November 10, 2015

Mr. Robert W. Errett
Deputy Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

Via email

Re: File Number SR-FINRA-2015-036

Dear Mr. Errett,

As CEO of Brean Capital, LLC, a regional investment bank and broker dealer with vast experience in Mortgage Backed Securities, I feel compelled to comment on the proposed rule change to amend FINRA Rule 4210 to establish margin requirements for the TBA market, as I believe the rule will have severely detrimental impacts on the Mortgage bond market and many market participants, including regional broker dealers, regional banks, investment companies as well as current and perspective homeowners.

For many, if not most, the requirements of implementing and administering such a program, along with the capital requirements and the capital put at risk with counterparties, would effectively render continued trading in the MBS space impossible. Also, the proposal would effectively force many long-serving and important dealers off of approved counterparty lists of the larger institutions, as large institutions would likely not be comfortable posting collateral to smaller institutions to hold against open trades. In fact, we are seeing the result of this today, as large institutions are circulating their own MSFTAs that require the smaller counterparty to post margin collateral to them on trades as little as one hundred thousand dollars out of the money, while the larger institution is not required to post to the counterparty until they are out of the money by twenty-five million dollars or more. These severe unintended consequences will surely squeeze all but the largest institutions out of the forward settling MBS market, ironically leaving all the business to only the largest institutions which, given the dollar-size of their dealings and unknown exposures in other areas, may actually pose the greatest systemic risk. That should be of grave concern to the marketplace. Almost since its inception, regional banks, regional dealers and investment funds have played a vital role in the efficiency of the MBS market, providing liquidity in a market where each individual security is unique to the next, by using their own capital as well as by matching buyers and sellers in a riskless principle role. Moreover, concentrating the dealer market in the hands of only a few very large institutions can increase dealer spreads dramatically, driving up mortgage rates, further harming the US mortgage bond market, as well as the housing market.

I recognize the value of reducing systemic risk, even in the regional dealer and bank community. As it applies to forward settling MBS transactions, the concern, or risk, is primarily around securities transactions which are not settled on a centralized clearing exchange, such as MBSCC, or where one or both parties to the transaction are not MBSCC members. We unequivocally concur with the FINRA representatives with whom we met that trades between MBSCC members (either directly or through their clearing firm) in securities that settle MBSCC are not the issue. There, members currently post collateral in respect of cleared trades which are netted against all other trades of such party on the centralized clearing exchange, thus reducing the overall collateral requirement to an amount that is appropriate for the aggregate level of risk. Unfortunately, only certain MBS trades (TBA trades and trades of fixed rate specified pools) are currently traded through MBSCC. This currently leaves a very significant number of actively traded Mortgage Backed Securities, including Adjustable Rate GNMA's, FNMA's and FHLMC's and GNMA HECM's (reverse mortgage GNMA's) outside the clearing exchange.   If trades in these securities were required to settle and net on MBSCC (or a similar centralized clearing system) and participants trading them were required to be netting members, a major concern of forward risk would be taken off the table. Ultimately, all mortgage bond trades should be required to settle and net on a centralized clearing exchange. This would result in a significantly more efficient deployment of capital than bilateral collateral posting, which, without netting, is insensitive to the true risk posed by a party's aggregate open trades, and would require total capital from dealers that is disproportionately in excess of the risk, forcing many, if not most, from the market. This alternative, would also be a safer and more cost effective approach than requiring dealers to move funds around daily, possible for many weeks for just a single transaction, and putting the dealer at risk to an institution that could fail, taking the dealers' posted collateral with it.

Another suggestion to consider while shaping the proposal is to allow for T+7 settlements on non-centrally cleared MBS trades before a margin demand would occur. The reason for this is that Mortgage Backed Securities have changes in "factor" (i.e., the remaining loan balance) every month, a significant reason why MBS tend to have longer forward settlements than other bonds. Factor information is released on the evening of the fourth business day of the month. Currently, trades done near month end, or at the very beginning of a month, tend to settle on "good day" a standardized settlement date each month, after all parties know the new factor and can accurately settle the trade. We believe that by allowing the extra days, the settlement process would be much smoother, as parties would be less inclined to settle T+1, with incorrect factors, just to circumvent the margin posting issue. By avoiding incentives to settle with incorrect factors, the market becomes safer because the number of unsecured debits and credits amongst counterparties due to trades being settled on incorrect dollar amounts would be dramatically reduced.

In closing, I strongly believe that a proposal to mandate that all Mortgage Backed Securities clear on a centralized exchange, and excepting from new requirements any T+7 settlement-period trades that do not centrally clear, will greatly reduce systemic risk in the marketplace. It will also allow for most of the current market participants to remain in the MBS market, which is vital for the market and our economy as a whole.

Thank you very much for your time and consideration, and will happily make myself available should you wish to have any further discussions on this topic.

Very truly yours,

Robert M. Fine
Chief Executive Officer