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January 14, 2013

The Honorable Elisse B. Walter
SEC Headquarters
100 F Street, NE
Washington, DC 20549

**RE: Securities Industry and Financial Markets Association comments on File No. FSOC-2012-0003**

Dear Hon. Walter:

I enclose a copy of the comment letter of the Securities Industry and Financial Markets Association on File No. FSOC-2012-0003 (Proposed Recommendations Regarding Money Market Mutual Fund Reform dated November 2012). Please signify your receipt of the enclosure by stamping the enclosed copy of this letter and returning it in the enclosed stamped self-addressed envelope.

Thank you.

Yours truly,

Joan Ohlbaum Swirsky

JOS/laf
Encl.

sifma

*Invested in America*

January 14, 2013

**VIA EMAIL: http://www.regulations.gov**
Financial Stability Oversight Council
1500 Pennsylvania Avenue NW
Washington, D.C. 20220
Attn: Amias Gerety

RE: Securities Industry and Financial Markets Association comments on File No. FSOC-2012-0003

Dear Sirs/Mesdames:

The Securities Industry and Financial Markets Association ("SIFMA") respectfully submits these comments on the Proposed Recommendations Regarding Money Market Mutual Fund Reform (the "Proposed Recommendations") of the Financial Stability Oversight Council ("FSOC") dated November 2012.[1] We appreciate the opportunity to provide our views to FSOC.

SIFMA brings together the shared interests of hundreds of securities firms, banks and asset managers. These companies are engaged in communities across the country to raise capital for businesses, promote job creation and lead economic growth. This letter has been prepared by the Asset Management Group of SIFMA and the Private Client Group of SIFMA. The Asset Management Group ("AMG") is the voice for the buy side within the securities industry and the broader financial markets. The leadership of the AMG is comprised primarily of senior executives at asset management firms, including some of the largest and most influential market participants in the United States. Collectively, the AMG's members represent assets under management exceeding $20 trillion. The clients of AMG member firms include, among others, registered investment companies, endowments, state and local government pension funds, private sector Employee Retirement Income Security Act of 1974 pension funds and private funds such as hedge funds and private equity funds. SIFMA's Private Client Group ("PCG") is composed of private wealth management professionals who are dedicated to providing personalized investment advice to retail investors. SIFMA's Private Client Group represents wealth management professionals at global, national, regional, independent contractor, and small firms. The PCG is committed to providing proactive guidance and recommendations to enhance

[1] Available at http://www.treasury.gov/initiatives/fsoc/Documents/Proposed%20Recommendations%20Regarding%20Money%20Market%20Mutual%20Fund%20Reform%20-%20November%2013,%202012.pdf

investor trust and confidence in the securities industry and to provide regulators and policy makers with a business perspective on legislative and regulatory proposals affecting individual investors.

Our comments focus on seven points that fall within four categories.

**FSOC's Process**

- Accommodate the Securities and Exchange Commission's ("SEC") continued engagement on money market fund reform and recognize its role as primary regulator on this issue. SIFMA offers these comments to inform the SEC's evaluation of money market fund reform, rather than to counsel action by FSOC in advance of the primary regulator.

- Do not make recommendations under Section 120 of the of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") at this time, as it has not been demonstrated that money market funds pose the high level of systemic risk that is a prerequisite for recommendations under that section.

**Guiding Principles**

- Tailor reforms as narrowly as possible.

- Only pursue recommended reforms that bear on the stated goal of reducing the susceptibility of money market funds to destabilizing runs.

- Carefully consider the need for transparency and simplicity in any reform, which poses particular challenges for the minimum balance at risk proposal. Consistent with transparency, consider requirements for more frequent public disclosure of portfolio holdings-related information and market-based net asset value. ("Net asset value" is referred to in this letter as "NAV.")

**Floating NAV**

- Address tax, accounting, brokerage account suitability and other key issues relating to the floating NAV, if regulators pursue that reform. Addressing those issues must be a prerequisite to any recommendations.

**Other Possible Reforms – Redemption Gate accompanied by Liquidity Fee**

- Explore a proposed redemption gate that will be activated by objective triggers and that would be accompanied by a liquidity fee.

**Introduction**

FSOC has proposed to recommend to the SEC under Section 120 of the Dodd-Frank Act that money market funds implement one of three reforms.

1. Adopt a floating NAV.
2. Comply with new requirements to both:

   (a) maintain a capital buffer of up to 1 percent of fund assets; and

   (b) require that 3 percent of each shareholder's highest account value in excess of $100,000 during the previous 30 days (the "minimum balance at risk" or MBR) be subject to delayed redemption. The MBR would be used to restore losses that arise in the money market fund within a 30-day period following redemption and that completely deplete the capital buffer. A fund that completely depleted its capital buffer would be required to either (i) suspend redemptions and liquidate or (ii) operate with a floating NAV indefinitely or until it restored its buffer.

3. Maintain a capital buffer of up to 3 percent of fund assets and possibly implement additional reforms that FSOC might recommend. FSOC may determine that the additional measures would justify allowing a reduced buffer. Additional reforms that FSOC suggests include stiffer rules on portfolio diversification or portfolio liquidity, "know your customer" measures, and/or more frequent disclosure of fund holdings or market-based NAV.

FSOC also has solicited comment on proposed redemption fees and/or gates on redemptions that would take effect when a money market fund is under stress (for example, if the fund's liquidity or market-based NAV declined or at the discretion of the fund Board).

In addition to the foregoing, FSOC also solicits comment on other possible reforms of money market funds. We expect that our members will submit their own comment letters focusing on other options for money market fund reform. We urge regulators to keep an open mind to reform alternatives other than those highlighted in the Proposed Recommendations.

We also urge FSOC to carefully review the comment letters that have been filed on the President's Working Group Report on Financial Markets Report on Money Market Fund Reform Options (October 2010).[2] Many of the questions FSOC raises in the Proposed Recommendations

[2] Available at http://www.treasury.gov/press-center/press-releases/Documents/10.21%20PWG%20Report%20Final.pdf

are addressed in those comments,[3] and, in addition, the comment letters provide information on important issues to which the Proposed Recommendations provide scant attention (for example, investor understanding of money market fund risks,[4] the operational challenges of the MBR[5] and expected investor reactions to the floating NAV[6]).

As an initial matter, please be aware that the 2010 amendments to Rule 2a-7 significantly increased the resilience of money market funds.[7] Following these reforms, during 2011, money market funds withstood unusually volatile markets, which saw an escalation of the banking and sovereign risks in the Eurozone, a U.S. debt ceiling crisis and the first-ever downgrade of the U.S. credit rating by a rating agency. The outflows from money market funds during this period were more gradual than during September 2008, but nevertheless we believe the excellent record of money market funds during this period testifies to their resilience. Funds' liquid asset ratios were only minimally impacted.[8]

In addition to those reforms, the markets in which money market funds operate have been made more resilient as a result of other reforms. The Dodd-Frank Act, one of the most sweeping financial reform efforts in U.S. history, was intended to identify and mitigate systemic risks. Reforms relating to securitized products, rating agencies and derivatives among others, reduce systemic risk in the financial markets. Further, the reforms of the Basel Committee for Banking Supervision are expected to enhance bank capital and funding practices. The Proposed Recommendations do not mention these important developments, but instead appear to view money market fund reform in isolation from other market reforms.

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[3] For example, the comments address expected investor reaction to proposed money market fund reforms (e.g., comment letter of Fidelity Management & Research Company posted by the SEC February 3, 2012 available at http://www.sec.gov/comments/4-619/4619-116.pdf).

[4] For example, see comment letter of Fidelity Management & Research Company posted by the SEC April 26, 2012 available at http://www.sec.gov/comments/4-619/4619-170.pdf.

[5] For example, see comment letter of the Investment Company Institute posted by the SEC on June 20, 2012 available at http://www.sec.gov/comments/4-619/4619-200.pdf.

[6] For example, see comment letter of Fidelity Management & Research Company posted by the SEC February 3, 2012 available at http://www.sec.gov/comments/4-619/4619-116.pdf

[7] Money market funds are required to: (a) hold 30% of total assets in Weekly Liquid Assets and taxable money market funds are required to hold 10% of total assets in Daily Liquid Assets (each as defined under Rule 2a-7 under the Investment Company Act of 1940); (b) implement "know your customer" procedures to understand their customers' liquidity needs; (c) maintain a weighted average maturity of 60 days and a weighted average life of 120 days; (d) stress test the portfolio; and (e) disclose portfolio holdings and market-based NAV to the SEC and shareholders. Money market fund Boards may suspend redemptions to liquidate a fund that is in danger of breaking the dollar, which will help assure that shareholders receive full value for their shares.

[8] See letter from the Investment Company Institute to Mohamed Ben Salem, International Organization of Securities Commissions (May 25, 3012) available at www.sec.gov/comments/4-619/4619-182.pdf.

**FSOC's Process**

FSOC is a new regulatory body without established procedures for operation. The Proposed Recommendations may set a precedent for FSOC's exercise of authority under Section 120 of the Dodd-Frank Act in particular, and for its exercise of authority in general. For that reason, it is especially important that FSOC carefully adhere to the requirements of Section 120 and to administrative best practices relating to the Proposed Recommendations.

Role of the SEC as Primary Regulator. On November 13, 2012, when FSOC approved the Proposed Recommendations, Treasury Secretary Geithner, speaking as Chairman of FSOC, expressed hope that public debate on the Proposed Recommendations would provide a basis on which the SEC will move forward on money market fund reform.[9] As FSOC has said, "The SEC, by virtue of its institutional expertise and statutory authority, is best positioned to implement reforms to address the risks that MMFs present to the economy."[10] Consistent with those views, we urge FSOC and its members to refrain from proceeding with recommendations at this time. Rather, accommodate the SEC's continued engagement on money market fund reform issues as primary regulator of money market funds.

We expect that action through the SEC will allow for a more flexible, productive regulatory process than action by FSOC. If FSOC makes recommendations, this will occur prior to complete analysis by the SEC and its staff. It would be more constructive for proposals to reflect the insights of the regulator that has been closest to the issues for the longest period. Also, the SEC review process will encompass drafting and review of precise regulatory language (as opposed to more general recommendations). That exercise is likely to highlight issues that should be addressed before views are hardened into a recommendation. We expect that the views of the SEC and its staff would be helpful to FSOC.

We note that the SEC has made clear its engagement on money market fund reform issues. Commissioner Luis A. Aguilar (on August 23, 2012) and Commissioners Daniel M. Gallagher and Troy A. Paredes (on August 28, 2012) issued separate statements stating that the Commissioners did not reject money market fund reform out of hand, but rather posed specific questions for further study by the SEC Staff.[11] The SEC Staff has responded to some of those questions in the Staff Response, and Commissioner Aguilar has released a statement regarding

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[9] See minutes of the November 13, 2012 meeting of FSOC available at http://www.treasury.gov/initiatives/fsoc/Documents/November%2013,%202012.pdf

[10] Proposed Recommendations p. 15.

[11] Statement on the Regulation of Money Market Funds by Daniel M. Gallagher and Troy A. Paredes available at http://www.sec.gov/news/speech/2012/spch082812dmgtap.htm and Statement Regarding Money Market Funds by Luis A. Aguilar dated August 23, 2012 available at http://www.sec.gov/news/speech/2012/spch082312laa.htm

the Staff Response.[12] The Commissioners have continued to meet with and accept comments from industry participants on money market fund reform. For FSOC to draw conclusions and make recommendations at this time before those questions are addressed is premature and inconsistent with thorough exploration of the costs and benefits of reform.[13]

We also note that the Dodd-Frank Act does not authorize FSOC to substitute its judgment for that of a primary regulator under Section 120, but only to make recommendations. The Proposed Recommendations, however, evidence a different approach, stating that "in the event that the SEC determines not to impose the standards recommended by the Council in any final recommendation," FSOC and some of its members are actively evaluating alternative authorities.[14] This pre-determination of the ultimate outcome, in advance of (a) public comment on FSOC's determination under Section 120 and on the Proposed Recommendations, (b) evaluation by the SEC and its staff of any final recommendation and (c) public comment to the SEC, is inconsistent with a complete vetting of the issues by the primary regulator. The Dodd-Frank Act does not envision this result.[15]

Consistent with the respective roles of the regulators, we offer our comments below to inform the SEC as it continues to evaluate money market fund reform, rather than to counsel action by FSOC in advance of the primary regulator.

Section 120 Standard. Under Section 120 of the Dodd-Frank Act, activities or practices must pose systemic risk if FSOC will issue recommendations to the SEC or other primary regulator with respect to the activities or practices. Specifically, FSOC may issue recommendations relating to the financial activities or practices of money market funds only if FSOC determines that the "conduct, scope, nature, size, scale, concentration, or interconnectedness of such activity or practice could create or increase the risk of significant liquidity, credit, or other problems spreading among bank holding companies and nonbank financial companies, financial markets of the United States, or low-income, minority, or underserved communities." In the Proposed Recommendations, FSOC concludes that money

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[12] Statement on Money Market Funds as to Recent Developments by Luis A. Aguilar available at http://www.sec.gov/news/speech/2012/spch120512laa.htm

[13] Under Section 120(b) of the Dodd-Frank Act, FSOC must "take costs to long-term economic growth into account" for any recommended reform.

[14] Proposed Recommendations p. 15.

[15] We support the approach FSOC has said it will take if the SEC moves forward with fundamental reform. FSOC has said, "If the SEC moves forward with meaningful structural reform of MMFs before the Council completes its Section 120 process, the Council expects that it would not issue a final Section 120 recommendation to the SEC." Proposed Recommendations p. 15. On the other hand, we acknowledge that various regulatory responsibilities fall squarely in the purview of FSOC under the Dodd-Frank Act. For example, FSOC alone is charged with designating nonbank financial companies that could pose a risk to U.S. financial stability for heightened regulation and supervision by the Federal Reserve Board under Section 804 of the Dodd-Frank Act.

market funds pose this risk because they are susceptible to destabilizing runs. We question the basis for this conclusion, and whether money market fund activities meet the standard of risk in Section 120, particularly in light of the stabilizing effect of the 2010 amendments to Rule 2a-7. As evidence of the resilience of money market funds to destabilizing runs, consider that certain money market funds lost 16% loss of assets over an eight week period during the summer of 2011, but withstood the redemptions, and, as the Proposed Recommendations point out, there were "no further repercussions."[16] It is important that FSOC provide sufficient evidence for its conclusion under Section 120, in order to satisfy the requirements of the Administrative Procedure Act.[17]

As the SEC Staff has recently pointed out, with the exception of The Reserve Primary Fund at the height of the financial crisis of 2008, financial distress at money market funds has not triggered industry-wide redemptions at money market funds, "suggest[ing] that idiosyncratic portfolio losses may not cause abnormally large redemptions in other money market funds."[18] On the one other occasion when a money market fund broke the dollar, in 1994, there were no runs on money market funds and no ripple effects to the economy whatsoever. The Staff Response identified movement of assets during the market turmoil of September 2008 from prime money market funds to Treasury and government money market funds, and posits a number of possible causes, none of which evidence a structural weakness unique to money market funds that calls for fundamental reform. The movement may be evidence of a flight to quality, a flight to liquidity, a flight to transparency, a flight to performance, and concern that the funds may have needed to sell assets at a loss to raise cash (a "problem [that] is not unique to money market funds."[19] The fact that investors pulled back from one class of money market funds on one occasion during the most severe financial crisis since the Great Depression does not support that money market funds are "vulnerable to destabilizing runs."

FSOC itself minimizes the significance to the broader markets of the credit provided by money market funds, stating that "the total credit [money market funds] supply is relatively small compared to aggregate nonfederal, nonfinancial debt outstanding."[20] This statement is inconsistent with a conclusion that money market funds meet the high standard of risk required for action under Section 120.

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[16] Proposed Recommendations p. 27.

[17] 5 U.S.C. 706(2)(a).

[18] SEC Staff Response to Questions Posed by Commissioners Aguilar, Paredes, and Gallagher, Division of Risk, Strategy, and Financial Innovation, SEC (November 30, 2012) ("Staff Response") Executive Summary, available at http://www.sec.gov/news/studies/2012/money-market-funds-memo-2012.pdf.

[19] Staff Response p. 7-9.

[20] Proposed Recommendations p. 68.

**Guiding Principles**

Our members have varying views relating to money market fund reform, but their views conform around several guiding principles and fundamental concepts.

Tailor reform as narrowly as possible. Since any changes to money market funds may have far-reaching unintended consequences that are detrimental to shareholders and the broader economy, we urge that any changes be narrowly tailored to avoid unnecessary disruption. Tailoring reform narrowly will benefit markets by easing the process of adjusting to changes, and providing a basis to evaluate the need for further actions based on the results achieved. Prudence requires an incremental process.[21]

Overly broad reform invites various negative unintended consequences, generally because reformed money market funds are likely to shrink significantly. Our members report that many clients will reject money market funds with a floating NAV, capital buffers or an MBR. These reforms may drive money out of money market funds and into other types of cash pools that are less regulated, to markets that are outside U.S. regulatory oversight or to products that otherwise introduce increased investment risk. This would increase risks to shareholders and to the U.S. financial markets. The Staff Response recognizes the possibility that some investors, "depend[ing] on individual preferences[,]" may move their cash into vehicles that "involve increased investment risk."[22]

Alternatively, if investors reject reformed money market funds, a significant portion of redemptions from money market funds would most likely be deposited at banks. There would be capital implications for these additional deposits.[23]

It is also uncertain whether all banks could provide the requisite financing to issuers on the scale currently available through money market funds, and the cost of financing to issuers is likely to increase. Any significant reduction in that source of financing or increase in its cost could significantly affect governments, bank and non-bank issuers and municipalities. In particular, money market funds are a significant source of short-term financing for the U.S. Treasury and Government Sponsored Enterprises (GSEs) as well as state and local governments and non-profit organizations, such as universities and hospitals.[24] Ultimately, increased

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[21] Our members have differing views regarding the best approach to tailoring reforms narrowly, and many of them will submit these views to you in their separate comment letters.

[22] See discussion in the Staff Response at notes 80-85.

[23] Some take the view that movement of cash to banks may result in increased systemic risk.

[24] For examples of letters regarding the importance of money market funds to issuers and the potential risks if money market funds shrink, see Letter from James A. Kaitz, President and CEO, Association for Financial Professionals, on page 226 of the hearing materials on *Oversight of the Mutual Fund Industry: Ensuring Market Stability and Investor Confidence* of the Subcommittee on Capital Markets and Government Sponsored

borrowing costs are likely to be passed through to U.S. and municipal taxpayers and consumers, with potential negative consequences on the U.S. and broader global economies.

Recommendation Must Bear on Goal. We understand that the main goal of the Proposed Recommendations is to alleviate money market funds' vulnerability to destabilizing runs.[25] Assuming that money market funds are susceptible to destabilizing runs,[26] any reform must be likely to achieve that purpose. Our members do not believe the proposed capital buffers and MBR will reduce vulnerability to destabilizing runs. Many of our members also are convinced that the floating NAV will be ineffective to achieve that goal, though some believe that a narrowly-applied, properly structured floating NAV could ameliorate run risk in certain circumstances. With regard to the floating NAV, FSOC itself concedes that "Floating NAV cash funds in other jurisdictions and U.S. ultra-short bond funds also suffered heavy redemptions during the financial crisis."[27] Further, capital at banks does not prevent or stop bank runs. Lastly, the effect of the MBR is based on assumptions as to investor behavior, which are impossible to know with certainty.[28] Accordingly, we do not believe that imposing capital requirements and/or an MBR are suited to the stated goal of reducing vulnerability to destabilizing runs, and there is significant doubt among many of our members regarding the efficacy of the floating NAV.

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Enterprises of the Committee on Financial Services U.S. House of Representatives 112th Congress First Session June 24, 2011 available at http://financialservices.house.gov/UploadedFiles/112-42.pdf. Also see Joint Letter of the American Public Power Association, Council of Development Finance Agencies, Council of Infrastructure Financing Authorities, Government Finance Officers Association, International City/County Management Association, International Municipal Lawyers Association, National Association of Counties, National Association of Local Housing Financing Agencies, National Association of State Auditors, Comptrollers and Treasurers, National Association of State Treasurers, National League of Cities, U.S. Conference of Mayors, available at www.sec.gov/comments/4-619/4619-130.pdf

[25] Proposed Recommendations p. 4. A "destabilizing run" would be a run that creates or increases the risk of significant liquidity, credit, or other problems spreading among other institutions or markets. This would not include any period of redemptions that are heavier than usual.

[26] Many of our members question this assumption.

[27] Proposed Recommendations p. 33. FSOC says that behavior of shareholders in these other funds is not indicative of how shareholders in U.S. floating NAV money market funds might behave, because the investment restrictions of European floating NAV money market funds and U.S. short-term bond funds differ from those of U.S. money market funds. For this reason, FSOC says, these funds are "not necessarily indicative of the way floating-NAV MMFs and their investors would respond under this alternative in times of stress. In addition, many European MMFs accumulate dividends, rather than distributing any net income the fund earns to shareholders. Accordingly, losses in these funds are generally reflected as a negative yield rather than a loss in the value of a share." (Proposed Recommendations p. 33) But, it is unclear to us that these are distinctions with a difference, and we believe the experience of these funds is likely to be relevant.

[28] See The Minimum Balance at Risk: A Proposal to Mitigate the Systemic Risks Posed by Money Market Funds, Staff Report of the Federal Reserve Bank of New York (July 2012) available at http://www.newyorkfed.org/research/staff_reports/sr564.pdf), in particular the discussion at p. 46.

Consider Transparency and Simplicity. Any reform should allow money market funds to remain transparent and uncomplicated, as they currently are. The MBR proposal poses a particular challenge in this regard. The disclosure necessary to guide shareholders through the structure and ever-changing size of the MBR and subordinated MBR would be cumbersome and complex.

The complex hierarchy of share subordination under the MBR arrangement gives rise to its additional significant flaw: the arrangement punishes shareholders for exercising their right to redeem their shares. It is fundamentally unfair, and at odds with the investor protection afforded under the Investment Company Act, to penalize shareholders for exercising their right to access their funds.

Importantly, we expect that shareholders will object to the delayed availability of a portion of their accounts. The MBR creates uncertainty as to available account balances, which would impede the use of money market funds to fund day-to-day operations. Brokers expect that many clients will urge brokers to make available the delayed portion from other sources. Brokers may be in a position to accommodate this request from certain clients, but not others, depending on the client's other available balances and other factors. This possible differing treatment among clients is another drawback of the MBR arrangement.

An additional negative investor impact is that money market funds would no longer be a feasible vehicle for sweep accounts, which depend on access to a shareholder's full account. Sweep accounts are important to the efficient use of investors' liquidity. Sweep accounts enable corporate treasurers, trustees, brokers and others to conveniently manage cash balances, while remaining assured that the balances are most productively invested. In addition, the waning of sweeps would negatively impact capital markets. If banks cannot sweep cash into money market funds, the cash is likely to remain on bank balance sheets,[29] rather than in being deployed in the capital markets. Alternatively, monies currently in sweep vehicles may migrate to riskier, less-regulated products.

Further, the technological impediments to the MBR are daunting. Our members tell us that reprogramming systems for an MBR would require at least a year of operational effort. Given the tremendous negative investor impacts of the MBR, our members expect a vast reduction in total money market fund assets if the MBR is adopted, at the same time that intermediaries and funds would need to make extensive and burdensome changes to myriad systems to implement the MBR. Accordingly, we expect that intermediaries will be unwilling to bear the costs of implementation. We expect that the cost ultimately will be passed along to shareholders. In short, this reform option is impractical, and we expect that it will be unattractive to investors, fund sponsors and intermediaries.

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[29] As noted above in footnote 23, the movement of cash to banks may have implications for systemic risk.

On the other hand, our members support consideration of the following two reforms, which would enhance transparency, rather than diminish it.

More Frequent Public Disclosure of Portfolio Holdings-Related Information. Consider requiring money market funds to more frequently publicly disclose their portfolio holdings-related information. Holdings currently are required to be disclosed on fund websites monthly, within five business days following month-end. More frequent disclosure could help avert redemptions by shareholders who redeem because they are uncertain about the credit quality (or other aspects) of a fund's holdings. Some industry participants already have implemented more frequent portfolio disclosures, and we expect that industry participants will continue to refine and develop their approach to portfolio disclosure.

More Frequent Public Disclosure of Market Value Per Share. Consider requiring money market funds to more frequently publicly disclose their market value per share. Market value per share currently is required to be disclosed monthly with a 60-day lag. Additional transparency may increase investor confidence and understanding. We note that a number of industry participants have recently moved to daily disclosure of market value per share. We expect that funds' approach to this disclosure will continue to evolve.

Even without these additional reforms, FSOC should recognize that the 2010 amendments to Rule 2a-7 and related amendments already have significantly enhanced the transparency of money market funds. Shareholders and regulators have a frequent and thorough understanding of fund portfolio holdings due to required monthly disclosure of portfolio holdings-related information at fund websites and monthly filings with the SEC of detailed portfolio holdings-related information, market-based NAV and additional information. This information has enabled shareholders and regulators to better compare and evaluate the potential interest rate risk, market risk, credit risk and spread risk of money market fund portfolios.

**Floating NAV**

Tax, accounting, brokerage suitability and other key issues. Money market funds with a floating NAV will lack the tax convenience, accounting simplicity and operational convenience of money market funds in their current form. Many of our members believe it is critically important to money market mutual fund investors that the stable NAV be preserved. But, regardless of their views on the floating NAV in general, our members feel strongly that the approach to addressing tax and accounting issues of the floating NAV must be described specifically to allow meaningful comment on the concept of a floating NAV, and that regulators must provide guidance on the application of suitability standards for investment of brokerage accounts in floating NAV money market funds. Those issues are of integral importance to inform our members' views on the costs and benefits of the floating NAV. FSOC should not issue a final recommendation until these issues are resolved.

The Proposed Recommendations leave tax issues to be addressed at a future date.[30] Our members report that reporting gains and losses and complying with the tax code's "wash sales rule" will be particularly burdensome, given the frequency of trading in money market fund shares as a cash management tool. Regarding accounting issues, the Proposed Recommendations merely state, "Shareholders and their accountants would need to evaluate whether a floating-NAV MMF meets the characteristics of a cash equivalent under relevant accounting guidance."[31]

The Proposed Recommendations do not address broker suitability requirements at all. Financial Industry Regulatory Authority ("FINRA") requires that broker-dealers consider the suitability of investment in money market funds by certain of their customers. Specifically, a broker-dealer must have a reasonable basis to believe that a recommended transaction or investment strategy is suitable for its customer, considering such factors as time horizon and liquidity needs.[32] Many broker-dealer customers use their money market fund accounts to pay bills and write checks. A broker-dealer could view a money market fund with a floating NAV as unsuitable for a customer account that is used for those purposes, because the customer will not know with certainty the amount available in the account from time to time.[33] It is important that FINRA address this issue in connection with any proposal to move to a floating NAV, so that commenters can consider the effects of the reform on money market funds held in brokerage accounts.

Reform should be structured to avoid triggering an unnecessary exodus from floating NAV money market funds in brokerage accounts due to uncertainty about suitability. On the other hand, if a floating NAV money market fund is an unsuitable investment for some customers, regulators must carefully consider how to transition to a floating NAV in accounts subject to the suitability requirements. The transition raises challenges, because a broker-dealer

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[30] The Proposed Recommendations states, "The Council understands that the Treasury Department and the IRS will consider administrative relief for both shareholders and fund sponsors. Among the questions that the Council understands they plan to address are whether changes to tax rules and forms (including new assumptions and default methods) could simplify the measurement and reporting of gains and losses from floating-NAV MMFs. Today, the sponsors of non-MMF mutual funds must report the basis and holding period of redeemed shares both to the IRS and to redeeming shareholders (referred to as 'basis reporting'). The Treasury Department and the IRS have indicated to the Council that they will consider the extent to which expansion or modification of basis reporting could help shareholders deal with floating-NAV MMFs. Finally, they will evaluate the possibility of some administrative relief from the wash sale rules for *de minimis* losses on floating-NAV MMF shares." (Footnote omitted.) (Proposed Recommendations p. 33-34)

[31] Proposed Recommendations p. 34.

[32] See FINRA Rule 2111.

[33] The same uncertainty regarding suitability might arise for a money market fund with an MBR, because many shareholders will find it a great challenge, if not impossible, to track the amount available in their money market fund accounts.

is not at liberty to move a customer out of the floating NAV money market fund absent written authorization, which may not be in place.[34]

Transition. Beyond the particular difficulties of transition to a floating NAV for broker-dealer customer accounts, our members are concerned with the difficulties of transition to a floating NAV more generally. It is critical that regulators allow a substantial period of time for the transition. Consider that fund sponsors will need to consider how to address changes to affected services and related customer needs, such as ATM access, check-writing, ACH and Fedwire transfers. FSOC suggests a transition period of up to five years, during which stable NAV money market funds could continue to operate as such. Parties must determine how to transition stable NAV funds that retain significant assets after the five year period.

Do not require $100.00 NAV. The Proposed Recommendations state that the initial NAV per share of a floating NAV money market fund would be required to be $100.00. Our members oppose the requirement for a $100.00 initial NAV. When rounded to the nearest penny, the $100.00 NAV calculation would be ten times more sensitive to price fluctuations than the NAV calculation of other variable NAV funds.[35] That treatment is at odds with longstanding SEC policy.[36] Also, no other type of mutual fund is subject to a requirement as to the initial NAV of the fund. A fund sponsor may have a business reason to select a different starting NAV. We do not believe that increasing the sensitivity of rounding will bear on FSOC's purpose to reduce risk of destabilizing runs on funds.[37]

Amortized cost for very short term securities. Our members recommend that a variable NAV money market fund be subject to the same protocols for valuing holdings as other variable NAV funds -- specifically, variable NAV money market funds should be permitted to use amortized cost pricing to value securities maturing in 60 days or less. This is the approach used

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[34] See FINRA's NASD Rule 2510.

[35] For example, $100.00 rounded to the nearest penny provides rounding to the nearest hundredth of a percent, while $10.00 rounded to the nearest penny (as is typical for other variable NAV funds) provides rounding to the nearest tenth of a percent.

[36] *See* Valuation of Debt Instruments by Money Market Funds and Certain Other Open-End Investment Companies, Investment Company Act Release No. 9786 (May 31, 1977) available at http://www.sec.gov/rules/interp/1977/ic-9786.pdf

[37] If a $100.00 NAV is required, regulators will need to provide relief from certain related requirements. Form N-MFP requires reporting of the NAV to the nearest hundredth of a cent (Item 22 and 25 of the Form). Form N-SAR also requires reporting of market-based NAV of a money market fund to the hundredth of a cent ("four decimal places"). For a $100.00 share, these requirements would mean reporting to the nearest ten thousandth of a percent – a sensitivity beyond any reasonable need.

by other floating NAV funds under long-standing SEC precedent.[38] There is no reason to treat money market funds differently from other floating NAV funds in this regard.

**Other possible reforms - redemption gate and liquidity fee**

Redemption gate with objective trigger. We suggest that the SEC explore structuring a proposed redemption gate, accompanied by a redemption fee or "liquidity fee." The gate, when triggered, would prohibit investors from redeeming and provide a period of time for a fund to restore its liquidity. At the time the gate is lifted, the fund would impose a fee on subsequent redemptions until such time as liquid assets in the fund were restored to a pre-determined level. The gate would operate for a brief period. The purpose of the gate would be to allow time for the fund to implement the liquidity fee and make any other necessary determinations regarding the fund's next steps. Only a gate can truly stop a run.

Key issues must be resolved relating to the gate and liquidity fee -- for example, the identification of the triggers for the gate and the circumstances under which the gate and liquidity fee must or could be lifted. We support consideration of (a) triggering the gate upon a decline in the fund's Weekly Liquid Assets (as defined in Rule 2a-7) to below a specified percentage of fund assets and (b) allowing the fund Board to discontinue the liquidity fee when the fee is no longer in the best interests of long-term shareholders in the fund.

After the gate is lifted, the fund would have the option to liquidate rather than resuming operations with a liquidity fee. In addition, the fund would retain its right to suspend payment of redemption proceeds for up to seven days, as currently permitted under the Investment Company Act.

We understand that some are concerned that a gate will encourage preemptive runs by shareholders who exit the fund before the gate falls. In this regard, consider that the Investment Company Act of 1940 has permitted any mutual fund to postpone the right of payment upon redemption for a period of up to seven days at any time and, during certain emergency circumstances as identified by the SEC, for longer periods. Also, a money market fund Board can suspend redemptions to liquidate the fund under new Rule 22e-3 under the Investment Company Act of 1940, if the fund is nearing breaking the dollar. These provisions have not precipitated preemptive runs. (We understand that these provisions differ from the proposal however, because there may be less certainty around the occurrence of triggers under these provisions, which may reduce run risk.) Importantly, the operation of the proposed gate and liquidity fee themselves will stem any exodus and damper its effect.

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[38] Id.

**Conclusion**

SIFMA respectfully urges FSOC to carefully consider the foregoing comments on the Proposed Recommendations. Money market funds are one of the most important innovations within the mutual fund industry, are of fundamental importance to the financial system and have provided a great benefit to investors. SIFMA supports steps to enhance the resilience of money market funds. But, the MBR is impossibly cumbersome in the form suggested, there is insufficient evidence that the MBR and capital requirements would achieve the goal of resilience to destabilizing runs, and there is significant doubt among many of our members that the floating NAV would achieve that goal. We support efforts to explore other options, such as a redemption gate that would be activated upon objective triggers. In all these considerations, we urge FSOC to adhere to the requirements of Section 120 of the Dodd-Frank Act and administrative best practices by allowing the SEC to fulfill its role as primary regulator of money market funds.

If you have any questions or require additional information, please do not hesitate to contact me at 212-313-1389. Thank you for your attention to these comments.

Sincerely,

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cc: The Honorable Daniel M. Gallagher
The Honorable Elisse B. Walter ✓
The Honorable Luis A. Aguilar
The Honorable Troy A. Paredes
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