ON THE ISSUES

SIFMA, on behalf of the financial services industry, engages with policymakers and regulators through comment letters, testimony, studies and more. This paper summarizes SIFMA's current views, organized by governmental department, on a range of key, topical issues.[1]

April 2013

[1] This document provides a high-level overview of SIFMA's positions on selected issues. It is not designed or intended to provide SIFMA's views on all of the many issues that concern our members. If you would like to discuss issues not presented here, we encourage you to contact us directly. All of the information in this document is current as of April 3, 2013.

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Preamble

The Securities Industry and Financial Markets Association (SIFMA).

SIFMA brings together the shared interests of hundreds of securities firms, banks and asset managers. Our mission is to support a strong financial industry, investor opportunity, capital formation, job creation and economic growth, while building trust and confidence in the financial markets. With offices in New York and Washington, D.C., SIFMA is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit www.sifma.org.

Our response to the global financial crisis.

SIFMA has supported responsible regulatory reform from the start, and we remain committed to being productive participants in the process. Through our committees, made up of more than 6,000 industry experts, we provide information and analysis to help regulators craft rules that work, without frustrating economic growth.

Looking at progress to date, in the more than two years since the July 2010 signing of the Dodd-Frank Act into law, SIFMA continues to support measures to restore faith and confidence in our financial system, such as establishing a systemic risk regulator and the designation of bank and non-bank firms as systemically important. We believe there should be a uniform fiduciary standard of conduct for brokers and investment advisers when providing personalized investment advice to retail investors. We also support risk retention and other improvements in the securitization market to help jumpstart recovery of the housing market.

Our fundamental concern.

Our fundamental concern is ensuring that regulatory rulemaking is done right – even if it takes a bit longer and thereby contributes to short-term industry uncertainty. The process begins with proper cost-benefit and economic analysis that appropriately takes into account the impact new rules will have on the U.S. and global markets, market participants, and the economy generally. Our ultimate goal is to ensure final regulations are balanced and consistent with the intent of the legislation, coordinated globally to reduce extraterritorial impacts, and avoid constraining capital formation and credit availability, or otherwise impeding the function of the markets they are meant to protect.

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1. Introduction – Dodd-Frank Implementation

The *Dodd-Frank Wall Street Reform and Consumer Protection Act* (Dodd-Frank Act) was signed into law by President Obama on July 21, 2010. Now, we are in the midst of a rulemaking process that is designed to ensure a broad range of issues and detailed expertise – industry, economic, scientific and consumer – are incorporated at various stages. The end goal of this process is to ensure that final regulations are balanced, consistent with the intent of the initial legislation, and avoid any potential unintended consequences.

SIFMA continues to support measures to restore faith and confidence in our financial system, mitigate systemic risks and prevent another crisis. However, SIFMA remains concerned with sequencing of Dodd-Frank Act implementation and the lack of coordination among U.S. regulators, which we fear could lead to conflicting rules, fragmentation across markets, and extended uncertainty for market participants. Compounding the problem, the cross-border application of some promulgated rules requires international regulatory coordination, even as the U.S., EU and Asia move in different directions on financial reform.

Banking and securities markets are critical to economic growth. SIFMA believes Dodd-Frank Act implementation issues need to be addressed and a strong coordinating mechanism must be created. The Dodd-Frank Act mandates that the Financial Stability Oversight Council (FSOC) be the coordinating body for financial reform and, as such, we believe FSOC should begin a comprehensive review of all proposed and finalized rules, set regulatory priorities and re-sequence the implementation of new regulations.

To help with this process, SIFMA commissioned three papers from Karen Shaw Petrou, Managing Partner at Federal Financial Analytics, to help identify conflicts, unintended consequences, and impediments to the effective implementation of Dodd-Frank Act mandated regulations. The first paper analyzes major prudential rules that have a strategic impact on cross-border financial firms; the second paper focuses on the operational impediments to effective rulemaking; and the third paper assesses the degree to which the U.S. has created a system for resolving a systemically important financial institution.

SIFMA hopes these papers will assist policy makers and the industry as they continue to implement Dodd-Frank Act regulations and move forward in the regulatory process.

2. U.S. Department of the Treasury

a. Financial Stability Oversight Council (FSOC)

Dodd-Frank Title I, systemic risk regulator.

After the 2008 financial crisis, it became clear that the fragmentation of the financial services regulatory regime hindered the ability of any one regulator to identify and resolve systemic risks to U.S. financial markets. Congress sought to address this lapse in Title I of the Dodd-Frank Act, which created the Financial Stability Oversight Council (FSOC) and the Office of Financial Research (OFR).

The FSOC serves as a systemic risk oversight body that brings federal and state regulators together to identify, monitor and address potential threats to U.S. financial stability. The Secretary of the Treasury chairs the Council, which consists of 10 voting and 5 non-voting members. The voting members include the heads of the nine primary federal financial regulatory agencies and an independent member, with insurance expertise, appointed by the President. The Council also includes five non-voting members, including representatives from state insurance, banking and securities regulators, the OFR, and the head of the Federal Office of Insurance. The OFR was established to improve the quality of financial data available to policymakers and facilitate more robust and sophisticated analysis of the financial system.

The FSOC has numerous duties, including: regulatory coordination among the financial services regulators, facilitating information sharing and collection, designating financial market utilities, payment clearing and settlement firms as systemically important, recommending systemic standards to agencies, breaking up firms and recommending actions to Congress to fill gaps in financial regulation. The Dodd-Frank Act also authorized, but does not require, the FSOC to designate certain non-bank financial firms to be systemically important. Under the statute, bank holding companies are automatically deemed to be systemically important financial institutions (SIFIs) if they have more than $50 billion in assets.

SIFMA supported the creation of the FSOC and the OFR, although we believed the OFR should have been housed at the Federal Reserve Board (FRB). SIFMA also supports the designation of non-bank financial firms as SIFIs, and is supportive of heightened prudential standards. However, SIFMA has some concerns about the scope of the FSOC's powers and worries that there are no checks on the funding of the OFR and FSOC.

FSOC regulatory coordination mandate

Under its Congressional mandate, the FSOC is authorized to coordinate financial regulation among its various members and internationally. However, SIFMA and many other industry representatives and foreign financial regulators have expressed concern that the FSOC is not properly exercising its authority under the statute to address conflicts in rule making between U.S. regulators and coordination with non-U.S. regulators. SIFMA believes it is critical that FSOC take a leading role in coordination, and arbitrating conflicts, among U.S. regulators domestically and in coordination with non-U.S. regulators to avoid fragmentation of rules across markets and jurisdictions.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment to Treasury dated Dec. 15, 2011 • SIFMA comment to Treasury dated Feb. 25, 2011 **Other Resources:** • SIFMA systemic risk resource center

Non-bank systemically important financial institution (SIFI) designation.

The FSOC was granted the authority to designate certain non-bank firms as systemically important. On April 3, 2012, the FSOC promulgated a multi-stage process to identify and designate non-bank entities as systemically important.

The SIFI designation subjects a financial institution to numerous heightened prudential standards and special oversight by the Federal Reserve Board (FRB) and Federal Deposit Insurance Corporation (FDIC). Among the heightened prudential standards is a requirement that the designated SIFI develop a "living will" or resolution and recovery plan for itself and its material affiliates annually, which includes resolution through the bankruptcy courts where appropriate. These standards also include higher capital requirements, liquidity requirements, single counterparty credit limits, mandatory stress testing, and early remediation requirements.

In stage one, the FSOC identifies firms based on quantifiable metrics, including size, derivatives use, leverage, and liquidity risk. Based on these factors, in stage two, the FSOC conducts a more subjective evaluation of the risk profile of targeted firms and determines whether the collapse of the firm could pose a threat to the system. Any firm that requires further review is notified that they are being considered for a proposed non-bank SIFI determination and subject to stage three testing. In this final stage, the FSOC looks at the institution's complexity, resolvability, and threat to the financial system. A final "systemically important" determination is then decided by a simple majority vote of the ten voting members that comprise the FSOC.

SIFMA believes the FSOC should adopt an approach that combines transparent benchmarks with a process that affords the FSOC the time and opportunity to carefully consider less quantifiable, but equally important, factors that reflect the extent of systemic risk a firm poses to the financial system. The framework of indicators the FSOC uses to evaluate nonbank financial companies for potential designation as systemically significant should be transparent to the public, and more information should be available on the qualitative criteria the FSOC intends to use.

SIFMA believes that the FSOC should be sensitive to business models before establishing blanketed standards for systemic non-bank entities. For example, asset managers have different structures from insurance companies, and both differ from captive finance companies. SIFMA believes it would be improper to impose the same regulatory scrutiny on all of these firms under a systemic designation.

If the FSOC takes a more tailored approach to reviewing non-bank companies, SIFMA believes the industry should be involved to assist the regulators in making more informed decisions. We further believe that the Office of Financial Research (OFR), which is tasked with supporting the FSOC with data, needs to effectively engage the industry and be more transparent about plans to evaluate various non-bank firms as systemic.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment to FSOC dated Dec. 15, 2011 • SIFMA comment to FSOC dated Feb. 25, 2011

b. Office of Financial Research (OFR)

Legal Entity Identifier (LEI). (OFR, CFTC)

An LEI is a unique identifier associated with a single corporate entity. Although no common global entity identification convention exists in the market today, a range of regulatory initiatives are driving the creation of a universal LEI standard for financial markets. The current lack of a standard identification system for financial counterparties makes it difficult for financial firms to develop a consistent and integrated view of their exposures, such as in the case of the default of a counter-party. This is a challenge not only for firms, but also creates an obstacle for regulators to aggregate and share information to effectively monitor risks.

Around the globe, regulators and firms are working to overcome this fragmented system and create common identifiers. The importance of creating a common system of identifiers has been recognized in statements by the Financial Stability Board (FSB), International Organization of Securities Commissions (IOSCO), and G-20 finance ministers and leaders. The FSB was tasked with leading a G20 effort to develop recommendations on how the LEI system should operate, in dialogue with market participants. The FSB established a Regulatory Oversight Committee (ROC) in January 2013 to launch the global LEI system by March 2013. The FSB envisions a global federated model for issuing and managing LEIs, which will be coordinated by the ROC.

In the U.S., the Dodd-Frank Act mandated initiatives to create standard LEIs. The main effort is being driven by the OFR, while the Commodity Futures Trading Commission (CFTC) was the first US regulator to require LEIs, incorporating them into swaps reporting requirements which came into effect in late 2012. The OFR has issued a statement regarding its preference to adopt through rulemaking a universal standard for identifying parties to financial contracts that is established and implemented by private industry and other relevant stakeholders through a consensus process. Regulators in Hong Kong, Canada, and Australia, as well as in the EU, are considering how to incorporate the LEI into rulemaking.

SIFMA and others have been in dialogue with the OFR and US and international regulators to support the creation of a consensus LEI solution. We have worked closely with the CFTC to support the launch of the LEI for swaps reporting, and hope this solution and the lessons it provides can be the foundation for future LEI efforts in other jurisdictions.

Creating a single LEI standard across jurisdictions will allow for more effective global regulatory oversight and be more efficient for firms. We are working closely with global firms and trade associations as part of this process. We appreciate the OFR's outreach to foreign regulators, as a globally coordinated approach will be necessary for effective implementation. Maintaining common standards across the global LEI system (such as for data quality) will be essential to making the LEI a gold standard for identifying market participants.

We also encourage the OFR to continue to work with US regulators and supervisors to embed in the LEI in rulemaking and reporting requirements. SIFMA and the financial industry are committed to supporting the development and implementation of an LEI standard.

SIFMA Advocacy Links
White Papers: • Global LEI Proposal dated May 2, 2011 **Other Resources:** • LEI Resource Center

c. Office for International Affairs

<u>The Trans-Pacific Partnership (TPP).</u> (USTR)

The Trans-Pacific Strategic Economic Partnership Agreement (TPSEPA), a multilateral free trade agreement aimed at further liberalizing the economies of the Asia-Pacific region, was signed in June 2005. The agreement affected trade in goods, rules of origin, trade remedies, sanitary measures, technical barriers to trade, trade in services, intellectual property, government procurement and competition policy. In 2007, negotiations began on the TPP, a significantly expanded version of the TPSEPA. Negotiations began among the following nine countries: Australia, Brunei, Chile, Malaysia, New Zealand, Peru, Singapore, Vietnam and the U.S. Earlier this year, Canada, Japan and Mexico were invited to join. All three countries have agreed to join the negotiations.

SIFMA believes the TPP will serve as a benchmark for the region and offer a template for future U.S. trade policy. The recently concluded U.S.-Korea Free Trade Agreement serves as a model for a high-quality and ambitious financial services chapter. We believe similar provisions will result in an agreement that reflects the global and rapidly changing nature of the financial services sector, incorporates important protections for firms operating on a cross-border basis, and modernizes many of the critical standards now established in other contemporary trade and investment agreements. Specifically, an agreement should provide for full market access with national treatment and most-favored-nation commitments, a commitment to ensuring regulatory transparency, the freedom to conduct cross-border business, the free flow of information, and a mechanism to settle investor-state disputes.

SIFMA Advocacy Links
Comment Letters: • SIFMA and FSF comment to USTR dated Jun. 29, 2012 • SIFMA comment to Obama Administration dated Feb. 27, 2012 • SIFMA comment to USTR dated Jun. 13, 2012

United States – European Union Transatlantic Trade and Investment Partnership (TTIP). (USTR)

In 2011, leaders from the European Union (EU) and U.S. directed the Transatlantic Economic Council to establish a High-Level Working Group on Jobs and Growth, led by U.S. Trade Representative Ron Kirk and EU Trade Commissioner Karel De Gucht. This Working Group was tasked with identifying policies to increase EU-U.S. trade and investment, and support mutually beneficial job creation, economic growth, and international competitiveness.

The Working Group published a final report in February 2013 that recommended the elimination or reduction of conventional barriers to trade in goods, services, and investment. The Working Group also noted that a comprehensive bilateral pact, or free trade agreement, had the "greatest potential" for supporting robust job and economic growth. At the State of the Union, President Obama announced that the U.S and EU have agreed to pursue a bilateral agreement and in late March, the Obama administration announced its intention to begin negotiations with a 2014 completion goal.

The financial services sector currently faces numerous extraterritorial issues, both new and previously raised, that risk impeding or disrupting the efficient functioning of U.S. and global financial markets. SIFMA supports the TTIP and the removal of unnecessary barriers to transatlantic commerce and investment for the financial services industry when operating on a cross-border basis.

SIFMA Advocacy Links
Comment Letters: • SIFMA/AFME Framework for Financial Services dated Feb. 15, 2013 • SIFMA comment to the Senate Finance Committee dated Mar. 7, 2012 **Press Releases:** • SIFMA press release dated Feb. 12, 2013

International Services Agreement (ISA). (USTR)

In January 2013, the United States Trade Representative (USTR) announced its intention to enter into an agreement that will focus on international trade in services. Members of both the Senate and House have endorsed the negotiations, which will include 21 countries representing over 70 percent of total current global trade in services.

Negotiating countries include: the United States, Australia, Canada, Chile, Chinese Taipei (Taiwan), Colombia, Costa Rica, the European Union (on behalf of its member states), Hong Kong, Iceland, Israel, Japan, Mexico, New Zealand, Norway, Pakistan, Panama, Peru, South Korea, Switzerland and Turkey. Additional countries are expected to join soon after negotiations begin.

USTR held a hearing on March 13, 2013 to hear from stakeholders in the services industry and SIFMA submitted written testimony ahead of the public meeting.

The negotiations are expected to start in spring 2013, once all participants have received their negotiating mandates. The negotiations will take place in Geneva.

SIFMA Advocacy Links
Testimony: • SIFMA testimony before HFSC dated May 16, 2012

Market access and a liberalized financial services sector.

SIFMA has long supported more open, fair and transparent markets, and liberalization of the national treatment of financial services in U.S. multilateral and bilateral trade forums. The economic benefits of financial services sector liberalization reverberate throughout the world in the form of increased growth, foreign investment and capital formation.

Specifically, such liberalization leads to new entrants, innovative products and services, and capital markets with greater liquidity depth and efficiency. Openness and fairness are essential to ensuring that markets operate efficiently so that capital can move seamlessly across borders and investors can easily and quickly buy and sell securities anywhere, while businesses can access capital at the lowest cost.

U.S. financial services firms face market access barriers in a number of countries, most notably China. While China has eased restrictions on ownership limitations through the Strategic and Economic Dialogues (S&ED), U.S. firms still cannot own more than 49 percent of a joint venture. Further, firms are limited in the products they are allowed to offer and subject to "seasoning periods" of two years before expanding their operations in-country. The industry believes continued advocacy by the Treasury Department through the S&ED is essential for further liberalization of the financial services sector in China.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment to USTR dated Feb. 26, 2013

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General Anti-Avoidance Rule (GAAR).

In March 2012, the Indian Parliament introduced and approved changes to its tax code that impact foreign institutional investors (FII) currently conducting business in India and seeking to invest. Parliament agreed to these changes in response to an Indian Supreme Court ruling that Vodafone is required to pay billions of dollars in tax liabilities from their acquisition of an Indian company.

The changes to the tax code were unprecedented when compared to international tax standards and included: measures to disallow the use of "tax shelters" by FIIs even when a double taxation avoidance agreement (DTAA) is in place, also known as the GAAR; the retroactive application and collection of taxes to 1961; additional taxation of participatory notes (P-Notes) used by financial institutions to gain exposure to the Indian stock market while based off-shore, a provision already protected by bilateral DTAAs; and additional taxation of intra-group restructuring, a common corporate practice.

After FIIs repeatedly raised concerns with the measures, the Indian Ministry of Finance established a special committee (Shome Committee) to further examine GAAR and other investment related policies. The Shome Committee published an initial report in September 2012 that recommended delaying GAAR for three years and abolishing capital gains taxes on securities. The Shome Committee finalized a second report on October 1, 2012 concluding that the taxation of the indirect transfer of assets is out of line with international tax norms and should be repealed.

SIFMA believes GAAR and other recent revisions to the Indian tax code unfairly target FIIs and should be repealed immediately. Foreign investment in India declined sharply when GAAR was initially introduced, and while recent changes in other areas of India's foreign direct investment policies, notably its decision on "big box retail," have encouraged capital and investors to return, total foreign investment for the year is down sharply from previous years.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment to India's Finance Minister dated May 8, 2012 • SIFMA comment to NSC dated May 1, 2012 **Testimony:** • SIFMA testimony before House Ways and Means dated May 24, 2011

d. Tax

Foreign Account Tax Compliance Act (FATCA).

The Hiring Incentives to Restore Employment (HIRE) Act of 2010 added a new chapter 4 to the Internal Revenue Code, which expands the information reporting requirements imposed on foreign financial institutions (FFIs). These rules are commonly referred to as the FATCA rules. The FATCA provisions impose a 30 percent withholding tax on payments to an FFI of U.S. source interest, dividends, rents, salaries, or gross proceeds from the sale of U.S. assets. The tax can be avoided, but only if the FFI enters into an agreement with the Treasury to comply with information reporting requirements with respect to U.S. accounts and the FFI agrees to withhold on certain payments to non-participating FFIs and individual account holders. Treasury has also negotiated intergovernmental agreements (IGAs) that modify these rules in IGA countries.

FATCA is a key component of the federal government's push for heightened tax compliance among U.S. taxpayers with foreign accounts and assets. FATCA was implemented to ensure that the U.S. government has the necessary tools effectively to determine the ownership of U.S. assets in foreign accounts. On January 17, 2013 the Treasury Department issued final regulations under FATCA.

Withholding under FATCA of U.S. source interest, dividends, and rents will commence in January 2014. Recently, Treasury has released two model IGAs used in negotiations with countries around the world. To date, Treasury has successfully come to an agreement with several European countries, and Japan and Mexico. IGA negotiations continue with other countries across the world. These agreements are expected to enable FATCA compliance by overcoming obstacles in local law that have prevented FFIs from entering into FATCA agreements with the IRS.

FATCA is one of the most comprehensive statute ever enacted to enhance compliance by Americans with U.S. tax laws through information reporting and withholding, with much of the burden for implementing the new law falling on U.S. and foreign financial services firms. Its requirements already have significantly impacted the systems and operations of both U.S. and non-U.S. companies. SIFMA members are currently making significant modifications to their internal systems, control frameworks, processes and procedures to prepare for the date FATCA withholding goes into effect (January 1, 2014).

SIFMA shares the objectives of FATCA to improve offshore tax compliance. SIFMA has submitted numerous rounds of comments to assist the Treasury and the IRS in crafting regulations that are effective in accomplishing FATCA's goals, are commercially viable, and will not unnecessarily disrupt the operations of the financial markets. Recently, SIFMA provided Treasury with extensive information about how various markets work in practice in order to facilitate the development of sound regulatory policies.

SIFMA Advocacy Links

Comment Letters:

- SIFMA comment to Treasury Department and IRS dated Nov. 21, 2012
- SIFMA comment to Treasury Department and IRS dated Oct. 8, 2012
- SIFMA comment to Treasury Department and IRS dated Apr. 30, 2012
- SIFMA comment to Treasury Department dated Apr. 30, 2012
- SIFMA comment to Treasury and IRS dated Oct. 3, 2011
- SIFMA comment to Treasury Department and IRS dated Jun. 7, 2011

Testimony:

- SIFMA testimony before IRS dated May 15, 2012
- SIFMA written response before the HFSC dated Jun. 29, 2011

Financial Transaction Tax (FTT).

The idea of imposing a small excise tax on all financial transactions is an old idea with a history of unintended consequences. Although stamp and stock taxes existed earlier and still are levied in some jurisdictions, the idea of taxing all financial transactions at a very low rate is often attributed to economist James Tobin and referred to as a "Tobin" tax. Professor Tobin later abandoned the idea and economists remain sharply divided on the idea.

Although most economists acknowledge that an FTT would cause shifting of transactions to other markets, less liquidity, and an increase in the cost of capital that might cause slower growth and unemployment, some economists believe that those impacts can be mitigated or would be outweighed by the proper reinvestment of revenue collected.

In September 2011, the European Commission advanced an FTT proposal. When it became clear that the United Kingdom, Sweden, and other European Union countries would use their vetoes to oppose an FTT that would apply to the entire European Union, the main proponents of the tax, France and Germany, sought and have since obtained the support of 11 EU member states to proceed with a version of the tax based on the European Commission proposal under the so-called "enhanced cooperation procedure." The eleven states are Germany, France, Italy, Spain, Belgium, Austria, Greece, Portugal, Slovakia, Slovenia, and Estonia. On January 27, 2013, EU finance ministers gave the green light for the 11 European states to implement a financial transaction tax that allows for a tax of 10 basis points on equities and a one basis point tax on derivatives. The proposal was tabled on February 14, and contains broadly extraterritorial residence and issuance principles which, if approved in its current form, could harm U.S. firms, investors and retirees, and tax billions of transactions occurring within the U.S. Because the proposal taxes transactions between financial intermediaries, the total tax imposed is likely to far exceed 10 basis points in many cases.

France has already enacted an FTT that applies to transfers of French securities and (as of December 1, 2011) depository receipts outside France. The pre-existing UK stamp tax arguably is similar to the new French law with one important difference: the French law applies globally, whereas the UK government has taken steps to confine the application of the stamp tax to transactions occurring in the UK. It is currently uncertain whether France can enforce collection of this tax within the United States.

Italy has also approved a financial transaction tax which was contained in its 2013 budget approved on December 20. The Italian financial transaction tax (IFTT) will impact equities and, unlike the French proposal, it taxes derivatives as well. Like the French transaction tax, the IFTT will also apply globally. The IFTT on Italian equities went into effect on March 1, with the tax on derivatives slated for July 1, 2013 effective date. As with the French FTT, confusion abounds about liability for the Italian tax. It also remains unclear whether the French and Italian transaction taxes will be given time to wind down or be repealed immediately following the proposed implementation of the European financial transaction tax in January 1, 2014.

In the U.S., several members of Congress introduced FTT legislation in the 112th Congress, with some reintroducing their legislation in the 113th Congress. Senator Harkin of Iowa and Representative Peter DeFazio of Oregon introduced a bill in the 112th Congress, S. 1787 / H.R. 3313, to impose a 0.03% tax on all financial transactions including debt, equity, and derivatives. In February, the same two lawmakers reintroduced their legislation, S. 410 / H.R. 880. The legislation contains a new credit against the tax for retirement plans.

Representative Keith Ellison also introduced a bill in the 112th Congress, H.R. 6411, to impose a similar, broad-based FTT, with a rate of 0.5% on equity, 0.1% on debt securities, and 0.005% on derivatives. This would be particularly harmful for retirement savings since all qualified plan investments would be subject to tax at multiple levels and multiple times due to the long-term nature of these investments. Ellison has yet to reintroduce his legislation in the 113th Congress.

In an attempt to limit the impact on retirement plans, the Ellison bill would allow a credit for taxpayers with less than $50,000 of modified adjusted gross income; however, because most qualified investments are made through a fund, this would be very difficult to implement. Neither the

Harkin/DeFazio nor the Ellison bill have attracted significant support from members of the House and Senate tax writing committees, although the Ellison bill did have two senior Ways & Means sponsors, Reps. Pete Stark and Jim McDermott.

SIFMA remains opposed to the imposition of a financial transaction tax – domestically, globally or extraterritorially – and encourages Congress and the Administration to continue to resist pressures to implement one. SIFMA was pleased to hear from recently confirmed Treasury Secretary Jack Lew that the Obama Administration will continue to oppose such a tax.[2] Such a tax would raise the cost of capital desperately needed by businesses, and essentially be a sales tax on retirees and every day investors.

SIFMA Advocacy Links
Comment Letters: • Joint Trades comment letter to European Commission dated Feb. 13, 2013 • SIFMA-ICI Request to IRS Requesting Competent Authority Assistance under the U.S.-France Tax Convention dated Dec. 21, 2012 • Joint Trades comment letter to Treasury dated Nov. 6, 2012 • SIFMA comment to Treasury dated Jun. 14, 2012 • GFMA comment to G20 finance ministers dated Sept. 23, 2011 • SIFMA comment to Treasury dated Sept. 22, 2011

[2] http://uk.reuters.com/article/2013/02/25/uk-usa-taxes-financial-idUKBRE91O1AI20130225

Capital gains and dividends.

Over many years, SIFMA and its members have advocated for low federal income tax rates on savings and investment. SIFMA helps to lead a coalition of U.S. companies and trade associations – the Alliance for Savings and Investment (ASI) – that supports low capital gains rates and parity between the rates for capital gains and qualified dividends.

The American Taxpayer Relief Act of 2012 (ATRA) signed into law on January 2, 2013, makes permanent the 15 percent rate for both long-term capital gains and qualified dividend rates for those with taxable income below $400,000 (singles), $425,000 (heads of households) or $450,000 (couples), indexed for inflation in future years. Those above the applicable income thresholds will see both rates rise to 20 percent. This change is a welcome alternative to what would have occurred had Congress failed to agree on a last minute deal to avert dividend rates from being taxed at ordinary income rates in 2013, with a top rate of 39.6 percent.

Of note, the Affordable Care Act (ACA), signed into law by President Obama on March 23, 2010, applies a 3.8 percent Medicare tax to investment income for individuals and couples whose adjusted gross incomes exceed the $200,000, $250,000 thresholds, respectively. The tax on investment income became effective on January 1, 2013.

Bank tax.

In early 2010, the Obama Administration proposed a new tax on financial institutions, the Financial Crisis Responsibility Fee. The proposal was designed to recover the financial assistance provided to financial services institutions through the Troubled Asset Relief Program (TARP). The Administration has included the Financial Crisis Responsibility Fee in its proposed budgets for the past two years and has included it again in the FY 2013 budget. In 2012, the Obama Administration more than doubled the amount it projects the fee would raise from $30 billion to $61 billion.

SIFMA opposes the Financial Crisis Responsibility Fee, or any other similar assessment targeted at financial institutions. The economy is still recovering from one of the nation's worst financial crises and business credit availability and demand remains low. Likewise, financial companies continue to raise capital, repair balance sheets, and prepare to comply with enhanced capital standards, additional fees and assessments as required by the Dodd-Frank Act. In February 2012, the Washington Post published an unsigned editorial opposing the bank tax as a punitive measure that would harm the public indirectly. Among the points raised in the Washington Post editorial was the recognition that it would be unfair to attribute remaining TARP costs to financial services firms, given the current uses of TARP funds. SIFMA agrees with this observation.

SIFMA Advocacy Links
Comment Letters: • Joint trade association comment to the House Majority and Minority Leaders dated September 16, 2010

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Federal tax exemption for municipal bond interest.

The tax exemption on municipal bond interest has existed since the first federal income tax was enacted in 1913. State and local governments benefit from the tax exemption through significantly lower borrowing costs – municipalities save 2-3 percent on their borrowing rates relative to comparable taxable bonds.

Municipal bonds are used to finance a wide variety of infrastructure like schools, roads, bridges, airports, water and sewer systems, hospitals and many others. The tax exemption lowers the cost of financing these projects and encourages more infrastructure investment. The tax exemption is better than direct subsidies for infrastructure investment because bonds must be repaid, forcing a market test of the project's viability.

Additionally, tax-exempt bonds are bought widely by individual investors because they offer attractive, low-risk returns. Approximately 80 percent of municipal bonds are held by individuals, either directly or indirectly through mutual funds. The value of families' savings would be eroded significantly if Congress retroactively imposed a full or partial tax on municipal interest.

Pressure to close the federal budget deficit is causing Congress to consider curtailing "tax expenditures," including the tax-exemption. For example, the Simpson-Bowles Commission report considered eliminating all tax-exempt bond issuance going forward. And, in its FY 2013 Budget, the Obama Administration proposed capping the value of many individual tax preferences, including the tax-exemption, at the 28-percent rate. Others have suggested that to make the tax code more progressive, Congress should repeal the exclusion and replace it with a tax credit that is equally valuable to all taxpayers, regardless of their income tax bracket.

In SIFMA's experience, tax credit bonds have not achieved the level of market acceptance as traditional municipal bonds, so a wholesale transition to tax credit bonds would be risky for the market and for issuers. SIFMA is opposed to the Obama Administration's 28% cap proposal, and without more specific information about the income tax rate reductions that could be achieved, or whether existing issues would be allowed transition relief, SIFMA will oppose proposals to curtail the exclusion.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment to House of Representatives dated Mar. 4, 2010, re: tax credit bonds

Cost basis reporting.

During the past decade, the Internal Revenue Service (IRS) has increasingly advanced legislative proposals that require private sector firms to report tax-relevant information to the IRS about its customers and trading partners as a means to increase voluntary compliance. The most significant of these proposals impacts the securities industry directly: a requirement to report the adjusted cost basis of securities purchased or transferred from another securities firm.

Enacted as part of the Emergency Economic Stabilization Act of 2008, and codified in Sections 6045 and 6045A of the Internal Revenue Code, the requirement for securities firms to report cost basis has been phased in by Treasury regulations, beginning in 2011 for stock transactions. The calculation and reporting of adjusted basis for derivatives and debt securities is considerably more complicated and SIFMA has been engaged with Treasury in recent months, both to comment on proposed regulations issued in November 2011 and to request a delay of proposed implementation dates, given the difficulty faced by tax preparers and our member firms complying with the new reporting rules. SIFMA has recently filed comments with respect to cost basis reporting on options and is expected to comment in the near future on basis reporting for debt securities.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment to the IRS dated Aug. 27, 2012 • SIFMA comment to the IRS dated Feb. 14, 2012 **Testimony:** • SIFMA testimony before the IRS dated Jan. 25, 2012

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e. Housing

Housing finance and government-sponsored enterprise (GSE) reform.

In September 2008, two GSEs, Fannie Mae and Freddie Mac, were placed into conservatorship by the Federal Housing Finance Administration (FHFA). Since that time, there has been much debate and discussion about the future organization of housing finance in the U.S. SIFMA members have identified the preservation of the To-Be-Announced (TBA) mortgage-backed securities trading market as a priority.

One of the most important developments of the GSE era was fostering the development of a liquid forward market for mortgage backed securities, better known as the TBA market, which allowed lenders to hedge risk, attracted private capital, and reduced the cost of mortgage lending. SIFMA believes that this TBA market is the key to a successful, liquid, affordable, and national mortgage market that ensures a sufficient level of capital is available to banks to lend. The historically large and liquid global market for GSE mortgage-backed securities (MBS) is initiated by the TBA mechanism and we believe that some form of an explicit government guarantee on MBS will be required to maintain the liquidity of the TBA MBS market. SIFMA does not believe that a purely private sector solution can accomplish this important goal.

However, while SIFMA believes the TBA market should play a role in the future, it should not constitute 95% of the market. The role of government guarantees should shrink as the private markets regenerate over time. The means of achieving this rebalancing are very complicated and consequential on a national, financial, and personal level and the withdrawal of the government from mortgage markets will require a carefully planned and sequenced transition which will take a number of years, if executed properly.

In February 2011, the Treasury published a white paper that proposed three options for the future organization of housing finance. The first option involved a predominantly privatized system of housing finance with the government insurance role limited to Federal Housing Administration (FHA), U.S. Department of Agriculture (USDA) and Department of Veterans' Affairs (VA) assistance for narrowly targeted groups of borrowers. The second option envisioned a predominantly privatized system of housing finance with assistance from FHA, USDA and VA for narrowly targeted groups of borrowers and a guarantee mechanism that scales up during times of crisis. The third option involved a system of housing finance with FHA, USDA and VA assistance for low- and moderate-income borrowers and the availability of government reinsurance that would stand behind private capital.

As Congress and the Administration prepare to reform the housing finance system, we urge them to preserve the simplicity and homogeneity of the GSE MBS markets in order to maintain the important liquidity provided by the TBA market. SIFMA members believe that the government must clearly state its intentions with respect to legacy GSE issues prior to, and during, a transition to a new mortgage finance infrastructure, and carefully plan any transition to be adaptable and of significant length.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment to U.S. Treasury dated Jul. 20, 2010 **White Papers:** • U.S. Treasury GSE Reform White Paper dated Feb. 11, 2012

Covered bonds.

Covered bonds, at their most basic, are debt securities backed by a guarantee from the issuing entity and secured by a dynamic pool of assets on that entity's balance sheet. The issuer is typically a regulated financial institution. Germany introduced covered bonds, known as Pfandbriefe, in 1770 – the bonds have continued to be a widely used funding tool for mortgage loans and public works projects across Europe for more than 200 years.

A fundamental component of recent market conditions has been a constraint on liquidity, caused in large part by the seizure of market activities in the securitization market. Several temporary measures were put into effect to alleviate these issues, but many markets have not returned to more normal levels of function and credit remains tight. Many market participants believe that covered bonds could provide U.S. domestic institutions with vital access to an additional funding source and added investor base, creating much needed liquidity in our system. This framework will enable credit to flow more readily from the capital markets to households, small businesses, and state and local governments in a way that enhances stability of the broader financial system. Covered bonds could be a way to supplement the decrease in issuance of mortgage-backed securities, yet are not seen as their replacement.

In June 2011, The House Financial Services Committee approved H.R. 940, the U.S. Covered Bond Act of 2011, introduced by Rep. Scott Garrett (R-NJ), Chairman of the Financial Services Subcommittee on Capital Markets and Government-Sponsored Enterprises, and Rep. Carolyn Maloney (D-NY), Ranking Member of the Financial Services Subcommittee on Financial Institutions and Consumer Credit, by a vote of 45-7-3. Sens. Kay Hagan (D-N.C.), Bob Corker (R-Tenn.), Chuck Schumer (D-N.Y.) and Mike Crapo (R-Idaho) introduced a similar bill in late 2011, but it did not progress for consideration. These bills would create a regulatory framework for the issuance and oversight of U.S. covered bonds, including the requisite clarity on investor's rights in case of an issuer's insolvency. SIFMA believes this legislation will help facilitate a robust covered bond market in the U.S. to add liquidity and certainty to our nation's capital markets.

SIFMA and its U.S. Covered Bond Council continue to strongly support efforts to establish a robust domestic covered bond market in the U.S. and we believe a legislative framework is the fundamental first step to doing so. Previous efforts to jumpstart a market have been unsuccessful because a statutory legal framework was not in place. While the Federal Deposit Insurance Corporation (FDIC) has raised some concern about certain provisions in the House and Senate bills, SIFMA believes there is great reason to ensure this important funding tool is available to U.S. financial institutions as they compete for capital in a global marketplace.

SIFMA Advocacy Links
Comment Letters: • SIFMA and U.S. Covered Bond Council comments to U.S. HFSC dated Jun. 20, 2012 **Testimony** • SIFMA testimony before U.S. HFSC dated Mar. 11, 2011 • SIFMA testimony before U.S. Senate Committee on Covered Bonds dated Sept. 15, 2010

f. Foreign Exchange (FX)

Foreign exchange swaps and forwards.

In an effort to strengthen the international financial regulatory system following the recent financial crisis, the G20 member countries made the commitment for all standardized over-the-counter (OTC) derivative contracts to be cleared through central counterparties where appropriate. The passage of the Dodd-Frank Act, specifically Title VII, in July 2010 marked the first step towards the U.S. meeting that commitment. With respect to the treatment of the foreign exchange (FX) market, Section 721 of the Dodd-Frank Act authorizes the Secretary of the Treasury to issue a written determination exempting FX swaps or FX forwards, or both, from most derivatives regulation in the Commodity Exchange Act (CEA), as amended by the Dodd-Frank Act.

FX swaps and FX forwards are included in the definition of "swap" jointly issued by the Commodity Futures Trading Commission (CFTC) and Securities and Exchange Commission (SEC), effective as of October 12, 2012. The inclusion of these FX products in the "swap" definition requires their exposures to be counted towards defining entities as Major Swap Participants, Swap Dealers, Active Funds, Commodity Pool Operators, and Commodity Trading Advisors. As "swaps", they are subject to clearing and margin requirements.

On November 16, 2012, Treasury issued an exemption for FX swaps and FX forwards from the definition of "swap" under the CEA; however, these FX products remain subject to trade reporting and certain business conduct requirements. SIFMA, through its partnership with the Global Financial Markets Association's (GFMA)[3] Global FX Division, fully

[3] GFMA brings together three of the world's leading financial trade associations to address the increasingly important global regulatory agenda and to promote coordinated advocacy efforts. The Association for Financial Markets in Europe (AFME) in London and Brussels, the Asia Securities Industry & Financial Markets

supports the Treasury Secretary's FX products exemption. The determination recognizes the uniqueness of these products and their role in the markets and global payment system, and would therefore exempt them from OTC derivatives regulation except for very limited purposes.

SIFMA Advocacy Links
Comment Letters:
• Global FX Division comment to Treasury dated June 6, 2011
• Global FX Division comment to Treasury dated Nov. 15, 2010
Other Resources:
• GFMA FX Division website

Association (ASIFMA) in Hong Kong and SIFMA in New York and Washington are, respectively, the European, Asian and North American members of GFMA. For more information, visit http://www.gfma.org.

3. Securities and Exchange Commission (SEC)

Dodd-Frank § 619, Volcker rule. (SEC, CFTC, FRB, FDIC, OCC)

Section 619 – the Volcker rule – prohibits banks and their affiliates from proprietary trading and establishes a 3 percent cap on investments in hedge funds and private equity by commercial banks and their affiliates. However, Congress did exempt certain permitted activities, such as market making, hedging, securitization, and risk management. Further, the Dodd-Frank Act also directs the Federal Reserve Board (FRB) to impose enhanced prudential requirements on systemically important non-bank institutions engaged in such activities. SIFMA opposes the Volcker Rule as an unwarranted and unnecessary response to the financial crisis.

On October 11, 2011, the Federal Deposit Insurance Corporation (FDIC) proposed rules that would implement the statutory Volcker rule. The rule was co-proposed by the SEC, the Office of the Comptroller of the Currency (OCC), and the FRB.

SIFMA's primary concern with the October 11, 2011 proposal is the potential negative impact on market liquidity, particularly through its approach to the congressionally mandated exemptions for market making and hedging. As proposed, the rule's narrowly-crafted approach to permitted market making and hedging activity conflicts with Congressional intent and would limit an institution's ability to engage in these beneficial activities.

The proposal addresses permitted market making by attempting to draw a bright line between permitted activities and prohibited short-term proprietary trading. In working toward this goal, regulators developed an approach by which all accounts used to hold financial positions for less than 60 days are subject to the prohibition unless firms can demonstrate that such positions were not principally utilized for short-term trading purposes. This approach is problematic in that it shoehorns all permitted activity into a select few archetypes, which do not represent the majority of activity in the markets, but is rather reflective of a small portion of transactions in one type of liquid market. Further, limitations on the ability of firms to make markets will reduce market liquidity, discourage investment, limit credit availability and increase the cost of capital for companies.

Instead, SIFMA recommends that the various agencies replace hard-coded criteria in the proposal with principles-based guidance that reflects the role of market makers as intermediaries between market participants in different physical locations, at different times and in different sizes. Importantly, regulators received more than 16,000 comments letters on the proposed rule, with overwhelming opposition from asset managers, corporate issuers, state and local governments, and dealers.

Moreover, SIFMA is concerned that the regulators' proposed definition of the term 'covered fund' sweeps in a wide range of entities, both domestic and foreign, that have never been considered hedge funds or private equity funds. Therefore and, given the absence of legislative intent to the contrary, SIFMA believes that the proposed rule should specifically exempt registered funds (and their non-U.S. counterparts) from the definition of the term covered fund. SIFMA also believes that excluding asset-backed securities issuers and insurance-linked securities issuers from the definition of covered funds is required to ensure the practical viability of banking entity securitization and insurance-linked securities transactions.

The ability to trade and take positions in securities has been an essential tool to making markets and ensuring those markets remain liquid. Although SIFMA strongly believes the Volcker rule is unrelated to the root causes of the financial crisis, we will work with regulators to ensure it is implemented in a way that does not inadvertently limit market making and, in turn, reduce liquidity which would make it more difficult for business to access capital and add rather than reduce risk in markets. Finally, SIFMA believes the current proposal appropriately raises important questions related to the costs and burdens of complying with certain aspects of the Volcker rule and SIFMA remains eager to work with regulators to ensure proper economic analysis is undertaken.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment dated Feb. 13, 2012 re: proprietary trading provisions • SIFMA AMG comment dated Feb. 13, 2012 re: proprietary trading • SIFMA comment dated Feb. 13, 2012 re: private fund restrictions • SIFMA comment dated Feb. 13, 2012 re: securitization and insurance-linked securities transactions • SIFMA comment to CFTC dated Apr. 16, 2012 • SIFMA comment dated May 21, 2012 re: securitization • SIFMA comment to U.S. HFSC dated Sept. 7, 2012

Municipal securities issues arising from the Volcker rule.

Regulators implementing the Volcker rule should ensure that the final rule does not unduly and negatively affect state and local government finances. The Volcker rule would restrict the ability of banks to engage in proprietary trading or to participate in certain investment funds. Although municipal securities generally are exempt from the restrictions imposed by Volcker, the rule proposed by federal banking regulators is not clear on several key points. These include: (1) the proprietary trading exemption for municipals is limited to obligations of state and local governments and their political subdivisions, not state and local agencies; (2) Tender Option Bonds (TOBs) are not included in the proprietary trading exemptions; and (3) TOBs are not exempt from the general restriction on owning or sponsoring private funds.

TOBs represent, in the form of a trust, a repackaging of long term municipal bonds into a money market eligible class of floating rate securities. They are essentially traditional banking activities that are economically the same as other secured financing arrangements exempted by Volcker. The exclusion for municipal securities from coverage under the Volcker rule should extend to bonds issued by agencies and authorities and should also be extended to bank participation in TOBs. If these changes are not implemented in the final Volcker rule, the result would be higher financing costs for state and local governments and a loss of market liquidity.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment dated Feb. 13, 2012 re: municipal securities

Dodd-Frank § 941, risk retention. (SEC, CFTC, FRB, FDIC, OCC)

In response to concerns that the interests of the securitizers were not aligned with those of investors in those securitizations, Section 941 of the Dodd-Frank Act requires securitizers to retain some of the risk of the transaction. Section 941 mandates that sponsors of securitizations, such as commercial and residential mortgage-backed securities, retain an unhedged economic interest in a portion, not less than 5%, of their securitizations in order to better align the interests of participants in the securitization process. In April 2011, the SEC, CFTC, FRB, FDIC, and OCC jointly issued a notice of proposed rulemaking, which would permit a number of forms of retention, and contained a concept called the "premium capture cash reserve account" (PCCRA), which is intended to limit (or eliminate) the profitability of securitization transactions for their sponsors. Securitizations of a defined class of mortgages, called Qualified Residential Mortgages (QRMs) would be exempted from the retention provisions. While the Dodd-Frank Act provides limited exceptions from the requirements, it does provide regulators with significant discretion in the implementation of the rules.

The PCCRA provisions would require a securitizer who profits at the closing of the transaction to put that profit in a first-loss position for the life of the transaction. Both SIFMA's buy- and sell-side members are strongly concerned that the proposed requirement for a premium capture cash reserve account presents a serious obstacle to structuring securitizations by taking away a legitimate source of funds to enable sponsors to recoup costs and generate a reasonable return. While SIFMA recognizes that the proposed premium capture provisions may have been proposed as a way to support the purposes of risk retention, the actual effect of the PCCRA has much broader and harmful consequences to consumers and securitization markets. SIFMA strongly recommends that the PCCRA be withdrawn from consideration.

SIFMA believes the QRM definition could have a significant impact on the availability and cost of mortgages for consumers. It is essential that regulators implement an effective standard, which strikes a balance between credit quality and availability, while not making mortgage credit unaffordable. SIFMA's issuer, sponsor, and dealer members have somewhat divergent views on QRM; our investor members largely support the proposed definition, and favor a narrower, more tightly defined QRM. On the other hand, our issuer, sponsor, and dealer members believe that the QRM should be defined in a more flexible manner, with allowances for deviations from hard-coded parameters when appropriate compensating factors are present. A market impact analysis of this QRM proposal is imperative.

Because we expect significant revisions to the proposed rules, a modified rule proposal should be made available for public comment via a formal re-proposal before the rules are finalized.

SIFMA Advocacy Links
Comment Letters:
• SIFMA comment dated Jan. 24, 2012 re: premium capture provisions
• SIFMA SSG risk retention comment dated Jun. 10, 2011
• SIFMA AMG risk retention comment dated Jun. 10, 2011
Testimony:
• SIFMA testimony before U.S. HFSC dated Jul. 10, 2012

Money market mutual fund reform.

Money market mutual funds (MMMFs) are a type of mutual fund regulated in the U.S. under the Investment Company Act of 1940. MMMFs provide valuable and diverse sources of short-term funding for key sectors in the economy including state and local governments, commercial paper, banks, and the federal government. These funds also give attractive options to short-term investors by providing professional money management and diversification at a low cost.

These funds attempt to maintain a stable net asset value (NAV) of $1 per share, so that only the yield is subject to fluctuation. As a result, these funds have relatively low risks compared to other mutual funds and pay dividends that generally reflect short-term interest rates. Therefore, MMMFs provide investors with a relatively safe place to invest easily accessible cash-equivalent assets, usually for a year or less. MMMFs are important providers of liquidity to financial intermediaries (an institution that acts as a middleman between investors and those raising funds), and play an important role in our economy. There is approximately $2.5 trillion invested in MMMFs today.

Money markets are able to maintain a stable NAV because they do not invest in products that produce capital gains or losses. Should the NAV fall below $1 per share, the MMMF is said to have "broken the buck." Prior to 2008, investor losses in MMMFs were almost unheard of. That changed, however, when Lehman Brothers Holdings Inc. filed for bankruptcy. On September 16, 2008, Reserve Primary Fund broke the buck when its shares fell to 97 cents, after writing off debt issued by Lehman. There was concern that investor anxiety triggered by this incident could cause a run on MMMFs. In response, the Department of Treasury established a short-term Exchange Stabilization Fund (which has since expired) to insure the holdings of covered MMMFs, so that if they were to break the buck, they would be restored to $1 NAV.

In 2010, to further mitigate the risks to MMMFs, the SEC made significant changes to Rule 2a-7, which among other things, established stricter quality and liquidity requirements, as well as shortened average maturities. In July 2012, SEC Chairman Mary Schapiro announced that the Commission would consider proposing a notice of proposed rulemaking (NPR) to establish either a floating NAV or limitations on withdrawals from MMMFs in August. The Chairman subsequently withdrew the consideration of the proposed NPR for lack of a majority.

Given the changes to Rule 2a-7 in 2010 and, the absence of market analysis indicating that further MMMF reform would make the funds more resilient or better able to withstand volatility during a crisis, SIFMA opposes any proposal that would require funds to adopt a floating NAV and/or, that would force funds to accumulate a capital reserve to cushion against losses and require investors seeking to redeem their shares to wait 30 days to get back 3% to 5% of their principal.

SIFMA opposes a floating NAV because it would materially and negatively alter MMMFs by making investing in them less attractive to corporations and individuals alike. Altering this essential attribute would ultimately shrink the product and result in other negative consequences. There would be a shortage of short-term financing available which would impact businesses of all sizes. Moreover, these businesses would turn to other more costly and potentially less regulated alternatives, such as off-shore funds. Federal, state and local governments, as well as non-profits, such as hospitals and universities, would see dramatic increases in their cost of funding as well. This would increase financial pressures on struggling governments and could result in increased costs for taxpayers.

SIFMA also opposes the combination of capital requirements with redemption restrictions as an untenable alternative. A bank-like capital requirement could force many firms to reevaluate this product offering and may shrink the market for this product significantly. The redemption restrictions aspect offers a host of other problems. Simply put, this proposal undermines one of the key features of MMMFs, which is ready liquidity. Moreover, there would be significant operational challenges and costs in implementing such a proposal.

In September 2012, the FSOC expressed concern over the SEC's failure to consider additional measures for MMMFs. The FSOC announced that it would propose for comment three reforms to MMMFs, including a floating NAV, and restrictions on withdrawals. Under the statute, the FSOC may direct the SEC to take action on the proposal or explain why it chose not do so. SIFMA continues to believe that any further regulation should not unduly disrupt the proper functioning of the short-term credit markets and, thus the viability of MMMFs.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment to SEC dated Aug. 21, 2012

High Frequency Trading (HFT).

While virtually all of today's securities trading is computer-based, the term high frequency trading, or HFT, refers generally to the use of specific trading strategies that employ sophisticated technological tools. In today's marketplace, a variety of market professionals use HFT strategies.

In many cases, HFT strategies are employed by brokerage firms for their "proprietary trading," meaning the trading they conduct for their own account. HFT is also used by firms for certain functions critical to the functioning of the markets, such as market making. In addition, HFT tools serve as a product line for brokerage firms with electronic trading desks, which provide products and services to customers interested in using HFT strategies. HFT strategies also are used by brokerage firms when executing trades for retail customers. For instance, when a retail customer enters a trade through a personal brokerage account, the broker may route that order to another firm, which in turn executes the order using HFT strategies in an effort to achieve best execution for the customer.

Many commentators have observed that the escalated usage in HFT strategies has increased transparency and liquidity in the markets, and that HFT has reduced trading spreads and overall transaction costs. At the same time, commentators have identified concerns about the use of HFT and whether the markets truly represent the fundamentals of companies whose securities are being traded. Some of the specific concerns raised have been: (1) that the increase in HFT has led to an increase in volatility; (2) that HFT gives professional traders an unfair technological advantage over retail investors; and (3) that HFT firms use technology to conduct unlawful or questionable market behavior.

SIFMA shares the view that HFT has contributed to greater transparency and liquidity and to lower transaction costs. At the same time, SIFMA recognizes the concerns about HFT, particularly as they relate to restoring individual investors' trust and confidence in our markets. In this regard, SIFMA supports those regulatory initiatives designed to address market volatility, including the recently adopted revisions to the market-wide circuit breakers, and the "Limit Up-Limit Down" plan which imposes pricing bands that should prevent extreme price swings. SIFMA also supports the SEC's efforts to assure that co-location arrangements do not compromise fair access to the markets, and believes that regulators should examine the exchanges' practices of providing more robust market data through their proprietary feeds at prices that effectively make those feeds inaccessible to retail investors. With respect to market behavior, SIFMA firmly believes that regulators should take action to use existing rules and regulations to deter and punish unlawful practices whether they are conducted manually or electronically.

Accordingly, SIFMA strongly opposes implementing a transaction tax to address HFT, as such a proposal would merely increase costs for all participants, including those investing on a long-term basis, without addressing any of the broader policy concerns about HFT. Further, instituting delays to slow down trading could result in unintended consequences to retail investors.

Many investors and other market participants have concerns with the impact of HFT strategies on the markets. SIFMA agrees that HFT raises issues that merit further consideration. However, SIFMA believes that great care must be taken when addressing HFT to avoid detrimental changes to U.S. equity market structure, and we look forward to working with regulators to address these important issues.

SIFMA Advocacy Links
White Papers: • SIFMA white paper on HFT dated Dec. 13, 2011 **Press Releases:** • SIFMA press release dated Dec. 13, 2011

Equity market structure.

Today's equity market structure is made up of a complex mix of trading venues that include stock exchanges, "alternative trading systems" or "ATSs," and broker-dealers acting as "market centers" (such as market making desks and internalized trading). The various trading venues compete vigorously for order flow, and SIFMA believes that the competitive environment has made U.S. market structure the most innovative, sophisticated and liquid in the world.

Regulatory developments over the last 15 years have contributed to the evolution of U.S. equity market structure. In particular: (i) The SEC's 1998 adoption of Regulation ATS gave regulatory endorsement to competition among market centers; (ii) The 2000 move to decimal pricing led to reduced spreads and higher quoting volume; and (iii) The SEC's 2005 adoption of Regulation NMS gave regulatory endorsement to automated trading. In particular, Regulation NMS prohibited locked and crossed markets and trade-throughs, creating an environment that allowed all market centers to compete for order flow that was previously concentrated on the primary listing markets.

Recent years also have seen a major shift in the regulatory paradigm around equity market structure, both in terms of member regulation and market surveillance. In 2007, the member regulation functions of the National Association of Securities Dealers (NASD) and NYSE Regulation were consolidated to form the Financial Industry Regulatory Authority (FINRA). This development created a single self-regulatory organization (SRO) responsible for member firm regulation. Separately, stock exchanges are now for-profit companies, and many have outsourced their market surveillance functions. In particular, Nasdaq OMX and NYSE Euronext, which operate the two major U.S. listing markets, have transferred their market surveillance functions to FINRA.

These developments have led the stock exchanges to focus on revenue growth by expanding commercial product offerings now that they have ceded their regulatory functions. This attention to commercial offerings – which includes ultra low latency trading solutions as well as traditional broker-dealer functionality such as order routing – has blurred the traditional distinctions between exchanges and broker-dealers. SIFMA supports competition between exchanges and broker-dealers and the innovation that results. However, SIFMA believes that the blurring of distinctions between market participants has created regulatory disparities.

SIFMA sees several areas of focus emerging in the discussion on equity market structure:

(1) SRO Structure. In today's marketplace, SIFMA questions the continuing role of exchanges serving as SROs. With increasing competition for market share between broker-dealers and exchanges, the conflict of interest of having broker-dealers regulated by their competitors has become increasingly problematic. SIFMA supports a comprehensive review of market oversight and the self-regulatory paradigm.

(2) Tick Size Increment. While the implementation of decimalization has narrowed spreads and lowered trading costs, it has also raised concerns about the liquidity of small- and mid-cap companies because narrow spreads may lessen incentive for market makers to provide liquidity in those stocks. SIFMA believes it would be productive to consider a pilot program to increase quoting increments in certain securities.

(3) Technology and Operational Stability. Recent marketplace events have focused regulatory and public attention on the effects that technology and operational issues can have on the marketplace. SIFMA supports regulatory efforts to develop best practices around deployment of new systems and technology, and believes these efforts are important to improve investor confidence. However, SIFMA believes that any such regulatory efforts should be scalable to address the wide variety of firms and services available in today's equity markets.

SIFMA Advocacy Links
Other Resources: • SIFMA's equity market structure resource center

Rule 613, Consolidated Audit Trail (CAT).

In August 2012, the SEC adopted Rule 613. This new rule was drafted in response to the so-called 'flash crash' of May 2010. The new SEC rule requires securities exchanges and securities associations (*i.e.*, FINRA) to submit to the SEC a plan to create a CAT system that will capture information regarding securities quotes and orders. In particular, the CAT system will have to track securities orders across all markets and will have to include information for the entire life-cycle of a securities order – that is, its origination through routing, cancellation, modification, or execution.

SIFMA supports the SEC's efforts to provide regulators with timely access to a more robust and effective cross-market order and execution audit trail. We expect to closely collaborate with the SEC, the self-regulatory organizations (SROs), and our members to ensure the necessary infrastructure and systems are implemented in manner that is both efficient and cost-effective, including the development of a CAT system that appropriately leverages existing systems, and replaces outdated systems that are no longer required once CAT is implemented.

SIFMA Advocacy Links
Comment Letters: • SIFMA comments to SROs and the SEC dated Jan. 22, 2013 • SIFMA comment to SEC dated Aug. 17, 2010 **Press Releases:** • SIFMA press release dated July 11, 2011 **Other Resources:** • SIFMA's CAT resource center

JOBS Act implementation.

The Jumpstart Our Business Startups Act (JOBS Act) was signed into law in April 2012. The JOBS Act incorporated a number of proposals designed to ease regulations that prevent entrepreneurs and small businesses from accessing the capital they need to grow and create jobs.

The main provisions of the JOBS Act:

(i) create a new category of issuer with total annual revenues of less than $1 billion, emerging growth companies (EGCs) which will benefit from significant regulatory concessions in carrying out an equity initial public offering (IPO) and for up to five years after an IPO (the so-called "IPO on-ramp" provisions);

(ii) change the statutory requirements relating to mandatory registration under the Securities Exchange Act of 1934 by increasing certain thresholds and by excluding certain categories of holders, including persons who received securities pursuant to employee compensation plans in transactions exempt from registration under the Securities Act of 1933;

(iii) direct the SEC to amend Regulation A (or adopt a new similar exemption) to exempt from registration offerings of up to $50 million of securities per 12-month period;

(iv) direct the SEC, within 90 days of enactment, to revise its rules to remove the prohibition on general solicitation or general advertising for offerings under Rule 506 in which all purchasers are accredited investors and the issuer takes reasonable steps to confirm their accredited investor status; and

(v) create a new exemption from the registration requirements of the Securities Act of 1933 for "crowdfunding," which is a method of capital formation in which groups of people pool money, typically composed of very small individual contributions, and often via internet platforms, to invest in a company.

The JOBS Act brought together several bills that had been under consideration by Congress for a number of months. SIFMA was and remains broadly supportive of efforts to promote job creation and stimulate capital formation for small business. We were particularly supportive of the provisions of the Act which increased the threshold number of holders which require mandatory registration under the Exchange Act. Since the passage of the Act, we have encouraged regulators to act in a timely fashion to amend rules as required and provide requisite guidance to ensure that the full benefits of the Act can be realized.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment to SEC dated Apr. 27, 2012 • SIFMA comment to FINRA dated Apr. 27, 2012 • SIFMA comment to SEC dated Oct. 5, 2012

Dodd-Frank § 913, uniform fiduciary standard.

Section 913 of the Dodd-Frank Act directed the SEC to study any gaps and overlap in the standards governing broker-dealers (BDs) and investment advisers (IAs) in their dealings with retail customers. Based on the findings in the SEC study, Section 913 further authorizes the SEC (without further Congressional action) to write rules to implement a new, uniform fiduciary standard of conduct applicable to both BDs and IAs.

The SEC study, released in January 2011, recommended a new uniform fiduciary standard for BDs and IAs when they provide "personalized investment advice about securities to retail customers." Under the recommended standard, BDs and IAs would be required to act in the "best interests" of their retail customer. Most conflicts of interest, including principal trading, would be addressed through disclosure and, as appropriate, consent. The new standard recommended in the study would be business-model neutral, and should not limit investor choice. The SEC has no deadline to rule-make under Section 913, and is not required to do so.

Since 2009, SIFMA has consistently advocated for the SEC to establish a new uniform fiduciary standard for brokers and advisers when providing personalized investment advice about securities to retail customers. SIFMA opposes application of the Investment Advisers Act of 1940 fiduciary standard to broker-dealers. Instead, SIFMA believes that the general fiduciary duty implied under Section 206 of the Advisers Act should be newly articulated through parallel fiduciary rulemaking under the Securities Exchange Act of 1934 and the Advisers Act. We also believe that this approach is consistent with the Congressional intent in enacting Section 913.

The new standard envisioned by SIFMA would: put retail customers' interests first; provide adequate flexibility to preserve and enhance customer choice of, and access to, financial products and services, and capital formation; provide for conflicts management; apply only to, and be tailored for, those services and activities that involve providing personalized investment advice about securities to retail customers; and not subject financial professionals to other fiduciary obligations (for example, the Advisers Act fiduciary standard, or other statutory standards).

SIFMA Advocacy Links
Comment Letters: • SIFMA comment to SEC dated May 4, 2012 re: supplemental response re: framework for rulemaking • SIFMA comment to SEC dated July 14, 2011 re: framework for rulemaking • SIFMA comment to SEC dated Mar. 9, 2011 re: SEC study • SIFMA comment to SEC dated Aug. 30, 2010 re: Section 913 **Testimony:** • SIFMA testimony before a U.S. HFSC subcommittee dated Sept. 13, 2011 • SIFMA testimony before U.S. HFSC dated Oct. 6, 2009 • SIFMA testimony before U.S. HFSC dated July 17, 2009 **Studies:** • Impact assessment for SEC dated Nov. 1, 2010 • Supplemental submission to SEC dated Nov. 17, 2010

Dodd-Frank § 914, enhanced oversight of advisers, H.R. 4624.

Section 914 of the Dodd-Frank Act directed the SEC to study ways to enhance oversight of registered investment advisers (RIAs) and report back to Congress. The SEC study, released in January 2011, found that RIAs are examined only about once every 11 years, 38% have never been examined, the SEC lacks the resources to do more, and the number and frequency of RIA exams are expected to continue declining. Broker-dealers, by contrast, are examined by a self-regulatory organization (SRO) about once every other year. SIFMA believes that the ever-declining RIA exam rate has resulted in woefully inadequate oversight of RIAs, which poses a serious risk to retail investors. The SEC study recommended several ways for Congress to address this growing problem, including authorizing an SRO to examine RIAs, and authorizing the SEC to impose user fees to fund RIA exams.

SIFMA supports legislation to create an SRO to enhance the regulatory oversight of RIAs doing business with retail investors. Most recently, SIFMA supported Rep. Spencer Bachus's bill, H.R. 4624, to create an SRO for RIAs. Ultimately, the bill was not enacted in the prior Congress.

SIFMA believes that the SRO approach is consistent with the establishment of a uniform fiduciary standard under Dodd-Frank Section 913, and will contribute to uniform oversight and examination of dually registered broker-dealers, who are already examined by an SRO, and RIAs, who are not. We also believe that the SRO approach is the most cost effective and resource efficient solution – as opposed to the SEC user fee approach, and will better protect retail investors, while relieving pressure on the SEC's already limited examination resources for RIAs.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment to SEC dated Jan. 12, 2011 **Testimony:** • SIFMA testimony before a U.S. HFSC subcommittee dated Sept. 13, 2011 • SIFMA testimony before the U.S. HFSC dated Jun. 5, 2012

Dodd-Frank § 921, pre-dispute arbitration agreements.

Section 921 of the Dodd-Frank Act empowers the SEC to prohibit or impose conditions or limitations on the securities industry's use of pre-dispute arbitration agreements (PDAAs) in contracts between customers and their brokers. The SEC has no deadline to act, and is not required to act under Section 921.

SIFMA has consistently advocated to enhance the quality and substantive and procedural fairness of securities arbitration as the exclusive dispute resolution forum for most disputes between securities firms and their customers. The securities arbitration system has worked effectively for decades because it is subject to public oversight, regulatory oversight by multiple independent regulators, and rules of procedure that are designed to benefit investors.

PDAAs are a vital component of this system. Such agreements help shape the public policy in favor of arbitration that has been recognized by both Congress and the U.S. Supreme Court. Such public policy is strengthened by the recognition that securities arbitration promotes fair, efficient, and economical dispute resolution for all parties. Thus, SIFMA advocates for preserving the current enforceability of PDAAs in customer contracts, and would generally oppose any SEC rulemaking under Section 921, or any legislative initiatives to prohibit or limit PDAAs.

SIFMA Advocacy Links
White Papers: • SIFMA white paper on securities arbitration dated Oct. 2007 **Testimony:** • SIFMA testimony before U.S. HFSC dated Oct. 6, 2009 • SIFMA testimony before U.S. HFSC dated July 17, 2009 • SIFMA testimony before U.S. HFSC subcommittee dated Oct. 25, 2007, re: H.R. 3010, The Arbitration Fairness Act of 2007

Rule 12b-1, mutual fund distribution fees.

12b-1 fees are fees that investors pay when they purchase shares in certain mutual funds. The fees are applied to pay for distribution and servicing-related expenses of the mutual fund, and are subject to an annual limit on their size under Financial Industry and Regulatory Authority (FINRA) rules. 12b-1 fees are required to be disclosed to investors in the fee table of the fund's prospectus.

In 2010, the SEC proposed new rules and disclosure requirements that, if adopted, would significantly change the existing regulatory framework governing distribution and servicing fees, and ongoing sales charges. The proposal has widespread implications not only for the mutual fund industry, but also for broker-dealers and other financial intermediaries that sell fund shares or service fund shareholder accounts.

The SEC has not taken any further public action on this matter since the 2010 rule proposal. SIFMA stands ready to reengage on this issue, and continue to advocate for rules and requirements that are harmonized with impending changes to the fiduciary standard model (see discussion of Dodd-Frank Section 913 above), and that also take into account the implementation costs which would weigh most heavily on small- and mid-sized broker-dealers.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment to SEC dated Nov. 5, 2010 • SIFMA comment to SEC dated Jul. 19, 2007 **White Papers:** • White paper on mutual fund distribution practices dated June 13, 2007

Market data.

The Securities Exchange Act of 1934 requires that fees charged by exchanges for market data distribution be approved by the SEC. Section 11A(c)(1)(C) of the Exchange Act requires that all such fees be deemed fair and reasonable before the SEC approves them. Over the past ten years, the exchanges have become for-profit enterprises and, as a result, have increased their fees from nominal or free to thousands of dollars per month for member firms. There is no substitute for each exchange's market data, so the firms have to buy it. Over the past five years, the SEC has approved dozens of the exchange's market data fees without regard for the fair and reasonable requirements of the Exchange Act, but using a "market-based" approach instead.

In January 2009, SIFMA and NetCoalition (a trade association of internet companies including Google, Yahoo, and Bloomberg) petitioned the D.C. Circuit Court to review the SEC's order approving a NYSE Arca depth-of-book market data fee proposal, arguing that the SEC's new "market-based" approach was inconsistent with the Exchange Act, and that even if the Exchange Act did not categorically preclude the SEC from relying on market forces to ensure that an exchange's depth-of-book data fees are "fair and reasonable," the SEC had failed to support its theory that NYSE Arca was constrained by competition with either reasoned analysis or substantial evidence. In August 2010, the D.C. Circuit issued its decision in *NetCoalition v. SEC*, vacating the SEC's approval order and remanded for further proceedings.

Although the court concluded that the SEC may rely on the existence of competition in determining whether an exchange's data fees are "fair and reasonable," the court found critical flaws in the SEC's analysis of whether competition constrains the price of depth-of-book data, and could not support its order. The SEC had argued that two factors—competition among exchanges for order flow and the availability of alternatives to depth-of-book data – constrained NYSE Arca's prices. The court held that the SEC had failed to support either theory. Although the court did not specifically direct the SEC to consider NYSE Arca's costs on remand, it made clear that cost is a relevant factor even under the SEC's new "market-based" approach.

Despite the decision, the exchanges have continued to file with the SEC dozens of market data fees which have been deemed effective upon filing under Exchange Act Section 19(b), and without including any cost data as required by the court. In March 2011, SIFMA and NetCoalition again filed a new case to review the SEC's approval of a re-proposed NYSE depth-of-book fee, based on the same arguments as the previous case. The oral arguments were held on November 13, 2012 and a decision is expected in 2013.

Regardless of the decision, the SEC must improve its current review standards for market data fees to ensure they are fair and reasonable so as to avoid the implementation of illegal fees. SIFMA will continue to engage with the exchanges and the Commission to work on a new structure for such fees which meets the requirements of the Exchange Act.

SIFMA Advocacy Links
Press Releases: • SIFMA press release dated Mar. 7, 2007

Dodd-Frank § 621, conflicts of interest in securitization transactions.

Section 621 imposes a one-year prohibition on an “underwriter, placement agent, initial purchaser, or sponsor, or any affiliate or subsidiary of any such entity” from engaging in “any transaction that would involve or result in any material conflict of interest with respect to any investor in a transaction arising out of such activity.” This Section was intended to address the concern that certain securitization transactions could be entered into with foreknowledge that they would perform poorly, particularly where the sponsors of the transaction stood to profit from this poor performance.

SIFMA supports the good intent of Section 621 to prevent transaction parties from creating and selling asset-backed securities (ABS) that will knowingly underperform. SIFMA is concerned, however, that an overly-broad reading of this provision could result in material harm to securitization markets by encouraging market participants to choose between securitization and alternative activities, such as lending, acting as a broker-dealer, or asset management. Thus, SIFMA recommends that the SEC create a framework to prohibit such “designed to fail” transactions, while still allowing for the issuance of ABS without the uncertainty of over-broad or vague regulations or undue restrictions or prohibitions. SIFMA’s more specific concerns and recommendations to the SEC regarding the implementing regulations are set forth in our comment letters.

SIFMA Advocacy Links
Press Releases: • SIFMA comment to SEC dated Dec. 10, 2010 • SIFMA comment to SEC dated Feb. 13, 2012

Regulation AB2.

In April 2010, the SEC published a rule proposal to revise Regulation AB and other securities rules (Reg AB2) in order to address the offering process, disclosure and reporting for asset-backed securities (ABS). In July 2011, the SEC re-proposed certain aspects of Reg AB2 related to shelf eligibility, asset level disclosure, and 144a/Rule 506 private offering disclosures.

SIFMA supports the SEC's proposal to the extent it is intended to increase transparency and help restore investor confidence in the ABS markets. SIFMA is concerned, however, that the SEC's comprehensive proposal is overly-broad in some areas and imposes burdens which are heavier than justified in others.

Following are SIFMA's specific views on certain key aspects of the SEC proposal:

Credit Risk Manager for Repurchase Claims – We support the SEC's refinement of the 2010 proposal regarding making a credit risk manager a party to at least mortgage backed securities transactions. We reiterated various detailed points of our prior letter to the SEC, as we believe certain additional aspects of our original proposal should be adopted, such as explicit requirements for arbitration.

Asset level data (ALD) – Our investor members believe that the mandatory provision of ALD is a key component of the recovery of the securitization markets, and strongly support the SEC's proposal. While not disagreeing with the need for standardization of ALD in principle, our dealer and sponsor members are concerned that a rigid approach could render entire pools of assets unsecuritizable in the most liquid securitization markets due to a single or small number of unavailable data fields. Therefore, they urge a more flexible, yet comprehensive, ALD disclosure regime.

Public Transaction Disclosure for Private Transactions – Our investor members agree with the principle that disclosure in Rule 144A and Regulation D transactions should not differ from that of transactions executed under the Regulation AB regime, and therefore support the SEC's proposed approach. SIFMA's dealer and sponsor members, however, express significant concern regarding the impact of the proposed rule changes on the viability of the Rule 144A and Regulation D markets, and the impact this may have on the availability of credit previously funded through securitization.

Issuer's Certification – SIFMA members believe that any required certification should only address the disclosure included in the prospectus, rather than an opinion as to future cash flows from the pool assets or as to the quality of the ABS.

Timing of Filing – SIFMA supports regulations that give investors sufficient time to review information about a securities offering before deciding whether to invest. In our view, a five-business-day period to review a preliminary prospectus, as the SEC has proposed for shelf offerings, is longer than is needed in some ABS offerings.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment to SEC dated Aug. 2, 2010 • SIFMA comment to SEC dated Oct. 4, 2011 • SIFMA AMG comment to SEC dated Oct. 4, 2011

Proxy processing.

The U.S. proxy system is the shareholder voting and communications system that services millions of individual shareholders, who hold their shares indirectly in "street name" through brokers and bank custodians. Thus, the system needs to operate in a manner that is reliable, efficient and credible. It must also adequately protect shareholders' privacy rights by maintaining the confidentiality of their personal information and trading decisions.

In July 2010, the SEC issued a Concept Release on the U.S. proxy system, and thereby announced its intention to reexamine the system through which shareholders communicate with issuers and vote their shares. Among the many issues discussed in the Release are proxy distribution fees; the SEC stated that now is an appropriate time to review the current rates published by self-regulatory organizations (SROs) (i.e., the New York Stock Exchange Euronext (NYSE)).

On January 22, 2013 the NYSE filed a rule proposal with the SEC that proposes revisions to certain aspects of their proxy processing fee schedule. If approved by the SEC, the net effect of these proposed changes will result in a modest decrease in overall proxy distribution fees of approximately 4%, with the impact varying among individual participants depending on their circumstances. In the filing, the NYSE proposes a new "success fee" to encourage brokers to adopt an investor mailbox/enhanced broker internet platform (EBIP). The PFAC recommended the NYSE further explore this idea as a possible means to increase voting participation by retail shareholders.

SIFMA strongly believes that the rights and interests of shareholders should be the focus of any discussions on the proxy process. We also believe that any review of the proxy voting and shareholder communication system should focus on enhancing the current system through the use of new technologies and other means, while ensuring the efficiencies that currently exist in the system are retained.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment to NYSE dated Nov. 21, 2012 • SIFMA comment to NYSE dated May 16, 2012 • SIFMA comment to SEC dated Sept. 30, 2010 **White Papers:** • White paper on shareholder communications process dated Jun. 10, 2010

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Definition of municipal advisor.

Section 975 of the Dodd-Frank Act includes provisions to regulate municipal advisors, consultants who provide advice to state and local government on bond issuance and other financial matters. Before Dodd-Frank, municipal advisors were wholly unregulated at the federal level. In December 2010, the SEC proposed a rule to implement the municipal advisor provisions that goes far beyond Congress' intent. The proposed rule would capture entities that are already heavily regulated or parties, such as appointed, unpaid members of state and local governing bodies, of which regulation is inappropriate. The SEC received over 1,200 comment letters on the proposed advisor rule, most of which overwhelmingly opposed all or parts of the proposal.

SIFMA's priorities with regard to the final rule proposal include: (i) Ensure that the rule is focused principally on previously unregulated municipal financial advisors, not on entities that were already heavily regulated; (ii) Ensure that the rule does not place undue burdens or restrictions on the ability to conduct traditional investment banking activities; (iii) Ensure the final rule includes a clear definition of "advice" and a safe harbor similar to that proposed for security-based swap dealers and provides that a municipal advisory relationship only exists where there is a written contract to provide advice; (iv) Ensure that "investment strategies" does not include public assets not included in the statute; (v) Ensure that the statutory underwriter exception covers ancillary information and suggestions provided by underwriters regarding structuring and related issues, activities of prospective underwriters, and private placements and remarketing of municipal securities; (vi) Ensure the final rule clarifies the inter-relation of municipal advisor regulation and the Investment Advisers Act and that solicitation of investment in a fund is not solicitation for the fund's adviser; and (vii) Minimize the paperwork burden associated with municipal advisor registration.

On September 19, 2012, the U.S. House of Representatives passed by voice vote H.R. 2827, legislation introduced by Rep. Bob Dold (R-IL) to clarify Section 975 of the Dodd-Frank Act. On September 21, 2012 Sen. Roger Wicker (R-MS) introduced legislation (S. 3620) that is identical to the bill that passed the House.

H.R. 2827 would ensure proper regulatory oversight of municipal advisors without subjecting already regulated entities (such as banks and broker-dealers) to an additional, unnecessary layer of regulation. The SEC recently extended the applicability of its outstanding temporary municipal advisor rule to September 30, 2013.

While the Dold-Wicker bill is pending in Congress, SIFMA continues to engage the SEC as it moves forward to implement a final municipal advisor rule.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment to SEC dated Feb. 22, 2011 **Testimony:** • SIFMA testimony before U.S. HFSC subcommittee dated Jul. 20, 2012 **Press Releases:** • SIFMA applauds House passage of Dold bill dated Aug. 1, 2012

SEC report on the municipal securities market.

On July 31, 2012 the SEC released the results of a major study regarding the regulation of the municipal securities market. This report contains numerous legislative and regulatory recommendations to improve disclosure by issuers and to improve price transparency and trade execution for retail investors. Some proposals included in the SEC report, such as applying a "best execution" standard for trade execution, could be difficult to apply to the municipal market. Others, such as requiring inter-dealer brokers and alternative trading platforms to disclose certain price information, could affect the manner in which municipal bonds trade in the secondary market. Some proposals related to disclosure practices could be beneficial by shifting a greater degree of compliance responsibility to securities issuers, as is the case in other sectors of the capital markets. Still others, such as revisions to the SEC's outstanding interpretation of Rule 15c2-12 related to issuer disclosure practices, have been expected for some time. In considering the SEC's proposed regulatory changes, Congress and regulators should take care not to impose changes which would impede the ability of municipal bond investors to effect trades efficiently or impose undue regulatory burdens on state and local governments.

Inclusion of "security-based swaps" in the definition of "security."

SIFMA has been and will continue to engage in dialogue with the SEC to address a variety of concerns regarding the implications of including security-based swaps (SBS) in the definition of "security" for purposes of the Securities Act of 1933 and Securities Exchange Act of 1934. We believe that it is necessary and appropriate for the SEC to provide relief to SBS market participants from certain provisions that apply to SBS as a result of their inclusion in the definition of "security" in order to avoid disrupting the SBS market and limiting the availability of SBS for eligible investors. Our request for exemptions and other relief is limited to SBS transactions between eligible contract participants, as that term is defined in the Commodity Exchange Act.

Social media.

SEC and FINRA rules require that broker-dealers and investment advisers supervise and retain electronic communications related to their "business as such" under Exchange Act Rule 17a-4(b). Firms are also required to maintain the records in a WORM (write once, read many) format. The advent of social media has created a new host of problems with interpreting laws which were never meant to encompass email, or communications through the evolving world of social media. SIFMA and the Investment Company Institute (ICI) are working together on a proposed reasonable interpretation of the SEC rules such that firms can comply with the rules and provide electronic communications, including social media, to regulators upon request while allowing firms some flexibility in the retention methods employed.

SIFMA Advocacy Links
Other Resources: • SIFMA electronic records and communications resource center

Dodd-Frank Title VII, derivatives regulation.

See summary under "Commodity Futures Trading Commission (CFTC)."

Dodd-Frank § 956, incentive-based compensation.

See summary under "Federal Reserve Board (FRB)."

a. Financial Industry Regulatory Authority (FINRA)

FINRA is a non-governmental organization that performs financial regulation of member brokerage firms and exchange markets. FINRA, which is overseen by the SEC, is the largest independent regulator for all securities firms doing business in the U.S. FINRA's mission is to protect investors by ensuring that the securities industry operates fairly and honestly. FINRA oversees about 4,345 brokerage firms, about 163,410 branch offices and approximately 635,145 registered securities representatives. FINRA has approximately 3,300 employees and operates from Washington, DC, and New York, NY, with 20 regional offices around the country.

Cost-benefit analysis in FINRA rule filings.

Under federal securities law, FINRA (the only national securities association) is required to file new rules or changes to existing rules with the SEC for public comment and approval by the SEC. The SEC recently directed FINRA to include a more formal cost-benefit analysis in all of FINRA's rule filings.

SIFMA supports efforts to more formally analyze and consider the costs and benefits of FINRA's rules. FINRA rules, similar to SEC rules, have an economic impact on investors, financial markets, and securities firms. SIFMA believes that the cost-benefit requirements for FINRA should be enhanced to improve the transparency and accountability of FINRA and the quality and efficiency of its rules.

FINRA suitability and 'know your customer' (KYC) rules.

FINRA has developed, and the SEC has approved, new FINRA KYC and suitability rules. The new rules became effective on July 9, 2012. FINRA will be issuing follow-up interpretations and examining securities firms for compliance with these new rules.

The new KYC and suitability rules in various respects build upon prior NASD and NYSE suitability and KYC rules, but also in several ways impose new obligations on securities firms. These new obligations require firms to review and change various internal policies, procedures and systems. The new suitability rule, in particular, imposes new obligations on institutional accounts.

SIFMA believes that the KYC and suitability obligations are critical to ensuring investor protection and promoting fair dealing with customers and ethical sales practices. SIFMA supports the overall goals of these standards. SIFMA is working with FINRA to foster a smooth implementation of these new standards as they apply to institutional accounts, including addressing unique interpretive issues raised by institutional clients. Since the new rules are now in effect, SIFMA hopes to continue to work with FINRA on ensuring an efficient and cost effective implementation of the rules, including raising interpretive issues regarding these new rules and encouraging the issuance of regulatory guidance.

FINRA registration/licensing requirements.

FINRA imposes various licensing requirements on individuals participating in the securities industry. The licensing requirements generally are linked to the activities that an individual performs for a securities firm. For example, a person engaged in general securities related activities (such as selling stocks and bonds) is required to have a "Series 7" license and an individual who supervises other individuals engaged in general securities activities is required to have a "Series 24" supervisory license. Acquiring and maintaining a particular securities license requires an individual to satisfy several requirements, including passing an examination.

Over the past several years, FINRA has increased the scope of individuals subject to the licensing requirements. In addition, FINRA has implemented a range of new types of securities licenses. For example, FINRA has imposed new licensing requirements on operations and back office personnel.

SIFMA supports education and competence requirements for individuals actively participating in the securities industry. The increased number of individuals subject to FINRA licensing and the increase in types of licenses, however, imposes costs and burdens on the financial industry. SIFMA believes FINRA should consider a holistic, strategic direction for its licensing regime, including consideration of the costs and benefits of new and increased licensing requirements.

FINRA fee changes.

FINRA imposes various fees on persons who are registered with FINRA and/or use FINRA systems. The Securities Exchange Act of 1934 requires FINRA to file all fee changes with the SEC for publication of notice of the fee change to the public. Under the Exchange Act, FINRA fee filings are immediately effective upon filing with the SEC and, therefore, there is very limited opportunity to provide meaningful comments on FINRA fee filings. Practically, the SEC is limited to suspending and instituting proceedings to disapprove a FINRA fee filing and effectively this means interested persons only have the opportunity to provide after-the-fact comments on FINRA fee filings.

Over the last year FINRA has increased a significant number of its fees. These fee changes were filed with the SEC for notice to the public, but given the immediate effectiveness provisions of the Exchange Act there was no ability to provide meaningful prior comment on FINRA's fee increases.

SIFMA believes FINRA should implement a notice and comment process prior to filing fee changes with the SEC. Under the current system, interested parties have no practical or effective mechanism to comment on FINRA fee changes prior to the changes taking effect. Permitting meaningful prior input from interested parties will result in a more rational fee structure that accounts for the views of the parties impacted by the fees. In addition, sudden and unanticipated fee increases can have significant budgetary implications, particularly during challenging economic conditions.

4. Commodity Futures Trading Commission (CFTC)

Dodd-Frank Title VII, derivatives regulation.

Enhanced, new derivatives regulation became a significant focus of the Dodd-Frank Act. Derivatives are used by many entities across the globe and play an important role in capital markets and the broader economy. In fact, many firms use derivatives to protect against risks that are inherent in their businesses. Over-the-counter (OTC) derivatives are privately negotiated between two parties and are often tailored to meet the particular needs of a counterparty, rather than traded on an exchange with standardized terms.

Title VII of the Dodd-Frank Act is intended to increase oversight and transparency and mitigate risks in the OTC derivatives market. To implement Title VII, the CFTC, the SEC and the prudential regulators were mandated to implement a new regulatory framework that includes, among other requirements: registration of swap dealers and major swap participants; mandatory central clearing and exchange trading for standardized contracts; increased capital and margin requirements for uncleared swaps; transaction reporting; record keeping; risk management; chief compliance officer requirements; and a host of external business conduct rules.

The commitment of G20 member countries to OTC derivatives regulation reflects the global scope of the reform efforts underway, making coordination among U.S. regulators and their foreign counterparts critical to ensuring global competitiveness and protecting against regulatory arbitrage. At the September 2009 Pittsburgh Summit, G20 leaders agreed to a comprehensive regulatory platform that includes exchange trading and, where appropriate, clearing through central counterparties of all standardized OTC derivative contracts; trade

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repository reporting of all OTC derivative transactions; and higher capital requirements for non-centrally cleared swaps.

The varying pace of reform implementation globally magnifies the need for coordination as compliance dates come into effect in certain jurisdictions before others. Although substantial progress has been made, the Financial Stability Board (FSB) noted that regulatory uncertainty remains the "most significant" impediment to fully achieving the goals of OTC derivatives regulation, and urged regulators to identify and address "conflicts, inconsistencies and gaps in their respective national frameworks, including in the cross-border application of rules."

In certain respects, Title VII took important steps to improve the regulation of the derivatives markets; in other respects, however, Title VII has the potential to limit the availability and increase the cost of derivatives, which are a valuable risk management tool for American businesses, the agriculture industry, and state and local governments. Of Title VII's many new requirements, we highlight the following issues that raise particular concerns for us:

Dodd-Frank §§ 722(d) and 772, extraterritorial application.

Sections 722(d) and 772 of the Dodd-Frank Act outline the territorial scope of the CFTC's and SEC's jurisdiction in applying the new swaps and security-based swaps regime under Title VII. Specifically, Section 722(d) provides that the CFTC can only oversee activities outside of U.S. borders (extraterritorial reach) if those activities have a "direct and significant" nexus to the United States.

On June 29, 2012, the CFTC released its proposed cross-border interpretative guidance (and the related exemptive order), outlining the CFTC's interpretation of the extraterritorial reach of Title VII. In December 2012, the CFTC finalized the exemptive order and released further proposed guidance, seeking additional industry comment on certain issues. In its releases, the CFTC has proposed an extremely expansive view of the "direct and significant" clause, which would subject both U.S. and non-U.S. entities, including those with only a tenuous connection to the U.S. swaps market, to a number of Title VII requirements. The CFTC has also released several interim and proposed versions of a "U.S. person" definition, which will play a critical role in determining the extent of Title VII regulations with which market participants must comply.

Further, the CFTC has proposed a "substituted compliance" approach to compare foreign-country regulation with U.S. regulation that SIFMA believes goes far beyond any established regime and does not comport with established norms or comity. This proposed approach would allow the CFTC to conduct a rule-by-rule review of a foreign country's regulatory regime in order to determine, unilaterally, whether a given rule of a foreign country is sufficiently comparable, at a granular level, to a given CFTC requirement. Only if the CFTC determines that a rule is in fact sufficiently comparable would a foreign entity be permitted to substitute compliance with the rules of its home country for compliance with CFTC rules. The proposed approach appears to be very different from the generally understood mutual recognition process by which two countries' regulators review each others' regulatory regimes and then determine if they are sufficiently comparable to grant mutual recognition.

Market participants, along with foreign regulatory authorities, have raised significant objections to the CFTC's proposals, as evidenced in comment letters. Many of these letters express the view that the proposed guidance is overly expansive and detrimental to competitive balance within the global derivatives market. SIFMA, SIFMA AMG, and GFMA submitted a series of comment letters to the CFTC highlighting the narrow and overly prescriptive view of substituted compliance; the complex and novel definition of "U.S. person;" and the need for coordination with the SEC, the U.S. prudential regulators, and foreign regulators to harmonize swap regulations. Without such coordination, there is a concern that duplicative and conflicting requirements will be created for global firms. Specifically, the CFTC's guidance fails to spell out exactly how the Commission will make substituted compliance determinations and potentially requires globally active swap entities to comply with multiple and, at times, conflicting regulatory requirements. This uncertainty runs the risk of putting U.S. registered swap entities at a disadvantage to firms wholly outside of the Title VII swaps regime.

On October 12, 2012, the CFTC issued time-limited no-action relief addressing which counterparties' swaps should be included in the calculation that determines whether entities must register as a swap dealer or major swap participant, and thus be subject to Title VII requirements. Later, the CFTC released its final exemptive order, providing an additional interim definition firms may utilize. These temporary definitions will remain in effect until the CFTC acts to approve its final version of the "U.S. person" definition.

The SEC has not yet released its cross-border proposal, but is expected to do so in the coming months.

SIFMA Advocacy Links
Comment Letters:
• SIFMA comment to CFTC dated Feb. 6, 2013
• SIFMA comment to CFTC dated Aug. 27, 2012
• SIFMA AMG comment to CFTC dated Aug. 27, 2012
• SIFMA comment to CFTC dated Aug. 13, 2012
• GFMA comment to CFTC dated Aug. 13, 2012

Treatment of inter-affiliate swap transactions.

The term “inter-affiliate swaps” refers to swap transactions between affiliated entities within a corporate group. Inter-affiliate swaps are generally used to respond to a client’s desire to transact with a particular entity within a corporate group and the group’s need to centralize the management of risk associated with these swaps. For many global firms, this is the only logical mechanism to ensure proper risk management of their swaps business.

Unlike other transactions, inter-affiliate swaps do not introduce risk into a corporate group, but rather allocate and transfer risks among members of the same corporate group. These members are under a unified risk management system where risks can be aligned within a group to the member that has the capacity to absorb or hedge them. Thus, imposing the panoply of Title VII regulation on such transactions would be counterintuitive, increasing risks and costs.

As an example, if inter-affiliate swaps were required to be cleared, the affiliated group would be exposed to new external risk through intermediary and clearinghouse linkages. In recognition of this issue, the CFTC published a proposed rule on August 21, 2012 that exempts inter-affiliate swaps from clearing requirements. SIFMA submitted comments to the CFTC’s proposal, supporting the CFTC’s exemption of certain inter-affiliate transactions, but recommended more measures be taken to ensure such swaps are not subject to other Title VII requirements, including mandatory trading.

Mandatory trading is intended to give participants more transparency into the market price of arms’-length transactions. Since inter-affiliate swaps are between a corporate group, and not outside parties, requiring that such transactions move to venues that are meant to enhance competitive pricing would serve no beneficial purpose.

Congress has recognized the important role inter-affiliate swaps play in firms' risk management functions. On March 26, 2012, the U.S. House of Representatives, with overwhelming bipartisan support, passed legislation (H.R. 2779) that ensures inter-affiliate swaps are not subject to clearing, capital and margin requirements, or used in calculations for determining whether entities must register as a swap dealer or major swap participant. SIFMA worked to increase congressional support for H.R. 2779, which passed in the House by a vote of 357 to 36. The legislation has not yet been reintroduced in the 113th Congress.

In July 2012, the CFTC and SEC approved a swap definition rule clarifying that inter-affiliate swaps are not counted for purposes of determining whether a firm is required to register. The SEC is expected to include provisions related to inter-affiliate swaps within individual rulemakings as they are finalized.

SIFMA Advocacy Links
Comment Letters: • SIFMA and ISDA comment to the CFTC dated Sept. 20, 2012 • SIFMA and ISDA comment to the CFTC dated May, 14, 2012 • Joint association comment to various regulators dated Sept. 8, 2011

Dodd-Frank §§ 731 and 764, capital and margin requirements.

Sections 731 and 764 of the Dodd-Frank Act require regulators to adopt rules establishing capital and margin requirements for uncleared swaps. In 2011, the CFTC and the federal banking regulators proposed separate rulemakings imposing margin requirements on swap dealers and major swap participants under their respective jurisdictions. The CFTC also proposed separate capital requirements for these entities.

Global efforts addressing capital requirements for OTC derivatives have taken shape under the Basel III regime, and in July 2012 the Basel Committee on Bank Supervision (BCBS) and International Organization of Securities Commissions (IOSCO) released a joint consultation on margin requirements for non-centrally-cleared derivatives. Both the CFTC and the prudential regulators re-opened the comment periods for their respective margin proposals in light of the BCBS/IOSCO consultative document. The SEC proposed rules on margin, capital and segregation requirements at an Open Meeting on October 17, 2012, with comments due by February 22, 2013 (following a 30-day extension). BCBS/IOSCO released a second "near-final" consultation on margin requirements for non-centrally cleared derivatives on February 15, 2013, seeking comment on several outstanding issues (comment due March 15, 2013)

Regulatory proposals include a number of key differences. For example, the prudential regulators' proposal imposes certain margin requirements on non-financial end-users while the CFTC's proposal does not explicitly call for such requirements. Due to concern about the impacts of such requirements on the end-user community, the House of Representatives passed H.R. 2779 in March 2012 by a vote of 370 to 24 to clarify that non-financial end-users are not subject to Title VII margin requirements. The legislation has not yet been reintroduced in the 113th Congress.

SIFMA agrees that margin requirements for uncleared derivatives can have important systemic risk mitigation benefits. In comments responding to the BCBS/IOSCO's first consultative document, SIFMA expressed support for the proposal to require the full two-way exchange of variation margin between financial firms and systemically important non-financial firms. However, SIFMA believes requirements mandating the universal two-way exchange of initial margin (on a gross basis and subject to restrictions on re-hypothecation and re-use) would have the potential to adversely impact liquidity without significant corresponding risk mitigation benefits. Further, SIFMA believes risk-based initial margin requirements would create significant pro-cyclical issues in times of market stress. Instead, SIFMA believes further study and public consultation are needed to determine proper alternatives, and in the meantime, whether market participants post initial margin should be a matter of bilateral negotiation, based on their own evaluations of costs and risks.

SIFMA AMG also provided comments to the BCBS/IOSCO consultative document, as well to the CFTC and U.S. prudential regulators on the topic of margin requirements for non-centrally-cleared derivatives. SIFMA AMG believes that margin requirements should be bilateral for both initial and variation margin, unless the end user elects not to require the dealer to post margin. SIFMA AMG also advocates that initial margin should be calculated based on approved margin models or a standardized margin schedule, as agreed to by the counterparties posting margin.

Both SIFMA and SIFMA AMG believe the currently proposed requirements on eligible collateral and margin segregation may be problematic for the markets. The universe of eligible collateral should be expanded to include other high-quality instruments, such as commercial paper, certificates of deposit, and obligations of government-sponsored entities. Additionally, any tri-party arrangement should be at the election of the counterparties, and not a regulatory requirement.

SIFMA also agrees with the GFMA FX division's position that the mandatory margin regime for OTC derivatives should not apply to deliverable foreign exchange (FX) swaps and forwards on the basis that their unique characteristics and role qualitatively distinguish them from OTC derivatives. We also believe that a mandatory margin regime is inconsistent with the well-established strategy that central banks use for addressing systemic risk in the FX market and creates unsafe structural economic incentives that can harm the well-functioning market. SIFMA urges regulators to carefully consider the context of the cumulative impact and interrelationship of other core components of regulatory reform that also have potentially significant impacts on margin requirements.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment to SEC dated Feb. 22, 2013 • SIFMA comment to U.S. prudential regulators dated Nov. 26, 2012 • SIFMA AMG comment on margin requirements for uncleared swaps dated Sept. 28, 2012 • SIFMA comment to BCBS and IOSCO dated Sept. 28, 2012 • GFMA comment to BCBS and IOSCO dated Sept. 28 2012 re: FX swaps • SIFMA comment to CFTC dated Sept. 14, 2012 • SIFMA comment to CFTC dated Jul. 11, 2011 • SIFMA comment to CFTC dated Jul. 8, 2011 • SIFMA comment to OCC, FRB, FDIC, FHFA and FCA dated Jul. 6, 2011

Dodd-Frank §§§ 721, 723 and 733, Swap Execution Facilities (SEFs).

Under Sections 721, 723, and 733 of Dodd-Frank, Congress established a new regulatory framework for the execution of swaps and security-based swaps, mandating that all transactions subject to clearing requirements be executed on a Swap Execution Facility (SEF) or Designated Contract Market (DCM).

Both the CFTC and SEC issued rule proposals on the regulation of SEFs in the first quarter of 2011. While aspects of the proposals were similar, significant differences in approach were taken in some key areas, most notably in relation to the implementation of a request-for-quote (RFQ) system, which allows customers to receive bid and offer quotes from dealers on a bilateral basis. Under the CFTC proposal, customers are required to send out RFQs to at least five dealers. This is problematic for asset managers that may desire to transact only with specific dealers due to pricing and existing agreements. Furthermore, submitting RFQs to five or more dealers may broadcast trades too widely and impact pricing unfavorably. The SEC proposed an approach that allows customers to submit RFQs to as many, or as few, dealers as they choose.

SIFMA supports a flexible approach to the implementation of SEFs, rather than overly prescriptive requirements, to allow for a smooth transition and minimal market disruption. SIFMA generally supported the SEC's security-based SEF proposal, agreeing with the Commission's principles-based approach which allows for RFQs to be sent to as few as one recipient (so long as the SEF provides the ability for RFQs to be sent to multiple parties). Conversely, SIFMA strongly urges against setting a minimum number of RFQ recipients as proposed by the CFTC. Forcing market participants to provide a pre-trade broadcast to multiple parties of an intent to trade could enable other market participants to take action in anticipation of the trade, potentially affecting prices and moving the market against the requester (particularly as it relates to large trades which do not qualify as "block trades").

During the 112th Congress, SIFMA supported legislation (H.R. 2586) that would allow the swaps markets to evolve to the best form of execution. H.R. 2586 would not require a minimum number of participants to receive or respond to quote requests and would prevent regulators from limiting the means by which these contracts should be executed. The House Financial Services Committee and the House Agriculture Committee approved H.R. 2586 by voice vote last Congress. To date, similar legislation has not been introduced in the 113th Congress.

SIFMA Advocacy Links
Comment Letters: • SIFMA/ISDA comment to the CFTC dated Mar. 8, 2011 • SIFMA/ISDA comment to the SEC dated Apr. 4, 2011

Dodd-Frank § 716, swap push-out rule.

Section 716 of the Dodd-Frank Act, also known as the "swap push-out rule," prohibits certain types of federal assistance to swap entities, subject to a few exclusions for insured depository institutions. In short, the swap push-out rule would require certain swaps entities that rely on federal assistance and engage in significant swaps activity to move portions of that activity into non-bank affiliates (which do not receive federal assistance), or otherwise cease to engage in such swap dealing activity. In addition to presenting competitive and operational issues, the swap push-out rule is also contrary to Dodd-Frank's goal of minimizing systemic risk. By forcing some swaps out of banking entities, risk management is made more difficult and the risk-mitigating benefits of netting are no longer possible to achieve.

U.S. regulators have acknowledged problems with this provision and expressed opposition to its inclusion in Dodd-Frank. Further, the 112th Congress introduced legislation (H.R. 1838) that modifies Section 716 by limiting the types of swaps that would be subject to the "push-out" requirement and providing an exemption for certain swap activities conducted outside of the United States. SIFMA worked to increase support for this legislation, which was approved by the House Financial Services Committee in February 2012 with strong bipartisan support.

On March 30, 2012, the federal banking agencies released guidance clarifying that the effective date for Section 716 will be July 16, 2013. The OCC separately issued guidance notifying federally chartered insured depository institutions that the agency was prepared to grant applications to delay compliance should firms submit a formal request by January 31, 2013. SIFMA continues to advocate on this issue and support initiatives that seek to implement the rule in an effective, even-handed, and minimally disruptive manner.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment to the House of Reps. dated Feb. 14, 2012 • SIFMA comment to the House of Reps. dated Nov. 14, 2011

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Dodd-Frank §§ 728 & 763, Swap Data Repositories (SDRs).

Swap Data Repositories (SDRs) are a new type of entity created by the Dodd-Frank Act in order to receive, store and disseminate swap data received from all counterparties, derivatives clearing organizations, designated contract markets, and swap execution facilities. The SDR's purpose is to facilitate market transparency and price discovery by providing real-time access to swap trade information and serving as a repository for historical trading data.

SIFMA believes this important utility will improve market transparency and provide regulators with necessary data to inform rulemakings. It is critically important for regulators to utilize data collected by SDRs in the rulemaking process to promote an efficient marketplace. Specifically, regulators will be better able to set minimum block trade thresholds on various products after collecting market data for a substantial period of time.

Implementation sequencing and phase-in.

SIFMA supports an orderly and efficient transition to the new swap market structure and regulatory regime required by Title VII. As the CFTC and SEC move forward in implementing Title VII, SIFMA has worked with them to try to ensure that the timeline for sequencing and phasing of regulation is done in a coordinated and logical manner. Unfortunately, the order in which many of these rules have been proposed and finalized has created a great deal of uncertainty for market participants.

On May 10, 2012, CFTC Commissioner Scott O'Malia, acknowledging the lack of clarity, published a draft rulemaking schedule, soliciting public comment. The SEC also published for comment a proposed sequencing of compliance dates for its Title VII rule set. SIFMA responded to both, following up on a series of SIFMA comments submitted to regulators previously.

The importance of proper sequencing and implementation of Title VII was highlighted at the end of 2012. Due to mounting concerns regarding the December 31, 2012 deadline for many firms to register as swap dealers (and thus become subject to the requisite compliance obligations), the CFTC issued over thirty no-action letters and other documents during the month of December, in an effort to provide for an orderly transition. However, even with the CFTC's actions, a number of questions still remain, as key foundational rulemakings and guidance must still be finalized (including those relating to the cross-border application of Title VII and capital and margin requirements for uncleared swaps).

SIFMA believes a successful Title VII implementation schedule should properly sequence the phase-in of the new regulatory frameworks, taking into account the different characteristics of market participants and product types, as well as the numerous interdependencies between rulemakings. SIFMA also believes adequate time should be provided for regulators and market participants to analyze the impact of each set of regulations, before moving forward with further rulemakings. Finally, SIFMA believes that any phase-in approach should be implemented in close coordination with regulatory agencies in the United States and abroad, to avoid duplicative or conflicting requirements.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment to the SEC dated Aug. 13, 2012 • SIFMA and ISDA comment to CFTC dated June, 29 2012 • Joint trade comment to CFTC and SEC dated May, 4, 2012 • Joint industry comment to the CFTC and SEC dated Dec. 6, 2010

Dodd Frank § 737, position limits rule.

Section 737 of the Dodd-Frank Act addresses the CFTC's ability to establish position limits for commodity futures and swaps. In October 2011, the CFTC finalized rules instituting position limits on futures and swaps contracts. In our view, these rules were poorly crafted, based on an incorrect reading of the law, and unsupported by cost benefit analysis.

Given the lack of conclusive evidence of excessive speculation or market manipulation that would warrant the imposition of position limits, it is problematic that the Commodity Futures Trading Commission (CFTC) did not conduct a robust economic analysis on the impact of the proposed rules on the markets and market participants. As Commissioner Sommers noted, the CFTC has consistently failed to conduct a "thorough and meaningful" cost-benefit analysis on the proposed rules promulgated by the CFTC under Dodd-Frank. Given the significant financial and regulatory burdens the proposed rules will impose on market participants, and the resulting loss of liquidity, increase in volatility in commodity markets and increased hedging costs, the failure to conduct such an analysis suggests that the CFTC cannot provide any economic justification for the proposed rules. Indeed, the loss of liquidity alone may increase volatility in the markets, which is precisely what the CFTC seeks to avoid.

On December 2, 2011, SIFMA and ISDA jointly filed a lawsuit in the U.S. District Court for the District of Columbia challenging the CFTC's Position Limits Rule. The lawsuit asks the court to vacate the Rule or direct the CFTC to conduct an analysis to determine that position limits are necessary. The case was assigned to District Judge Robert L. Wilkins, who was appointed to the bench by President Obama in December 2010.

SIFMA and ISDA took this action because the substance of the Rule is flawed and the CFTC did not follow the law in drafting the Rule. ISDA and SIFMA allege that the CFTC (i) erred in concluding that the Dodd-Frank Act required it to establish position limits without first determining whether they were even necessary; (ii) did not present a reasoned analysis or consider all evidence in setting position limits; and (iii) did not conduct an adequate cost-benefit analysis as required by law.

On September 28, 1012, the Court ruled in SIFMA's favor and vacated the Rule. In the event the CFTC appeals the decision, SIFMA anticipates defending the lower court's ruling. SIFMA remains committed to working with the CFTC on this and other issues that impact the safety and efficiency of our securities and commodities markets.

SIFMA Advocacy Links
Press Releases: • SIFMA press release dated Sept. 28, 2012 • SIFMA press release dated Dec. 2, 2011

Dodd Frank § 731(g)(1), internal business conduct taping rules.

Section 731(g)(1) requires each registered swaps dealer and major swap participant to maintain certain records, including recordings of phone calls related to swap transactions. SIFMA has received a no-action letter from the CFTC that grants an extension from compliance requirements until March 2013.

SIFMA believes that problems will persist even after implementation due to a shortage of hardware necessary to implement telephone recording, particularly mobile phone recording, and the current lack of technology that would allow firms to search for and retrieve recordings related to a particular swap transaction as required by the rule. SIFMA is working with the CFTC to find a solution for the latter problem and the CFTC has been receptive to our recommendations, although no adequate solution has been found.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment to CFTC dated Aug. 10, 2012

Commodity Pool Operators (CPOs).

On February 9, 2012, the CFTC adopted several important rule changes affecting Commodity Pool Operators (CPOs), including changes to CFTC Regulations 4.13(a)(4) and 4.5. The CFTC rescinded CFTC Regulation 4.13(a)(4), which exempted CPOs to private pools from registration if all participants met certain suitability standards. The CFTC also adopted amendments to Regulation 4.5 that severely limits the ability of advisors to registered investment companies (RICs) and private funds to claim exemption from the CFTC's disclosure, recordkeeping and reporting requirements. These amendments became effective as of April 24, 2012. As a result, many entities were to register with the CFTC by December 31, 2012. Of note, the CFTC's Exemptive Order (relating to the cross border application of Title VII) released on December 21, 2012 excluded from its temporary "U.S. Person" definition prongs relating to CPOs. However, as of yet, the CFTC has yet to finalize its final "U.S. Person" definition, seeking comment on several issues, included proposed alternative definitions which relate to CPOs.

Once registered, entities must comply with a number of new disclosure, reporting, and recordkeeping requirements. Problematically, some of these requirements conflict with existing SEC requirements for RICs. In an attempt to alleviate compliance concerns for RICs that must register as CPOs, the CFTC proposed rules to harmonize SEC and CFTC requirements. Unfortunately, these efforts did not go far enough and there still remains conflicting regulation. Despite the December 31, 2012 compliance deadline, the CFTC has still not yet finalized the harmonization rule.

SIFMA's Asset Management Group (SIFMA AMG) feels that the amendments to rules 4.5 and 4.13 were unnecessary and add unnecessary compliance burden for many entities. Further, there does not seem to be a benefit for entities under significant regulation to comply with the CFTC regime as well. Additionally, the amendments to these rules were not mandated by Dodd-Frank. At the very least, SIFMA AMG requests effective harmonization of compliance requirements for RICs that must register as CPOs and further guidance on these requirements before the December 31, 2012 deadline.

SIFMA Advocacy Links
Comment Letters: • SIFMA AMG comment to CFTC dated May 3, 2012 re: CPO exemption • SIFMA AMG comment to CFTC dated Apr. 24, 2012 re: RIC registration • SIFMA AMG comment to CFTC dated Aug. 4, 2011 re: registration and compliance regimes for CPOs and CTAs • SIFMA AMG comment to CFTC dated Apr. 12, 2011 re: CPOs and CTAs

Commodity pools and securitization transactions.

Securitization entities have not been historically considered commodity pools because they do not hold commodity interests. The Dodd-Frank Act, however, expanded the definition of "commodity pool" to include "swaps" as commodity interests. This expanded definition, combined with certain CFTC interpretations and statements, raises a concern among SIFMA members about whether securitization entities that have entered or will enter into swaps could be deemed commodity pools.

On October 11, 2012 the CFTC issued relief for certain transactions which generally fit within the strictures of Regulation AB or Rule 3a-7. On December 8, 2012, the CFTC issued further relief for securitizations that extended exemptions beyond those two rules, so long as the swaps in the transactions were not used to create investment exposure, provided relief for legacy securitization transactions, and also provided temporary relief for new transactions that are unable to avail themselves of the December 8 and October 11 exemptive actions.

The CFTC actions noted above provided relief from characterization as commodity pools for many securitization types. However, there remain securitization types that could be considered commodity pools. For these securitizations, members are concerned as to how Part 4 requirements and other rules would be applied to securitizations; for example, most securitizations do not calculate a NAV. Therefore, SIFMA continues to believe the relief should be further expanded.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment to CFTC dated Aug. 21, 2012

Dodd-Frank § 619, Volcker rule. (SEC, CFTC, FRB, FDIC, OCC)

See summary under “Securities and Exchange Commission (SEC).”

Legal Entity Identifier (LEI). (OFR, CFTC)

See summary under “Office of Financial Research (OFR).”

Dodd-Frank § 941, risk retention. (SEC, CFTC, FRB, FDIC, OCC)

See summary under “Securities and Exchange Commission (SEC).”

5. The Federal Reserve Board of Governors (FRB)

Dodd-Frank §§ 165 and 166, enhanced prudential standards and early remediation.

Legislators, regulators and banks have been largely aligned in their views of the core supervisory and management problems that contributed to the onset and escalation of the financial crisis in 2008, including insufficient capital (in terms of both quantity and quality), insufficient liquidity at some institutions, the lack of a centralized systemic risk supervisor, and the absence of credible resolution regimes for large financial institutions. To address these issues, Sections 165 and 166 of the Dodd-Frank Act seek to prevent or mitigate risks to the nation's financial stability that could arise from the material financial distress or failure, or ongoing activities, of large, interconnected financial institutions. Specifically, Section 165 requires the Federal Reserve Board (FRB) to establish prudential standards for non-bank financial holding companies supervised by the FRB and for bank holding companies with total consolidated assets equal to or greater than $50 billion; Section 166 requires the FRB to provide for the early remediation of financial weakness of bank holding companies with $50 billion or more in assets and all Financial Stability Oversight Council (FSOC)-designated nonbanks (covered companies).

The financial services sector has consistently supported significant and fundamental changes to the regulatory regime in order to establish a regulatory framework that protects both the financial system against potential systemic meltdowns of the type faced in the recent crisis and enables the financial system to play its necessary role in fostering economic and job growth. In the context of these dual objectives, the prudential regulatory framework should recognize that regulation has costs and limits. We understand that the legislative and regulatory responses to the severity of the financial crisis must be sufficiently comprehensive and robust to protect against a future crisis. At the same time, however, we are concerned that, in some crucial respects, the regulatory reforms included in the proposed rules are so imbalanced as to do more harm than good, potentially contributing to systemic risk rather than mitigating it and having an adverse impact on banking institutions' customers and the broader economy.

SIFMA has the following six key concerns with the domestic Dodd-Frank 165/166 proposal:

(1) SIFMA believes it is exceedingly important that the proposed rules be analyzed holistically, not only with respect to the interplay among their subparts but also with other reforms, both in the United States and abroad. We urge the FRB and the other U.S. banking agencies to consider and address the interplay among reforms in the context of considering individual reforms.

(2) The Proposed Single-Counterparty Credit Limits (SCCL) Rules are so fundamentally flawed that they would have an adverse impact not only on regulated banking organizations but also on their customers and the broader economy, as noted above. The NPR also fails to satisfy basic administrative law standards.

(3) Numerous aspects of the proposed rules, along with regulatory reform measures more broadly, appear premised on the "big is bad" belief that size inherently is a major indicator of and contributor to systemic risk, and assume that (i) "too big to fail" has not been addressed and cannot be solved and (ii) forcing institutions to reduce their size will reduce systemic risk without creating any loss of services or harm to customers or the domestic or international financial systems or economies. In our view, neither the belief nor the assumptions are correct.

(4) With respect to the Proposed Stress Test Rules, it is crucial that (i) the design of the models used as part of the stress test process be transparent and subject to an appropriate public consultative process prior to implementation, (ii) the FRB's comprehensive capital adequacy review (CCAR 2012) disclosure template generally be used for disclosure of the results of both supervisory and company-run stress tests, at least for covered companies with consolidated assets of $50 billion or more, and (iii)

disclosures are not provided, or required to be provided, in any circumstances under base case scenarios.

(5) The Proposed Risk Management Rules and the governance provisions of the Proposed Liquidity Rules (i) are so detailed and prescriptive as to risk impeding directors' proper discharge of their oversight duties and (ii) in several areas blur the distinction between the proper oversight role of the Board of Directors and management's responsibility for day-to-day operations.

(6) For small, midsized and regional banks, implementation of regulations under Sections165 and 166 should avoid creating a "cliff effect" by providing for a transition period after the institution has crossed the applicable asset threshold.

SIFMA and its members support a robust and effective regulatory system, which includes not only appropriately designed rules implementing Sections 165 and 166, including the foreign bank rule, but also other fundamental reforms, such as the Basel Committee on Banking Supervision's capital and liquidity frameworks (Basel III) and the FRB's Capital Plan Rule set forth in 12 C.F.R. § 225.8. However, the proposed rules and other systemic risk regulations cannot eliminate economic cycles or all risk, nor should they attempt to do so. It is critically important that decision makers (including the FRB and other agencies) promulgate rules required or permitted under Dodd-Frank that achieve a reasonable degree of regulatory balance by, among other things, informing their rulemakings with quantitative analysis and a holistic understanding of the consequences of their implementation. If the proposed rules are not properly designed and calibrated to the risks they are designed to address, they raise the potential for damage to the financial system and the broader economy.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment to Federal Reserve dated Apr. 27, 2012 • Compendium of comments on Sections 165/166 dated Apr. 27, 2012

Basel III.

On December 10, 2010 the Basel Committee on Banking Supervision (BCBS) finalized the Basel III framework. Basel III strengthens the provisions of the Basel II framework in regards to the quality and quantity of capital and risk coverage and introduces new prudential requirements, including capital buffers, leverage ratios and liquidity requirements. The reforms are intended to apply at both the micro-prudential level and the macro-prudential level with the overarching goal of enhancing bank and banking sector resilience to unexpected shocks, improving risk management and governance, and promoting financial stability in the wake of the 2008 financial crisis.

Led by the FRB on June 7, 2012, the FDIC, the OCC and the FRB approved one final rule and three notices of proposed rulemaking (NPRs) that substantially amended the risk-based capital rules for all U.S. national banks, state member and nonmember banks, state and federal savings associations, all U.S. bank holding companies except those with less than $500 million in total consolidated assets, and all U.S. savings and loan holding companies (regardless of size or whether they are primarily insurance holding companies). The new rules represent a complete overhaul of U.S. bank capital standards, and once they are fully implemented, will completely replace the Agencies' existing Basel I-based capital requirements.

Specifically, the Basel III Capital NPR, introduces the Basel III standards for the components of, adjustments to, and deductions from regulatory capital (the numerator in U.S. Banking Organizations' risk-based capital and leverage ratios), as well as the new minimum ratios under the prompt corrective action ("PCA") framework. The NPR subjects banks to Common Equity Tier 1 capital ratio of 4.5 percent, a Tier 1 capital ratio of 6 percent (increased from the current 4 percent), a total capital ratio of 8 percent of total risk-weighted assets and a Tier 1 leverage ratio of 4 percent. It also introduces regulatory capital buffers above the minimum Common Equity Tier 1 ratio, including a capital conservation buffer of an additional 2.5 percent of Common Equity Tier 1 capital to risk-weighted assets and, for systemically important financial institutions (SIFIs), a countercyclical buffer of up to 2.5 percent of Common Equity Tier 1 capital to risk-weighted assets that may be deployed as an extension of the capital conservation buffer. The NPR also revises regulatory deductions from capital and significantly alters the calculations of leverage ratios. The Basel III Capital NPR applies to all U.S. Banking Organizations, with a few elements that apply only to U.S. Banking Organizations that are subject to the advanced approaches rules.

The Standardized Approach NPR, which generally introduces an enhanced version of the Basel II standardized approach for calculating risk-weighted assets (the denominator in U.S. Banking Organizations' risk-based capital ratios) and would, together with the Basel III Capital NPR, become the new Collins Amendment "floor" for SIFIs. The Advanced Approaches NPR modifies the existing Basel II advanced approaches rules for calculating risk-weighted assets to implement Basel III and to comply with Section 939A of the Dodd-Frank Act. The Market Risk Final Rule modifies the existing market risk rules to implement Basel 2.5 and to comply with Section 939A of the Dodd-Frank Act. This rule applies to U.S. Banking Organizations that have significant trading activity.

SIFMA has consistently voiced strong support for ongoing regulatory reform efforts that aim to make financial systems safer and more robust. This includes support for improving the quality of capital in banks and increasing the risk sensitivity of bank capital requirements, which will enhance the ability of the banking sector to serve customers and promote economic growth. SIFMA notes that since the financial crisis, the U.S. financial services sector has significantly increased the quality and quantity of capital, reduced its leverage, and increased its liquidity within the parameters contemplated by the Basel accords. However, SIFMA has serious concerns regarding the Agencies' Basel III proposals, including their lack of risk sensitivity, the timing of their implementation, their significant divergence from internationally agreed-upon capital standards, and the absence of any quantitative analysis to justify this divergence, as well as their adverse impact on the availability of credit in a recovering U.S. economy and on the competitiveness of the U.S. banking system.

SIFMA is equally concerned that the cumulative impact of these proposals and other domestic and international financial regulatory reform efforts – including, among others, the Volcker rule, comprehensive derivatives regulations, single counterparty exposure limits and other heightened prudential requirements and prescriptive liquidity mandates – would severely hinder the ability of U.S. banking organizations to perform core financial intermediation functions, to provide credit to businesses, entrepreneurs and consumers, and to serve as stewards of economic growth in the U.S. and around the world.

The U.S. has been criticized by Europe for not formally adopting Basel II, although internationally active banks in the U.S. effectively operated pursuant to this standard and exceeded its requirements. The U.S. Agencies never intended to apply the Basel II requirements to the entire banking industry in the U.S. To blunt European criticism, the Agencies have proposed the most conservative interpretation of the Basel III accords and, in many instances, they have gone beyond the accords to impose even more onerous capital requirements. For example, the current capital requirements call for total capital of 8 percent, but the new proposal will increase this requirement to 10.5 percent for all banks, and up to 15.5 percent for the largest and most internationally active banks, including a substantial increase in the quality of capital.

SIFMA has voiced concerns that the higher reaches of these proposals may constrict the ability of banks to perform their traditional financial intermediation role and do not take into account other regulatory efforts to reduce systemic risk within the industry domestically and internationally.

SIFMA Advocacy Links
Comment Letters: • SIFMA, ABA and FSR comment to various regulators dated Oct. 22, 2012 • SIFMA comment to various regulators dated Oct. 22, 2012, re: treatment of municipal debt securities • GFMA comment to BCBS dated Feb. 4, 2011 **Testimony:** • SIFMA testimony before HFSC dated Jun. 16, 2011

Basel securitization framework.

In December 2012, the Basel Committee proposed revisions to its framework for securitization capital requirements. The Committee's proposal is quite complex and offers two alternative hierarchies (Alternatives A and B) upon which they seek comment. It is important to note that the Proposal's stated objectives are to make securitization capital requirements more prudent and risk-sensitive, to lessen reliance on external credit ratings, and to reduce "cliff effects" (in which small differences in credit quality or other parameters produce large differences in capital requirements).

SIFMA formulated its response to this consultation through its global affiliate GFMA. GFMA found that the proposed regime does not achieve these goals. The capital regime proposed by the Basel Committee is not particularly risk sensitive; indeed, capital requirements only vary within a narrow band between regulatory caps and floors. Cliff effects are still present, especially in the proposed alternative B. Reliance on ratings is reduced, but not eliminated. On the other hand, the proposal creates a complex, difficult to implement, and inconsistent framework for securitization capital requirements.

The net effect of the proposed regime would be to significantly increase securitization capital requirements, including for senior high quality positions. Aside from this, there are a number of concerning effects/implications of the Basel proposal. They include, but are not limited to, the following:

- Preliminary results of our members' testing of the proposed approaches over a range of asset types and jurisdictions have showed *large divergence and inconsistency between the results of different approaches applied to the same securitization exposures*. This makes us question whether, despite the Committee's efforts, the Proposals would create a coherent and sensible framework for securitization capital requirements. See the annexes of the letter for further details here.

- GFMA members are also concerned that preliminary test results have shown that the overall capital required for different institutions holding securitization positions in a single securitization can be *several times the capital required for the underlying exposures if they were held by any institution directly*. See Annex 4.1.b and Annex 4.2. This anomaly exists across the frameworks, across underlying asset classes, and is evident across a wide variety of capital structures. These dramatic differences between securitized and unsecuritized loan capital charges could render large parts of the securitization market non-viable.

- The inclusion of a factor for maturity effect to take in to account mark-to-market risk is a significant change that we recommend be studied further and in greater detail before it is implemented, given its dramatic impact on capital requirements. Other adjustments are proposed in the consultation, ostensibly to reflect concerns around model risk, which serve to further increase capital charges.

GFMA proposes in its letter a number of changes and clarifications to the Proposals which we believe would better align the revised securitization framework with its stated goals. These revolve around: (a) a modified version of Alternative A that would offer more viable and practical methods for calculating capital requirements for different kinds of transactions and asset classes; (b) certain modifications to the formulation, calibration and operational requirements of the various approaches to make them less punitive, more practical, more consistent in results and better aligned to the capital requirements of the underlying assets, while not adding undue complexity; and (c) adjustment or clarification of certain concepts (notably maturity and re-securitization) to avoid unintended consequences and address the treatment of certain legacy and other transactions and structures.

These recommendations, if adopted, would result in a revised framework that would be just as if not more prudent, more risk-sensitive, no more reliant on credit ratings, and less distorted by cliff effects and adverse incentives.

SIFMA Advocacy Links
Comment Letters: • GFMA comment to BCBS dated March 18, 2013

Dodd-Frank § 956, incentive-based compensation.

Section 956 of the Dodd-Frank Act requires federal regulators to prescribe regulations or guidelines that discourage inappropriate risk-taking behaviors and require various disclosures of incentive-based compensation arrangements. Prior to the Dodd-Frank Act, concerns were raised about whether there were links between compensation and excessive risk-taking in business. As a result, a provision was included that is intended to provide some guidelines on what might be considered appropriate and inappropriate risk-taking.

In April 2011 the Office of the Comptroller of the Currency (OCC), the Federal Reserve Board (FRB), the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Securities and Exchange Commission (SEC) and the Federal Housing Financial Agency (FHFA) jointly issued a proposed rule. SIFMA submitted a comment letter encouraging the regulators to focus on principles and general disclosure.

Although SIFMA supports efforts to ensure incentive-based compensation arrangements are consistent with the overall safety and soundness for financial institutions, we believe that dictating the form of compensation that must be paid to executive officers is not an appropriate policy response to address the risks raised by improper incentives. We also believe that each institution's compensation committee should have the authority to determine precisely how the institution's compensation arrangements will comply with all applicable regulatory principles in a manner that is best suited for the needs of the institution. This committee will also be in a better position to ensure that the arrangements are appropriate in light of other legal and regulatory constraints. The regulators have not yet moved towards a final rule.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment to regulators dated May 31, 2011

Dodd-Frank § 619, Volcker rule. (SEC, CFTC, FRB, FDIC, OCC)

See summary under "Securities and Exchange Commission (SEC)."

Dodd-Frank § 941, risk retention. (SEC, CFTC, FRB, FDIC, OCC)

See summary under "Securities and Exchange Commission (SEC)."

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6. Federal Deposit Insurance Corporation (FDIC)

Dodd-Frank Title II, Orderly Liquidation Authority (OLA).

During the financial crisis of 2008, U.S. taxpayers took on hundreds of billions of dollars in direct and indirect support for troubled financial-services firms. The scope of the 2008 financial crisis and the scale of support for the financial-industry led to an array of sweeping reforms, many premised on the view that, despite new capital and prudential standards for the largest banking organizations, systemically-important financial institutions (SIFIs) remained ‘too big to fail’ (TBTF). Consequently, some worried that SIFIs, especially when structured as large banks, may not only be TBTF, but also “too big to save” due to the disproportionate share of national assets housed in a very few firms (the so-called “doom loop”). Title II of the Dodd-Frank Act sought to address this issue, creating an orderly-liquidation authority (OLA) to resolve a failing SIFI without systemic effects. The majority of new duties in this area are assigned to the FDIC.

Specifically, Title II of Dodd Frank authorizes the federal government, acting through the Treasury Secretary, the FRB Chairman and the FDIC Chairman, to resolve a failing SIFI in a manner derived from the process used for more than 75 years to resolve failing commercial banks. Title II incorporates a significant number of the bankruptcy “protections” from the bankruptcy code, and grants the FDIC additional powers, including the ability to create a bridge institution and provide liquidity to the firm going through resolution. Finally, in the event a firm going through the resolution process requires support from the FDIC that cannot be recouped from the proceeds of the liquidation, the remaining SIFIs in the U.S. will reimburse taxpayers for any money used to resolve the firm, plus interest.

SIFMA supports the idea that no firm should be TBTF. As such, SIFMA worked with regulators when they began implementing Title II and has subsequently worked with the FDIC to help it craft similar rules at the international level. SIFMA believes more work is needed in this area, and it continues to work with the FDIC and international regulators to develop cross border resolution rules and agreements.

Critics of Title II argue that the statute itself makes SIFIs TBTF and ensures a government bailout when a SIFI gets into trouble. Further, they worry that Title II will be administered by government civil servants either too beholden to the political process or captive of the industry, or both. SIFMA notes that this is not the stated intent of Title II of Dodd Frank, and we are working with regulators as they implement an effective resolution regime. In the event a majority in Congress wants to rewrite the bankruptcy code to make it more effective in times of financial crisis, SIFMA would work with Congress to make this happen, provided the reforms supplemented, but do not replace, Title II, which our members believe should remain in place for extraordinary circumstances.

SIFMA Advocacy Links

Comment Letters:

- SIFMA comment to FDIC dated Jun. 10, 2011
- SIFMA comment to FDIC dated May 23, 2011
- SIFMA comment to FDIC dated May 23, 2011
- SIFMA comment to FDIC dated Feb. 24, 2011

White Papers:

- Federal Financial Analytics White Paper on the New Resolution Regime dated Oct. 22, 2012

Dodd-Frank § 619, Volcker rule. (SEC, CFTC, FRB, FDIC, OCC)

See summary under "Securities and Exchange Commission (SEC)."

Dodd-Frank § 956, incentive-based compensation.

See summary under "Federal Reserve Board (FRB)."

Basel III.

See summary under "Federal Reserve Board (FRB)."

Dodd-Frank §§ 165 and 166, enhanced prudential standards and early remediation

See summary under "Federal Reserve Board (FRB)."

Dodd-Frank § 941, risk retention. (SEC, CFTC, FRB, FDIC, OCC)

See summary under "Securities and Exchange Commission (SEC)."

7. Office of the Comptroller of the Currency (OCC)

Dodd-Frank § 619, Volcker rule. (SEC, CFTC, FRB, FDIC, OCC)

See summary under "Securities and Exchange Commission (SEC)."

Dodd-Frank § 956, incentive-based compensation.

See summary under "Federal Reserve Board (FRB)."

Basel III.

See summary under "Federal Reserve Board (FRB)."

Dodd-Frank § 941, risk retention. (SEC, CFTC, FRB, FDIC, OCC)

See summary under "Securities and Exchange Commission (SEC)."

8. Department of Labor (DOL) – Employee Benefits Security Administration

DOL fiduciary standard proposal.

In October 2010, several months after passage of the Dodd-Frank Act, DOL proposed a rule that would significantly expand the definition of when investment advice confers "fiduciary" status under the Employee Retirement Income Security Act (ERISA). The proposal deletes the requirement that the parties have a mutual agreement that the retirement plan or individual retirement account (IRA) customer will rely on the adviser's recommendation. Thus, almost any communication between the two parties could trigger a fiduciary duty under ERISA.

Currently, broker-dealers (BDs) rely on a disclosure-based approach to managing most conflicts of interest, and on their continuing ability to trade as principal with their retail customers. If a BD is deemed an ERISA fiduciary, however, conflicts of interest and principal trading are generally prohibited (unless the BD gets a DOL exemption, which could take years). As a result, the BD could not continue to offer the same quality and level of services to their retail customers.

For example, BDs could not continue to provide desired products and services on a principal trading basis, including government or corporate bonds, IPOs and secondary offerings. Alternatively, BDs would be incentivized to move retail customers into asset-based advisory accounts, resulting in generally increased costs for customers with low transaction accounts. Finally, ERISA fiduciary status may cause some BDs to simply discontinue service to IRA or 401(k) accounts.

Consequently, SIFMA believes that DOL's initial proposal overly expands the definition of fiduciary in a manner that would undermine efforts by employers and service providers to educate workers on the importance of responsible retirement planning. SIFMA further believes that the proposal would limit investment choices and drive up costs for the individuals it was intended to protect.

In September 2011, DOL decided to withdraw the initial rule proposal, conduct further economic analysis, and subsequently issue a re-proposed fiduciary definition rule. SIFMA strongly supports this decision, as we believe that the initial proposal failed to conduct an appropriate cost-benefit analysis, including the costs to plan beneficiaries and IRA holders, among others. SIFMA believes that any re-proposal by DOL should exclude its application to IRAs, and include appropriate exemptive relief.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment to U.S. DOL dated Mar. 1, 2012 • SIFMA comment to U.S. House subcommittee dated Sept. 6, 2011 • SIFMA comment to U.S. DOL dated Apr. 12, 2011 **Testimony:** • SIFMA testimony before U.S. House committee dated July 26, 2011

9. Consumer Financial Protection Bureau (CFPB)

<u>Definition of Qualified Mortgage (QM).</u>

In response to the significant number of problem mortgages originated before the crisis, especially to borrowers who did not have the means to pay back the loan, Title XIV of the Dodd-Frank Act sought to create a class of mortgages that could reasonably be assumed to be repaid by the borrower. In June 2011, the FRB proposed rules to implement the ability-to-repay requirements contained in Title XIV. In January 2013, the Consumer Financial Protection Bureau (CFPB) issued the final rules regarding the ability-to-repay rule and the QM definition.

Originating a QM is a means of compliance with these rules. Importantly, assignees of loans that fall outside of QM will retain liability associated with the origination of the loans (i.e., assignee liability). The proposal discusses two options for the formulation of the QM concept - a legal safe harbor and a rebuttable presumption of compliance - and was reopened for comment on May 31, 2012, due to the complexity of the issue and the overwhelming stakeholder response to the initial proposal.

SIFMA believes the qualified mortgage (QM) definition is critically important as it will set the parameters for the vast majority of mortgage lending in the United States. SIFMA appreciates the CFPB's open and inclusive process in creating this new rule, and we are glad to see finality on the QM definition so that markets and firms can begin to move forward and adjust their lending practices accordingly.

We are pleased that the CFPB has recognized the importance of a true legal safe harbor for some mortgages that fall within the scope of the QM. SIFMA believes that few rebuttable presumption loans are likely to be made and that safe harbor loans will define the market, therefore it is critical that appropriate, balanced parameters be chosen. We therefore hope that the CFPB will show similar flexibility, inclusiveness, and responsiveness to feedback, and be willing to calibrate various parameters of the rules prior to the implementation date. As industry participants work toward implementation of these rules, we expect there will be numerous areas that will require interpretation of clarification by CFPB.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment to Federal Reserve dated Jul. 22, 2011 • SIFMA comment to CFPB dated Apr. 30, 2012

10. Federal Housing Finance Agency (FHFA)

Strategic plan for the conservatorships of the government-sponsored enterprises (GSEs).

In May 2012, FHFA released its strategic plan for fiscal years 2013-2017, which included its previously released strategic plan for the conservatorships of GSEs Fannie Mae and Freddie Mac. The FHFA's plan included a discussion of a single platform for the securitization of loans by the GSEs, which would include the ability for variations in the level of the GSE guarantee, and ultimately, would allow for private market participants to utilize the platform along side, or in lieu of, the GSEs. The single platform would involve both information technology and legal documentation aspects. On October 4, 2012, FHFA released for public comment a white paper on a proposed framework for a single securitization platform and a model Pooling and Servicing Agreement.

SIFMA generally supports the goal of modernizing the infrastructure of the GSEs. We also agree that we should look to the future to define the goals of U.S. housing policy, and how the GSEs, and securitization more broadly, do or do not fit into that picture. SIFMA strongly believes that active securitization markets must play a role in this future. We believe that the restoration of these markets will occur along a spectrum of credit risk, starting with the least risky markets and methodically moving outward along the credit curve. Therefore, it is appropriate, and indeed necessary, that the primary, near-term focus must be on the markets served by the GSEs, to ensure that they can efficiently and prudently serve their customers and consumers.

SIFMA also recommends that Fannie Mae and Freddie Mac give priority to the alignment of their operations. Doing so will set the stage for the longer-term future of the GSEs and mortgage finance in this country more broadly, including non-agency securitization.

SIFMA Advocacy Links
Comment Letters: • SIFMA comment to FHFA dated Jun. 12, 2012 **White Papers:** • FHFA Strategic Plan dated Oct. 9, 2012 • FHFA White Paper on Secondary Market Infrastructure dated Oct. 4, 2012

11. Office of the U.S. Trade Representative (USTR)

The Trans-Pacific Partnership (TPP). (Treasury)

See summary under "U.S. Department of the Treasury."

United States – European Union Transatlantic Trade and Investment Partnership (TTIP). (Treasury)

See summary under "U.S. Department of the Treasury."

International Services Agreement (ISA). (Treasury)

See summary under "U.S. Department of the Treasury."

12. Other

Eminent domain.

Recently, certain municipalities have explored the use of eminent domain to seize mortgage loans from their holders and refinance them with reduced principal balances through government programs. SIFMA recognizes the significant difficulties municipalities face in their housing market and economy, but strongly objects to any proposed use of eminent domain to take mortgage loans out of securitized pools, and has advocated vigorously against such plans.

SIFMA believes that the contemplated use of eminent domain raises very serious legal and constitutional issues, including a violation of the Contract Clause and an impermissible "taking" of private property under the U.S. Constitution and various State Constitutions. Additionally, SIFMA believes the plan would be immensely destructive to U.S. mortgage markets by undermining existing securitization transactions, which would significantly reduce access to credit for mortgage borrowers in affected areas.

Under several of the proposed plans, a city or county would condemn and seize certain mortgages held in private-label securitizations under the power of eminent domain and refinance the seized mortgage through a government lending program. The idea has been reportedly considered in a number of municipalities, including San Bernardino County, Suffolk County, Chicago, San Jose, and Los Angeles.

On August 8, 2012, the Federal Housing Finance Agency (FHFA) published a notice explaining its concerns with MRP's proposal and indicated that "action may be necessary to avoid a risk to the safe and sound operations of its regulated entities." Congress has also expressed concern about the proposal, resulting in legislation from Rep. John Campbell (R-Calif.) that would prohibit Fannie Mae and Freddie Mac from purchasing, the Federal Housing Administration from insuring and the Department of Veterans Affairs from making, insuring or guaranteeing, a home mortgage loan that is secured by a residence located in a state or local authority has used the power of eminent domain to take a home mortgage.

SIFMA Advocacy Links

Comment Letters:

- SIFMA comment to FHFA dated Sept. 7, 2012
- SIFMA comment to FDIC dated Aug. 27, 2012
- SIFMA comment to Treasury dated Aug. 27, 2012
- SIFMA letter to San Bernardino, Fontana, Ontario CA, dated Jun. 28, 2012

Testimony:

- SIFMA statement to JPA dated Aug. 16, 2012
- SIFMA statement to city counsel of Chicago, dated Aug. 14, 2012
- SIFMA statement to JPA dated Jul. 13, 2012

Other Resources:

- SIFMA statement on eminent domain and TBA trading dated Jul. 19, 2012
- SIFMA letter to JPA re: eminent domain proposals dated Jul. 17, 2012
- SIFMA letter to City of Ontario, CA dated Jul. 17, 2012
- SIFMA letter to San Bernardino County, CA, dated July, 17, 2012
- SIFMA letter to Fontana, CA dated Jul. 17, 2012
- O'Melveny & Myers memorandum re: eminent domain dated Jul. 16, 2012
- Eminent Domain Resource Center

Cybersecurity.

Cyberspace touches nearly every part of our daily lives. Vast, complex networks exist in cyberspace that enable the operation of our personal computers, mobile devices and the infrastructure that we rely on for information sharing and business transactions across the globe. In that light, protecting this all-encompassing network and the information transferred across it is essential to a properly functioning world and more specifically, is an integral part of properly functioning financial markets.

New policies on cybersecurity are being considered by the White House and Congress, including ones focused on defining the Federal government's responsibility for regulating cybersecurity, information sharing and increasing the resources available to protect our critical infrastructure. In 2013, the White House released it's much anticipated Executive Order (EO) directing federal departments and agencies to use their existing authorities to improve cybersecurity for the Nation, and specifically, critical infrastructure. The central points of the EO were the improvement of information sharing, the development of a Cybersecurity framework lead by NIST and the protection of privacy.

While it is still early in 2013 there has already been activity in Congress in response to the EO. The U.S. House of Representatives has brought the Cyber Intelligence Sharing and Protection Act (CISPA) back to the floor for further consideration after it was passed in the House last year. In SIFMA's view, the enactment of this bill would contribute significantly to an increase in the sharing of actionable, classified and unclassified cyber threat intelligence information with the private sector and increase the situational awareness and readiness of our member firms to repel and mitigate critical threats to their networks and systems. It remains to be seen what will happen in the U.S. Senate, as they were unable to pass any legislation on the issue last year, and consideration of what has been proposed in the EO may change the scope of what is being proposed.

SIFMA and the financial services industry are committed to furthering the development of cybersecurity policies that protect critical business infrastructure, improve data sharing between public and private entities, and safeguard our customer information. An effective and efficient cybersecurity policy infrastructure will be achieved most easily through a public-private partnership that leverages the extensive framework already in place to build and maintain safe, secure financial networks. SIFMA will remain actively engaged in coordinating the effort to support a safe, secure information infrastructure that provides security of customer information and efficient, reliable execution of transactions.

Immigration.

In January 2013, Senators Orrin Hatch (R-Utah), Amy Klobuchar (D-Minn.), Marco Rubio (R-Fla.), and Chris Coons (D-Del.) introduced the Innovative Immigration Act of 2013. The legislation is aimed at reforming U.S. immigration laws for high-skilled workers.

The Act proposes an increase to the H-1B cap from 65,000 to 115,000, uncapping the existing U.S. advanced degree exemption - which is currently limited to 20,000 per year, and removing impediments to worker mobility, including approval of H-1B and L-1B extension petitions.

SIFMA is currently working with the Administration and both legislative branches to highlight key issues for the industry, which include expanding H-1B caps and expanding the definition of the Science, Technology, Engineering and Mathematics (STEM) visa.

Dodd-Frank § 914, enhanced oversight of advisers, H.R. 4624.

See summary under “Securities and Exchange Commission (SEC).”

Dodd-Frank § 921, pre-dispute arbitration agreements.

See summary under “Securities and Exchange Commission (SEC).”

13. Conclusion

We appreciate the opportunity to share with you this snapshot of our current views on key, topical issues. We hope you find it informative and useful. As we stated, SIFMA continues to support responsible regulatory reform, and we want to remain productive participants in implementing such reform. Responsible reform means ensuring that regulatory rulemaking is done right, even if it takes a bit longer.

The process begins with a proper cost-benefit analysis of the impact of new rules on the markets, market participants, and the economy generally. The process continues with effective coordination among U.S. regulators, and due consideration of the sequencing of implementation, and cross-border impacts. This process is particularly critical for Dodd-Frank implementation, given its unparalleled scope, complexity and far ranging prospective impacts. The end goal, of course, is implementing final regulations that are consistent with the intent of the legislation, that help restore faith and confidence in our financial system, and that avoid unintended consequences. We believe this is a consummately achievable goal, and we remain firmly committed to its ultimate success.

If you would like further information about SIFMA's views on the key issues, or about other issues that concern our members, please visit our website at www.sifma.org, or contact our senior management leads on these issues:

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Appendix A: URL Addresses for Hyperlinked Materials

2. U.S. Department of the Treasury

Financial Stability Oversight Council (FSOC)

- Comment Letters:
  http://www.sifma.org/issues/item.aspx?id=8589937929
  http://www.sifma.org/issues/item.aspx?id=23565
- Other Resources:
  http://www.sifma.org/issues/regulatory-reform/systemic-risk/activity/

Non-bank systemically important financial institution (SIFI) designation

- Comment Letters:
  http://www.sifma.org/issues/item.aspx?id=8589937929
  http://www.sifma.org/issues/item.aspx?id=23565

Legal Entity Identifier (LEI)

- White Papers:
  http://www.gfma.org/uploadedfiles/initiatives/legal_entity_identifier_%28lei%29/requirementsforagloballeisolution.pdf
- Other Resources:
  http://www.gfma.org/lei/

The Trans-Pacific Partnership (TPP)

- Comment Letters
  http://www.sifma.org/issues/item.aspx?id=8589939390
  http://www.sifma.org/issues/item.aspx?id=8589938052
  http://www.sifma.org/issues/item.aspx?id=8589937040

Market access and a liberalized financial services sector

- Comment Letters
  http://www.sifma.org/issues/item.aspx?id=8589942854

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United States – European Union Transatlantic Trade and Investment Partnership

- Comment Letters
  http://www.sifma.org/issues/item.aspx?id=8589942035
  http://www.sifma.org/workarea/downloadasset.aspx?id=8589938055
- Press Releases
  http://www.sifma.org/news/news.aspx?id=8589941983

Market access and a liberalized financial services sector

- Testimony:
  http://www.sifma.org/issues/item.aspx?id=8589938729

General Anti-Avoidance Rule (GAAR)

- Comment Letters:
  http://www.sifma.org/issues/item.aspx?id=8589938650
  http://www.sifma.org/issues/item.aspx?id=8589938580
- Testimony:
  http://search.sifma.org/search?q=cache:j1HCqSqb37UJ:www.sifma.org/WorkArea/DownloadAsset.aspx%3Fid%3D25892+General+Anti-Avoidance+Rule+&access=p&output=xml_no_dtd&ie=UTF-8&client=SIFMA&site=SIFMA&proxystylesheet=SIFMA&oe=UTF-8

Foreign Account Tax Compliance Act (FATCA)

- Comment Letters:
  http://www.sifma.org/issues/item.aspx?id=8589941039
  http://www.sifma.org/issues/item.aspx?id=8589940652
  http://www.sifma.org/issues/item.aspx?id=8589938585
  http://www.sifma.org/issues/item.aspx?id=8589938568
  http://www.sifma.org/issues/item.aspx?id=8589935768
  http://www.sifma.org/issues/item.aspx?id=25894
- Testimony:
  http://www.sifma.org/issues/item.aspx?id=8589938728
  http://www.sifma.org/issues/item.aspx?id=26133

Financial Transaction Tax (FTT)

- Comment Letters:
  http://www.sifma.org/issues/item.aspx?id=8589939049
  http://www.sifma.org/issues/item.aspx?id=8589935613
  http://www.sifma.org/issues/item.aspx?id=8589935595

Bank tax

- Comment Letters:
  http://www.sifma.org/issues/item.aspx?id=19848

Federal tax exemption for municipal bond interest

- Comment Letters:
  http://www.sifma.org/issues/item.aspx?id=884

Cost basis reporting

- Comment Letters:
  http://www.sifma.org/issues/item.aspx?id=8589940054
  http://www.sifma.org/issues/item.aspx?id=8589938594
- Testimony:
  http://www.sifma.org/issues/item.aspx?id=8589937142

Housing finance and government-sponsored enterprise (GSE) reform

- Comment Letters:
  http://www.sifma.org/issues/item.aspx?id=912
- White Papers:
  http://www.treasury.gov/initiatives/documents/reforming%20america's%20housing%20finance%20market.pdf

Covered bonds

- Comment Letters:
  http://www.sifma.org/issues/item.aspx?id=26016
- Testimony:
  http://www.sifma.org/issues/item.aspx?id=23849
  http://www.sifma.org/issues/item.aspx?id=21039

Foreign exchange swaps and forwards

- Comment Letters:
  http://www.sifma.org/issues/item.aspx?id=25932
  http://www.gfma.org/correspondence/item.aspx?id=142
- Other Resources:
  http://www.gfma.org/initiatives/foreign-exchange-(fx)/foreign-exchange-(fx)/

3. Securities and Exchange Commission (SEC)

Dodd-Frank § 619, Volcker rule

- Comment Letters:
  http://www.sifma.org/issues/item.aspx?id=8589937353
  http://www.sifma.org/issues/item.aspx?id=8589937354
  http://www.sifma.org/issues/item.aspx?id=8589937355
  http://www.sifma.org/issues/item.aspx?id=8589937357
  http://www.sifma.org/issues/item.aspx?id=8589938334
  http://www.sifma.org/issues/item.aspx?id=8589938859
  http://www.sifma.org/issues/item.aspx?id=8589940246

Municipal securities issues arising from the Volcker rule

- Comment Letters:
  http://www.sifma.org/issues/item.aspx?id=8589937356

Dodd-Frank § 941, risk retention

- Comment Letters:
  http://www.sifma.org/workarea/downloadasset.aspx?id=8589937126
  http://www.sifma.org/workarea/downloadasset.aspx?id=25925
  http://www.sifma.org/workarea/downloadasset.aspx?id=25926
- Testimony:
  http://www.sifma.org/issues/item.aspx?id=8589939398

Money market mutual fund reform

- Comment Letters:
  http://www.sifma.org/issues/item.aspx?id=8589939993

High Frequency Trading (HFT)

- White Papers:
  http://www.sifma.org/issues/item.aspx?id=8589936694
- Press Releases:
  http://www.sifma.org/news/news.aspx?id=8589936697

Equity market structure

- Other Resources:
  http://www.sifma.org/issues/capital-markets/equity-markets/equity-market-structure/overview/

Rule 613, Consolidated Audit Trail (CAT)

- Comment Letters:
  http://www.sifma.org/issues/item.aspx?id=8589941622
  http://www.sifma.org/issues/item.aspx?id=22299
- Press Releases:
  http://www.sifma.org/news/news.aspx?id=8589939433
- Other Resources:
  http://www.sifma.org/issues/legal,-compliance-and-administration/consolidated-audit-trail-(cat)/overview/

JOBS Act implementation

- Comment Letters:
  http://www.sifma.org/issues/item.aspx?id=8589938564
  http://www.sifma.org/issues/item.aspx?id=8589938563
  http://www.sifma.org/issues/item.aspx?id=8589940621

Dodd-Frank § 913, uniform fiduciary standard

- Comment Letters:
  http://www.sifma.org/issues/item.aspx?id=8589938634
  http://www.sifma.org/issues/item.aspx?id=8589934675
  http://www.sifma.org/issues/item.aspx?id=23998
  http://www.sifma.org/issues/item.aspx?id=22263
- Testimony:
  http://www.sifma.org/issues/item.aspx?id=8589935390
  http://www.sifma.org/issues/item.aspx?id=1519
  http://www.sifma.org/issues/item.aspx?id=1515
- Studies:
  http://www.sifma.org/issues/item.aspx?id=21999
  http://www.sifma.org/issues/item.aspx?id=22336

Dodd-Frank § 914, enhanced oversight of advisers, H.R. 4624

- Comment Letters:
  http://www.sifma.org/issues/item.aspx?id=22972
- Testimony:
  http://www.sifma.org/issues/item.aspx?id=8589935390
  http://www.sifma.org/issues/item.aspx?id=8589938957

Dodd-Frank § 921, pre-dispute arbitration agreements

- White Papers:
  http://www.sifma.org/issues/legal,-compliance-and-administration/pre-dispute-arbitration/resources/

- Testimony:
  http://www.sifma.org/issues/item.aspx?id=1519
  http://www.sifma.org/issues/item.aspx?id=1515
  http://www.sifma.org/issues/item.aspx?id=1557

Rule 12b-1, mutual fund distribution fees

- Comment Letters:
  http://www.sifma.org/issues/item.aspx?id=22113
  http://www.sifma.org/issues/item.aspx?id=23881
- White Papers:
  http://www.sifma.org/issues/item.aspx?id=21335

Market data

- Press Releases:
  http://www.sifma.org/news/news.aspx?id=2334

Dodd-Frank § 621, conflicts of interest in securitization transactions

- Press Releases:
  http://www.sifma.org/issues/item.aspx?id=22549
  http://www.sifma.org/issues/item.aspx?id=8589937359

Regulation AB2

- Comment Letters
  http://www.sifma.org/issues/item.aspx?id=914
  http://www.sifma.org/issues/item.aspx?id=8589935781
  http://www.sifma.org/issues/item.aspx?id=8589935782

Proxy processing

- Comment Letters
  http://www.sifma.org/issues/item.aspx?id=8589942009
  http://www.sifma.org/uploadedfiles/societies/sifma_corporate_actions_section/pfac-final-report.pdf
  http://www.sifma.org/issues/item.aspx?id=26175
- White Papers
  http://www.sifma.org/issues/item.aspx?id=8589936936

Definition of municipal advisor

- Comment Letters
  http://www.sifma.org/issues/item.aspx?id=23476
- Testimony
  http://www.sifma.org/issues/item.aspx?id=8589939540
- Press Releases
  http://www.sifma.org/news/news.aspx?id=8589940361

Social media

- Other resources
  http://www.sifma.org/issues/legal,-compliance-and-administration/electronic-records-and-communications/overview/

4. Commodity Futures Trading Commission (CFTC)

Dodd-Frank §§ 722(d) and 772, extraterritorial application

- Comment Letters
  http://www.sifma.org/issues/item.aspx?id=8589941955
  http://www.sifma.org/issues/item.aspx?id=8589940053
  http://www.sifma.org/issues/item.aspx?id=8589940055
  http://www.sifma.org/issues/item.aspx?id=8589939889
  http://www.gfma.org/correspondence/item.aspx?id=340

Treatment of inter-affiliate swap transactions

- Comment Letters
  \\gfma.local\shares\Docs\SIFMA-OGC\KC\SIFMA\ISDA Comments to CFTC on the Proposed Clearing Exemption for Swaps Between Affiliated Entities (9\20\12)
  http://www.sifma.org/issues/item.aspx?id=8589938713
  http://www.sifma.org/issues/item.aspx?id=8589935372

Dodd-Frank §§ 731 and 764, capital and margin requirements

- Comment Letters
  http://www.sifma.org/issues/item.aspx?id=8589942116
  http://www.sifma.org/issues/item.aspx?id=8589941054
  http://www.sifma.org/issues/item.aspx?id=8589940536
  http://www.sifma.org/issues/item.aspx?id=8589940507
  http://www.gfma.org/correspondence/item.aspx?id=367
  http://www.sifma.org/issues/item.aspx?id=8589940303
  http://www.sifma.org/issues/item.aspx?id=8589934661
  http://www.sifma.org/issues/item.aspx?id=8589934641
  \\gfma.local\shares\Docs\SIFMA-OGC\KC\SIFMA\ISDA Response to Prudential Capital and Margin Requirements for Covered Entities (7\6\11)

Dodd-Frank §§ 721, 723 and 733, Swap Execution Facilities (SEFs)

- Comment Letters
  http://www.sifma.org/issues/item.aspx?id=23792
  http://www.sifma.org/issues/item.aspx?id=24376

Dodd-Frank § 716, swap push-out rule

- Comment Letters
  http://www.sifma.org/issues/item.aspx?id=8589937400
  http://www.sifma.org/issues/item.aspx?id=8589936453

Implementation sequencing and phase-in

- Comment Letters
  http://www.sifma.org/issues/item.aspx?id=8589939893
  http://www.sifma.org/issues/item.aspx?id=8589939400
  http://www.sifma.org/issues/item.aspx?id=25260
  http://www.sifma.org/issues/item.aspx?id=22530

Dodd Frank § 737, position limits rule

- Press Releases
  http://www.sifma.org/news/news.aspx?id=8589940505
  http://www.sifma.org/news/news.aspx?id=8589936638

Dodd Frank § 731(g)(1), internal business conduct taping rules

- Comment Letters
  http://www.sifma.org/issues/item.aspx?id=8589939871

Commodity Pool Operators (CPOs)

- Comment Letters
  http://sifma.org/issues/item.aspx?id=8589938635
  http://sifma.org/issues/item.aspx?id=8589938476
  http://sifma.org/issues/item.aspx?id=8589938482
  http://sifma.org/issues/item.aspx?id=24695

Commodity pools, expanded definition

- Comment Letters
  http://www.sifma.org/issues/item.aspx?id=8589939992

5. The Federal Reserve Board of Governors (FRB)

Dodd-Frank § 165 and 166, enhanced prudential standards and early remediation

- Comment Letters
  https://www.sifma.org/issues/item.aspx?id=8589938551
  https://www.sifma.org/uploadedfiles/correspondence/comment_letters/2012/priorsubmissionsbyjointtradesondfsections165-166.pdf

Basel III

- Comment Letters
  http://www.sifma.org/issues/item.aspx?id=8589940758
  http://www.sifma.org/issues/item.aspx?id=8589940760
  https://www.sifma.org/issues/item.aspx?id=23271
- Testimony
  https://www.sifma.org/issues/item.aspx?id=25989

Basel securitization framework

- Comment Letter
  http://gfma.org/correspondence/item.aspx?id=450

Dodd-Frank § 956, incentive-based compensation

- Comment Letters
  http://www.sifma.org/issues/item.aspx?id=25742

6. Federal Deposit Insurance Corporation (FDIC)

Dodd-Frank Title II, Orderly Liquidation Authority (OLA)

- Comment Letters
  http://www.sifma.org/issues/item.aspx?id=25934
  http://www.sifma.org/issues/item.aspx?id=25639
  http://www.sifma.org/issues/item.aspx?id=25660
  http://www.sifma.org/issues/item.aspx?id=23538
- White Papers
  http://www.sifma.org/uploadedfiles/events/2012/sifma_2012_annual_meeting/fedfinregulatoryanalysisassessmentofresolutionregimeforsifis102212.pdf

8. Department of Labor (DOL) – Employee Benefits Security Administration

DOL fiduciary standard proposal

- Comment Letters
  http://www.sifma.org/issues/item.aspx?id=8589937616
  http://www.sifma.org/issues/item.aspx?id=8589935364
  http://www.sifma.org/issues/item.aspx?id=24650
- Testimony
  http://www.sifma.org/issues/item.aspx?id=8589934878

9. Consumer Financial Protection Bureau (CFPB)

Definition of Qualified Mortgage (QM)

- Comment Letters
  http://www.sifma.org/workarea/downloadasset.aspx?id=8589934840
  http://www.sifma.org/workarea/downloadasset.aspx?id=8589938566

10. Federal Housing Finance Agency (FHFA)

Strategic plan for the conservatorships of the government-sponsored enterprises (GSEs)

- Comment Letters
  http://www.sifma.org/issues/item.aspx?id=8589939012
- White Papers
  http://fhfa.gov/webfiles/24576/FinalFHFAStrategicPlan10912F.pdf
  http://fhfa.gov/webfiles/24573/InfrastructureWhitePaperRelease_100412_FINAL.pdf

12. Other

Eminent domain

- Comment Letters
  http://www.sifma.org/issues/item.aspx?id=8589940214
  http://www.sifma.org/workarea/downloadasset.aspx?id=8589940088
  http://www.sifma.org/workarea/downloadasset.aspx?id=8589940087
  http://www.sifma.org/issues/item.aspx?id=8589939260
- Testimony
  http://www.sifma.org/workarea/downloadasset.aspx?id=8589939946
  http://www.sifma.org/issues/item.aspx?id=8589939887
  http://www.sifma.org/issues/item.aspx?id=8589939506
- Other Resources
  http://www.sifma.org/news/news.aspx?id=8589939537
  http://www.sifma.org/workarea/downloadasset.aspx?id=8589939521
  http://www.sifma.org/workarea/downloadasset.aspx?id=8589939520
  http://www.sifma.org/workarea/downloadasset.aspx?id=8589939519
  http://www.sifma.org/workarea/downloadasset.aspx?id=8589939517
  http://www.sifma.org/workarea/downloadasset.aspx?id=8589939523
  http://www.sifma.org/issues/capital-markets/securitization/eminent-domain/overview/

Appendix B: Major Pending Final Rules and Regulatory Actions

Department / agency	Major pending rule / regulatory action
TREASURY, SEC, CFTC, FED., OCC, FDIC	The Volcker Rule: A final rule is anticipated by the end of 2012. **Statutory Deadline: October 18, 2011**
TREASURY	FX Determination: FX swaps and FX forwards are included in the CFTC's definition of "swap," which is effective as of October 12, 2012. The Treasury has proposed to exclude these products from the definition of "swap", but has not yet issued a final determination.
Tax	FATCA final rules: Expected after Dec. 21, 2012. IRC § 871(m) – substitute dividends rules: Expected in early 2013. Final cost-basis reporting rule for options & debt: Expected in early 2013.
FED., OCC, FDIC	Dodd-Frank § 165/166 – heightened prudential standards: Includes stress testing, early remediation, and changes to living wills and resolution/recovery plans; excludes single counterparty credit limits. **Statutory Deadline: Jan 21, 2012** Dodd-Frank Title II – orderly liquidation authority (OLA): Further guidance is expected from the FDIC, especially on the cross-border application of OLA. **Statutory Deadline: July 21, 2012** G-20 global systemically important bank (G-SIB) capital surcharge: Basel III capital rules for systemically important financial institutions (SIFIs): Expect a re-proposal of the standardized approach, numerator and the advanced approach. Basel III liquidity coverage ratio (LCR): Will be implemented in the U.S. once it is finalized by the Basel Committee. Dodd-Frank § 716: No rule yet proposed; push-out effective date is July 16, 2013.

Department / agency	Major pending rule / regulatory action
SEC	Dodd-Frank § 913 – uniform fiduciary duty: SEC proposal is expected in 2013. Money market mutual fund reform: The SEC was unable to promulgate a rule proposal in August 2012, but the FSOC and the SEC are expected to promulgate a rule proposal in early 2013. Rule 613, Consolidated Audit Trail (CAT): SROs are required to submit final rules for establishing the CAT to the SEC in 2013. Dodd-Frank § 975, definition of municipal advisor: SEC final rule is anticipated in either late 2012 or early 2013. SEC has extended its temporary exemption period until September 30, 2013. Dodd-Frank § 621, conflicts of interest in securitization transactions
SEC, CFTC	Dodd-Frank Title VII – business conduct rules (internal and external): SEC has not yet issued final rules. Compliance with most CFTC requirements is tied to date of firm's registration and CFTC phased in compliance schedules. **Statutory Deadline: July 16, 2011** Dodd-Frank Title VII – capital rules: SEC proposal was released in October 2012; comments are due 60 days from publication in the Federal Register. The CFTC is expected to finalize its rules in early 2013 Dodd-Frank Title VII – registration of swap dealers: SEC registration is not required until all Title VII rules are complete. The CFTC registration deadline for firms relying on the swap dealing *de minimus* threshold exemption will be Dec. 31, 2012 at the earliest. Dodd-Frank Title VII – cross border application: The SEC proposal is expected in early 2013. CFTC final exemptive relief and interpretive guidance is expected before the December 31, 2012 deadline. Dodd-Frank Title VII – swap execution facilities/securities-based swap execution facilities (SEFs/SBSEFs): The CFTC has indicated they will promulgate a final rule in the near term (anticipated in November 2012). The SEC is expected to promulgate its final rule in 2013. **Statutory Deadline: July 16, 2011**

Department / agency	Major pending rule / regulatory action
SEC, CFTC, FED., OCC, FDIC	Dodd-Frank Title VII – capital and margin requirements for uncleared swaps: The SEC proposal (which also addresses collateral segregation) was released in October 2012; comments are due 60 days from publication in the Federal Register. The Fed., OCC, and FDIC reopened the comment period on their proposal until November 26, 2012 in response to BCBS/IOSCO consultation. The CFTC is expected to finalize its rules in early 2013. **Statutory Deadline: July 16, 2011** Dodd-Frank § 941, risk retention: The SEC, Fed., FDIC, OCC, and FHFA promulgated a proposal on March 31, 2011. Rules are expected to be re-proposed or finalized after the CFPB promulgates its final qualified mortgage rule. **Statutory Deadline: April 17, 2011** Dodd-Frank § 956, enhanced compensation structure reporting: A final rule is expected in early 2013. **Statutory Deadline: April 21, 2011**
CFTC	Dodd-Frank Title VII – trade reporting requirements: Goes into effect in January 2013 (CFTC Part 45). Dodd-Frank Title VII – real-time reporting/price disseminations: Goes into effect in January 2013 (CFTC Part 43). Commodity pool operator and commodity trading advisor registration: The registration deadline for these entities is December 31, 2012. Margin segregation for cleared swaps: LSOC margin segregation model must be implemented by November 8, 2012.
DOL	Definition of fiduciary under ERISA: A re-proposal is expected in early 2013. Clarification on providers' rights for the clearance of swaps for pension plans: An advisory opinion or a prohibited transaction exemption is required.

Department / agency	Major pending rule / regulatory action
CFPB	Dodd-Frank § 1412, definition of qualified mortgage (QM): The Fed proposed rules to implement Title XIV ability-to-repay rules on April 19, 2011. Authority was transferred to the CFPB in July 2011. The CFPB is expected to finalize rules by January 2013, when title XIV becomes effective. **Statutory Deadline: January 21, 2013**