



IMPORTANT DISCLOSURES REGARDING  
RISKS AND CHARACTERISTICS  
OF PARTICIPATING IN APEX CLEARING  
CORPORATION'S FULLY-PAID SECURITIES  
LENDING PROGRAM

Please read these important disclosures carefully before deciding whether to participate in Apex Clearing Corporation's Fully-Paid Securities Lending Program and before signing a Master Securities Lending Agreement for Apex Clearing Corporation's Fully-Paid Securities Lending Program. These disclosures describe important characteristics of, and risks associated with engaging in, securities lending transactions.

**I. Introduction**

Apex Clearing Corporation ("Apex") offers eligible customers the ability to lend out certain of their fully paid and excess margin securities to Apex, which Apex may then lend to other Apex customers or to other market participants who wish to use these shares for short selling or other purposes. "Fully-paid securities" are securities in a customer's account that have been completely paid for. "Excess-margin securities" are securities that have not been completely paid for, but whose market value exceeds 140% of the customer's margin debit balance. In this disclosure document, we collectively refer to fully-paid and excess margin securities as "Fully-Paid Securities" or "Fully-Paid Shares". Lending out your Fully-Paid Shares may be a way to increase the yield on your portfolio, because some shares are in high demand in the securities lending market and borrowers are willing to pay a fee for the use of your shares.

In the Apex Fully-Paid Securities Lending Program (the "Program"), you permit Apex to borrow from you any Fully-Paid Securities in your portfolio and loan these securities out in the securities lending market. Apex will have the discretion to initiate loans of your securities. You will not be asked to approve each loan before it is initiated, but you can sell your shares at any time or terminate your participation in the Program. As described further in this disclosure document, Apex will pay both you and your Introducing Broker a fee for the shares that Apex borrows from you.

**II. Basic Mechanics of a Fully-Paid Lending Transaction under the Program**

When the lending transaction takes place, your securities will be designated as on loan. In return, Apex will deposit collateral with a market value of at least 100% of the market value of the Fully-Paid Shares being borrowed in a custody account at a bank or other custodian ("Custodian") for your benefit to secure the amount of the loan. Apex marks-to-market all positions daily to reflect changes in security prices. Apex reserves the right to adjust to U.S. industry convention should that change or to raise or lower the collateral amount based on local laws or market custom outside the U.S.; however, Apex will never collateralize the stock loan for less than 100% of the market value of the borrowed securities. Apex will deposit either cash (U.S. dollars) or U.S. Treasury securities as collateral. U.S. Treasury securities are subject to market risk, meaning that the price of such securities may increase or decrease. As noted above, however, Apex will maintain collateral, including U.S. Treasury securities, if used as collateral, with a current market value at least equal to 100% of the current market value of the securities it borrows from you. U.S. Treasury securities are backed by the U.S. federal government. The credit risk associated with U.S. Treasury securities is therefore the risk that the U.S. government does not make, or does not timely make, payments owed with respect to such securities. Cash is generally not subject to market and credit risk. You may not use the collateral except as provided in the Master Securities Lending Agreement following the occurrence of a default with respect to Apex.

The custody account in which your collateral is deposited may be an omnibus account established at the Custodian that holds the collateral in an aggregate amount with the collateral of other lenders who have loaned securities to Apex. Apex has appointed a third-party trustee (the "Trustee") pursuant to a Fully Paid Lending Trust Agreement ("Collateral Trust Agreement") to act on your behalf of and for your benefit where the Custody Account is an omnibus account. By entering into the Master Securities Lending Agreement, you agree to appoint the Trustee to act on you behalf and for you benefit with respect to the collateral for your loans with Apex including, as described in Section XI., upon a default by Apex under the Master Securities Lending Agreement.

When you lend your Fully-Paid Shares, the loan may be terminated, and the shares returned to your Apex account at any time. The loan may be terminated because a party that borrowed the shares from Apex (after Apex borrowed them from you) chose to return the shares, or because Apex received a rerate request and rejected the rerate request, or for other reasons. Apex also has the right to terminate its borrowing of shares from you even if Apex continues to lend the same stock through another market. When the loan is terminated, shares will no longer be designated as on loan, you and your Introducing Broker will stop receiving fees for the loan, and the collateral for the loan will no longer be held in the custody account at the Custodian for your benefit. Please note, however, that you can always terminate your participation in the Program, which will terminate all of your lending transactions.

Apex will be the counterparty borrower to all of the loans you make. That is, as a customer, you are transacting with Apex, which may, in turn, then transact on any relevant market. For all transactions in which you are lending your Fully-Paid Shares, Apex will be the borrower and Apex will be the party providing the collateral to the custody account for your benefit in connection with the securities loan and paying fees to you and your Introducing Broker.

### **III. SECURITIES LOANED OUT BY YOU MAY NOT BE PROTECTED BY SIPA**

THE PROVISIONS OF THE SECURITIES INVESTOR PROTECTION ACT OF 1970 (“SIPA”) MAY NOT PROTECT YOU WITH RESPECT TO YOUR SECURITIES LOAN TRANSACTIONS IN THE PROGRAM. THEREFORE, THE COLLATERAL HELD IN THE CUSTODY ACCOUNT FOR YOUR BENEFIT MAY CONSTITUTE THE ONLY SOURCE OF SATISFACTION OF APEX’S OBLIGATION IN THE EVENT APEX FAILS TO RETURN THE SECURITIES. TO THE EXTENT NON-CASH COLLATERAL IS USED, SIPA ALSO MAY NOT PROTECT NON-CASH COLLATERAL HELD IN THE CUSTODY ACCOUNT FOR YOUR BENEFIT.

### **IV. Factors that Determine the Amount of Compensation Received by Apex, You, and Your Introducing Broker, and the Ability of Those Amounts to Change**

**Important Note:** As explained in this section, you will receive a loan fee for lending your Fully-Paid Shares to Apex. Apex splits the loan proceeds that it receives for relending the Fully-Paid Shares it borrows from you with you and your Introducing Broker. Your Introducing Broker determines the percentage, referred to as the “Percentage Rate,” of the loan proceeds you will receive. Your Introducing Broker may change the Percentage Rate in its discretion without prior notice to you, but that percentage will not fall below the “Minimum Percentage Rate” set out in the Schedule of Basis of Compensation for Loan to the Master Securities Lending Agreement. If you want to know the Percentage Rate that you are receiving for lending your Fully-Paid Shares, please contact your Introducing Broker.

#### **1. Fees Paid to Borrow Securities (and Therefore the Loan Fees You Will Receive) Are Subject to Frequent Change and Can Go Down (or Up) by 50% or More**

The fees paid to borrow shares change frequently, even daily, in the securities lending market and this can reduce (or increase) the fees that you and your Introducing Broker receive for loans of your Fully-Paid Securities. You will not have direct control over when to initiate or terminate loans of specific shares (including based on fee changes). However, you can always terminate your participation in the Program (which will terminate all of your lending transactions) if you are unhappy with the loan fees you are receiving or the nature or frequency of fee changes. Please note, though, that if you terminate your participation in the Program, you may not be permitted to re-join the Program, or you may have to wait a certain length of time to re-join.

#### **2. Apex May Profit or Lose in Connection with its Loans with You or its Relending of the Same Securities**

Apex will be the counterparty (borrower) when you permit borrowing of your Fully-Paid Shares. Any subsequent transactions that Apex may or may not do on any securities lending markets are completely independent of your loan transaction with Apex. Thus, after Apex borrows Fully-Paid Shares from you for a loan fee, Apex may or may not then lend those shares to another party or to or through an affiliate or third party. Where Apex pays a specified fee to your Introducing Broker, this

reduces the overall fees you receive. Likewise, Apex may terminate a loan with you and return shares to you while at the same time Apex continues to lend shares of the same stock out to the marketplace. In short, Apex's obligation to you is to pay you and your Introducing Broker the specified fee (your fee is the "Loan Fee" under the Master Securities Lending Agreement) on ongoing loan transactions until such transactions are terminated by you or by Apex. Nothing in the Program restricts Apex's ability to conduct stock lending and borrowing transactions with third parties who may profit or lose in connection with the transactions.

Apex may borrow Fully-Paid Shares from you and then lend those shares to one of its affiliates or other customers.

### **3. There is No Guarantee That You and Your Introducing Broker Will Receive the Best Fees Available for Your Fully-Paid Shares**

The securities lending market is not a standardized market. There are no guarantees that any given participant in the marketplace will receive the best fees for lending shares, and Apex cannot and does not guarantee that you and your Introducing Broker will receive the most favorable fees with respect to your Fully-Paid Shares that Apex loans to third parties. Apex may not have access to the markets or counterparties that are offering the most favorable fees or may be unaware of the most favorable rates.

### **4. Commissions and Other Charges**

You and your Introducing Broker will receive fees in connection with a loan of your Fully-Paid Securities to Apex, which will accrue daily. As described in the Schedule of Basis of Compensation for Loan to the Master Securities Lending Agreement, your "Loan Fee" equals a percentage, referred to as the "Percentage Rate," of the "Loan Proceeds." Apex may determine, in its sole discretion and considering the interest rate environment, whether the fees that you and your Introducing Broker receive will include any interest paid on the collateral securing your loan, if any.

The Percentage Rate may be changed by your Introducing Broker in its sole discretion, but will not be less than the Minimum Percentage Rate set out in the Schedule of Basis of Compensation for Loan to the Master Securities Lending Agreement. Likewise, the loan fee paid to you may vary based on the demand for borrowing the types of Fully-Paid Securities available in your account and other factors.

You may always terminate your participation in the Program if you are unhappy with the Percentage Rate you are receiving.

### **V. There Is No Guarantee That Apex Can or Will Borrow Your Fully-Paid Shares**

There is no guarantee that you will be able to lend (or that Apex will want to borrow) your Fully-Paid Shares. There may not be a market to lend your Fully-Paid Shares in a particular security at a fee that is advantageous, or Apex may not have access to a market with willing borrowers. Apex, or other Apex customers or Apex's affiliates, might have shares that may be loaned out that will satisfy available borrowing interest and, therefore, Apex may not borrow shares from you. There is no rule or requirement, nor is there anything in the applicable agreements between you and Apex, that requires Apex to borrow shares from you or requires Apex to place your interest in lending shares of a particular security ahead of Apex's own interests, or those of other Apex customers or those of Apex's affiliates. Apex cannot and does not guarantee that all your Fully-Paid Shares that possibly could be loaned out to generate loan fees for you will be loaned out.

### **VI. Loss of Voting Rights**

The borrower of the securities (and not you, as lender) has the right to vote, or to provide any consent or to take any similar action with respect to the loaned securities if the record date or deadline for such vote, consent or other action falls during the term of the loan.

### **VII. You Can Sell Your Loaned Shares at any Time**

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Even though you have loaned your Fully-Paid Shares out, you can sell those shares at any time, just like any other shares in your Apex account. You do not have to wait for the shares to be returned to sell them. Even if the shares are not returned on time to settle your sale of the shares, Apex will be responsible for settling the sale, not you, and you will receive the proceeds from the sale of the shares on the normal settlement date for the sale.

If you sell the Fully-Paid Shares you have lent out, or if you borrow against the shares (such that the securities become margin securities and are no longer fully-paid or excess margin securities), the loan will terminate, and you and your Introducing Broker will stop receiving the loan fee.

### **VIII. You Continue to Own Loaned Fully-Paid Shares and Have Market Risk on Those Shares**

When you lend your Fully-Paid Shares, you continue to own the shares and you continue to have the market exposure inherent in ownership of the shares (*i.e.*, if the share price decreases while you own the shares but are lending them out, the value of your position will decrease).

### **IX. The Securities Loaned Out by You May be “Hard-to-Borrow” Because of Short Selling or May be Used to Satisfy Delivery Requirements Resulting from Short Sales**

The type of securities that are generally attractive to borrowers in the securities lending market, and which generate the highest fees, are “hard to borrow” securities. When you lend your Fully-Paid Securities, it is likely that such securities will be used to facilitate one or more short sales where the borrower is selling shares in hopes that the stock will decline in value (the short seller later repurchases the stock to pay back the stock loan). Since you are holding the shares “long” in your account, the activity of short sellers potentially could affect the long-term value of your holdings. Apex may receive compensation for lending your Fully-Paid Shares in connection with short sales.

You may elect not to allow your Fully-Paid Securities to be used in connection with short sales by terminating your participation in the Program.

### **X. Potential Tax Implications, Including Payments Deemed Cash-in-Lieu of a Dividend Paid on Securities While on Loan**

When you lend your Fully-Paid Securities, you are entitled to receive the amount of all dividends and distributions made on or in respect of the loaned securities. However, you may receive cash payments “in lieu of” dividends. If you are a U.S. taxpayer, cash payments in lieu of dividends are not the same as qualified dividends for tax purposes and are taxed as normal ordinary income (up to 37%) instead of the preferential qualified dividend rate of 20% (U.S. federal income tax rates quoted here are for 2022 and are subject to change). If you are not a U.S. taxpayer, Apex may be required to withhold tax on payments in lieu of dividends and any loan fees due to you, if applicable, at 30% unless an exception applies. Apex is not required to compensate you for any different tax treatment for cash payments “in lieu of” dividends made by Apex to you in connection your loaned securities.

It is solely within Apex’s discretion whether to recall loaned shares from a borrower prior to a dividend, and Apex makes no guarantee to recall a loan prior to a dividend. With respect to other corporate actions affecting loaned shares, non-cash distributions that you are entitled to receive in connection with ownership of loaned securities will be added to the loaned securities on the date of distribution and will be transferred to you at termination of the loan.

Other special tax considerations could arise, and you are encouraged to consult a tax advisor for further information.

### **XI. Your Rights Upon an Apex Default Under the Master Securities Lending Agreement**

In the event of a non-insolvency default by Apex, you may provide a “Notice of Default” to the Trustee (with a copy to Apex) in accordance with the terms of the Master Securities Lending Agreement and Collateral Trust Agreement to terminate your loan transactions with Apex. If Apex does not timely cure the issue, the Trustee will direct the Custodian to remit the appropriate amount of collateral to you. If Apex timely cures the issue or you no longer wish to exercise your default rights, you must submit a “Notice of Revocation” to the Trustee (with a copy to Apex) in accordance with the terms of the Master Securities Lending Agreement and Collateral Trust Agreement. If

you do not timely submit a Notice of Revocation, and as a result, the Trustee remits the collateral to you, Apex will no longer be obligated to return a like amount of your Fully-Paid Shares to you.

In the event of an insolvency default by Apex, the Trustee will be deemed to have received a Notice of Default from you and will direct the Custodian to remit the appropriate amount of collateral to you. If Apex becomes insolvent, to the extent your loans are collateralized with non-cash collateral, such non-cash collateral may become subject to a judicial stay and you may be required to submit to the SIPA trustee, receiver, or court, an affidavit attesting that you have no knowledge of any fraud involved in the Master Securities Lending Agreement or any of the loans thereunder and that you either have acquired the rights of an owner of such collateral or have, through the Trustee, a perfected security interest therein (a "No Fraud Affidavit") in order to lift the stay. Neither the Trustee nor Apex will be under any obligation to submit a No Fraud Affidavit on your behalf or be liable for any defects in your No Fraud Affidavit.

## **XII. Apex's Rights Upon Your Default Under the Master Securities Lending Agreement**

Apex has a right to terminate its loan transactions with you in accordance with the terms of the Master Securities Lending Agreement in the event of a default by you, including if any of the following events specified in FINRA Rule 4314(b) occur:

(1) you apply for or consent to, or are the subject of an application for, the appointment of or the taking of possession by a receiver, custodian, trustee, or liquidator of you or of all or a substantial part of your property;

(2) you admit in writing your inability, or become generally unable, to pay your debts as such debts become due;

(3) you make a general assignment for the benefit of your creditors; or

(4) you file, or have filed against you, a petition under Title 11 of the United States Code, or have filed against you an application for a protective decree under Section 5 of SIPA, unless the right to liquidate such transaction is stayed, avoided, or otherwise limited by an order authorized under the provisions of SIPA or any statute administered by the U.S. Securities and Exchange Commission.

**IMPORTANT NOTE: IN THE EVENT OF A CONFLICT BETWEEN THE INFORMATION CONTAINED IN THIS DISCLOSURE DOCUMENT AND THE TERMS OF THE MASTER SECURITIES LENDING AGREEMENT THAT YOU SIGNED, THE TERMS OF THE MASTER SECURITIES LENDING AGREEMENT SHALL GOVERN.**