# The Surety & Fidelity Association of America

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Comments on SR-DTC-2006-16
Requirements for Transfer Agents

The Surety & Fideltiy Association of America (SFAA) is a District of Columbia Nonprofit Corporation whose 492 members are insurance companies licensed to write fidelity and surety insurance in the United States. SFAA is licensed by the state insurance departments as an advisory or rating organization, and SFAA drafts and files standard form fidelity bonds. The "Bankers Blanket Bond Standard Form 24" referred to in paragraph 6 of the above referenced proposed Rule is one of the standard forms prepared and filed by SFAA.

These comments address only paragraphs 6 and 9 of the proposed Rule and particularly the deductible requirements of paragraph 6 and notification requirements of paragraph 9. SFAA believes that both provisions will needlessly increase the cost, or even restrict the availability, of insurance coverage for transfer agents without a counterbalancing benefit for DTC or its participants.

Paragraph 6 would require transfer agents to have a "Bankers Blanket Bond Standard Form 24, or similar coverage." While SFAA is gratified that DTC recognizes the value of SFAA's Form 24, the name of the product was changed from Bankers Blanket Bond to Financial Institution Bond. Thus, the proper designation of the insurance coverage would be "Financial Institution Bond Standard Form No. 24 or similar coverage."

Standard Form No. 24 is designed to insure commercial banks. There are other standard forms for other types of financial institutions, most notably Standard Form No. 14 for stockbrokers and Standard Form No. 25 for insurance companies. Although the other Financial Institution Bonds would certainly qualify as "similar coverage" to Standard Form No. 24, we believe that it would be preferable to amend paragraph 6 to state that the transfer agent must provide evidence of "a standard form Financial Institution Bond or a commercial crime policy providing similar coverage."

The limits of liability and deductibles on Financial Institution Bonds are chosen by the insurer and insured based on the overall business of the insured not just its number of transfers in the FAST program. Indeed, FAST program transfers would often be a comparatively small part of the insured risk. The deductible reduces the risk to the insurer and the premium paid by the insured. The proposed maximum deductibles in paragraph 6 of the Rule, \$50,000 on a \$10,000,000 bond and \$100,000 on a \$25,000,000 bond, are substantially lower than normally chosen on bonds of that size.

The Rule will compel transfer agents to pay for more financial institution bond coverage than they would choose in the market. They will not be able to lower their premiums by selecting a higher deductible even though they are well able to withstand losses in excess of the mandated maximum deductible.

The proposed Rule is not limited to the deductible applicable to losses arising out of the insured's activity as a transfer agent. The insured will have to pay for the increased coverage on all its business activities. If DTC believes it needs to mandate a maximum deductible, SFAA suggests not less than 1% of the limit of liability as more reasonable and in line with commercial practice. Thus, for the bond with a $10 million limit of liability, the maximum deductible would be $100,000, and for a $25 million limit, the maximum deductible would be $250,000. This would be closer to normal commercial practice and reduce the cost of compliance for transfer agents.

Paragraph 9 would require the insurance provider to notify DTC of "any threatened or actual lapse" in coverage. This places a higher burden on the insurance provider than paragraph 7 places on the insured, who presumably would be responsible for any lapse of coverage. If the insurer is considering canceling the coverage, it is reasonable that it provide the DTC with notice of its intentions. It is not reasonable to expect the insurer to ferret out some other type of threat to coverage and notify DTC.

We suggest that DTC adopt a requirement similar to ones used by Fannie Mae, Freddie Mac and Ginnie Mae. These organizations require that a Rider to the standard form bond provide them with a right to receive payment (as a loss payee, not as an additional insured) and that:

> Should this bond be canceled, reduced, non-renewed or restrictively modified by the Underwriter, the Underwriter will endeavor to give thirty (30) days advance notice to the organization named above, but failure to do so shall not impair or delay the effectiveness of any such cancelation, reduction, non-renewal or restrictive modification, nor shall the Underwriter be held liable in any way.
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> Should this bond be canceled or reduced at the request of the Insured, the Underwriter will endeavor to notify the organization named above of such cancelation or reduction within 10 business days after receipt of such request, but failure to do so shall not impair or delay the effectiveness of such cancelation or reduction, nor shall the Underwriter be held liable in any way.

SFAA respectfully suggests that the maximum deductibles in paragraph 6 of the proposed Rule are too low, and will have a negative financial impact on transfer agents participating in the FAST program, and that the notification requirements of paragraph 9 are not workable or normally available in the marketplace. We hope that DTC will consider the revisions recommended in these Comments.