



May 10, 2012

Submitted Via Email to Rule-Comments@SEC.gov

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

Re: (Release No. 34-66804; File No. SR-FINRA-2012-021) Notice of Filing of Proposed Rule Change Relating to Post-Trade Transparency for Agency Pass-Through Mortgage-Backed Securities Traded in Specified Pool Transactions and SBA-Backed Asset-Backed Securities Transactions

Ladies and Gentlemen,

The Securities Industry and Financial Markets Association (“SIFMA”) is pleased to respond to the SEC’s request for comment on FINRA’s proposed rule (the “**Proposal**”) to begin dissemination of data for Agency mortgage-backed securities traded as specified pools (“**MBS-SP**” or “**specified pool market**”) and all SBA trades.¹ SIFMA’s comments on this proposal focus on the aspects of the proposal affecting MBS-SP.

Summary of the Proposal

The Proposal would implement shorter reporting timeframes for MBS-SP transactions (initially two hours, then one hour), as well as real-time dissemination of trade information. Volume information would be capped at \$10MM. Trades above that amount would be displayed as “10+”.

Summary of SIFMA Views

SIFMA members believe the proposal has the potential to negatively impact participant confidentiality, and therefore participant desire to transact in the MBS-SP market. FINRA should institute masks for CUSIP information for MBS-SP trades if the original issue size of the pool is below a threshold level.

Nature of the Specified Pool Market

The MBS-SP market has a few unique and consequential features that should be addressed before our discussion of the applicability of the proposal. The market is extremely large in terms of the number of CUSIPs. While we do not have an exact number, based on information and belief we estimate it encompasses over one million individual securities. Any MBS pool issued by a GSE or guaranteed by Ginnie Mae could theoretically be traded on a specified basis. This makes the MBS-SP market far more granular than corporate or agency debt markets, and more akin to the municipal markets in terms of granularity. The market is a liquid and active market when viewed in the aggregate; however, its granularity means that any individual CUSIP may not necessarily trade frequently. While there may be

¹ 77 FR 23524 (April 19, 2012), available here: <https://federalregister.gov/a/2012-9405>

some retail participation in this market, in the opinion of SIFMA members is predominantly an institutional market.

The MBS-SP market is not only important for investors and market makers, it is also important for mortgage originators who use the MBS-SP market to maximize their efficiency and the economics of their lending programs. For example, premiums received in the MBS-SP market have provided significant incentives for the use of the Administration's Home Affordable Refinance Program (commonly called HARP).² Pools of loans refinanced under HARP are traded in the MBS-SP market at a premium to pools traded in the TBA market, creating incentives for originators to execute refinancing under the terms of the HARP program. The MBS-SP market may be smaller and less liquid than the broader TBA MBS market, but it is very important to our mortgage finance system.

A critical consideration in the MBS-SP market is the nature of trading. Most MBS-SP trades, for smaller pool sizes, are trades of whole pools.³ This may be for a number of reasons: smaller issuance size of individual pools⁴, desire to obtain pools with specific characteristics, regulatory considerations⁵, or other reasons. But in any case, our membership reports that most trades are for whole pools, and that means that most pools are owned by a single party – individual issues are not widely held. In the event that these smaller pools are held by more than one person, it is likely that there are only 2-3 total holders. This has important ramifications.

Because the MBS-SP market is very granular, and ownership very often is in the form of whole pools, the protection that dissemination volume caps provide in other more widely-held markets, such as TBA MBS or corporate bonds, will not accrue to MBS-SP to the same extent they accrue to TBA MBS, for example. The disseminated volume of a trade for a \$27MM pool may be capped at \$10MM (as proposed), but given the nature of the market, other participants will know that there is a very strong likelihood that the trade was indeed for \$27MM.

Given that most market participants track which pools they trade to and from their various counterparties, our buy-side and sell-side members active in the MBS-SP market are very concerned that sensitive information regarding trading strategies, volumes, identities and positions will be compromised if the proposal is implemented without amendment. For example, Dealer A sells whole pool 123456 to customer A. Customer A then sells whole pool 123456 to Dealer B. Dealer A will know both sides of that customer's trade – their sale to that customer and that customer's subsequent sale. Likewise, dealer B will know from whom that customer bought that pool, at what price and size. Over time, market participants will be able to develop quite detailed and precise estimates of other participants' strategies and positions.

This is different than the situation in the corporate, agency debt, or TBA MBS markets where securities tend to be more widely held. In those markets, one would not know the actual size of a trade for which displayed volume is capped, given that securities tend to be more widely held and sold in smaller portions of the entire issue. As discussed, MBS-SP tend to trade as whole pools and be held by a single party (or in any case, very few parties). Our members active in the MBS-SP market, both buy-side and

² More information on HARP is available here: <http://www.makinghomeaffordable.gov/programs/lower-rates/Pages/harp.aspx>.

³ We also note that many large trades are in fact trades of lists of smaller pools; these are reported to TRACE on an individual pool level.

⁴ Most pools are smaller as opposed to larger. Our estimates of average MBS pool issuance size from Fannie Mae, Freddie Mac, and Ginnie Mae range from \$10-\$35MM.

⁵ E.g., REITs.

sell-side, believe the impact of this diminution of confidentiality on the MBS-SP market may be quite negative and significantly impair participation in the market. Information around position and strategy is among the most sensitive of all financial market information, and this proposal has the potential to severely compromise the confidentiality of this information.

SIFMA Proposes a Change to Disseminated Information to Preserve Confidentiality

As discussed above, our dealer and investor members who are active in the specified pool market have expressed great discomfort with the proposed CUSIP-level dissemination for all specified pool trades and propose a modification to the rule filing. We support price transparency in Agency MBS markets, as evidenced by our constructive feedback on the TBA proposal; our concern is that the implementation of dissemination of trade information does not create market distortions through incentives to obfuscate trading strategies, or by making the market less attractive to its participants. We think the proposal creates a strong likelihood of such distortions.

We have considered ways in which the proposal could be modified in order to mitigate these concerns. Because the primary concern regards specific knowledge of transaction sizes and holdings for securities that are not widely held and are generally traded as whole pools, we believe that lowering the volume cap is a less effective solution for our concerns for the reasons noted above. Contrast this to the proposal for the dissemination of TBA MBS trading information, where a lower volume cap did ameliorate many of these concerns.⁶

SIFMA's buy-side and sell-side members active in the MBS-SP market propose that FINRA amend the proposal such that, for pools with an original face amount below \$1 billion, CUSIP information would not be shown on disseminated trade reports. Instead, that field would be populated by "MBS-SP" or some similar indicator. All other information would be disseminated as usual, e.g. date, time of execution, price, flags on the trade, coupon, issuer, maturity date, issuance date, and so on.⁷

This change would preserve the confidentiality of market participant trading strategies, identities, positions, and other information for the portion of the market where pools are most likely to be held by a single party. Larger pools are more likely to be widely held, and therefore raise fewer concerns about confidentiality. The proposed approach would continue allow for important trading information to be disseminated to the market in a valuable manner.

⁶ While we believe volume caps are significantly less effective in the MBS-SP market that does not mean they are entirely ineffective. Regardless of whether our suggested revision to the proposal is implemented, we believe that volume caps should be lowered to a significant degree, and would suggest a cap of \$1MM, which is the maximum size displayed by MSR for the similarly granular municipal securities market. We believe, however, that this is an incomplete remedy for the problems that we describe above, and is not likely to significantly ameliorate the concerns shared by our buy- and sell-side market participant members which lead us to suggest the masking of CUSIP information for certain transactions.

⁷ Over time the sensitivity of specific information lessens. Therefore, the masking of CUSIP information could sunset after a period of time. SIFMA would suggest three to six months as an appropriate sunset date, where the masked CUSIP information in the publicly available TRACE system could be reverted to actual CUSIP information.

SIFMA appreciates the opportunity to comment on this rule proposal and hopes our comments are helpful. We would be pleased to discuss any questions or comments. Please contact Chris Killian at 212-313-1126 or ckillian@sifma.org with any questions or comments.

Sincerely,

A handwritten signature in blue ink that reads "Chris Killian". The signature is fluid and cursive, with the first name "Chris" and last name "Killian" clearly legible.

Chris Killian
Managing Director

About Sifma

SIFMA brings together the shared interests of hundreds of securities firms, banks and asset managers. SIFMA's mission is to support a strong financial industry, investor opportunity, capital formation, job creation and economic growth, while building trust and confidence in the financial markets. 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 www.sifma.org.