



April 13, 2012

David A. Stawick, Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships with, Hedge Funds and Private Equity Funds (RIN 3038-AD05)

Ladies and Gentlemen:

The American Securitization Forum (“ASF”)¹ appreciates the opportunity to submit this letter in response to the request of the Commodity Futures Trading Commission (“CFTC”) for comments regarding its notice of proposed rulemaking (the “CFTC Proposing Release”) entitled “Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships with, Hedge Funds and Private Equity Funds” (the “CFTC Proposed Regulations”) (RIN 3038-AD05),² issued pursuant to Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank”). Section 619 (the “Volcker Rule”) requires the CFTC, as well as the Office of the Comptroller of the Currency (the “OCC”), the Board of Governors of the Federal Reserve System (the “Board”), the Federal Deposit Insurance Corporation (the “FDIC”), the Securities and Exchange Commission (the “SEC” and collectively with the OCC, the Board and the FDIC, the “Joint Regulators”), to implement rules to impose certain prohibitions on the ability of a banking entity to engage in proprietary trading and have certain interests in, and relationships with, hedge funds and private equity funds. ASF supports reforms within the securitization market and we commend the CFTC and the Joint Regulators for seeking industry input on this critically important issue. Over the past decade, ASF has become the preeminent forum for securitization market participants including investors, issuers and financial intermediaries, among others, to express their views and ideas. We are hopeful that our comments will assist the CFTC and the Joint Regulators in crafting final regulations that ultimately meet the goals of Dodd-Frank while also promoting a vibrant securitization market.

On October 12, 2011, the Joint Regulators issued their notice of proposed rulemaking (the “Joint Regulators’ Proposing Release”) entitled “Prohibitions and Restrictions on Proprietary Trading

¹ The American Securitization Forum is a broad-based professional forum through which participants in the U.S. securitization market advocate their common interests on important legal, regulatory and market practice issues. ASF members include over 330 firms, including issuers, investors, servicers, financial intermediaries, rating agencies, financial guarantors, legal and accounting firms, and other professional organizations involved in securitization transactions. ASF also provides information, education and training on a range of securitization market issues and topics through industry conferences, seminars and similar initiatives. For more information about ASF, its members and activities, please go to www.americansecuritization.com.

² See <http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2012-935a.pdf>.

and Certain Interests in, and Relationships with, Hedge Funds and Private Equity Funds” (the “Joint Regulators’ Proposed Regulations”) (RIN 1557-AD44; 7100 AD 82; 3064-AD85; 3235-AL07),³ which is substantially similar to the CFTC Proposing Release. ASF submitted a detailed comment letter (“ASF Volcker Comment Letter”)⁴ on February 13, 2012, outlining our industry’s concern that many securitization vehicles will be brought within the scope of the proposed Volcker Rule simply because they share the same exemptions from the Investment Company Act as traditional hedge funds and private equity funds.⁵ In this regard, we provide substantial support for a broad securitization exclusion from the definition of “covered fund,” including support within Dodd-Frank itself, which explicitly states that “[n]othing in [the Volcker Rule] shall be construed to limit or restrict the ability of a banking entity...to sell or securitize loans.” Nevertheless, if a broad exclusion is not granted for securitization, the ASF Volcker Comment Letter provides necessary modifications to numerous other provisions of the rule that may, as proposed, preclude banking entities from engaging in transactions that are integral to various types of securitizations.

We believe that the detailed comments provided to the Joint Regulators in the ASF Volcker Comment Letter are equally important in this context and hereby incorporate them by reference for consideration by the CFTC. Finally, we encourage the CFTC to work with the Joint Regulators to produce a unified set of final regulations to avoid any unnecessary confusion in the market. Should you have any questions or desire any clarification concerning the matters addressed in this letter or the ASF Volcker Comment Letter, please do not hesitate to contact me at 212.412.7107 or at tdeutsch@americansecuritization.com, Evan Siegert, ASF Managing Director, Senior Counsel, at 212.412.7109 or at esiegert@americansecuritization.com, or ASF’s outside counsel on these matters, Tim Mohan of Chapman and Cutler LLP at 312.845.2966 or at mohan@chapman.com.

Sincerely,



Tom Deutsch
Executive Director
American Securitization Forum

³ See <http://www.gpo.gov/fdsys/pkg/FR-2011-11-07/pdf/2011-27184.pdf>.

⁴ See http://www.americansecuritization.com/uploadedFiles/ASF_Volcker_Rule_Comment_Letter_2-13-12.pdf for ASF’s comment letter on the Joint Regulators’ Proposed Regulations.

⁵ While many ABS issuers currently rely on Section 3(c)(5) or Rule 3a-7 as their exemption to the Investment Company Act of 1940 (the “Investment Company Act”), which would exclude them from the Volcker Rule entirely, many other ABS issuers rely on Section 3(c)(1) or 3(c)(7), including asset-backed commercial paper (“ABCP”) conduits, tender option bonds (“TOBS”), automobile and equipment lease securitizations in which significant residual value of the collateral is financed, corporate debt repackagings, and collateralized loan obligations (“CLOs”).