By Electronic Mail (rule-comments@sec.gov)

February 22, 2013

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549–1090

Regarding: Capital, Margin, and Segregation Requirements for Security-Based Swap Dealers and Major Security-Based Swap Participants and Capital Requirements for Broker-Dealers

Release No. 34–68071; File No. S7–08–12

Dear Ms. Murphy:

The Financial Services Roundtable[1] respectfully submits these comments with respect to the proposal by the Securities and Exchange Commission (the "Commission") entitled Capital, Margin, and Segregation Requirements for Security-Based Swap Dealers and Major Security-Based Swap Participants and Capital Requirements for Broker-Dealers (the "Proposing Release").[2] The capital, margin and segregation requirements to be established by the Commission are critically important to the transition of the market for security-based swaps from a largely unregulated market to a highly regulated market, and will affect the cost and availability of a wide range of instruments for hedging and other purposes. Moreover, these regulations will intersect with a number of other regulatory changes, both within the United States and internationally, relating to capital, systemic risk, customer protection, oversight and legal organization of regulated financial enterprises, and orderly liquidation regimes for complex and interconnected financial institutions.[3] It is essential that the Commission's final regulations work together with

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[1] The Financial Services Roundtable (the "Roundtable") represents 100 of the largest integrated financial services companies providing banking, insurance, and investment products and services to the American consumer. Member companies participate through the Chief Executive Officer and other senior executives nominated by the CEO. Roundtable member companies provide fuel for America's economic engine, accounting directly for $98.4 trillion in managed assets, $1.1 trillion in revenue, and 2.4 million jobs.
[2] 77 Fed. Reg. 70214 (November 23, 2012).
[3] Some of the proposed U.S. regulations and cooperative international initiatives that affect the matters addressed by the Proposing Release include the prudential banking regulators' joint release, Margin and Capital Requirements for Covered Swap Entities, 76 Fed. Reg. 27564 (May 11, 2011) and the Basel Committee on Banking Supervision and International Organization of Securities Commissions Consultative Document, "Margin requirements for non-centrally-cleared derivatives" (the "Consultative Document") (July 6, 2012), available at http://www.bis.org/publ/bcbs226.pdf. In addition, regulators have not yet

those of the U.S. prudential banking regulators and the Commodity Futures Trading Commission (the "CFTC"), as well as international regulatory approaches, to allow efficient use of security-based swaps to support capital formation and risk management, to maintain the ability of U.S.-based entities to compete within global markets, to provide appropriate protections for customers for these products and to moderate systemic risk.

Although there are many aspects of the proposed rules that we feel are consistent with the goals mentioned above (and that we specifically identify in this letter), there are many others that may undermine the ability of participants in this market to provide the services they currently provide or to use security-based swaps in a cost-effective manner for hedging or other purposes. Some of our primary concerns include the following:

1. ***Practical impediments to dual or multiple registration.*** The proposed capital requirements appear to penalize swaps activity in a way that may prevent the establishment of entities that are dually registered as swap dealers and security-based swap dealers (SBSDs). Similarly, the proposed capital requirements would result in a very different approach to capital for bank holding company subsidiaries that are swap dealers and for such subsidiaries that are security-based swap dealers, again potentially preventing the establishment of dually registered entities. Such a result would be particularly burdensome for banks that will have to push out their swaps and security-based swaps (SBS) dealing activity as a result of Section 716 of the Dodd-Frank Act and that currently have integrated operations with respect to such activities. Finally, the proposed capital requirements may discourage existing broker-dealers from adding registration as an SBSD, which appears inconsistent with the Commission's goals.

2. ***Punitive effects of exemptions from margin collection requirements***. Although the Commission has proposed to allow SBSDs flexibility with respect to margin collection for legacy security-based swaps and in dealing with commercial end-users, the associated capital charges—especially with respect to legacy positions—may have significant adverse effects on the ability to establish SBSDs and to provide reasonable access to SBS for commercial end-users.

3. ***Costly capital treatment of individual segregation decisions.*** Individual segregation of margin is a statutory right that reflects a determination that customers of SBSDs should be able to establish a more protective regime in connection with their provision of margin to SBSDs. By imposing capital charges on the exercise of this right, the Commission will increase the cost to customers of making this election. However, there will be no increased risk to the SBSD that would justify such increased costs.

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proposed regulations addressing the implementation of Section 716 of the Dodd-Frank Act, also known as the "swaps push-out rule."

4. ***Importance of harmonization.*** The Commission's capital and margin rules are an important piece of developing federal and international regulations that will ultimately determine the costs of access to this market for those who rely on SBS for hedging or for other purposes. With respect to U.S. regulation, these rules need to be coordinated with those of the CFTC and the prudential banking regulators in order to support the ability of SBSDs to provide an important range of services, to maintain the ability of registered entities to compete effectively, and to avoid creating insurmountable barriers to entry for new (or previously unregulated) market participants. With respect to international regulation, the rules need to be sufficiently consistent with the international approach so that U.S. market participants can compete effectively in global markets.

We discuss each of these points, as well as our broader comments, below.

1. <u>Capital Requirements</u>

We appreciate the Commission's efforts to attempt to balance its interests in protecting customer assets with those of the competing regulatory capital regimes potentially applicable to SBS market participants. Finding a reasonable balance among these regimes is critical to the vitality of this marketplace, the protection of its participants and the important role it plays in our global economy. We generally support the Commission's application of the net liquid assets test to SBSD entities dually registered as broker-dealers, because the new regime would be largely familiar. We have, however, a number of concerns with the specifics of the proposal. These concerns arise primarily from the application of multiple regulatory regimes to SBS entities and the overlay of regulatory requirements that have not proved conducive to the SBS markets in the past.[4] We believe most SBS and swaps market participants would prefer to consolidate their internal activities as much as possible to take advantage of operational and compliance efficiencies. In fact, we believe such centralized management would enhance the performance of risk controls and thus should be encouraged. The proposal, however, creates opposite incentives, and encourages entities to separate their SBS and swap dealing activities. The costs associated with having to decentralize these activities, combined with the additional costs of capital resulting from

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[4] Notwithstanding the establishment of the alternative framework for OTC derivatives dealers, as of November 26, 2012, only four entities were registered under those rules. Securities and Exchange Commission, Proposed Collection: Comment Request, 77 Fed. Reg. 71462 (November 30, 2012). See OTC Derivatives Dealers: Final Rule, 63 Fed. Reg. 59362, 59364 (November 3, 1998):

> The majority of the commenters endorsed the Commission's initiative to develop an alternative regulatory framework for OTC derivatives dealers. These commenters supported the Commission's intent to provide a regulatory framework for OTC derivatives dealers that would enable these dealers to compete more effectively with both banks and foreign dealers in OTC derivatives markets. They often noted in particular their support of the Commission's efforts to address the regulatory costs imposed by existing capital requirements on securities firms seeking to operate an OTC derivatives business in the United States.

the significant new capital requirements, will have a significant anti-competitive effect and could cause significant harm to the SBS industry in the United States.

The treatment of swaps under the proposed rules should facilitate the ability for an entity to be dually registered as a swap dealer and as an SBSD. We are very concerned that requiring a 100% deduction for unsecured receivables from commercial end-users will make it difficult, if not impossible, to maintain a dually registered swap dealer and SBSD.[5] The ability to exclude commercial end-users from margin requirements is a key issue for swap dealers and commercial end-users alike. Moreover, exposures that would be considered secured under the CFTC's proposed rules, which would allow a broad range of assets to be posted by commercial end-users, may be unsecured for purposes of the Commission's rules given the emphasis on securities and liquid assets as acceptable collateral. The capital burden the Commission is proposing in these circumstances may make it far too inefficient to dually register an entity as a swap dealer and an SBSD. At the same time, many entities currently engage in both swap and SBS dealing activities and will face operational and other challenges if forced to separate these businesses. We therefore believe that the Commission needs to take a far more moderate position with respect to the capital treatment of swaps.

Capital charges in lieu of margin should be treated consistently under the rules of the Commission, the CFTC and the prudential regulators. The proposed capital requirements call for a capital charge in lieu of the margin collateral that would otherwise have been collected, including in connection with legacy SBS customer positions and customer positions held at third party custodians. Neither the CFTC nor the prudential regulators have proposed such a punitive charge. These capital charges are impractical, unnecessary and anticompetitive. For legacy positions, the associated risks will be limited and will runoff over time, while the structures that are implemented in response to these regulations will be lasting. That is, the proposal at best will lead to regulatory arbitrage and at worst will lead participants who cannot take on the upfront capital cost of their legacy positions and have a sustainable long-term model to exit the market. For custodial positions, we believe that dealer rights with respect to such positions are adequate under current law and have not proven to create undue risks in the marketplace. Moreover, the increased costs relating to these positions will disincentivize customers from using third party custodians, which is contrary to the Commission's recent efforts in this area.[6]

Swaps should generally be treated consistently under the Commission's and the CFTC's rules. We believe it is important that swaps for dually registered entities be treated consistently under the Commission's and the CFTC's rules. Such an approach

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[5] The Proposing Release included the following question: "The ability to take a credit risk charge in lieu of a 100% deduction for an unsecured receivable would apply only to unsecured receivables from commercial end users arising from security-based swap transactions. Consequently, an ANC broker-dealer and a nonbank SBSD would need to take a 100% deduction for unsecured receivables from commercial end users arising from swap transactions. Should the application of the credit risk charge be expanded to include unsecured receivables from commercial end users arising from swap transactions?" Proposing Release, 77 Fed. Reg. at 72204.

[6] See, e.g., Rule 206(4)-2 under the Investment Advisers Act of 1940.

would be consistent with the Commission's current net capital rule, which in most instances looks to CFTC treatment of futures positions to calculate the capital requirements for entities dually registered as futures commission merchants (FCMs) and broker-dealers. Indeed, we believe that many entities may wish to be registered in four capacities: broker-dealer, SBSD, FCM and swap dealer. For such multiple registrations to be possible, capital treatment of swaps will need to be largely consistent between the SEC and the CFTC. As it stands, the proposal would lead a multi-registered entity to make calculations under each regime and to take the maximum capital charge in each case. Such a process would provide a strong disincentive to seeking the operational and risk management efficiencies of a consolidated business entity and would be anticompetitive. We ask that the Commission work together with the CFTC to ensure that their respective final rules are consistent and do not lead to this result.

SBSDs that are subsidiaries of bank holding companies (BHCs) should be permitted to determine their capital requirements using the risk-based approach applicable to BHCs. The CFTC has proposed that the nonbank, non-FCM subsidiaries of a bank holding company should be subject solely to the capital requirements of the prudential regulators. At a minimum, we believe that the Commission should afford comparable SBSDs the option to determine their capital under the rules applicable to their parent BHC. We believe this to be a logical response to the potentially duplicative and inconsistent regulations to which these complex institutions would otherwise be subject. To do otherwise would create significant operational and compliance burdens whose complexity would be antithetical to protecting against the risks the proposal seeks to address. Moreover, as noted above, the ability of an entity to be dually registered as a swap dealer and an SBSD may be dependent on being subject to consistent regulatory capital treatment in both capacities. We therefore consider it important that SBSDs and swap dealers be treated consistently under all relevant capital regimes.

Although the Commission notes the differences between banks and nonbank entities, in particular the access to funds and liquidity (which are not insignificant), we do not find these differences to justify the application of the Commission's net liquid assets test in lieu of the risk-based capital standards of the prudential regulators. Rather, as the Commission has recognized, the prudential regulators have long managed risk-based capital rules for derivatives trading and the oversight of these activities by the prudential regulators should be recognized as adequate.

The Commission should allow a modified regulatory capital approach for SBSDs that are BHC subsidiaries and that register as broker-dealers solely as a result of their swaps brokerage activities. As the Commission has noted, even though SBS are now "securities" for purposes of the federal securities laws, dealing activity with respect to SBS requires registration as an SBSD but does not require separate registration as a broker-dealer. However, the statutory provisions relating to swap dealing do not encompass broker activities. The Commission notes, therefore, that many SBSDs may choose to become jointly registered as broker-dealers.

For many SBSDs, the line between acting as dealer and acting as broker may be somewhat blurred, an issue that we are already seeing for registered swap dealers who may also need to register with the CFTC as introducing brokers. We believe that some SBSDs may find it necessary to obtain a prophylactic broker-dealer registration to ensure they remain in compliance with Commission rules, even though any brokerage activities would be ancillary to their SBS dealing business and they would not otherwise engage in securities transactions. For SBSDs that act as limited purpose brokers only with respect to SBS and not with respect to other securities, we believe the Commission should not apply a different capital regime. That is, the SBSD should not be disadvantaged from a capital perspective by registering as a limited purpose broker-dealer. Instead, the SBSD/BD should be treated the same as the standalone SBSD or the SBSD subsidiary of a BHC, as the case may be. Thus, an SBSD approved to use internal models or the SBSD subsidiary of a BHC would continue to be subject to the same capital requirements whether registered as a limited purpose broker-dealer or not. Again, this would provide the appropriate incentives to the marketplace and encourage efficient risk management allocation of resources.

2. Risk management

We support the proposed application of the risk management requirements in the Commission's Rule 15c3-4 to nonbank SBSDs. Such requirements were designed specifically for OTC derivatives dealers, and accordingly should already contemplate the unique needs of a dealer in derivatives.

3. Margin requirements

Establishing margin requirements for security-based swaps requires careful balancing to ensure that such requirements neither create inappropriate risk nor unnecessarily burden end-users and other market participants. We appreciate the efforts the Commission has made to consider that balance, and in particular to provide flexible approaches with respect to portfolio margining, legacy SBS, SBS with commercial end-users and acceptable forms of margin. As noted previously, however, some of these efforts are then undermined through capital charges. In addition, we are aware of increasing concerns about the cost of initial margin requirements, including potential impacts on the availability of high quality liquid assets that are required under numerous new regulatory frameworks. Although the Commission has alleviated some of those concerns by proposing to not require the exchange of initial margin between SBSDs, we believe a broader reconsideration of the approach to initial margin is warranted.

Portfolio margining. The ability to have portfolio margining across securities, derivatives, futures, options and other financial products has long been a goal that we understand to be shared by both market participants and regulators. We support the Commission's proposal to allow portfolio margining between securities and security-based swaps, and encourage the Commission to work with other regulators to make such an approach as expansive as possible.[7]

[7] We note that the Commission and the CFTC have both taken action in recent months to permit portfolio margining for cleared credit default swaps and security-based credit default swaps in certain circumstances. We strongly support further efforts along these lines.

Margin should not be required for legacy SBS. We support the Commission's proposal not to require collection of margin with respect to legacy SBS (i.e., those entered into prior to the effect date of the Commission's margin regulations). We believe that the proposal, which clearly does not require collection of initial margin, should also be clear that it does not require collection of variation margin when not otherwise required under existing contracts (many of which, of course—especially between large dealers—would already typically require the collection of variation margin). The addition of margin requirements to existing contracts is a significant economic change, and not one that can be imposed unilaterally on unwilling counterparties. In many cases, counterparties would have decided not to enter into such SBS at all if they had had to factor in the added costs of margin requirements. Finally, we note that it may be necessary from time to time to amend legacy SBS, and unless such amendments fundamentally change the terms of such legacy SBS so that it is effectively a new SBS (for instance by increasing the notional amount or extending the termination date), margin should not be required in connection with such amendments.

We also believe the Commission should not impose capital charges on SBSDs if such SBSDs do not retroactively impose margin requirements with respect to legacy SBS. Such a requirement will complicate the ways in which SBSDs are structured, ultimately reducing customer choice and leading to less efficiency in the nascent stages of this regulatory system. Imposing such capital charges would create significant but temporary capital needs for SBSDs, with the capital requirements diminishing as the portfolio of legacy SBS self-liquidates. SBSDs should not be burdened with an initial capital requirement that will not reflect the long-term needs of the business. In addition, financial firms may be incentivized to structure their newly registered entities in a way that separates the legacy portfolio from new SBS-dealing activity to avoid these capital charges, meaning that important netting and operational benefits, for customers and SBSDs alike, may be lost. Although we appreciate the Commission's concern that failing to impose a capital charge may not appropriately recognize the risk in these positions, we believe that (i) this is a temporary effect that is a reasonable accommodation to facilitate the transition of previously unregulated entities to a new regulatory capital regime, and (ii) on balance, the effects of imposing such a capital charge may be more harmful than beneficial. We note further that if the Commission accepts our recommendation that swaps push-out entities and other BHC subsidiaries that are SBSDs be allowed to determine their capital using the risk-based capital standards applicable to bank holding companies, the legacy SBS positions of such entities will continue to be covered by their existing regulatory capital requirements. We believe this is important to avoid competitive disadvantages for such entities.

Margin should not be required for SBS with commercial end-users. We support the Commission's proposal to allow SBSDs to not collect margin from commercial end-users. For many commercial end-users, we believe that an obligation to post liquid margin would significantly curtail their access to SBS for hedging purposes, an effect clearly not contemplated or sought by the Dodd-Frank Act.

We believe, however, that the decision not to require margin from commercial end-users should not subject SBSDs to a capital charge. Imposing a capital charge will discourage SBSDs from making SBS available to commercial end-users without margin, or will cause them to increase the cost of obtaining such SBS, in each case potentially narrowing the ability of commercial end-users to enter into cost-efficient hedges. Commercial end-users, who by definition are only using SBS for hedging purposes, do not pose the sort of risk that Congress has been particularly focused on in relation to the regulation of swaps and SBS. We believe that SBSDs should be able to adequately manage their risk exposures in connection with commercial end-users without taking a capital charge that will place them at a competitive disadvantage.

Margin should not be required for securitization and similar special purpose vehicles. A large number of special purpose vehicles, such as those used in securitizations, may be very limited in their ability to meet margin calls with respect to SBS positions. Unlike operating vehicles, typically such vehicles have access to cash monthly or quarterly, rather than daily. Establishing a reserve account to cover potential margin calls is both inefficient, in that it sets aside cash that is not currently needed to cover SBS obligations (i.e., not actual margin but potential margin), and risky to the extent that the amount set aside may not be sufficient. We believe that such vehicles should not be required to post margin so long as they provide an adequate collateral package in accordance with market conventions.

Initial margin should be reconsidered in connection with SBS. We agree with the Commission's proposal that SBSDs should not have to exchange initial margin with each other, and that MSPs should not have to collect initial margin. Market participants have shown increasing concern, including as expressed in the ISDA comment letter to the Commission on January 23, 2013, that the costs of initial margin collection requirements for uncleared swaps may impose significant constraints on the ability of participants to transact in this market. They have also expressed a concern that non-static approaches to initial margin—*i.e.*, the ability to require increased initial margin in response to market stress—will create a pro-cyclical effect that may amplify the impact of market stress and increase, rather than decrease, systemic risk.

Proposals to require the exchange of large amounts of liquid initial margin come at a time when other regulators and regulations are also focusing on and imposing new requirements with respect to liquidity in the financial sector. For instance, the Basel III rules would require satisfaction of a liquidity coverage ratio requirement; regulators such as the CFTC are narrowing the type of assets in which customer funds can be held; and prudential banking regulators are increasing the amount of capital required to be held by the institutions they supervise. We have significant concerns about the cumulative effects of myriad regulations that collectively tie up significant amounts of financial resources. We are likewise concerned about any requirement that may create the risk of increased liquidity challenges at times of market stress. We strongly urge the Commission to evaluate initial margin requirements in light of the changing financial regulatory environment and to establish regulations that will support capital growth and customer protection while minimizing systemic risk.

A broad range of assets should be permitted to be posted as margin. We support the SEC's proposal to require that SBS be margined using cash, securities or money market instruments, without a specific list of forms of eligible collateral within those categories. In addition, we believe that the Commission should be open to a broader range of assets for use as collateral, such as when dealing with commercial end-users and special purpose vehicles. For instance, under current market practice commercial end-users may secure their swap obligations (including SBS obligations) under the documentation for their credit facilities and using the same collateral. Similarly, it is customary for special purpose vehicles used in securitizations to make the swap counterparty a secured creditor under their operative documents with a senior position in the waterfall, providing robust (but not liquid) collateral for these obligations. Although, as noted elsewhere, we do not support mandatory margin requirements in either of these contexts, any such requirements that the Commission nonetheless imposes would be complicated by requiring forms of margin that may not be readily available to such counterparties.

Governmental entities, including states and municipalities, foreign sovereign governments, central banks, and multilateral lending or development organizations (such as the World Bank) should not be required to post margin. To the extent states and municipalities are using SBS solely for hedging purposes, they should be able to do so without being subject to margin requirements. We see no basis to treat them differently than commercial end-users. Separately, we believe that the approach to margin for foreign sovereign governments, central banks and multilateral lending or development organizations should be determined through international consensus, and we ask that the Commission not take preemptive action in this regard.

Affiliates should not be required to exchange margin with each other. We believe that the exchange of margin between affiliates is not appropriate in most circumstances. We recognize that, under existing prudential banking or other regulations, the exchange of margin may be required between a regulated entity and its affiliates in some circumstances. We do not believe that the exchange of margin between affiliates should be required to the extent not otherwise required under applicable prudential regulation. We do believe, however, that SBSDs should assess and manage the risk from their affiliate exposures as part of their comprehensive risk management procedures.

4. <u>Segregation</u>

Margin for uncleared SBS should be treated the same as margin for cleared SBS. We support the proposal to treat margin for uncleared SBS, where segregation has been neither affirmatively requested nor affirmatively waived, pursuant to the same "omnibus segregation" requirements that would apply to margin for cleared SBS. Such an approach would not impose new or separate operational burdens on SBSDs, and should afford appropriate protections for customers who have not elected individual segregation.

Customers electing individual segregation of initial margin should not have to subordinate claims other than those with respect to such segregated initial margin. Although customers have the right under Exchange Act Section 3E(f) to require the segregation of initial margin, proposed rule 18a-4 would require the customer to agree:

> to subordinate all of its claims against the security-based swap dealer to the claims of security-based swap customers of the security-based swap dealer but only to the extent that funds or other property provided by the counterparty to the independent third-party custodian are not treated as customer property as that term is defined in 11 U.S.C. 741 in a liquidation of the security-based swap dealer.[8]

Although this provision may be intended to require only the subordination of claims with respect to such segregated initial margin, the reference to subordination of "all of its claims against the security-based swap dealer" implies a broader scope that is not fully clarified by the remainder of the provision. Customers electing individual segregation of initial margin may have claims against an SBSD for variation margin posted by the customer to the SBSD, for amounts owed by the SBSD to the customer for in-the-money positions and other claims and for other items that may be held in an account with an SBSD. None of these claims should have to be subordinated to claims of other customers as a consequence of exercising the right to individually segregate initial margin. Rather, any subordination should be limited to claims with respect to the amount purported to be held in the individually segregated account.

Capital charges should not be imposed on individually segregated accounts. We do not believe it is appropriate to require a capital charge to be taken when collateral is individually segregated in accordance with Exchange Act Section 3E(f). The imposition of a capital charge on SBSDs whose counterparties have exercised such right will have two effects: it will penalize SBSDs for facilitating a customer protection regime that Congress has specifically mandated, and it will increase the cost to SBSD customers of exercising that right and thus discourage them from using a statutorily provided protection. Moreover, it will not reduce risk. Segregated margin will be available to SBSDs in accordance with the terms of the segregation agreement, and will not provide less protection than such margin held directly by the SBSD. The Commission seems to be more concerned with the timing of access to these segregated funds than with the availability of such funds to mitigate risk exposure, and we do not believe that any timing discrepancy justifies a capital charge. We note, as well, that the Commission's proposals would place customers' claims with respect to such segregated margin outside of the general structure for resolution of customer claims, and accordingly should not impede the larger resolution of an affected entity. We believe the proposed approach creates significant costs, for customers as well as SBSDs, with no discernible benefit, and we urge the Commission to reconsider it.

The Commission's proposed segregation rules should not be imposed on banks. Although the prudential banking regulators have jurisdiction over the margin and capital rules that would apply to banks that are registered as SBSDs, the Commission notes that it has authority over segregation rules as applicable to such entities. The rules it proposes would treat bank SBSDs equivalently to other SBSDs with respect to segregation, even though such rules, modeled on the Commission's broker-dealer regulations, do not fit well within the bank regulatory requirements for segregation or the

[8] Proposed Rule, 77 Fed. Reg. at 70352.

bank insolvency regime. We support an approach similar to that taken by the Department of the Treasury in its Part 450 rules relating to segregation requirements for government securities dealers that are otherwise subject to prudential banking oversight. Those rules, which were described in their proposing release as "largely codify[ing] existing practices of responsible financial institutions,"[9] generally require that a depository institution segregate customer securities from its own positions and maintain them free and clear of liens. A depository institution may also use a separate custodial bank if it notifies the custodial bank that it is depositing customer assets and that they should be held separately from the depository institution's proprietary assets, and other limited conditions are met.[10] Because such rules are already familiar to banks, they should be easily adaptable to SBS.

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As the Commission is well aware, the SBS and swaps markets play an important role in many aspects of global finance. This newly regulated landscape may yet prove quite fragile. Thus, as we have noted previously, the Commission should proceed with caution in introducing significant new regulatory regimes, particularly those that may give rise to inefficiencies and operational challenges. The operational complexities presented by the attempt to reconcile multiple regulatory capital regimes and resulting increase in cost of capital will ultimately be passed along to the end-users of these products. These costs will lead many to seek offshore alternatives and others to forego appropriate hedging strategies entirely. Such results would find regulation to have merely shifted the risks from the dealer community to end-users, rather than reducing systemic risk at its source. In the context of the current proposal, the complexity of these rules and their interrelationship with those of others regulators creates particular challenges and costs that may not be fully evident. We appreciate the thoughtful approach the Commission has taken and encourage it to continue to take an approach that contemplates the full U.S. and international regulatory landscapes.

If you have any questions about this request, please do not hesitate to call me or Richard Foster, the Roundtable's Senior Regulatory Counsel, at (202) 589-2424.

Sincerely,

Richard M. Whiting

Richard M. Whiting
Executive Director and General Counsel
Financial Services Roundtable

[9] Government Securities Act of 1986: Implementing Regulations, Proposed Rule, 52 Fed. Reg. 5660, 5678 (February 25, 1987).

[10] 17 C.F.R. Section 450.4 (2012).