



February 2, 2017

Brent J. Fields  
Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, D.C. 20549

Re: Order Extending Certain Temporary Exemptions under the Securities Exchange Act of 1934 in Connection with the Revision of the Definition of “Security” to Encompass Security-Based Swaps and Request for Comment (Release No. 34-79833; File No. S7-27-11); Self Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Expiration Date of FINRA Rule 0180 (Application of Rules to Security-Based Swaps) (Release No. 34-79752; File No. SR-FINRA-2017-001)

Dear Mr. Fields,

The Securities Industry and Financial Markets Association (“SIFMA”)<sup>1</sup> appreciates the ongoing consideration by the Securities and Exchange Commission (the “SEC” or “Commission”) regarding the implications of Sections 761 and 768 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”) which contained provisions that included security-based swaps (or “SBS”) in the definition of “security” for purposes of the Securities Exchange Act of 1934 (the “Exchange Act”) and the Securities Act of 1933 (the “Securities Act”). We support the Commission’s recent Order<sup>2</sup> extending certain temporary exemptive relief under the Exchange Act where such an exemption does not directly relate to a specific SBS rulemaking (an “unlinked temporary exemption” as it is described in the release) until February 5, 2018, and further support the Financial Industry Regulatory Authority (“FINRA”) notice of filing to extend the expiration date of FINRA Rule 0180, which provides

---

<sup>1</sup> SIFMA is the voice of the U.S. securities industry. We represent the broker-dealers, banks and asset managers whose nearly 1 million employees provide access to the capital markets, raising over \$2.5 trillion for businesses and municipalities in the U.S., serving clients with over \$20 trillion in assets and managing more than \$67 trillion in assets for individual and institutional clients including mutual funds and retirement plans. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit <http://www.sifma.org>.

<sup>2</sup> 82 Fed. Reg. 8467 (Jan. 25, 2017), available at: <https://www.gpo.gov/fdsys/pkg/FR-2017-01-25/pdf/2017-01620.pdf>.

time-limited relief from the application of FINRA rules with respect to SBS to February 12, 2018.<sup>3</sup>

While such relief is appreciated, we reiterate<sup>4</sup> our view that it is necessary and appropriate for the Commission to provide permanent exemptive and other relief to SBS market participants from the federal securities laws (including both the Exchange Act and Securities Act) that apply to SBS due to their inclusion in the definition of “security” in order to avoid disrupting the SBS market and limiting the availability of SBS for eligible investors. It is also necessary for FINRA to take similar action regarding the application of their rules to SBS. We stand ready to provide whatever technical assistance the Commission would find useful as it continues its significant efforts to implement this aspect of Dodd-Frank and would welcome the opportunity to further discuss areas where significant interpretive guidance or specific exemptive relief may be needed.

Please do not hesitate to contact the undersigned for any further information the Commission or its staff may require.

Best regards,

A handwritten signature in blue ink, appearing to read 'Kyle Brandon', with a stylized, flowing script.

Kyle Brandon  
Managing Director

---

<sup>3</sup> 82 Fed. Reg. 3824 (Jan. 12, 2017), available at: <https://www.gpo.gov/fdsys/pkg/FR-2017-01-12/pdf/2017-00493.pdf>.

<sup>4</sup> See SIFMA request for extension of the expiration date of the SEC’s Exchange Act Exemptive Order and SBS Interim Final Rules (Dec. 20, 2012), available at <https://www.sec.gov/comments/s7-27-11/s72711-12.pdf>; also see SIFMA comments on exemptions for SBS involving eligible contract participants (Dec. 21, 2012), available at <https://www.sec.gov/comments/s7-26-11/s72611-6.pdf>; SIFMA/International Swaps and Derivatives Association (“ISDA”) comments regarding exemptions under the Securities Act, the Exchange Act and the Trust Indenture Act of 1939 (Apr. 20, 2012), available at <https://www.sec.gov/comments/s7-26-11/s72611-5.pdf>; SIFMA/ISDA/Financial Services Roundtable comments on cleared SBS transactions involving eligible contract participants (Jan. 31, 2012), available at <https://www.sec.gov/comments/s7-22-11/s72211-8.pdf>; SIFMA SBS exemptive relief request (Dec. 5, 2011), available at <http://www.sec.gov/comments/s7-27-11/s72711-10.pdf>; and SIFMA preliminary comments and requests for permanent exemptions regarding the treatment of SBS as securities (Oct. 20, 2011), available at <https://www.sec.gov/comments/s7-27-11/s72711-7.pdf>.