



DIVISION OF
TRADING AND MARKETS

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

August 5, 2021

Steven Kennedy
Global Head of Public Policy
International Swaps and Derivatives Association
10 E. 53rd Street, 9th Floor
New York, NY 10022

Kyle Brandon
Managing Director, Head of Derivatives
Securities Industry and Financial Markets Association
120 Broadway, 35th Floor
New York, NY 10271

Re: Initial Implementation of Certain Security-Based Swap Dealer Rules

Dear Mr. Kennedy and Ms. Brandon:

In your letter dated August 3, 2021 (the "Request"),¹ you request that the staff of the Division of Trading and Markets ("Staff") not recommend enforcement action to the Securities and Exchange Commission ("Commission") if market participants do not comply with any of a number of applicable requirements under the Securities Exchange Act of 1934 ("Exchange Act") during the initial implementation of the Commission's rules for security-based swap dealers ("SBSDs") and major security-based swap participants ("MSBSPs"). In particular, you request this staff no-action position with respect to:

- (1) Exchange Act Rule 3a71-3(d) between August 6, 2021 and November 1, 2021.
- (2) Broker Registration between October 6, 2021 and November 1, 2021.
- (3) Exchange Act Rule 10b-10 between October 6, 2021 and November 1, 2021.
- (4) Exchange Act Rule 15a-1 between October 6, 2021 and November 1, 2021.
- (5) Exchange Act Rule 15Fk-1(c) for certain persons who register as SBSDs before December 31, 2021.
- (6) Exchange Act Rule 15Fi-3 between October 6, 2021 and November 8, 2021.
- (7) Certain margin and segregation requirements applicable to non-bank SBSDs and MSBSPs.

¹ A copy of the Request is attached.

Response:

Based on the facts and circumstances described in your Request, and without necessarily concurring in your conclusions and analysis, the Staff will not recommend enforcement action to the Commission if:²

- During the period from August 6, 2021 to November 1, 2021, in connection with the exception for counting certain transactions set forth in Exchange Act Rule 3a71-3(d), a majority-owned affiliate of a “Relying Entity” that satisfies all of the conditions of Rule 3a71-3(d) acts as the “Registered Entity” for purposes of the “Registered Entity Condition” without the Registered Entity being registered as an SBSB so long as: (i) the party that would otherwise be the Registered Entity registers with the Commission as an SBSB by no later than November 1, 2021 and (ii) both the Relying Party and the Registered Entity comply with all of the other conditions required pursuant to Rule 3a71-3(d), other than as provided below.
- During the period from August 6, 2021 to October 6, 2021, in connection with the exception for counting certain transactions set forth in Exchange Act Rule 3a71-3(d), the party that is or would otherwise be the Registered Entity does not comply with the “counterparty notice condition” or the “as if condition,”³ so long as the party that would otherwise be the Registered Entity either: (A) is registered as with the Commission as a broker-dealer, or (B) registers with the Commission as an SBSB by no later than November 1, 2021.
- During the period from October 6, 2021 to November 1, 2021, a person engages in broker activities in security-based swaps with or for an eligible contract participant without registering as a broker under Section 15(a) of the Exchange Act and without being registered as an SBSB, as required to comply with the “temporary broker exemption,” so long as: (i) such person registers with the Commission as an SBSB by no later than November 1, 2021, and (ii) such broker activities in security-based swaps would satisfy an applicable exemption from Section 15(a) upon the person becoming a registered SBSB.
- During the period from October 6, 2021 to November 1, 2021, a broker-dealer continues to rely on the “temporary 10b-10 exemption”, so long as the broker-dealer: (i) registers with the Commission as an SBSB by no later than November 1, 2021, (ii) complies with the requirements of Exchange Act Rule 15Fi-2 as if such broker-dealer was registered with the Commission as an SBSB,⁴ and (iii)

² All defined terms below shall have the same meanings as defined in the Request.

³ With respect to the “as if condition,” the Staff notes that for registered SBSBs the compliance date for the requirements referenced by that condition is October 6, 2021.

⁴ Rule 15Fi-2 requires an SBSB or MSBSP to provide a trade acknowledgement to, as well as obtain a verification of that acknowledgement from, the counterparty. 17 CFR 240.15Fi-2.

continues to satisfy the conditions of the temporary 10b-10 exemption during that period.

- During the period from October 6, 2021 to November 1, 2021, an OTC derivatives dealer continues to rely on the “temporary 15a-1 exemption” until November 1, 2021 so long as the OTC Derivatives Dealer: (i) registers with the Commission as an SBSB by no later than November 1, 2021, and (ii) continues to satisfy the conditions of the temporary 15a-1 exemption during that period.
- Any U.S. or non-U.S. entity that registers with the Commission as an SBSB in 2021 (including a non-U.S. entity relying on substituted compliance) whose initial chief compliance officer annual report would have covered less than six months, does not file a chief compliance officer annual report under Exchange Act Rule 15Fk-1(c) within 30 days following the deadline for filing the SBSB’s annual financial report for fiscal year 2021, provided that the SBSB’s chief compliance officer annual report for its 2022 fiscal year also covers its 2021 fiscal year.
- A person registered with the Commission as an SBSB or MSBSP does not begin to comply with the portfolio reconciliation requirements in Rule 15Fi-3 until November 8, 2021, which is the first compliance date for Regulation SBSR.
- For purposes of the security-based swap legacy account exceptions under paragraphs (c)(1)(iii)(D) and (c)(2)(iii)(B) of Rule 18a-3, a person treats the compliance date under paragraph (b)(6) of Rule 18a-3, which defines the term “security-based swap legacy account,” as the later of: (1) October 6, 2021 or (2) the date on which the person registers as an SBSB or MSBSP with the Commission.
- For purposes of the notice required under section 3E(f)(1)(A) of the Exchange Act with respect to non-cleared security-based swaps under paragraph (p)(4) of 15c3-3 and paragraphs (d)(1) and (f)(2) of Rule 18a-4, a person treats the compliance date as the later of: (1) October 6, 2021 or (2) the date on which the person registers as an SBSB or MSBSP with the Commission.

Finally, the Staff strongly encourages entities that are no longer able to rely on the *de minimis* exception from SBSB registration in Rule 3a71-2 of the Exchange Act as of August 31, 2021 (or earlier) to submit their complete applications for registration to the Commission as soon as possible thereafter in order to limit the possibility of technical or logistical issues that could arise. To facilitate an orderly implementation by the large number of applicants expected to be required to be registered November 1, 2021, for purposes of making an enforcement recommendation, the Staff would not consider an entity that files a complete application for registration as an SBSB prior to that date to be conditionally registered until November 1, 2021.

The position of the Staff is based strictly on the facts and circumstances discussed in your Request, and any different facts or circumstances might require a different response. Furthermore, this response expresses the Staff's position on enforcement action only, and does not express any legal conclusions on the questions presented. The Staff expresses no view with respect to any other questions that the proposed activities may raise, including the applicability of any other federal or state laws, or self-regulatory organization rules. The Staff's position is subject to modification or revocation at any time.

Sincerely,

/s/ Carol M. McGee

Carol M. McGee
Assistant Director



August 3, 2021

Carol McGee
Assistant Director
Office of Derivatives Policy, Division of Trading and Markets
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549

Re: Timing of Initial Implementation of Security-Based Swap Dealer Rules

Dear Ms. McGee:

The International Swaps and Derivatives Association (“**ISDA**”)¹ and Securities Industry and Financial Markets Association (“**SIFMA**”)² are writing to request that the Securities and Exchange Commission (“**Commission**” or “**SEC**”) provide clarifications or relief on the matters set forth below relating to timing for the initial implementation of the Commission’s new rules regarding security-based swap (“**SBS**”) dealers (“**SBSDs**”).

I. Background

The Commission has designated August 6, 2021 as the “**counting date**,” *i.e.*, the date on which market participants must begin to assess whether their activities meet or exceed the thresholds for falling within the SBSD or major SBS participant definition.³ The Commission also

¹ Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 950 member institutions from 76 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association’s website: www.isda.org. Follow us on [Twitter](#), [LinkedIn](#), [Facebook](#) and [YouTube](#).

² SIFMA is the leading trade association for broker-dealers, investment banks, and asset managers operating in the U.S. and global capital markets. On behalf of our industry’s nearly 1 million employees, we advocate on legislation, regulation, and business policy, affecting retail and institutional investors, equity and fixed income markets, and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit <http://www.sifma.org>.

³ See Registration Process for [SBSDs] and Major [SBS] Participants, Release No. 34-75611 (Aug. 5, 2015), 80 FR 48964, 48988 (Aug. 14, 2015) (“SBS Entity Registration Adopting Release”) (“[F]or purposes of complying with the registration and other requirements [applicable to SBSDs and major SBS participants], persons are not required to begin calculating whether their activities meet or exceed the thresholds established in Exchange Act Rules 3a71-2, 3a67-3, and 3a67-5 until two months prior to the [r]egistration [c]ompliance [d]ate.”); see also [SBS] Transactions Connection with a Non-

designated October 6, 2021 as the “**registration compliance date**,”⁴ which in turn triggers or corresponds to the compliance date for numerous other rules applicable to SBSs, as well as the termination of certain exemptions from the treatment of SBS as securities.

However, as Commission staff have clarified, by operation of Rule 3a71-2(b) under the Securities Exchange Act of 1934 (“**Exchange Act**”), the earliest that a complete application for registration as an SBS will be due will be November 1, 2021. If an SBS files a complete application before the due date, however, it will be conditionally registered as of the later of the date when it files such application or October 6, 2021 and fall within the scope of the rules applicable to an SBS on such later date.⁵ As further described below, these differences between the counting date, the registration compliance date, and the date when SBSs will actually be required to register, has given rise to significant uncertainty and other issues. In addition, voluntary early registration as an SBS is not, in our view, a satisfactory solution to these issues, as doing so would deprive affected firms of much-needed time to implement the Commission’s SBS rules. And because the relevant issues do not affect all firms equally, the firms that face the issues and might be forced to register early would face a significant and unwarranted competitive disadvantage.

II. Discussion

Below we describe the issues raised by the various implementation dates described above and the clarifications or relief we would propose to address those issues.

A. ANE Counting Exception

Exchange Act Rule 3a71-3(d) provides an exception from the requirement for a non-U.S. person to count certain SBS arranged, negotiated, or executed by personnel located in a U.S. branch or office of the person or its agent towards the SBS *de minimis* threshold. This exception has several conditions, including:

- the arranging, negotiating, or executing activity that is conducted by personnel of the non-U.S. person (or its agent) located in a U.S. branch or office must be conducted by such U.S. personnel in their capacity as persons associated with a majority-owned affiliate that is registered with the Commission as a broker-dealer or SBS (such affiliate, the “**registered entity**,” and such condition, the “**registered entity condition**”);
- the registered entity must comply with specified SBS requirements as if the counterparties to the non-U.S. person relying on the exception (the “**relying entity**”) were counterparties

U.S. Person’s Dealing Activity That Are Arranged, Negotiated, or Executed by Personnel Located in a U.S. Branch or Office or in a U.S. Branch or Office of an Agent; [SBS] *De Minimis* Exception, Exchange Act Release No. 77104 (Feb. 10, 2016), 81 FR 8598, 8636 (Feb. 19, 2016).

⁴ See SBS Entity Registration Adopting Release, 80 FR at 48988.

⁵ Division of Trading and Markets, “Key Dates for Registration of [SBSs] and Major [SBS] Participants” (Feb. 13, 2020), available at <https://www.sec.gov/page/key-dates-registration-security-based-swap-dealers-and-major-security-based-swap-participants>.

to the registered entity and as if the registered entity were registered as an SBSB, if not so registered (the “**as-if condition**”);

- certain requirements regarding Commission access to books, records, and testimony (the “**books and records condition**”);
- the registered entity must notify the counterparties of the relying entity that the relying entity is not registered as an SBSB and that certain Exchange Act provisions or rules addressing the regulation of SBSs would not be applicable in connection with the transaction, including provisions affording clearing rights to counterparties (the “**counterparty notice condition**”);
- the relying entity must be subject to the margin and capital requirements of a “listed jurisdiction” (the “**listed jurisdiction condition**”);
- before an associated person of the registered entity commences activity subject to the exception, the registered entity must file a specified notice with the Commission (the “**Commission notice condition**”); and
- the relying entity must satisfy a limit on the aggregate gross notional amount of certain inter-dealer SBS activity (the “**covered inter-dealer SBS condition**”).

In addition, Rule 3a71-3(d)(4) provides an exemption (the “**registered entity broker exemption**”) from broker registration pursuant to Exchange Act Section 15(a)(1) to a registered SBSB (and its associated persons) who conduct SBS arranging, negotiating, or executing activity as a registered entity with or for a person that is an eligible contract participant, subject to satisfaction of the above conditions and the registered SBSB providing certain disclosures required by Exchange Act Rule 10b-10.

Several of Rule 3a71-3(d)’s conditions—specifically, the registration condition, the as-if condition, and the counterparty notice condition—apply less clearly during the period between the counting date and November 1, 2021:

- During this period, no person will be required to register as an SBSB. As a result, it is not clear how a relying entity could satisfy the exception without transacting through a registered broker-dealer affiliate. However, not all prospective relying entities will be in a position to transact through a broker-dealer affiliate; these firms essentially would not be able to rely on the Rule 3a71-3(d) exception until November 1, 2021 unless they registered their prospective SBSB affiliates early (and none could register those affiliates before October 6). Meanwhile, other non-U.S. firms that plan on registering as SBSBs will be able to continue to engage in arranging, negotiating, and executing activity through U.S. personnel between August 1 and November 1, 2021 without incurring registration obligations during this period.⁶

⁶ Also, the registered entity broker exemption will not, as a practical matter, be available until SBSB registration is required on November 1, 2021. We address this issue in Part II.B below.

- Between August 6 and October 6, 2021, the SBSB requirements covered by the as-if condition will not yet be in effect. In addition, because SBSBs will not be required to register until November 1, 2021, and before that time will not be required to satisfy the SBSB requirements covered by the as-if condition, as a practical matter other firms will not be subject to those requirements until then. Accordingly it would be incongruous if a registered entity had to satisfy the as-if conditions before November 1, 2021, subjecting it to a significant competitive disadvantage.
- The counterparty notice condition is meant to ensure counterparties are aware that when they transact with a relying entity certain SBSB protections do not apply. Because those protections generally will not apply in any case before firms are required to register as SBSBs on November 1, 2021, requiring a registered entity to provide this notice before that date would be confusing to counterparties.

To address these issues, we request that the Commission or its staff provide relief clarifying that a majority-owned affiliate of a relying entity that satisfies the Commission notice condition can satisfy the registered entity condition during the period from August 6 to November 1, 2021 without yet being registered as an SBSB (or a broker-dealer) so long as it (i) registers as an SBSB by no later than November 1, 2021 and (ii) continues to comply with the books and records condition,⁷ listed jurisdiction condition, Commission notice condition, and covered inter-dealer SBS condition. In connection with the above, we also request that the Commission or its staff provide relief from the counterparty notice condition and the as if condition during the period from August 6, 2021 to October 6, 2021, so long as the majority-owned affiliate of the relying entity either (i) is registered with the Commission as a broker-dealer or (ii) registers with the Commission as an SBSB by no later than November 1, 2021.

B. SBS as Securities Exemptions

The Dodd-Frank Act amended the Exchange Act to define SBSs as a type of security. Pending the effectiveness of its SBS-specific requirements, the Commission adopted several temporary exemptions from the application of certain Exchange Act requirements to SBSs as securities. Certain of these exemptions will expire on the registration compliance date, but will be replaced by more tailored exemptions that will apply permanently or for a longer duration:

- *Broker Registration.* Subject to certain exception, currently a person engaged in broker activities in SBS with or for eligible contract participants is exempt from registration under Exchange Act Section 15(a)(1) (the “**temporary broker exemption**”). This exemption is scheduled to expire on the registration compliance date. After that date, it will be replaced by the Rule 3a71-3(d)(4) registered entity broker exemption noted above, as well as a temporary exemption (until November 1, 2022) for a registered SBSB and its associated persons in connection with arranging, negotiating, or executing an SBS transaction with or for a non-U.S. eligible contract participant on behalf of a majority-owned affiliate that is itself also a registered SBSB. By their terms, these latter two

⁷ We would assume that the condition in Rule 3a71-3(d)(1)(iii)(B)(1) relating to compliance with Rules 18a-5 and 18a-6 would not apply to a firm that is a prospective SBSB under prong (a) above until that firm registers as an SBSB. In the alternative, if the Commission does not agree with this view, then we would propose that that this condition be treated like the other ‘as-if conditions’ in Rule 3a17-3(d)(1)(ii) for purposes of the relief in prong (b) above.

exemptions will not be available to a person until it registers as an SBSB, which as noted above will not be required until November 1, 2021. This could potentially result in a gap period between October 6 and November 1, 2021 when seemingly unintentionally no broker registration exemption will be available in connection with arranging, negotiating, or executing SBS on behalf of a non-U.S. dealer affiliate. Accordingly, we request that the Commission or its staff provide relief clarifying that the temporary broker exemption will continue to apply until November 1, 2021 so long as (i) the person relying on the broker registration exemption registers with the Commission as an SBSB by no later than November 1, 2021, and (ii) such broker activities in security-based swaps would satisfy an applicable exemption from Section 15(a) upon the person becoming a registered SBSB.

- *Rule 10b-10.* Currently, a broker-dealer is exempt from the confirmation requirements of Exchange Act Rule 10b-10 in connection with SBS (the “**temporary 10b-10 exemption**”). This exemption is also scheduled to expire on the registration compliance date. After that date, it will be replaced by Exchange Act Rule 15Fi-2(g) (which exempts an SBSB or major SBS participant compliant with the SBS-specific trade acknowledgment and verification requirements of Rule 15Fi-2 from Rule 10b-10 for an SBS that it purchases or sells from or to a counterparty), Rule 3a71-3(d)(5) (which exempts a broker-dealer dually registered as an SBSB from Rule 10b-10 if it satisfies the as-if condition relating to SBSB trade acknowledgment and verification requirements and provides certain disclosures required by Rule 10b-10), and a third exemption for a broker-dealer in connection with it or its associated persons arranging, negotiating, or executing an SBS transaction on behalf of a majority-owned affiliate that is a registered SBSB if the broker-dealer provides certain disclosures required by Rule 10b-10. By their terms, these latter three exemptions will not be available to a broker-dealer until it or its affiliate (as relevant) registers as an SBSB, which as noted above will not be required until November 1, 2021. This could potentially result in a gap period between October 6 and November 1, 2021 when seemingly unintentionally no Rule 10b-10 exemption will be available for SBS transactions. Accordingly, we request that the Commission or its staff provide relief clarifying that the temporary 10b-10 exemption will continue to apply until November 1, 2021 so long as the broker-dealer (i) registers with the Commission as an SBSB by no later than November 1, 2021, (ii) complies with the requirements of Exchange Act Rule 15Fi-2 as if such broker-dealer was registered with the Commission as an SBSB,⁸ and (iii) continues to satisfy the conditions of the temporary 10b-10 exemption during that period.
- *OTC Derivatives Dealer Securities Activities.* Exchange Act Rule 15a-1 requires an OTC derivatives dealer to conduct certain transactions and communications through an affiliated, registered broker-dealer and its associated persons. Currently, there is an exemption from these requirements, which is scheduled to expire on the registration compliance date (the “**temporary 15a-1 exemption**”). After that date, this exemption will be replaced by a permanent exemption for an OTC derivatives dealer that is dually registered as an SBSB or major SBS participant in connection with SBS transactions and

⁸ Rule 15Fi-2 requires an SBSB to provide a trade acknowledgment to, as well as obtain a verification of that acknowledgment from, the counterparty.

related communications with or for an eligible contract participant. By its terms, this latter exemption will not be available to an OTC derivatives dealer until it registers as an SBS or major SBS participant, which as noted above will not be required until November 1, 2021 at the earliest. This could potentially result in a gap period between October 6 and November 1, 2021 when seemingly unintentionally no Rule 15a-1 exemption will be available in connection with SBS. Accordingly, we request that the Commission or its Staff provide relief clarifying that the temporary 15a-1 exemption will continue to apply until November 1, 2021 so long as the OTC derivatives dealer (i) registers with the Commission as an SBS no later than November 1, 2021, and (ii) continues to satisfy the conditions of the temporary 15a-1 exemption during that period.

C. Margin and Segregation Requirements

Exchange Act Rule 18a-3(c)(1)(iii)(D) and (2)(iii)(B) provide an exception from margin requirements for uncleared SBS entered into by a nonbank SBS or major SBS participant after the compliance date for Rule 18a-3. Further, Exchange Act Rules 15c3-3(p)(4), 18a-4(d)(1) and 18a-4(f)(2) require an SBS or major SBS participant to provide the notice regarding initial margin segregation required pursuant to Exchange Act Section 3E(f)(1)(A) prior to execution of the first uncleared SBS with a counterparty occurring after the compliance date of Rule 15c3-3(p) or 18a-4.

Accordingly, these rules effectively grandfather SBS entered into before the compliance dates of Rules 15c3-3(p), 18a-3 and 18a-4. The Commission has set the registration compliance date as the compliance dates for those rules. If this meant that the grandfathering provisions described above did not apply to SBSs entered into on or after October 6, 2021, then it could require a person who is not required to register as an SBS until November 1, 2021 nonetheless to satisfy margin and segregation notice requirements for SBSs entered into prior to its SBS registration. Indeed, it could lead to the quite unexpected result that a person who conducts business in reliance on the SBS *de minimis* exception until some later year (*e.g.*, does not register as an SBS until 2022 or later) would be subject margin and segregation notice requirements for SBSs entered into years in the past. That result would be inconsistent with the parallel margin and segregation notice requirements of the Commodity Futures Trading Commission, which swap dealers generally do not apply to swaps entered into prior to their registration as swap dealers.

To address this issue, we request that the Commission or its staff provide relief clarifying that: (a) the Rule 18a-3(c)(1)(iii)(D) and (2)(iii)(B) exception applies to SBS entered into before the later of October 6, 2021 or the date when a person registers as an SBS or major SBS participant; and (b) Exchange Act Rules 15c3-3(p)(4), 18a-4(d)(1) and 18a-4(f)(2) do not require an SBS or major SBS participant to provide the notice regarding initial margin segregation required pursuant to Exchange Act Section 3E(f)(1)(A) until prior to execution of the first uncleared SBS with a counterparty occurring after the later of October 6, 2021 or when the person registers as an SBS or major SBS participant.

D. CCO Annual Report

Exchange Act Rule 15Fk-1(c) requires the chief compliance officer (“**CCO**”) of an SBS or major SBS participant to annually prepare and sign a compliance report addressing the prior fiscal year, due 30 days after SBS or major SBS participant’s annual financial report (generally, 90 days after fiscal year-end). For SBSs that register on November 1, 2021 and have a December 31 fiscal

year end, the initial CCO annual report will therefore cover only two months.⁹ In addition, the SBSB's senior officer will have already filed, on November 1, 2021, a certification that the SBSB has adopted and implemented policies and procedures reasonably designed to prevent violation of the federal securities laws.

Requiring a CCO annual report so soon after this certification, and covering much less than a year, will place significant burdens on SBSBs with little benefit to the Commission, especially considering that the CCO annual report must be completed earlier than the regulatory deadline in order to submit to the Senior Officer, Board, and audit committee (which typically meets less frequently than regular Board meetings) ahead of filing. This short turnaround will leave the SBSB with very limited time and scope to implement compliance testing or audit of the SBSB. There also may not be enough experience with the operation of the SBSB's policies and procedures during the short post-registration stub period to inform a meaningful analysis of such matters as material changes to policies and procedures, areas for improvement, material non-compliance matters identified, or overall assessment of effectiveness of policies and procedures. For non-U.S. SBSBs relying on substituted compliance, there will be little time to implement processes to support the report certification required by the Commission's substituted compliance proposals or to translate home country reports.

To address this issue, we request that the Commission or its staff provide relief from the initial CCO annual report requirement to an SBSB who registers in 2021 and whose initial CCO annual report would have covered less than six months, *provided that* the SBSB's CCO annual report for its 2022 fiscal year also covers its 2021 fiscal year. We request that this relief be available to both U.S. and non-U.S. SBSBs, including non-U.S. SBSBs relying on substituted compliance.

E. Portfolio Reconciliation

The Commission's rules for portfolio reconciliation of material terms have a compliance date of October 6, 2021. However, because these rules apply to registered SBSBs, portfolio reconciliation will not become active until November 1, 2021, the earliest date by which firms must register with the Commission as SBSBs.

To comply with the Commission's rules, there are a number of firms that will use the services of the DTCC Data Repository ("**DTCC**") to submit data reported to DTCC under Regulation SBSR to TriOptima, the leading third-party service provider used by the dealer community for portfolio reconciliation. However, that data will not be available to be used for portfolio reconciliation prior to the initial Regulation SBSR compliance date, which will be November 8, 2021. As such, the firms who use these DTCC services will not be able to conduct portfolio reconciliation for the intervening one-week period. This delay would result in portfolio reconciliation breaks with all of their counterparties during that one week.

As the Commission has repeatedly stated its commitment and intent to align portfolio reconciliation with the trade reporting requirements, including the harmonization of data fields, we request that the Commission or its staff provide relief to align the portfolio reconciliation start date

⁹ We understand that certain SBSBs will have a March 31 fiscal year end, meaning that the initial CCO annual report for those SBSBs would only cover five months, and some will have a November 30 fiscal year end, meaning that the initial CCO annual report would cover one month.

with the November 8, 2021 compliance date for Regulation SBSR. We believe this will facilitate a smooth implementation of the Commission's portfolio reconciliation rules and reduce disruptions in the form of inadvertent breaks.

* * *

Please feel free to reach out to the undersigned should you have any questions.

Sincerely,



Steven Kennedy
Global Head of Public Policy
ISDA



Kyle Brandon
Managing Director, Head of Derivatives
SIFMA