Statements and commit to continuing financial disclosures. Machine readability would be one more burden and expense and could drive some

borrowers to banks or other nonpublic lenders where there often is little or no public disclosure requirement at all.

As the Agencies move forward on FDTA rulemaking, we ask that the Commission provide dealers with as much flexibility around data standards as the statute allows. We also ask that the Agencies consider data standards that are already established and in use as alternatives to new requirements. It is particularly important to recognize that mandating the use of FIGI in scenarios apart from FDTA reporting would be a large and complex undertaking and should not be considered in the context of FDTA rulemaking.

Finally, we also ask the Commission to undertake an economic analysis of the Proposal and any future FDTA rulemaking, that underwriters not be charged with policing any municipal issuer FDTA-related disclosure requirements, and that the SEC minimize reporting requirements for small municipal issuers.

BDA appreciates the opportunity to comment on the Proposal. Please call or write if you have any questions.

Sincerely

Michael Decker
Senior Vice President