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via UPS Overnight and Electronic Mail ([rule-comments@sec.gov](mailto:rule-comments@sec.gov))

May 4, 2022

Vanessa Countryman, Secretary  
Securities and Exchange Commission  
100 F Street NE  
Washington DC 20549

Re: Order Granting Petition for Review and Scheduling Filing of Statements; In the Matter of Financial Industry Regulatory Authority, Inc. Regarding an Order Granting the Approval of Proposed Rule Change, as Modified by Amendment No. 1, To Amend the Requirements for Covered Agency Transactions Under FINRA Rule 4210 (Margin Requirements) as Approved Pursuant to SR-FINRA-2015-036, 87 Fed. Reg. 23287 (Apr. 19, 2022) (the "Order")<sup>1</sup>

Dear Ms. Countryman:

Weichert Financial Services appreciates the opportunity, as provided for in the Order, to state our opposition to the action made pursuant to delegated authority and to support the Petition for Review filed by the Bond Dealers of America, Inc. (the "BDA") and Brean Capital, LLC ("Brean") on January 27, 2022 (the "Petition"). We urge the Commission to reject the CAT Amendment and direct FINRA to correct their rule proposal so that it comports with standard MBS market practice.

Weichert Financial Services is a national mortgage banker that primarily originates first mortgage loans, which includes originating home mortgage loans for inclusion in pools backing mortgage-backed securities (MBS) issued or guaranteed by Ginnie Mae, Fannie Mae, Freddie Mac, and the Federal Home Loan Banks. We are concerned about the potentially significant disruption in the market for agency MBS as a result of the CAT Amendment to FINRA Rule 4210.

New-issue agency MBS transactions clear and settle on a monthly schedule, not on a T+2 basis. The purpose for this delayed trade settlement is the time necessary to originate, warehouse, and assemble pools of loans to back MBS. During the 5-6 week period leading up to the monthly scheduled closing date for MBS issuance, employees at Weichert Financial Services spend their time evaluating and approving loans and receiving commitments to buy those loans under programs administered by the federal

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<sup>1</sup> On January 20, 2022 the Division of Trading and Markets of the Securities and Exchange Commission approved under delegated authority an amendment to SR-FINRA-2015-036, which amends the requirements for covered agency transactions ("CATs") under FINRA Rule 4210 (the "CAT Amendment").

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mortgage agencies. A vital part of the process are the loan purchase commitments made by broker-dealers who ultimately underwrite the securities backed by the loans we originate. It is necessary for us to know that the loans we make will be purchased in full on the scheduled date.

During this "pipeline" period leading up to the settlement of the issuance transaction, FINRA-member dealers who underwrite our loans pre-sell the MBS backed by our loans which will be issued on the scheduled closing date. Because these sale trades will not settle until the scheduled monthly MBS closing date, they are potentially marginable under SR-FINRA-2015-036, which was approved by the Commission in 2016 but has not taken effect, if the price of the securities drops between the time the investor commits to the purchase and the closing date. Under the CAT Amendment, that underwriter would be required to collect variation margin from investors whose trades have not settled.

Alternatively, dealers could take a capital charge in lieu of collecting and holding margin cash. We are concerned that the requirement to collect margin or take a capital charge for routine, low-risk transactions could seriously disrupt the mortgage origination process. If dealers are unable to collect margin from investor customers due to the absence of a margin agreement and if their capital becomes fully impaired due to margin-related capital charges, those dealers would be unable to commit to purchase additional mortgage loans until the outstanding trades settle. That means less competition among MBS underwriters, fewer options for mortgage originators, and potentially higher costs for mortgage borrowers.

All this can be addressed by simply redefining a marginable CAT trade as one that settles outside the monthly schedule published by SIFMA rather than a trade that settles outside the arbitrary T+2 definition.

Congress established the federal mortgage agencies decades ago as a means to improve the availability and lower the cost of mortgage loans for American homebuyers. This system of mortgage origination and underwriting has worked flawlessly since its inception and has provided low-cost mortgage loans to hundreds of millions of Americans. There was no reason in the first place to introduce a complicating factor like SR-FINRA-2015-036, but the CAT amendment does not address the deficiencies in that 2016 rulemaking, and has the potential to cause significant disruption without enhancing safety or soundness.

We urge the Commission to reject the CAT amendment.

Respectfully submitted,



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