My name is Chris Tobe, CFA, CAIA and I am the founder of Stable Value Consultants (www.stablevalueconsultants.com). I spent nearly 7 years as an officer of AEGON the world's largest provider of synthetic stable value contracts. I have published over 20 articles on stable value.

I think as the CFTC and SEC look closer they will find these contracts very diverse and complex and used in many different ways in this $700 billion market. While I identify 6 major types of stable value contracts, there are differences between these types that could be problematic in applying regulations. They need to avoid any unintended consequences of favoring one type of contract over another that may harm consumers.

There are 6 basic types of Stable Value Contract (SVC) offered.

1. Insurance Company General Account GIC (GA)
2. Bank or Financial Company GIC (like a CD)
3. Insurance Company Separate Account (SA) GIC (sometimes called wraps)
4. Insurance Company Synthetic (Isyn)GIC or Wrap issued as group annuity
5. Bank or Financial Company Synthetic (Bsyn) GIC or Wrap
6. Government Backed. TSP has the largest stable value contract for the G fund which is provided by the US Treasury. Indiana PERS and Texas Municipal public DB plans have backstopped Public DC stable value options.

Who are the contract holders of each of these groups

1. GA was the only form in the 70s and 80s. Currently it still dominates 403(b) market. It also still dominates the smaller half of the 457 market with City plans. It is also prevalent in the smallest 401(k) plans. There are also pieces in College Savings and in municipal portfolios. Very few in the largest plans in 401(k) after Executive Life defaults in 1992.
2. Bank GIC are mostly issued to municipalities
3. SA was popular in the 90's with all plans, but most large 401(k)s were out by 2000. Currently still very popular with 457 plans, and in smaller 401(k) predominantly in bundled insurance products
4. Synthetic Insurance contracts are used by the mainstream 401k market, almost all the larger plans over $100 million use this in combination with bank synthetic contracts for their stable value. Many mid-size and even small plans access synthetic stable value funds vs. Collective Trust

structures the largest being offered by Fidelity, T.Rowe Price and Vanguard. The top 10 largest or so 457 plans use synthetic contracts. There is a securities law provision which prevents the use of synthetics in 403(b) except for religious organizations 403(b)9.

5. Synthetic Bank contracts are used by all of the same places Synthetic Insurance contacts primarily in 401(k), but in addition they are used in COLI-BOLI contracts
6. Federal Government employees, limited State employees

Who are the regulators of each of these groups ?

There are regulators of the contracts and then regulators of the industry they are used in.

1. GA issuers generally can choose between 50 state insurance commissioners to use as their regulator for the contract. DOL covers perhaps 1/3 of this universe but 403b and 457 fill out an IRS return. College Savings have some coverage from MSRB, on MuniGIC in addition to MSRB there is a current DOJ case US vs. Rubin/Chambers CDR in09
2. Bank GICs contracts I think are regulated by the OCC, but not sure. Mostly issued to Municipalities the industry seems to be regulated by the MSRB and the SEC as they with the Justice Department have taken action in the ongoing CDR case
3. SA issuers generally choose between 50 state insurance commissioners to use as their regulator for their contract. DOL only covers around 1/3 of this universe with 403b and 457 filling out an IRS return
4. Insurance company synthetics can generally choose between 50 state insurance commissioners to use as their regulator of their contract. S&P and Moody's were almost defacto regulators and essentially determined the amount of capital they need to hold for contracts. Stable Value collective funds that use synthetics have a choice of being regulated by the OCC or one of 50 bank commissioners. Overall market they reside in is 80% regulated by DOL.
5. Bank issued synthetic contracts may have some regulation from the OCC or CFTC, on their contract with my general impression is that they were bundled together with the rest of the products off the derivative desks.

Stable Value collective funds have a choice of being regulated by the OCC or bank commissioners. 80% regulated by DOL. BOLI regulated by OCC, COLI by IRS

6. No idea but not under ERISA-DOL. USTreasury recently dipped into G Fund during budget crisis