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September 26, 2011

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

Mr. David A. Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

Via Electronic Submission

Re: File No. S7-32-11 – Acceptance of Public Submissions Regarding the Study of Stable Value Contracts

Dear Ms. Murphy and Mr. Stawick:

Vanguard[1] appreciates the opportunity to provide the Commodity Futures Trading Commission (the "**CFTC**") and the Securities and Exchange Commission (the "**SEC**" and together with the CFTC, the "**Commissions**") with our comments on the Commissions' study to determine whether stable value contracts ("**SVCs**") fall within the definition of swap.[2]

Vanguard has been managing stable value funds for over 20 years and currently manages over $27 billion in stable value assets for approximately 1,300 institutional defined contribution plans covering about 700,000 participants.[3] We believe that stable value funds have been and continue to be an appropriate and important investment option in defined contribution plan

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1 Vanguard is an SEC registered investment adviser with more than $1.4 trillion in assets under management. Vanguard offers more than 170 U.S. mutual funds and serves approximately 9 million shareholders.

2 *See* Acceptance of Public Submissions Regarding the Study of Stable Value Contracts, 76 FR 53162 (August 25, 2011) (the "**Study**").

3 Stable value funds are managed by Vanguard's wholly owned subsidiary, Vanguard Fiduciary Trust Company.

lineups. A fundamental feature of stable value funds is their use of SVCs, which include traditional guaranteed investment contracts ("**GICs**") as well as synthetic or wrap contracts ("**Synthetic GICs**").

Vanguard is fully supportive of the derivatives oversight provisions of Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "**Dodd-Frank Act**"), which bring much-needed transparency and regulation to the swaps markets including subjecting swaps to regulatory oversight and requiring the clearing of standardized swaps.[4]

While we are very supportive of the Dodd-Frank Act's rules that bring much needed transparency and rigor to the swaps market, our view is that SVCs are not the types of investments that fall within the definition of swap and they should not be subject to rules applicable to swaps. Simply put, SVCs should not be considered swaps because they do not operate like traditional swaps, nor do they involve the same types of potential risks.

Including SVCs in the definition of swap would subject SVC sellers to a multitude of new rules and would subject SVCs to the wholly inappropriate clearing, exchange trading, margining and public reporting requirements applicable to swaps, which will likely lead to significant, and inappropriate, added costs without corresponding benefits. Such unwarranted regulations and expenses could lead sellers of SVCs to stop offering them to stable value funds, effectively eliminating this important investment option for tens of millions of retirement savers.

The discussion below presents Vanguard's recommendations and additional comments on the Study.

- **SVCs are fundamentally different from swaps; the Commissions should determine they are not swaps.** SVCs are functionally different from swaps and more akin to insurance products, which are proposed to be exempt from the swap definition. There is nothing in Title VII of the Dodd-Frank Act to suggest that Congress intended for SVCs to be regulated as swaps. A determination that SVCs are not swaps is entirely appropriate and in the public interest.

- **SVCs do not pose systemic risk concerns.** The size of the SVC market is relatively small. Stable value funds as well as bank and insurance company SVC providers are subject to significant regulation and oversight, and SVC terms and structures further limit risk. SVCs do not pose systemic risk.

- **Dodd-Frank Act risk mitigating mandates are wholly inappropriate for the stable value contract product.** Rules applicable to swaps and swap dealers are not carefully crafted for application to SVCs. Inappropriate application of such rules will likely lead to

[4] Vanguard has been highly engaged in derivatives reform rulemaking efforts and has submitted numerous derivatives rule comment letters to regulators (e.g., CFTC, SEC, Department of Treasury), participated in derivatives industry roundtable discussions sponsored by regulators, and testified before US Congressional committees. We have also contributed significantly to trade association comment letters concerning derivatives regulation.

significant and unwarranted added costs for SVCs and stable value funds without commensurate benefits.

- **Regulation of SVCs as swaps would substantially reduce or effectively eliminate stable value fund offerings.** Regulating SVCs as swaps will have the effect of causing a further contraction in SVCs available for purchase by stable value funds, so much so that it will be nearly impossible for the market to offer stable value funds. If the Commissions determine that SVCs are swaps, they should provide an exemption from all swap related rules as being appropriate and in the public interest.

I. Background – stable value funds and SVCs

A. Evolution of stable value funds and SVCs.

Stable value funds were introduced in the 1970's with the growth of defined contribution plans, and the earliest funds were mostly portfolios of "guaranteed" contracts (i.e., GICs) issued by insurance companies and banks. Similar to bank certificates of deposit, these GICs typically had fixed rates and maturity lengths with the guaranteed returns backed solely by the issuer's ability to pay. As the underlying assets of each GIC in the fund's portfolio were owned by the insurance company or bank and not the plan, there was a significant risk of loss if the issuer became insolvent.

In response to issuer insolvencies in the 1980's, stable value funds began to invest in (1) high-quality, diversified portfolios of fixed-income assets, and (2) synthetic or "wrap" contracts (i.e., Synthetic GICs) issued by insurance companies or banks. A Synthetic GIC is in essence a contractual promise from the issuer to pay book value in the event of participant-initiated redemptions from the stable value fund, even if the market value of the corresponding fixed-income assets has declined. This synthetic wrap strategy continues to be the pervasive investment strategy employed by stable value managers today because, as explained immediately below, this investment strategy is very protective of the interests of participants investing in stable value funds. Today, stable value funds are included in defined contribution plans and certain other types of plans, including 529 plans.[5]

B. Key characteristics of stable value funds and SVCs.

The strategy offered by a Synthetic GIC provides the advantage of allowing the fund to retain legal title to the underlying portfolio's assets. At the same time, such synthetic wrap contracts provide the basis, under standard accounting practices, for participants to generally transact at a $1 per share book value even when the value of the fund's underlying fixed-income assets is less than book value. The synthetic wrap contracts also provide for protection of principal under certain limited conditions.

The fixed-income assets held by stable value funds are typically of slightly longer maturity than that of money market funds. Most stable value funds have an average maturity of approximately 3 years, while a money market fund must maintain a weighted average maturity of

[5] At Vanguard, we offer stable value funds in a number of 529 plans.

no more than 60 days. This slightly longer maturity allows stable value funds to generate higher returns over time than money market funds, with the stable value fund returns often equating to the returns of bond funds of similar maturity.

Synthetic GICs used by a stable value fund enable the fund to maintain a constant $1 per share price by using book-value accounting standards established by the Financial Accounting Standards Board. Under book value accounting, any unrealized gains or losses in the underlying portfolio of fixed-income assets can be amortized over the fund's average life through the crediting rate to plan participants, without the fluctuation in principal value that would be seen in a typical fixed-income or bond fund. Unrealized gains lead to an increase in the crediting rate and unrealized losses to a reduction in the rate.

C. Advantages of stable value funds due to SVCs.

In our view, there are several key advantages that make today's stable value funds attractive options for defined contribution plans as well as other plans. Stable value funds offer the stability of principal with returns that over time have exceeded those of money market funds.[6] There is also less volatility than experienced by "unwrapped" bond funds due to the return smoothing achieved via a stable value fund's crediting rate, which, again, generally allows the share or unit price to remain the same – $1 per share – even if interest rates change or if the fund's market value is not $1 per share.

Today's stable value funds are also attractive defined contribution plan options because the synthetic wrap contract structure allows the plan to retain ownership over the assets corresponding to a wrap contract. Thus, the plan's (and the wrap provider's) risk in a synthetic portfolio is effectively limited to the size of the gap, if any, between the portfolio's book value and market value, with the wrap provider ultimately insuring the plan against that gap in the event of participant-directed transactions.[7]

D. Risks of stable value funds and SVCs.

While the advantages of stable value funds are significant, they share a number of risks common to all fixed-income investments including inflation risk, credit risk, income risk and market risk.[8] Market risk is minimized but not eliminated by SVCs in a portfolio because the synthetic wrap protection does not provide protection in all cases. The protection only applies to

[6] The average annual return for the 10 years ending June 30, 2011 for the Hueler Stable Value Fund Index has been 4.40% while the average annual return for the average money market fund has been 1.64% for the same period. Sources: Vanguard calculations using Lipper Inc. and Hueler Analytics, Inc. peer group returns.

[7] This benefit of limited issuer exposure in Synthetic GICs is in contrast to investments in traditional GICs, where the plan must turn over cash to the insurer and has only the insurer's contractual promise to repay, backed by the insurer's financial strength. Under some states' laws, a separate account GIC may offer investors protection comparable to a Synthetic GIC because the separate account GIC is funded by a separate asset pool.

[8] Market risk is the risk that the value of the underlying assets of the fund might decline due to rising interest rates.

participant-directed transactions in the ordinary course of plan operation, such as when individual participants request exchanges or distributions.

Stable value funds are subject to market fluctuation in the event of certain specified events that affect the plan sponsor and are typically not covered by the SVC. This type of risk is often referred to as **"plan event" risk**. Wrap contracts typically contain a list of relevant events, including the plan sponsor experiencing significant layoffs, the plan sponsor's bankruptcy, the plan sponsor's sale of one of its divisions, or a material change in the plan's investment lineup. Insurers and other wrap providers do not provide protection in these situations because these events have the potential to result in large outflows of assets from the stable value fund within a relatively short period of time. Such large, rapid outflows are not considered part of the normal operation of the plan and are not something that insurers feel are predictable enough to underwrite.

When a plan sponsor-directed transaction occurs, the insurance or wrap contract by its terms may not apply. In these plan sponsor-driven events, payments may be made at current market value, which could be lower than the contract's book value in a rising interest rate market. So, in a sense, a plan event is simply an occurrence that exposes the plan participants to the same market risk that they would otherwise experience in a conventional bond fund of comparable duration and investment strategy.

There is also a risk that the SVC provider will not perform its obligations under the SVC due to its own financial distress (e.g., insolvency). In such a circumstance, payments would be made at current market value under a Synthetic GIC because the plan or stable value fund still has control of the underlying assets to make such a payment. While this issuer default risk does exist, we believe that the risk is typically very low because SVCs are offered by institutions that are typically highly regulated by Federal and/or state governments (e.g., banks and insurance companies).

In addition, stable value fund managers operate as fiduciaries under the Employee Retirement Income Securities Act ("**ERISA**") and are almost always designated as ERISA investment managers, as that term is defined in ERISA section 3(38). As fiduciaries, they must act prudently and with a high degree of care when providing services to the fund (including when selecting SVCs and SVC providers), which mitigates risk. An ERISA investment manager is highly regulated and must be (1) registered as an investment adviser under the Investment Advisers Act of 1940 (the "**Advisers Act**") or, in limited circumstances, under state law, (2) a bank as defined in the Advisers Act, or (3) an insurance company qualified to perform discretionary management services under the laws of more than one state (collectively, "**ERISA Manager Qualification Requirements**").[9]

E. Risk disclosure to plan sponsors and participants.

Stable value fund managers typically provide risk disclosure related to stable value funds and SVCs to plan administrators or investment committees responsible for selecting and

[9] ERISA §3(38)(B).

monitoring the fund or contract as a plan investment. The plan administrator then distributes this information to plan participants.

1. Plan sponsor disclosures.

Vanguard provides plan sponsors stable value fund fact sheets, investment commentary and other ongoing reports that include key risk disclosures. For those plan sponsors who need or would like additional information on stable value funds, as a best practice, we provide additional informational documents (e.g., Q&A educational pieces). In our experience, stable value fund managers provide communications that address many of these issues. We've included a sample of our disclosures in Appendix A.

2. Participant disclosures.

Recent Department of Labor (the "**DOL**") regulations will mandate that participants in a participant-directed defined contribution plan receive and have access through a website to extensive information about their plan's investment alternatives. Among other requirements, participants will have access to a description of each investment alternative that addresses its principal investment strategies (including the types of assets held by the investment), and its principal risks. Participants must be provided information at least annually including a fund's performance history, benchmarks, fees and expenses, all in accordance with standards prescribed by the SEC. (Stable value funds are generally not subject to SEC jurisdiction, but the DOL has incorporated into its regulation of stable value funds the disclosure standards of Forms N-1A and N-3, as appropriate.) The information required by these new DOL regulations generally must be provided beginning May 31, 2012.[10]

II. SVCs are fundamentally different than swaps; the Commissions should determine they are not swaps.

SVCs are functionally different than swaps and more akin to insurance products, which are proposed to be exempt from the swap definition. We are aware of nothing in Title VII of the Dodd-Frank Act or the related legislative history to suggest that Congress intended for SVCs to be regulated as swaps (or security-based swaps) when drafting the specific definitions of swap (and security-based swap) in the Dodd-Frank Act amendments to the Commodity Exchange Act (the "**CEA**"). Therefore, we believe that a determination that SVCs are not swaps is entirely appropriate and in the public interest.

A. Background – Dodd-Frank Act definitions of swap and SVCs.

The definition of swap[11] contained in the CEA as amended by the Dodd-Frank Act is expansive and includes many types of traditional swap transactions. Expressly falling within the definition of swap are interest rate swaps, credit default swaps and commodity swaps.[12] Also falling within the swap definition are any transaction "that provides for any purchase, sale,

[10] *See* 29 CFR § 2550.404a-5.
[11] *See* Section 1a(47) of the CEA.
[12] *See* id.

payment, or delivery (other than a dividend on an equity security) that is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence."[13] We understand "[t]he Commissions do not interpret this clause to mean that products historically treated as insurance products should be included within the swap or security-based swap definition,"[14] and we believe that the most appropriate interpretation of the definition of swap should lead the Commissions to the conclusion that SVCs also do not fall within it.

Section 719(d)(2) of the Dodd-Frank Act defines a "stable value contract" as:

> any contract, agreement, or transaction that provides a crediting interest rate and guaranty or financial assurance of liquidity at contract or book value prior to maturity offered by a bank, insurance company, or other State or federally regulated financial institution for the benefit of any individual or commingled fund available as an investment in an employee benefit plan (as defined in section 3(3) of the Employee Retirement Income Security Act of 1974, including plans described in section 3(32) of such Act) subject to participant direction, an eligible deferred compensation plan (as defined in section 457(b) of the Internal Revenue Code of 1986) that is maintained by an eligible employer described in section 457(e)(1)(A) of such Code, an arrangement described in section 403(b) of such Code, or a qualified tuition program (as defined in section 529 of such Code).

B. SVCs have strong similarities to insurance contracts.

In our view, when considering SVCs in the context of the CEA as amended by the Dodd-Frank Act, SVCs are more similar to insurance contracts than to swap contracts. For this reason, we believe it would be appropriate for the Commissions to utilize their proposed swap product definition rules (the "**Product Definition Rules**")[15] as a guideline to illustrate that SVCs are more similar to traditional insurance products and distinguishable from swaps.

In the Product Definition Rules, the Commissions provided an approach for determining whether traditional insurance products should be deemed to be swaps. Under this approach, "state or federally regulated insurance products that are provided by state or federally regulated insurance companies that otherwise fall within the [swap/security-based swap] definitions should not be considered swaps or security-based swaps so long as they satisfy the proposed rules or comport with the related proposed interpretative guidance."[16]

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[13] *See* Section 1a(47)(ii) of the CEA.

[14] *See* Further Definition of ''Swap,'' ''Security-Based Swap,'' and ''Security-Based Swap Agreement''; Mixed Swaps; Security-Based Swap Agreement Recordkeeping, 76 FR 29818 (April 29, 2011) (the "**Product Definition Release**"), at 29821.

[15] *See* id.

[16] *See* Product Definition Release at 29822.

Under the Product Definition Rules, as proposed, a swap does **not** include an agreement, contract or transaction that, by its terms or law, as a condition of performance:

- *requires the beneficiary of the agreement, contract, or transaction to have an insurable interest that is subject of the agreement, contract, or transaction and thereby carry the risk of loss with respect to that interest continuously throughout the duration of the agreement, contract or transaction;*

SVCs meet this condition. The SVC beneficiaries (e.g., the plan of which the stable value fund forms a part and the plan participants and beneficiaries) have an insurable interest – risk of loss – which is the risk of loss in the event the book value of the SVC exceeds the market value of the wrapped assets and those assets are not sufficient to satisfy a benefit responsive withdrawal from the stable value fund. This risk of loss is present at every point in time during the term of the SVC.

- *requires that loss to occur and to be proved, and that any payment or indemnification therefor be limited to the value of the insurable interest;*

SVCs meet this condition. Any payment under an SVC is limited in value to any book value remaining under the SVC after all assets have been withdrawn for benefit-responsive withdrawals. It is also the case that SVCs typically provide for the contractholder to expressly agree and, as applicable, demonstrate to the SVC issuer that the payment (or "loss") is for a qualifying benefit-responsive payment. Qualifying benefit-responsive payments must be participant-initiated, and not a result of plan fiduciary or plan sponsor-driven events, in accordance with the terms of the plan. Also, while participants may typically transfer their investment to other plan investment options, they are not permitted to transfer directly to competing investment options which might present an arbitrage opportunity against the stable value fund and thus the SVC. Participant withdrawals from the plan are further limited by the restrictions and penalty taxes applicable to withdrawals and distributions from tax qualified retirement plans.[17]

- *is not traded, separately from the insured interest, on an organized market or over-the-counter;* ***and***

SVCs meet this condition. SVCs are highly customized, bespoke agreements and are not traded on an organized market or over-the-counter. SVCs include provisions that strictly prohibit their assignment and they are not routinely or otherwise novated or otherwise transferred to third parties. This is because SVCs are underwritten, like traditional insurance contracts issued to these plans, based on the specifications of the contractholder stable value fund, the plan of which it is a part and the plan sponsor and other employers that participate in the plan.

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17 *See, e.g.,* Internal Revenue Code § 72.

- *with respect to financial guaranty insurance only, in the event of payment default or insolvency of the obligor, any acceleration of payments under the policy is at the sole discretion of the insurer.*

Under SVCs, no payment is required in the event of payment default or insolvency of the issuer of a wrapped security. Rather, payment is only required when qualifying benefit-responsive payments are initiated at the direction of plan participants, and then only in circumstances when the market value of the wrapped assets is less than the SVC's book value.

The Product Definition Rules also state that in order for an insurance product to be excluded from the swap definition, the agreement, contract, or transaction must be provided:

- *by a company that is organized as an insurance company whose primary and predominate business activity is the writing of insurance or the reinsuring of risks underwritten by insurance companies and that is subject to supervision by the insurance commissioner (or similar official agency) of any state or the United States or an agency or instrumentality thereof, and such agreement, contract, or transaction is regulated as insurance under the laws of such state or the United States.*

As defined in the Dodd-Frank Act, SVCs may be offered by a bank, insurance company or other state or federally regulated financial institution. In our experience, SVCs are offered by United States domiciled insurance companies, but also by federal or state regulated banks and, to a more limited extent, other financial institutions. We believe the fact that an SVC may be offered by a bank or other financial institution that is not an insurance company is one of the few traits that distinguish SVCs from insurance as proposed in the Product Definition Rules.

Based on the significant number of similarities (and few differences) between traditional insurance products, which are not intended to be captured by the swap definition, and SVCs, we believe that a determination that SVCs are not swaps is entirely appropriate and in the public interest. We also do not believe that the current market for SVCs issued as Synthetic GICs was developed "in the guise of insurance in order to avoid the regulatory regime established by Title VII."[18] Rather, the market for SVCs has developed over many years to provide investment solutions that are in the best interests of defined contribution plan participants and similar investors.

C. SVCs are functionally different from swaps.

SVCs have one primary purpose – that is to provide limited protection to the stable value fund participant in the event that a participant-initiated redemption occurs when the market value of a security or portfolio is less than its book value. SVCs are always highly tailored and non-speculative, are not traded on an organized market or over-the-counter, and are never cleared through a central clearinghouse. The customized nature of SVCs most likely prevents them from ever being traded on an organized market or cleared though a clearinghouse.

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18 *See* Product Definition Release at 29824.

On the other hand, swaps are used for a multitude of purposes including hedging portfolio risk, lowering transaction costs, achieving more favorable execution compared to traditional investments, gaining or offering synthetic exposure to an asset or risk as well as for speculative purposes. They can be highly tailored or standardized. Swaps are typically traded over-the-counter, and once Dodd-Frank Act rules are implemented, standardized swaps will be traded through a swap execution facility ("**SEF**") or an exchange and will be cleared though a clearinghouse.

As such, by almost any objective measure, SVCs are fundamentally different from swaps and should not be defined as a swap under the Dodd-Frank Act.

III. If SVCs fall within the definition of swap, they should be exempt from all swap related rules.

If, contrary to the views we've expressed above, the Commissions determine that SVCs fall within the definition of a swap, the Commissions should provide an exemption from the swap definition as being appropriate and in the public interest.

A. SVCs do not pose systemic risk concerns.

For a variety of reasons described below, SVCs do not pose systemic risk to the U.S. financial system. In fact, SVCs and stable value funds performed quite well during the very turbulent market events over the past few years.

1. The SVC market is relatively small compared to the swaps market.

The swaps market, with $600 trillion in notional value of contracts outstanding,[19] is vastly larger than the SVCs market where aggregate stable value fund assets total approximately $540 billion.[20] The sheer size of the swaps market, the historical interconnectedness among market participants and the possibility of significant counterparty risk are simply not present in the SVC market.

2. SVCs providers and stable value funds are highly regulated.

Stable value funds are already subject to rigorous oversight by a number of state and federal regulators, and bank and insurance company SVC providers themselves are subject to extensive regulation under state insurance law or by federal and/or state banking regulators. These regulators impose capital requirements on their regulated entities designed to mitigate risk concerns posed by such entities.

[19] As of December 2010 as reported by the Bank for International Settlements.
[20] As of December 2010 as reported in the Stable Value Investment Association 15th Annual Investment and Policy Survey.

A person who selects SVCs on behalf of a retirement plan or a group of retirement plans subject to ERISA is a "fiduciary" to such plan or plans under ERISA.[21] ERISA's fiduciary standards are the "highest known to law."[22] Consistent with fiduciary rules imposed by ERISA, these fiduciaries must prudently select SVCs and monitor the SVCs selected and face personal liability under ERISA for any losses that result if they fail to select and monitor the investments in accordance with ERISA's rigorous fiduciary standards. This combination of high fiduciary standards and potential personal liability serves to make stable value fund managers very careful in the selection of SVCs.

Moreover, virtually all stable value fund managers are designated as "investment managers" as defined under ERISA section 3(38). In this regard, these investment managers must satisfy at least one of the ERISA Manager Qualification Requirements and related rules.[23] These rules foster an additional layer of regulation and oversight by a variety of federal and state agencies, depending on the type of entity acting as investment manager.

In addition, ERISA imposes fiduciary responsibility on persons who appoint investment managers to select SVCs for a plan. Thus, a plan administrator or plan investment committee that appoints an investment manager to select SVCs for it has an obligation itself to prudently select a capable investment manager and monitor the investment manager's discharge of its responsibilities, and it also faces personal liability for failure to discharge this responsibility prudently. As a result, in our experience, plan sponsor clients and their advisers are generally well-versed on the structure, benefits and limitations of stable value funds as well as related SVCs and can readily undertake the required fiduciary analysis.

B. Dodd-Frank Act risk mitigating mandates are wholly inappropriate for the SVC product.

The Dodd-Frank Act requires "standardized swaps" to be cleared by a central counterparty with such swaps "made available for trading" to be traded on an exchange or SEF. Because SVCs are customized, individualized and highly negotiated, it will not be possible to clear them or trade them on an exchange or SEF. Swaps are also required to be reported to a swap data repository ("**SDR**") and reported to the public promptly after execution. Public and SDR reporting of SVCs shortly after execution would be of limited use given the highly customized nature of each contract and the small size of the overall business.

C. Regulation of SVCs as swaps would substantially reduce or effectively eliminate stable value fund offerings.

We see no commensurate benefits of regulating SVCs as swaps. The recent financial crisis was not caused by stable value funds nor was it related to the SVC obligations of the SVC providers. It is unquestionable that Title VII of the Dodd-Frank Act will impose new significant

21 ERISA does exempt certain plans, such as those maintained by government or certain non-profit or church entities, from its coverage. Those plans would remain subject to similar state law provisions governing fiduciary conduct.

22 *Donovan v. Bierwirth*, 680 F.2d 263, 272 (2d. Cir. 1982).

23 ERISA §3(38)(B).

costs and regulations (e.g., registration requirements; business conduct standards) on parties offering swap products as well as those entities seeking to purchase swaps.

Although they did not cause the financial crises, stable value funds and SVCs themselves have been impacted by it. SVC providers have reduced their underwriting of SVCs and increased fees on existing wrap contracts, as well as reexamined the investment guidelines and portfolio composition of the funds that they underwrite.

It is our view that if the costs and regulations associated with complying with swaps rules are imposed on providers of SVCs, such providers will have to pass on the costs to the stable value fund itself, which will be paid for by plan participants in the form of higher expenses. We believe that regulating SVCs as swaps will have the effect of causing a further contraction in SVCs available for purchase by stable value funds so much so that it will be nearly impossible for the market to offer stable value funds. Certainly, this result is not in the public interest especially given the many benefits provided by such funds and the limited risks associated therewith.

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In closing, we thank the Commissions for the opportunity to comment on the Study and appreciate the Commissions' consideration of Vanguard's views. If you have any questions about Vanguard's comments or would like additional information, please contact William Thum, Principal, at (610) 503-9823, or Dennis Simmons, Principal at (610) 669-4065.

Sincerely,

/s/ Gus Sauter
Managing Director and Chief Investment Officer
Vanguard

cc: Securities and Exchange Commission
The Honorable Mary L. Shapiro
The Honorable Luis A. Aguilar
The Honorable Troy A. Paredes
The Honorable Elisse B. Walter

Commodity Futures Trading Commission
The Honorable Gary Gensler
The Honorable Michael Dunn
The Honorable Jill E. Sommers
The Honorable Bart Chilton
The Honorable Scott D. O'Malia

Appendix A

PLAN SPONSOR STABLE VALUE FUND RISK DISCLOSURE

- Stable value funds are not substitutes for money markets. Instead, they should be looked at as short- to intermediate-term fixed-income fund alternatives, with principal protection that is significant, but not as solid as the protection offered by money market funds.
- A stable value fund or contract can pay off at less than book value for reasons that have nothing to do with the management of the assets. Sponsors need to be aware that "plan events" such as significant layoffs, divisional sales, sponsor insolvency or bankruptcy, can result in payments at less than book value.
- Sponsors must consider not only current yield and historical returns, but also the credit quality and duration guidelines of the portfolio manager when evaluating a new or existing stable value fund.
- A sponsor should regularly review their stable value fund's market-to-book value ratio to monitor the potential risk to participants if the fund becomes unwrapped or an insurer fails. A significant increase in the gap between market and book value might also indicate that the portfolio manager has increased the risk in the fund's underlying fixed-income portfolio.
- As with all investments offered under a plan, the sponsor must consider all of the relevant fees or sales charges involved with the fund, particularly all investment-related fees that may be netted against the return to participants invested in the fund.
- Sponsors should be aware of the implications if the plan sponsor determines that the stable value option should be changed. Sponsors must understand the costs of terminating an existing arrangement, such as possible market value adjustments or the application of any limitations on plan sponsor withdrawals.
- The contracts held by the fund are not guaranteed by the U.S. government, Vanguard, the trustee, or your retirement plan. A stable value fund is designed as a low-risk investment, but you could still lose money by investing in it.