



January 11, 2018

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

Re: Interim Final Rules on Exemptions for Security-Based Swaps (RIN 3235-AL17; Release Nos. 33-10305; 34-80023; 39-2515; File No. S7-26-11); 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**”)¹ 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**”). Last year, the Commission issued Interim Final Rules that provided exemptions for SBS from being defined as “securities” under the Securities Act, Exchange Act and Trust Indenture Act of 1939, currently set to expire on February 11, 2018.² The Commission

¹ 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 \$18.5 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>.

² 82 Fed. Reg. 10703 (Feb. 15, 2017), available at: <https://www.gpo.gov/fdsys/pkg/FR-2017-02-15/pdf/2017-03121.pdf>. We note that the SEC recently issued a Final Rule on the treatment of certain communications involving SBS that may be purchased only by eligible contract participants, available at: <https://www.sec.gov/rules/final/2018/33-10450.pdf>. SIFMA and its members are currently reviewing the Final Rule, and considering the necessity for further '33 Act relief as well as potential impacts of the Final Rule to SBS markets and its participants.

also issued an Order³ 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. At the same time, the Financial Industry Regulatory Authority (“FINRA”) recently filed a proposed rule change with the Commission to extend the expiration date of FINRA Rule 0180, which would provide time-limited relief from the application of FINRA rules with respect to SBS to February 12, 2019.⁴

SIFMA respectfully requests that the SEC further extend the expiration date of its Interim Final Rules and Order regarding the application of federal securities laws to SBS, until a time that the Commission can provide appropriate permanent exemptive and other relief to SBS market participants from the federal securities laws that apply to SBS due to their inclusion in the definition of “security” (including both the Exchange Act and Securities Act). As we have previously highlighted in a series of comments⁵, such action is necessary to avoid disrupting the SBS market and limiting the availability of SBS for eligible investors. We further support FINRA’s proposed rule change to extend the expiration date of Rule 0180 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,



Kyle Brandon
Managing Director

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

⁴ Available at: <http://www.finra.org/sites/default/files/SR-FINRA-2018-001.pdf>.

⁵ SIFMA and other trade associations previously requested permanent relief in a series of filings. 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>.