

## MEMORANDUM

**To:** File Nos. S7-05-14, S7-08-12

**From:** Richard Gabbert, Counsel to Commissioner Hester M. Peirce

**Re:** Meeting with Representatives of the Securities Industry and Financial Markets Association

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On November 16, 2018, Commissioner Hester Peirce and her legal advisor, Richard Gabbert, participated in a meeting with the following representatives of the Securities Industry and Financial Markets Association (SIFMA):

- Rosario Chiarenza, Morgan Stanley;
- Matthew Danton, Barclays;
- Waqaas Fahmawi, Bank of America;
- Ali Hosseini, JPMorgan;
- Angie Karna, Nomura;
- Colin Lloyd, Cleary Gottlieb;
- Marta Poleszczuk, Goldman Sachs;
- Briget Polichene, IIB;
- Joerg Riegel, Societe Generale;
- John Vitha, Goldman Sachs;
- Kyle Brandon, SIFMA; and
- Craig Griffith, SIFMA.

In addition, Commissioner Brian Quintenz and Kevin Webb of the Commodity Futures Trading Commission (CFTC) also participated in the meeting.

Participants discussed, among other things, the importance of continued coordination and harmonization between the Title VII regulatory frameworks implemented by the Commission and the CFTC, noting that the swap and security-based swap markets essentially have functioned as a single market. Participants provided examples of differences between the two frameworks, including certain required disclosures under each agency's external business conduct rules and the scope of each agency's U.S. person definition.

Participants also stated that harmonization of the swap and security-based swap transaction reporting and dissemination requirements would reduce operational challenges that firms are likely to encounter when compliance with Regulation SBSR is required. Participants also noted that Commission rules that would require buy-side market participants to report information to security-based swap data repositories raise significant operational and other challenges for these market participants.

Finally, participants discussed various Title VII requirements that will apply to security-based swap dealers. For example, participants explained that the certification and opinion of counsel requirements for firms seeking to register as security-based swap dealers, as well as scope of the background questionnaire requirement and of the statutory disqualification prohibition for certain foreign associated natural persons, could effectively preclude foreign firms from registering as security-based swap dealers. To address these obstacles, participants suggested tailoring the scope of these requirements, including, for example, by allowing firms to rely on the types of employee checks for foreign associated natural persons that are carried out in the ordinary course under applicable foreign law.

Participants also described challenges related to compliance with the Commission's requirement under Exchange Act rule 3a71-3(b)(1)(iii)(C) that a foreign dealer count certain transactions arranged, negotiated, or executed in the United States toward its security-based swap dealer de minimis threshold, urging the Commission to harmonize its approach with that of the CFTC or, in any event, to impose on such transactions only requirements that are relevant to the activity in the United States.

Participants further discussed application of Title VII capital, margin, and segregation requirements and of the recordkeeping and reporting requirements. In particular, participants urged that the various thresholds under the Commission's margin rules should be consistent with those implemented by other regulators, both in the United States and abroad. Participants also suggested that the Commission should not extend the write-once-read-many requirement to rules governing security-based swap dealers.