BLACKROCK

November 1, 2012

Ms. Sauntia S. Warfield
Assistant Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

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

VIA ELECTRONIC SUBMISSION

Re: Stable Value Contract Study (Release No. 34-67927; File No. S7-32-11)

Dear Ms. Warfield and Ms. Murphy:

BlackRock, Inc. ("BlackRock")[1] is pleased to have the opportunity to comment on the Stable Value Contract Study (Release No. 34-67927; File No. S7-32-11) (the "Study"). Stable value has been a core savings vehicle in American's Defined Contribution ("DC") retirement accounts since the 1970's and the market has grown to nearly $650 billion in size. Stable value is a popular conservative investment choice because it offers preservation of capital and liquidity, and historically a yield in excess of money market funds. BlackRock manages stable value assets within a number of structures including as a stable value fund ("SVF") manager and as a sub-advisor to synthetic and insurance separate account guaranteed investment contracts. As of September 30, 2012, BlackRock managed $29 billion in assets invested in stable value investment products.

On November 7, 2010 and September 26, 2011, we submitted comments to the Commodity Futures Trading Commission (the "CFTC") and the Securities and Exchange Commission (the "SEC" and, together with the CFTC, the "Commissions") relevant to the Study. Our November 7, 2010 letter provided some history and background on the stable value fund marketplace. We also highlighted public policy considerations that we believed would help to frame the backdrop for the Commissions' Study:

[1] BlackRock is one of the world's leading asset management firms. As of September 30, 2012, we managed over $3.67 trillion on behalf of institutional and individual clients worldwide through a variety of equity, fixed income, cash management, alternative investment, real estate and advisory products. Our client base includes corporate, public, multi-employer pension plans, insurance companies, third-party mutual funds, endowments, foundations, charities, corporations, official institutions, banks and individuals around the world.

- DC plan participants have benefitted (and continue to benefit) from investing in SVFs as the income earned in these vehicles typically exceeds alternative money market or cash sweep investment options.

- A regulatory decision to unwind SVFs may cause a negative impact on the capital markets for short- and intermediate-duration high quality fixed income securities.

- Stable value contracts ("SVCs") differ significantly from "swaps" and do not in our view pose significant systemic risk issues to the wider capital markets and general economy.

Our September 26, 2011 letter explained the reasons why we believe that SVCs should not be defined as "swaps", and asked that if the Commissions were to determine that SVCs did fall within the definition of "swap", that SVCs be exempted from swap regulation.

We understand that the Commissions have reopened the comment period for the Study in order to consider it in light of the recent adoption of the Final Product Rules (as defined below),[2] and BlackRock is therefore submitting this letter to request that the Commissions conclude in their Study that SVCs do not fall within the definition of "swap".

In July 2012, the Commissions approved final rules further defining the terms "swap" and "security-based swap" (the "Final Product Rules")."[3] The Final Product Rules set forth specific criteria – relating to both the type of product and its provider – that would entitle an agreement to benefit from a non-exclusive insurance safe harbor exclusion from the definitions of swap and security-based swap (the "Insurance Safe Harbor"). The Insurance Safe Harbor applies to any insurance agreement that: (i) is in a product that either meets certain conditions (the "Product Test") or is one of a number of listed "traditional" insurance products ("Enumerated Products"); and (ii) meets certain conditions relating to the provider of the product (the "Provider Test").[4] Thus, if a product (x) satisfies the Product Test or is an Enumerated Product and (y) is provided in accordance with the Provider Test, such product would not be a swap or security-based swap.

The Commissions' treatment of "annuities" in their rulemaking is instructive. In the proposing release for the further definitions of swap and security-based swap (the "Proposing Release"), the Commissions had enumerated certain traditional insurance products as being "outside the scope of the statutory definitions of swap and security-based swap under the Dodd-Frank Act."[5] These products included surety bonds, life insurance, health insurance, long-term care insurance, title insurance, property and

[2] See Acceptance of Public Submissions Regarding the Study of Stable Value Contracts, 77 Fed. Reg. 60113 (October 2, 2012).
[3] Further Definition of "Swap," "Security-Based Swap," and "Security-Based Swap Agreement"; Mixed Swaps; Security-Based Swap Agreement Recordkeeping, 77 Fed. Reg. 48208 (Aug. 13, 2012).
[4] 17 C.F.R. § 1.3(xxx)(4).
[5] Further Definition of "Swap," "Security-Based Swap," and "Security-Based Swap Agreement"; Mixed Swaps; Security-Based Swap Agreement Recordkeeping, 76 Fed. Reg. 29818, 29824 (May 23, 2011) (the "Proposed Product Rules").

casualty insurance, and annuity products the income on which is subject to tax treatment under section 72 of the Internal Revenue Code.[6] The Proposing Release noted that the Commissions "believe[d] that these enumerated insurance products do not bear the characteristics of the transactions that Congress subjected to the regulatory regime for swaps and security-based swaps under the Dodd-Frank Act," but did not provide any further explanation as to why these products (and not others) were enumerated.[7]

In the Final Product Rules, the Commissions modified the list of Enumerated Products by, among other things, expanding the list to include fidelity bonds, disability insurance, and private mortgage insurance and eliminating the proposed requirement that annuities comply with section 72 of the Internal Revenue Code in order to qualify as an Enumerated Product.[8] Five commenters had addressed the treatment of annuities in the proposed interpretive guidance, with all recommending that all annuities be excluded from the swap and security-based swap definitions regardless of their status under the tax laws.[9] The Commissions were persuaded that the proposed reference to the Internal Revenue Code was unnecessarily limiting and did not help to distinguish certain types of annuity products, which were generally accepted and regulated as insurance products, from swaps and security-based swaps.[10]

SVCs issued by insurance companies are typically structured as annuity contracts. Accordingly, an SVC issued by an insurance company (which would satisfy the Provider Test) and structured as an annuity contract (which is an Enumerated Product) would qualify for the Insurance Safe Harbor, and therefore, would not be a swap or security-based swap. However, the Insurance Safe Harbor would not be available to bank-issued SVCs. We do not believe having an entity other than an insurance company issue or provide an SVC should result in the contract receiving materially different regulatory treatment. SVCs are highly customized contracts that are specifically tailored to each particular plan or SVF. The SVC provider does a significant amount of diligence regarding the plan or SVF for which it is providing protection and will generally impose investment guidelines and restrictions on the manager of the underlying assets so that the SVC fits the specific economic parameters of the plan or SVF. In addition, once the contract has been put in place, the SVC provider conducts ongoing diligence, including a review of the assets held in the underlying contract to confirm the portfolio's holdings are in compliance with the guidelines and that the portfolio's risk is consistent with the risk the SVC provider is comfortable assuming.

Moreover, we continue to believe that SVCs serve fundamentally different purposes from those of swaps. Swaps are typically used for hedging or to gain exposure to a variety of asset classes, whereas SVCs' sole purpose is to ensure book value accounting that is necessary to facilitate book value payments to plan participants. Unlike swaps, SVCs are not, and cannot be, used to gain leveraged exposure or for speculative purposes. Thus, SVCs, in our view, do not pose significant systemic risk issues to the wider capital markets and the general economy. In addition, certain structural protections imposed by

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[6] Id.
[7] Id.
[8] 77 Fed. Reg. at 48218.
[9] The commenters were generally concerned that the proposed requirement that annuities comply with section 72 of the Internal Revenue Code would exclude the universe of group annuity products that have long been used by insurance companies in the retirement plan market.
[10] See 77 Fed. Reg. at 48218.

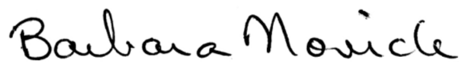
Title VII of the Dodd-Frank Act – clearing and margin requirements, for example – would not make any sense in their application to SVCs.[11] Therefore, we believe that the Commissions should determine that all SVCs – those issued by insurance companies, banks or other financial institutions – should be excluded from the swap and security-based swap definitions.

SVFs rely on SVCs to provide benefits to many DC plan participants. As a manager of SVFs, we believe that it is critically important to preserve the option for U.S. workers to invest in the conservative and relatively safe investments that are afforded by SVFs. With large numbers of U.S. workers entering and nearing retirement, we do not believe that it would be in the public interest to eliminate or decrease the value of SVFs as an investment option in DC plans.

* * * * *

BlackRock appreciates the opportunity to provide comments to the Commissions regarding the Study. We have also attached our November 7, 2010 and September 26, 2011 comment letters for your reference. Please do not hesitate to contact me if you need further information or have additional questions.

Sincerely,



Barbara Novick
Vice Chairman

Attachments (2)

[11] SVCs cannot be cleared because of the highly customized nature of the contracts. In addition, we see no meaningful way to apply margin requirements to SVCs.

BLACKROCK

November 7, 2010

Ms. Elizabeth M. Murphy, Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

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

Dear Ms. Murphy and Mr. Stawick,

We are pleased to have the opportunity to provide you with information regarding stable value funds organized pursuant to the exemption set forth in section 3(c)(11) of the Investment Company Act of 1940, as amended ("1940 Act") (each a "Stable Value Fund" and collectively, "Stable Value Funds"). We hope that this information is helpful in the Dodd-Frank follow-on study regarding Stable Value Funds and the book value wrap contracts that support these funds. In this letter, we provide some history and background to the Stable Value Fund marketplace, and we also try to identify the public policy issues that need to be addressed by the relevant regulatory bodies. In addition to the materials provided in this letter, we are available to discuss these topics further with you at your convenience.

Public Policy Issues

1. Defined contribution plan participants (Plan Participants) have benefitted (and continue to benefit) from investing in Stable Value Funds as the income earned in these vehicles typically exceeds alternative money market or cash sweep investment options. Over 50% of defined contribution plans (and many 529 college savings plans) offer Stable Value Funds as an investment choice for their Plan Participants. Where Stable Value Funds have been offered, it has generally been a popular investment choice as they offer preservation of capital, liquidity of varying frequency, and a yield in excess of money market funds which are the natural alternative investment choice. It is important to note, however, that unlike retail money market funds, Stable Value Funds are not subject to rule 2a-7 of the 1940 Act and have very different underlying investment strategies investing in securities with maturities of two to three years: thus the risk profile is different from that of a 2a-7 fund. Elimination of Stable Value Funds would be detrimental to the ability of plan sponsors to provide Plan Participants an increased range of lower volatility cash management options in their plan retirement asset allocation.

2. A regulatory decision to unwind Stable Value Funds may cause a negative impact on the capital markets for short- and intermediate-duration high quality fixed income securities. Stable Value Funds represent over $650 billion of Plan Participant assets which effectively help fund this segment of the fixed income marketplace. As described below, the underlying assets in Stable Value Funds are generally high quality fixed income securities. A regulatory decision to wind down Stable Value Funds would result in these underlying portfolio securities being sold into the marketplace. Such a significant amount of supply hitting the market place may impact the asset prices and cause unexpected losses for Plan Participants.

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3. Book value wrap contracts differ significantly from "swaps" and do not in our view pose significant systemic risk issues to the wider capital markets and general economy. Unlike swaps, book value wrap contracts are designed to provide "benefit-responsive liquidity". The counterparty exposure of the Plan Participants to the wrap providers is limited to the difference between market value and book value and the exposure of the wrap provider is further limited by the underlying plan characteristics. The mechanics of book value wrap contracts are described in more detail below.

History of Stable Value

The key distinction between stable value from other fixed income investments is its ability to provide benefit responsiveness to Plan Participants. The criteria for benefit responsiveness are provided by the Financial Accounting Standards Board (FASB), and allow Plan Participants to transact at book value regardless of what the current mark-to-market is on their investment.

Stable Value Funds were originally designed in the mid-1970's as defined contribution retirement plans grew in popularity. Stable Value Funds, then called guaranteed investment funds, were offered as an investment vehicle that provided a guarantee of principal and a stable rate of return in excess of cash rates, making them an attractive option for conservative investors.

The original Stable Value Funds were composed of Guaranteed Investment Contracts (GICs) which functioned in a similar manner to bank certificates of deposits, but were issued primarily by insurance companies to plan sponsors or to Stable Value Funds. These GICs guaranteed contract holders a fixed interest rate for a stated maturity and responsiveness to pay retirement benefits. Insurance companies took the proceeds from these GIC sales and invested them in their general accounts creating direct and concentrated credit exposure for the retirement plans to the insurance companies' creditworthiness. In the 1980's, this concentrated credit exposure became a problem when Executive Life and Confederated Life were unable to meet their obligations. As a result, plan sponsors decided that they needed a more diversified approach, and market participants collaborated to create synthetic GICs and insurance separate accounts as the new generation of "GICs".

Today, the most common type of investment contract used in Stable Value Funds is a "synthetic GIC". In this structure, an underlying high quality fixed income portfolio is insured by a bank or insurance company through a book value wrap contract. The wrap contract entitles the Plan Participant to make withdrawals and transfers to other plan options at book value (which equals their investment value plus credited interest). Plans, however, are often restricted from making book value withdrawals for participants in mass without advance notice. If the Stable Value Fund cannot support the withdrawal, the issuer must make the benefit payment which is the value/benefit provided by the wrap contract. In this structure, Plan Participants enjoy the benefits of a diversified, high quality fixed income portfolio with a small counterparty exposure to the wrap contract provider instead of the concentrated single issuer credit risk of an insurance company which provided a traditional GIC in the past. It is also worth noting that that most funds have multiple wrap contracts and thus diversified credit exposure.

Another common type of investment contract used in Stable Value Funds today is an "insurance separate account GIC". These contracts can be thought of as a hybrid of a traditional GIC and a synthetic GIC. In these contracts, a plan sponsor or a Stable Value Fund will purchase a contract from an insurance company. However, instead of the assets being held in the insurance company's general account, the assets are held in a separate account. This separate account is managed as a fixed income portfolio with stated investment guidelines, much like a synthetic GIC. While these contracts have different legal and technical characteristics, they achieve the same result of providing Plan Participants with a diversified, high quality fixed income portfolio and a limited exposure to the insurance company's credit.

Management of Stable Value Funds
Some very large plan sponsors manage their Stable Value Funds internally. However, most plan sponsors engage an investment advisor for one or more roles. There are "stable value managers" who put together individual and pooled portfolios containing synthetic GICs and/or insurance company separate accounts. Alternatively, the advisor's role may be to manage the fixed income portfolio and to enter into book value wrap contracts, or the advisor may only be responsible for negotiating the book value wrap contacts. The table below identifies the largest providers of asset management services for Stable Value Funds and/or for synthetic GICs.

Largest Managers of Stable Value Assets

Manager	Est. AUM ($B)
Fidelity Investments	$45.1
Galliard Capital Management	$39.0
BlackRock	$37.3[1]
Prudential Financial	$37.0
Principal Global Investors	$35.7
Dwight Asset Management	$33.0
Vanguard Group	$32.7
Invesco	$30.8
Deutsche Asset Management	$24.7
Pacific Investment Management Co.	$24.5

Source: P&I, BlackRock (as of December 31, 2009)

The Current Stable Value Marketplace
Stable value products have evolved over the past two decades to reflect changes in the markets. When the product was first introduced, it was common to see pricing of 20 to 25 basis points on an all investment grade portfolio. As demand increased from plan sponsors, more providers entered the marketplace. During this evolution, pricing became more competitive (as low as 7 basis points) and investment guidelines were also relaxed to allow some non-investment grade assets.

During the financial crisis of 2008, the gap between market value and book value increased as spreads widened relative to U.S. Treasuries, highlighting potential exposure of book value wrap providers. Not surprisingly, the product evolved again with wrap providers returning to higher quality portfolio requirements. Several wrap providers indicated that they did not want to write additional contracts and/or wanted to reduce their exposures, resulting in industry-wide limits on wrap capacity. On the other side of the equation, investors who valued the conservative nature of these portfolios added significant assets to Stable Value Funds. In this environment, fees increased back to 20 basis points or more. The table below identifies the largest providers of book value wrap contracts, some of which are not currently offering new contracts but may have an existing book of business outstanding.

Largest Book Value Wrap Providers
AEGON Stable Value Solutions
AIG Financial Products Co.
AVIVA Life and Annuity Co.
Bank of America
ING Life Insurance and Annuity Co.

[1] *The Retirement Preservation Trust managed by BlackRock has since been transitioned from a stable value mandate to a money market like mandate.*

JPMorgan Chase Bank N.A.
Metropolitan Life Insurance
Pacific Life Insurance
Prudential Financial
United of Omaha

The continued regulatory uncertainty has limited new entrants to this marketplace and has extended the capacity constraints and higher fees for book value wrap contracts. The table below illustrates typical investment guidelines for a synthetic GIC contract today. These portfolios generally have a duration of less than 4 years, and as is evident, these are very high quality, diversified portfolios.

Sample Investment Guidelines for Synthetic GIC

Asset Class	Typical Credit Quality	Maximum Allocation Ranges
Cash	N/A	100%
Commercial Paper	A1/P1	25 - 30%
Government Debt	U.S. Government	100%
Residential MBS	Agency Backed	40 - 50%
Commercial MBS	AAA	10 - 15%
Taxable Municipal	A	10 - 15%
Corporates	A	30 - 35%
Asset Backed Securities	AAA	20 - 25%

We believe that various book value wrap contract providers will enter or reenter the marketplace over time. The factors that will determine the evolution of the stable value marketplace include but are not limited to: wrap providers' ability to dictate high quality portfolios, a level of fees in line with perceived risk, continuing demand by participants for a stable value investment option, and regulatory clarity and certainty. This latter point is essential as wrap providers need to know how much regulatory capital will be required and whether book value wrap contracts will fall within the definition of swaps before they can commit to writing new contracts, and plan sponsors need assurance that they will not be forced to suddenly unwind these portfolios based on regulatory changes.

Analysis of Book Value Wrap Contracts versus Swap Contracts

Book value wrap contracts differ significantly from swap contracts. In a book value wrap, the plan sponsor pays the provider an annual fixed basis point fee for providing protection to Plan Participants. In the event that a significant percentage of Plan Participants choose to change investment options (leaving stable value for another investment option), and this occurs when there is a gap between market value and book value, the book value wrap provider is exposed to that gap. Most plans include a provision called an "equity wash" which limits Plan Participants from moving out of the stable value option directly into a competing money market or fixed income option. In addition, each plan has different demographics and different history, analysis of which is part of the due diligence process undertaken by book value wrap contract providers. The resulting contract is a bilateral agreement that is tailored to the plan and the portfolio. This is very different from a typical swap contract, inasmuch as book value wrap contracts are never used to gain leveraged exposure to a financial market or for speculative purposes, and the potential payouts are unidirectional and subject to numerous conditions. Additionally, these contracts would not meet the conditions for being deemed a derivative under U.S. Generally Accepted Accounting Principles.

Additional Resources for Information on Stable Value

There are several industry organizations that are excellent sources for additional information regarding Stable Value Funds and book value wrap contracts.

1. *Stable Value Investment Association (SVIA)* – A non-profit organization dedicated to educating retirement plan sponsors and the public about the importance of saving for retirement and the contribution Stable Value can make toward a secure retirement. The SVIA is one of the leading authorities on retirement investing with members representing all segments of the Stable Value investment community, including public and private plan sponsors, insurance companies, banks, investment managers and consultants.
   Contact Information:
   Stable Value Investment Association
   Gina Mitchell, SVIA President
   1025 Connecticut Avenue, NW
   Suite 1000
   Washington, DC 20036
   (202) 580-7620
   http://stablevalue.org/
   info@StableValue.org

2. *Defined Contribution Institutional Investment Association (DCIIA)* – A group of leading industry professionals advocating policies and practices that can improve investment outcomes for defined contribution Plan Participants. The organization provides an independent forum for thought leadership and conducts research, hosts events and publishes papers focusing on improving defined contribution plan design as well as educating legislators and regulators on how to advance approaches to retirement security.
   Contact Information:
   Lew Minsky, DCIIA Executive Director
   (202)-367-1124
   lew.minsky@dciia.org.
   http://www.dciia.org/

3. *Council on Employee Benefits (CEB)* – Council composed of major corporations having a common interest in the management of employee benefits. CEB stimulates the development and improves the administration of sound, progressive employee benefit plans among its members and also provides a forum for the exchange of ideas, thoughts and information on the design, operation and financing of benefit plans.
   Contact Information:
   Mary D. Amundson, President CEB
   1311 King Street
   Alexandria, VA 22314
   (703) 549-6025
   scanfield@ceb.org or ccannon@ceb.org
   http://www.ceb.org/

Conclusion

Stable Value Funds play an important role in defined contribution plans. Book value wrap contracts were introduced more than fifteen years ago in response to concerns about concentrated credit risk. Since then, Stable Value Funds have provided Plan Participants with a conservative, high quality, liquid investment option that has outperformed money market funds. Maintaining the stable value product requires book value wrap contracts, which differ significantly from swaps and should not be regulated as if they were swaps. In turn, the contract providers need more clarity about and more certainty of their regulatory status in order to write these contracts.

The elimination or reduction of stable value investment options would have negative implications for the retirees of the 170,000 retirement plans that currently offer stable value as part of their defined contribution offerings, as well as for the capital markets. We respectfully urge you to recognize the unique aspect of book value wrap contracts and not make them subject to the rules pertaining to swaps.

The issues described in this letter are important to the industry and to our clients. We would welcome the opportunity to discuss them further with you either on our own or in conjunction with an industry symposium.

Sincerely,

Barbara Novick
Vice Chairman

CC:
Matt Daigler - U.S. Securities & Exchange Commission
Stephen Kane - U.S. Commodity Futures Trading Commission
Gina Mitchell - Stable Value Investment Association
Lew Minsky - Defined Contribution Institutional Investment Association
Mary D. Amundson - Council on Employee Benefits

BLACKROCK

September 26, 2011

Mr. David A. Stawick
Secretary
U.S. Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
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Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
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VIA ELECTRONIC SUBMISSION

Re: Study of Stable Value Contracts (Release No. 34-65153; File No. S7-32-11)

Dear Mr. Stawick and Ms. Murphy:

BlackRock, Inc. ("BlackRock")[1] is pleased to have the opportunity to comment on the Study of Stable Value Contracts ("SVCs") (Release No. 34-65153; File No. S7-32-11). Stable value has been a core savings vehicle in American's Defined Contribution ("DC") retirement accounts since the 1970's and the market has grown to nearly $600 billion in size. In fact, a 2009 study[2] found that 82% of DC plans offered stable value funds ("SVFs") as part of their retirement options. Stable value is a popular conservative investment choice because it offers preservation of capital and liquidity, and historically a yield in excess of money market funds, which are the natural alternative investment choice. BlackRock manages stable value assets within a number of structures including as a SVF manager and as a sub-advisor to synthetic and insurance separate account guaranteed investment contracts. In total, as of June 30, 2011, BlackRock managed $29 billion in assets invested in stable value investment products.

The features of principal protection and competitive yield inherent in stable value products make this an important investment option for workers as they approach and enter into retirement. With corporate retirement plans continuing to trend away from defined

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[1] BlackRock is one of the world's leading asset management firms. We manage over $3.65 trillion on behalf of institutional and individual clients worldwide through a variety of equity, fixed income, cash management, alternative investment, real estate and advisory products as of June 30, 2011. Our client base includes corporate, public, multi-employer pension plans, insurance companies, third-party mutual funds, endowments, foundations, charities, corporations, official institutions, banks, and individuals around the world.
[2] See Deloitte/CEBS, 401(k) Benchmarking Survey, 2009.

benefit plans, the traditional sources of retirement income are declining in availability. As a manager of retirement assets, we believe that it is increasingly important to preserve the availability of products, such as SVFs, that allow DC plan participants the ability to preserve principal and earn income on their limited retirement resources.

Section 719(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") mandated that the Commodity Futures Trading Commission (the "CFTC") and the Securities and Exchange Commission (the "SEC" and together with the CFTC, the "Commissions") conduct a study of stable value products to determine if SVCs should fall within the definition of a swap under Title VII of the Dodd Frank Act ("Title VII"). We believe that SVCs should not fall within the definition of a swap for the reasons discussed below. However, if the Commissions determine that they do fall within the definition of a swap under Title VII, we believe it is appropriate and in the best interest of DC plans and their participants for SVCs to be exempt from from the rules applicable to swaps. If SVCs are regulated as swaps, this will likely dramatically increase the cost of the SVCs that are essential to the operation of SVFs. This increased cost will, at a minimum, have an adverse impact on investment returns for participants in SVFs. Moreover, SVC providers may find that compliance with the complex rules applicable to swaps is difficult or impracticable and extremely costly. This is likely to cause SVC providers to exit the market, which would threaten the viability of stable value as an investment option in retirement plans and limit participant choice.

I. Stable Value Contracts Should Not be Defined as "Swaps"

The Dodd-Frank Act codifies the definition of "swap" in section 1a of the Commodity Exchange Act (7 U.S.C. 1a) and the definition of "securities-based swap" in Section 3(a)68 of the Securities Exchange Act of 1934 (15 U.S.C.78c(a)68). While within those definitions one could, in the broadest sense, interpret a number of characteristics within a SVC as falling within the definition of a swap, we do not think such a conclusion is legally required.[3]

SVFs are intended as conservative investment options that provide preservation of principal, liquidity and current income at levels that are typically higher than those provided by money market funds. As an alternative to the traditional use of insurance company guaranteed investment contracts, many SVFs utilize a synthetic structure, under which a plan or plan asset fund retains title to assets in an underlying portfolio of fixed income assets and purchases a SVC from a bank, insurance company or other financial institution. In a synthetic structure, the SVC is essential to ensuring that the value of a participant's account is based on book value and that the SVF can make book value payments to participants -- the hallmark of stable value.

Under the terms of the SVC, the SVC provider agrees that, subject to certain exceptions[4], payments to participants upon retirement, death, disability, employment termination, hardship or transfer to a non-competing investment alternative – generally referred to as "benefit responsive payments" – will be made based on "book value" (defined below), regardless of fluctuations in the market value of the underlying portfolio of assets and regardless of whether the market value is less than the book value at the time a payment is made. Book value generally represents the value of deposits (the principal amount

[3] These terms are the subject of a proposed rulemaking by the Commissions, and we share the views of several commentators that a final decision by the Commissions on whether a SVC is a "swap" cannot be made until the Commissions finalize their proposed rulemaking.

[4] SVCs give the contract provider the ability to make non-benefit responsive payments at market value rather than book value under circumstances specified in the contract, such as in the event of a SVF default. In addition, some payments that are triggered based on "plan sponsor initiated events" may be made at market value.

invested), plus accumulated interest at a "credited rate", minus withdrawals and minus adjustments for assets that become impaired. Unlike a traditional guaranteed investment contract, the SVF and SVC does not guarantee that the book value will increase by a specified rate of return. Rather, interest is credited to the book value based on a formula[5] that accounts for the portfolios' current yield, sensitivity to interest rate changes, performance of the underlying securities and past crediting rates. It is designed to smooth the gains and losses on the underlying portfolio over its "duration," effectively reducing the price impact of changes in interest rates to the investors. Thus, the use of the SVC makes it possible to invest in fixed income securities that have a potential for higher investment returns than a money market fund, while at the same time reducing volatility, facilitating liquidity and providing a mechanism to preserve principal for DC plan participants.

The fee paid to the SVC provider is generally calculated as a percentage of the assets covered by the SVC and effectively functions as an insurance premium. The premium entitles the participants in the SVF to transact at book value within the context of the contract provisions. There is no "exchange" of interest rates that would be characteristic of an interest rate swap. Likewise, the provision for a minimum crediting rate of zero, which is included in many SVCs, is an essential component for the operation of a SVF (*i.e.*, otherwise there would be no effective principal protection) and should be viewed as a necessary contract provision; it is not analogous to a floor provision in a swap.

Further, swaps are typically used for hedging or to gain exposure to a variety of asset classes, while SVCs' sole purpose is to ensure book value accounting that is necessary to facilitate book value payments to plan participants. Unlike swaps, SVCs are not, and cannot be used to gain leveraged exposure or for speculative purposes.

SVCs should be viewed as customized contracts that are specifically tailored to each particular SVF and that provide a form of "insurance" coverage. The SVC provider does a significant amount of diligence regarding the plan or SVF for which it is providing protection and will generally impose investment guidelines and restrictions on the manager of the underlying assets so that the SVC fits the specific economic parameters of the SVF or plan. The details that are reviewed include but are not limited to:

- Details of investment options
- Participant age demographics
- Percentage of retired and active employees
- Structure of the SVF
- Other SVC providers within the SVF
- Cash flow history
- Industry demographics
- Number of plans with the SVF
- Size of plans within the SVF
- Trust documents

This process is time consuming and can take weeks or months to complete. Once the underwriting has been approved, the SVC provider will then offer the SVF a contract that includes investment guidelines and contract provisions that are specifically tailored to the provisions of the SVF and the risk that the SVC provider is willing to assume. Once the underwriting process is completed and the contract is consummated, on a monthly or quarterly basis, the SVC provider conducts ongoing diligence, including review of the

[5] A typical formula can be represented as: ((1- portfolio yield)*market value/book value^(1/portfolio duration))-1

assets held in the underlying contract to confirm they are in compliance with the guidelines and that the portfolio's risk is consistent with the risk it is comfortable assuming.   In sum, SVCs more closely resemble insurance contracts than swaps.

Further, imposition of the clearing and margin requirements in the Dodd-Frank Act applicable to swaps would make no sense. First, SVCs cannot be cleared because of the highly customized nature of the contracts. Second, there is no meaningful way to apply the margin requirement. A typical swap transaction is "zero sum," where there is a winner and a loser. Margining is a device to provide comfort to the party that is currently "winning" that such party will receive the proceeds. In the case of a SVC, there is no "winner" or "loser". The SVF is effectively purchasing portfolio "insurance" in the event that there is not enough capital within the fund to make required benefit responsive payments. The only situation in which there would be a perceived "loser" in the SVC would be if the SVC provider had to assume benefit responsive payments. The expected value of that payment at any time is not the most recent difference between the book value and the market value of the portfolio, but rather a function of the likelihood that a claim would need to be paid. Because of the way in which SVCs are structured, historically it has been rare, and we would expect it to continue to be rare, that payments would be required to be made under the SVC. Thus, requiring any type of margin would not be appropriate.

II. Stable Value Contracts Should be Exempt from Regulation as "Swaps"

Even if the Commissions were to determine that SVCs fall within the definition of "swap", regulation of SVCs as swaps is not necessary and not consistent with the best interests of DC plans and their participants.

A. Plans and Participants Are Protected by Existing Regulatory Regimes

Providers of SVCs are already subject to pervasive regulation. Banks issuing SVCs are regulated by the Office of the Comptroller of Currency or State banking regulators, while insurance companies are regulated by State insurance commissioners. Additionally, SVCs and SVFs must follow the accounting procedures established by the Financial Accounting Standards Board to receive book value accounting, thus limiting SVCs and SVFs to DC plans which are subject to the Employee Retirement Income Security Act of 1974, as amended ("ERISA") or similar constraints under State fiduciary laws.

Further, the manager of the SVF will be considered a fiduciary under ERISA and will be subject to ERISA's detailed fiduciary standards and prohibited transaction rules. As an ERISA fiduciary, the manager of the SVF must act in the best interests of the participants and beneficiaries of the plan and with the care and skill of a prudent expert. This includes the requirement to negotiate terms in a SVC that are as favorable as possible to the SVF. In addition, plan sponsors who make the decision to establish or invest in a pooled SVF are ERISA fiduciaries with respect to the plan and its participants and beneficiaries. Compliance with ERISA's stringent standards provides participants and beneficiaries with necessary protections without the need to comply with the additional requirements of the Dodd-Frank Act applicable to swaps.

B. The Potential Additional Protection of Regulation of SVCs as Swaps is Outweighed by the Potential Detriment to Plan Participants

We believe that if it is determined that SVCs fall within the definition of a swap and are not exempted from the OTC regulatory regime, there will be significant ramifications to DC plans and participants and beneficiaries on the availability of SVFs. We believe that

some providers are likely to decide that the additional regulatory oversight, stricter requirements, complexity and higher costs of compliance are so burdensome that they must exit the business entirely. This would create a significant risk that this investment option will become less widely available,or cease to be available at all. This would deprive DC plan participants from being able to invest in what has become a valuable investment option that seeks to preserve principal while offering an attractive yield. Many plans would be compelled to unwind SVFs immediately, forcing participants into other investment options.

Even if they do not exit the business entirely, SVC providers would face significantly higher costs associated with compliance with regulation of SVCs as swaps, which, in turn, would reduce the return that the participant will receive. SVF returns are already lower than prior to the credit crisis because investment strategies now employ more conservative investment guidelines including significantly more cash. The typical fund in Hueler Stable Value Pooled Fund Comparative Universe held 9% in cash in December of 2006. As of June 2010 the typical funds' cash position has nearly doubled and is now 17%. We believe that the increase in cash is a direct consequence of the reduction in the number of SVC providers because it is increasingly difficult for SVF managers to find SVC providers who are willing to wrap assets. This compression of capacity negatively impacts participant's returns as a larger portion of the SVF earns a cash rate rather than a rate consistent with longer term bonds. It is clear that if past history is representative, cost increases will be passed on to the SVF, plan sponsors and plan participants. We believe that stable value products as a business cannot support significantly higher fees. While SVC provider fees have increased from 6-8 basis points to 20-30 basis points over the past 36 months with no material corresponding change in demand, the impact of additional fee increases might have an adverse effect on the viability of SVFs. Further fee increases will, at a minimum, reduce the attractiveness of stable value as an investment option and could threaten its continued viability as an investment option in 401(k) plans.

In sum, as a manager of SVFs, we are concerned that if SVCs are regulated as swaps that, at a minimum, this will depress investment returns for our DC plan clients' participants and is likely to threaten the continued availability of SVFs as a valued investment alternative in DC plans. With large numbers of U.S. workers entering and nearing retirement, conservative and safe investments are becoming increasingly important. On this basis we do not believe it would be in the public interest to eliminate or decrease the value of SVFs as an investment option in DC plans.

BlackRock appreciates the opportunity to provide comments to the Commissions regarding the stable value study. For your reference we have also attached a letter we submitted in November 7, 2010 which provides further background and information on SVFs. Please do not hesitate to contact me if you need further information or have additional questions.

Sincerely

Barbara Novick
Vice Chairman