

CONFIDENTIALITY ARRANGEMENT BETWEEN THE U.S. SECURITIES AND EXCHANGE COMMISSION AND THE FINANCIAL INDUSTRY REGULATORY AUTHORITY CONCERNING ACCESS TO SECURITY-BASED SWAP DATA OBTAINED BY REGISTERED SECURITY-BASED SWAP DATA REPOSITORIES

This Confidentiality Arrangement (“Arrangement”) is entered into between the United States Securities and Exchange Commission (“Commission”) and the Financial Industry Regulatory Authority (“FINRA”) in connection with FINRA’s access to data, including individual counterparty trade and position data, related to security-based swaps (as defined in Securities Exchange Act (“Exchange Act”) section 3(a)(68) and Exchange Act rules 3a68-1a through 3a68-5), maintained by security-based swap data repositories (as defined in Exchange Act section 3(a)(75)) registered with the Commission (“SBSDRs”).

Article One: Scope of Arrangement

1. FINRA’s access, pursuant to Exchange Act sections 13(n)(5)(G) and (H) (15 U.S.C. 78m(n)(5)(G) and (H)) and Exchange Act rules 13n-4(b)(9) and (10) (17 CFR 240.13n-4(b)(9) and (10)), to security-based swap data obtained by an SBSDR (“SBS Data”) is subject to the terms and conditions set forth in this Arrangement, and is contingent upon FINRA’s compliance with those terms and conditions.
2. As provided by Exchange Act rule 13n-4(b)(10), this Arrangement constitutes an arrangement between the Commission and FINRA to address the confidentiality of certain SBS Data made available to FINRA.
3. As further provided by Exchange Act rule 13n-4(b)(10), this Arrangement shall be deemed to satisfy the requirement, set forth in Exchange Act section 13(n)(5)(H), that an SBSDR receive a written agreement from FINRA stating that FINRA shall abide by the confidentiality requirements described in Exchange Act section 24 (15 U.S.C. 78x) relating to the information on security-based swap transactions that is provided to FINRA.
4. The Commission’s order of August 11, 2022, determined that it is appropriate for FINRA to receive certain SBS Data from SBSDRs pursuant to Exchange Act section 13(n)(5)(G) (“Determination Order”), subject to there being in place an arrangement between the Commission and FINRA addressing the confidentiality of that information. This Arrangement satisfies that condition.

Article Two: Information Access, Use and Confidentiality

5. General parameters. Subject to the applicable provisions of Exchange Act sections 13(n)(5)(G) and (H), Exchange Act rules 13n-4(b)(9) and (10), the terms of the Determination Order as it may be amended or replaced from time to time, and the terms and conditions of this Arrangement, including the parameters set out in Appendix A to this Arrangement:
 - a. FINRA may access, directly from any and all SBSDRs, the SBS Data as set forth in Appendix A, to fulfill FINRA’s regulatory mandate or legal responsibility or authority; and

- b. FINRA may use, but not disclose except in accordance with paragraphs 8 through 11 and paragraphs 20 and 21, the SBS Data that it has accessed from an SBSDR for any purpose within FINRA's regulatory mandate or legal responsibility or authority, including but not limited to, as applicable, supervisory activities, regulatory analyses, enforcement investigations, and administrative, civil and criminal proceedings;

Provided, however, that in each case FINRA will notify promptly the Commission and each relevant SBSDR of any change to FINRA's regulatory mandate or legal responsibility or authority that may affect the parameters set out in Appendix A.

6. Confidentiality protections. FINRA will establish and maintain safeguards as necessary and appropriate, including appropriate administrative, personnel, technical, and physical safeguards, to protect the confidentiality, data security, and integrity of all non-public information obtained pursuant to the Arrangement, as well as any information or analyses derived therefrom (hereafter collectively referred to as "Confidential Information"), and will not disclose such Confidential Information to any person outside of FINRA, except as provided by paragraphs 8 through 11 and paragraphs 20 and 21. As part of these safeguards, FINRA will:
 - a. To the maximum extent practicable, identify the Confidential Information and maintain it separately from other data and information;
 - b. Protect the Confidential Information from misappropriation and misuse;
 - c. Restrict access only to those FINRA staff and contractors with a need to access Confidential Information to perform their job functions relating to Confidential Information, and ensure that such access is permitted only to the extent necessary to perform their job functions related to such Confidential Information ("Authorized Purpose");
 - d. Prohibit the use of Confidential Information by FINRA staff and contractors for any purpose, other than an Authorized Purpose, including in connection with trading for their personal benefit or for the benefit of others or with respect to any commercial or business purpose;
 - e. Establish and maintain policies and procedures reasonably designed to promote FINRA's compliance with the requirements of this Arrangement, including a process for monitoring compliance with the requirements of this Arrangement, and for promptly notifying the Commission, and each SBSDR from which FINRA has received SBS Data, of any violation of such safeguards or failure to fulfill the terms of this Arrangement, including, where possible, the identity of any associated recipients of Confidential information; and
 - f. Retain and dispose of Confidential Information in accordance with applicable laws concerning retention, preservation and destruction of such records (*e.g.*, Exchange Act rule 17a-1).
7. SBSDR security-related requirements. FINRA shall comply with all applicable security-related requirements imposed by an SBSDR in connection with access to Confidential Information maintained by the SBSDR, as such requirements may be revised from time to time.

8. Aggregated information. FINRA may disclose sufficiently aggregated Confidential Information that has been anonymized to prevent identification, through disaggregation or otherwise, of a market participant's identity, business transactions, trade data, market positions, customers or counterparties.
9. Disclosure as part of investigations or proceedings. FINRA may disclose Confidential Information about an entity or person to that entity or person (and such entity's or person's representatives) as part of investigations regarding potential violations of FINRA rules or applicable law, or in proceedings under the laws of the United States to which FINRA, the Commission or the United States is a party.
10. Disclosure as result of a legally enforceable demand. Prior to complying with any legally enforceable demand for Confidential Information, FINRA will notify the Commission of such demand in writing, assert all available appropriate legal exemptions or privileges with respect to such Confidential Information, and use its best efforts to protect the confidentiality of the Confidential Information.
11. Disclosure pursuant to written Commission consent. Except as set forth in paragraphs 8 through 10 and paragraph 21, FINRA must obtain the prior written consent of the Commission to disclose Confidential Information to a third party. If consent is not obtained from the Commission in response to a request by FINRA, the Commission and FINRA will consult to discuss the reasons for withholding approval of such disclosure and the circumstances, if any, under which the intended disclosure by FINRA might be allowed. During an emergency situation as jointly identified by the parties to this Arrangement – meaning the occurrence of an event that could materially impair the financial or operational condition of an entity supervised or otherwise overseen by FINRA – consent may be communicated in any form, including orally, provided such communication is confirmed in writing by the Commission as promptly as possible following such notification.
12. Access to or use or disclosure of Confidential Information pursuant to this Arrangement does not constitute public disclosure, and does not constitute a waiver of confidentiality or any privilege applicable to such Confidential Information. The Commission and FINRA expressly reserve all evidentiary privileges and immunities applicable to the Confidential Information shared pursuant to this Arrangement.

Article Three: General Provisions

13. This Arrangement is entered into under the authority of the securities laws and rules cited herein, and shall not be construed as being entered into under any other authority or for any other purpose. This Arrangement does not create any legally binding obligations upon either party or confer any rights against either party.
14. This Arrangement does not alter the terms and conditions of any existing bilateral or multilateral arrangements concerning cooperation in supervisory, enforcement or other matters. This Arrangement does not preclude, and does not apply to, any exchanges of supervisory or enforcement information between the Commission and FINRA.
15. Nothing in this Arrangement modifies in any way the ability and responsibility of the Commission and FINRA to enforce their respective statutes and regulations, or otherwise limit or condition the discretion of the Commission and FINRA to discharge their

regulatory responsibilities or otherwise prejudice the responsibilities or autonomy of the Commission or FINRA. Moreover, this Agreement does not limit any existing rights of access to information, including, *inter alia*, the Commission's right of access to FINRA's records pursuant to Exchange Act sections 17(a)(1) and (b) and Exchange Act rule 17a-1.

16. Nothing in this Arrangement shall be deemed to obligate the Commission or an SBSDR to create or maintain any information.
17. FINRA acknowledges that, if it does not fulfill the terms of this Arrangement, the Commission may direct any registered SBSDR to suspend or revoke FINRA's access to Confidential Information.
18. To facilitate cooperation under this Arrangement, the parties hereby designate contact persons as set forth in Appendix B, which may be amended from time to time by a party transmitting revised contact information to the other party.

Article Four: Additional Provisions Applicable to FINRA

19. Except to the extent expressly authorized herein, FINRA will handle Confidential Information in the same manner it handles information that is entitled to the highest protection under FINRA's policy framework for confidentiality procedures, including, but not limited to, FINRA's "Information Privacy and Protection Policy" (IPPP), and "Information Privacy and Protection Policy Supplemental Guidelines for Market Regulation, Enforcement and Regulatory Operations" (SIPPP). As of the time of this Arrangement, this data is designated as "Restricted Confidential Information." FINRA also will provide notice to the Commission regarding any diminution of the confidentiality protections that would be afforded to Confidential Information pursuant to FINRA's policy framework for confidentiality procedures. To the maximum extent practicable, FINRA will afford the Confidential Information confidentiality protections that are not less rigorous than applicable confidentiality protections that FINRA affords to Consolidated Audit Trail ("CAT") data pursuant to the CAT National Market System Plan.
20. In addition to disclosures permitted otherwise, and subject to prior written consent by the Commission, which consent shall not be unreasonably withheld, FINRA also may disclose Confidential Information to the extent that such disclosure is required by FINRA rules providing that information be made available to respondents to proceedings, or by FINRA rules providing for the public release of information related to disciplinary complaints or disciplinary decisions, actions relating to statutory disqualifications, suspensions, cancellations, expulsions, bars, or other FINRA decisions or notices relating to such disciplinary actions or disqualifications, suspensions, cancellations, expulsions or bars. In considering whether to grant such consent, the Commission will take into account, among other things, applicable law, the public interest, the sensitivity of the data, and the anticipated use of the data.
21. Notwithstanding paragraph 6, FINRA may share Confidential Information with self-regulatory organization clients pursuant to Regulatory Services Agreements if, and only if: (a) the client itself has entered into a separate confidentiality arrangement with the Commission in connection with access to Confidential Information; and (b) that separate

confidentiality arrangement specifically provides that FINRA may share Confidential Information with the client pursuant to a Regulatory Services Agreement.

22. FINRA will inform the Commission as soon as practicable of any issues, including referrals, identified in the course of FINRA's use of Confidential Information, that reasonably may impact the regulatory or supervisory interests of the Commission, regardless of whether those issues involve FINRA member firms.

Article Five: Effectiveness and Termination

23. On the date this Arrangement has been signed by both the Commission and FINRA, it will become effective and may be provided to any SBSDR that maintains security-based swap data that falls within the parameters set out in Appendix A.
24. The text of this Arrangement and any amendments thereto will be made available to the public.
25. The Commission and FINRA intend to periodically review the functioning and effectiveness of this Arrangement with a view, inter alia, to expanding or altering the scope or operation of this Arrangement should that be judged necessary. This Arrangement may be amended with the written consent of the Commission and FINRA.
26. The Commission shall immediately suspend the effectiveness of this Arrangement (and thus suspend access to SBS Data pursuant to this Arrangement) if the Commission determines that such suspension is necessary to protect against an actual or potential breach of any provision of Articles 2 or 4 of this Arrangement, or if the Commission otherwise determines that such suspension is necessary to protect the confidentiality of SBS Data, or if the Determination Order has been revoked, suspended or terminated. FINRA acknowledges that in such events the Commission may direct any SBSDR to suspend immediately and without notice FINRA's access to SBS Data.
27. Without prejudice to paragraph 26, this Arrangement will terminate 30 days after the Commission or FINRA gives written notice of its intention to terminate the Arrangement.
28. In the event of this Arrangement's suspension or termination, Confidential Information accessed pursuant to the Arrangement will continue to remain confidential and subject to the safeguards contained herein despite such suspension or termination.

This Arrangement is executed in duplicate, this 11th day of August, 2022.



Gary Gensler
Chair
U.S. Securities and Exchange Commission



Robert Cook
CEO
Financial Industry Regulatory Authority,
Inc.

APPENDIX A

A. Categories of data available to FINRA

FINRA may access the following categories of SBS Data from the SBSDR, subject to the procedures described in part B of this Appendix A and the other provisions of this Arrangement.

1. Named transaction data.

FINRA will have access to all transaction-level security-based swap data held by the SBSDR, on a non-anonymized basis.

2. Named position data.

FINRA will have access to position-level security-based swap data held by the SBSDR, on a non-anonymized basis, for all security-based swap counterparties in connection with security-based swaps described above in paragraph A.1 of this Appendix A.

B. Process for accessing data

FINRA shall engage in a dialogue with each relevant SBSDR to establish processes by which the SBSDR makes applicable SBS Data electronically available to FINRA in a timely and efficient manner.

APPENDIX B

Contact persons (per paragraph 18)

U.S. Securities and Exchange Commission
Director, Division of Trading and Markets
100 F Street, NE
Washington, DC 20549
(202) 551-5500

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