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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No.* SR - 2015 - * 036
Amendment No. (req. for Amendments *) 3

Filing by Financial Industry Regulatory Authority

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
☐	☑	☐	☑	☐	☐

Pilot ☐

Extension of Time Period for Commission Action * ☐

Date Expires *

Rule

☐ 19b-4(f)(1) ☐ 19b-4(f)(4)
☐ 19b-4(f)(2) ☐ 19b-4(f)(5)
☐ 19b-4(f)(3) ☐ 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) * ☐ Section 806(e)(2) * ☐

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) * ☐

Exhibit 2 Sent As Paper Document ☐ Exhibit 3 Sent As Paper Document ☐

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Adam Last Name * Arkel
Title * Associate General Counsel
E-mail * adam.arkel@finra.org
Telephone * (202) 728-6961 Fax (202) 728-8264

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date 05/26/2016
By Patrice Gliniecki
(Name *)

(Title *)
Senior Vice President and Deputy General Counsel

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Patrice Gliniecki,

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SECURITIES AND EXCHANGE COMMISSION
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For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information * Add Remove View	The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.
Exhibit 1 - Notice of Proposed Rule Change * Add Remove View	The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO] -xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)
Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies * Add Remove View	The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO] -xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)
Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications Add Remove View Exhibit Sent As Paper Document ☐	Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.
Exhibit 3 - Form, Report, or Questionnaire Add Remove View Exhibit Sent As Paper Document ☐	Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.
Exhibit 4 - Marked Copies Add Remove View	The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.
Exhibit 5 - Proposed Rule Text Add Remove View	The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.
Partial Amendment Add Remove View	If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

On October 6, 2015, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission (the "Commission" or "SEC") proposed rule change SR-FINRA-2015-036 (the "original filing," "proposal," or "proposed rule change"), pursuant to which FINRA proposed to amend FINRA Rule 4210 (Margin Requirements) to establish margin requirements for (1) To Be Announced ("TBA") transactions, inclusive of adjustable rate mortgage ("ARM") transactions; (2) Specified Pool Transactions; and (3) transactions in Collateralized Mortgage Obligations ("CMOs"), issued in conformity with a program of an agency or Government-Sponsored Enterprise ("GSE"), with forward settlement dates, as defined more fully in the original filing (collectively, "Covered Agency Transactions," also referred to, for purposes of the original filing, Partial Amendment No. 1, Partial Amendment No. 2 and this Partial Amendment No. 3, as the "TBA market"). The Commission published the proposed rule change for public comment in the Federal Register on October 20, 2015[1] and received 109 comment letters in response to the proposed rule change, including 54 form letter comments and 55 individual letter comments.

On January 13, 2016, FINRA filed Partial Amendment No. 1 to the proposed rule change to (1) respond to the comments the Commission received on the Federal Register publication; (2) add to the proposed rule language, in response to comments, proposed paragraph (e)(2)(H)(ii)a.2.; and (3) propose that the rule change become effective 18 months from the date the proposed rule change is approved by the Commission, except that the risk limit determination requirements as set forth in paragraphs (e)(2)(F), (e)(2)(G) and (e)(2)(H) of Rule 4210 and proposed Supplementary Material .05 would become effective six months from the date the proposed rule change is approved by the Commission.[2] On January 21, 2016, the Commission published in the Federal Register a notice and order to solicit comments on Partial Amendment No. 1 from interested persons and to institute proceedings pursuant to Section 19(b)(2)(B) of the Securities Exchange Act of 1934 ("SEA") to determine whether to approve or disapprove the proposed rule change, as modified by Partial Amendment No. 1.[3] The Commission received 23 comments in response to the Order Instituting Proceedings.

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1 Securities Exchange Act Release No. 76148 (October 14, 2015), 80 FR 63603 (October 20, 2015) (Notice of Filing of Proposed Rule Change; File No. SR-FINRA-2015-036).

2 See Partial Amendment No. 1 to SR-FINRA-2015-036, available at: <www.finra.org>.

3 Securities Exchange Act Release No. 76908 (January 14, 2016), 81 FR 3532 (January 21, 2016) (Order Instituting Proceedings To Determine Whether To Approve or Disapprove Proposed Rule Change To Amend FINRA Rule 4210 (Margin Requirements) To Establish Margin Requirements for the TBA Market, as Modified by Partial Amendment No. 1; File No. SR-FINRA-2036-036) ("Order Instituting Proceedings").

On March 21, 2016, FINRA filed Partial Amendment No. 2[4] to the proposed rule change to respond to the comments the Commission received on the Order Instituting Proceedings and to propose, in response to comments, revisions to proposed paragraph (e)(2)(H)(ii)a.2. as set forth in Partial Amendment No. 1. Not in response to comment, FINRA also proposed a conforming formatting revision to proposed paragraph (e)(2)(H)(ii)a.1. of the rule. On April 15, 2016, the Commission published in the Federal Register a notice to solicit comments on Partial Amendment No. 2 and to extend to June 16, 2016 the time period in which the Commission must approve or disapprove the proposed rule change, as modified by Partial Amendment No. 1 and Partial Amendment No. 2.[5] The Commission received nine comment letters in response to the Notice of Designation of Longer Period.[6]

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4 See Partial Amendment No. 2 to SR-FINRA-2015-036, available at: <www.finra.org>.

5 See Securities Exchange Act Release No. 77579 (April 11, 2016), 81 FR 22347 (April 15, 2016) (Notice of Filing of Amendment No. 2 and Designation of a Longer Period for Commission Action on Proceedings To Determine Whether to Approve or Disapprove a Proposed Rule Change To Amend FINRA Rule 4210 (Margin Requirements) To Establish Margin Requirements for the TBA Market, as Modified by Amendment Nos. 1 and 2; File No. SR-FINRA-2015-036) ("Notice of Designation of Longer Period").

6 See Letter from James M. Cain, Partner, Sutherland Asbill & Brennan LLP, on behalf of the banks of the Farm Credit System ("FC Banks"), to Brent J. Fields, Secretary, SEC, dated May 2, 2016; letter from James M. Cain, Partner, Sutherland Asbill & Brennan LLP, on behalf of Federal Home Loan Banks ("FHL Banks"), to Elizabeth M. Murphy, Secretary, SEC, dated May 2, 2016; letter from Robert Fine, Chief Executive Officer, Brean Capital, LLC ("Brean Capital"), to Division of Trading and Markets, SEC, dated April 27, 2016; letter from Christopher B. Killian, Managing Director, Securitization, Securities Industry and Financial Markets Association ("SIFMA"), to Robert W. Errett, Deputy Secretary, SEC, dated May 2, 2016; letter from Manisha Kimmel, Chief Regulatory Officer, Wealth Management, Thomson Reuters ("Thomson Reuters"), to Brent J. Fields, Secretary, SEC, dated May 2, 2016; letter from Chris Melton, Executive Vice President, Coastal Securities, Inc. ("Coastal Securities"), to Robert W. Errett, Deputy Secretary, SEC, dated May 2, 2016; letter from Mike Nicholas, Chief Executive Officer, Bond Dealers of America ("BDA"), to Robert W. Errett, Deputy Secretary, SEC, dated May 2, 2016; letter from Mike Nicholas, Chief Executive Officer, Bond Dealers of America ("BDA Supplemental"), to Robert W. Errett, Deputy Secretary, SEC, dated May 26, 2016; and letter from David H. Stevens, President and Chief Executive Officer, Mortgage Bankers Association ("MBA"), to Robert W. Errett, Deputy Secretary, SEC, dated May 2, 2016.

As discussed more fully below, FINRA is filing this Partial Amendment No. 3 to respond to the comments the Commission received on the Notice of Designation of Longer Period and to propose, in response to comments, revisions to proposed paragraph (e)(2)(H)(ii)c.2. and proposed Supplementary Material .05(a)(1) as set forth in Partial Amendment No. 2.

With this Partial Amendment No. 3, FINRA is including: (1) Exhibit 4 (see below), which reflects changes to the text of the proposed rule change pursuant to this Partial Amendment No. 3, marked to show additions to the text as proposed in the original filing, Partial Amendment No. 1 and Partial Amendment No. 2; and (2) Exhibit 5 (see below), which reflects the changes to the current rule text that are proposed in the original filing, Partial Amendment No. 1 and Partial Amendment No. 2, as amended by this Partial Amendment No. 3.

A. Multifamily Housing Securities and Project Loan Program Securities

As set forth more fully in the original filing, the margin requirements set forth in the proposed rule change would apply to "Covered Agency Transactions." To recap, "Covered Agency Transactions" means:[7]

- TBA transactions, as defined in FINRA Rule 6710(u),[8] inclusive of ARM transactions, for which the difference between the trade date and contractual settlement date is greater than one business day;

- Specified Pool Transactions, as defined in FINRA Rule 6710(x),[9] for which

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7 See proposed paragraph (e)(2)(H)(i)c. in Exhibit 5 in this Partial Amendment No. 3.

8 FINRA Rule 6710(u) defines "TBA" to mean a transaction in an Agency Pass-Through Mortgage-Backed Security ("MBS") or a Small Business Administration ("SBA")-Backed Asset-Backed Security ("ABS") where the parties agree that the seller will deliver to the buyer a pool or pools of a specified face amount and meeting certain other criteria but the specific pool or pools to be delivered at settlement is not specified at the Time of Execution, and includes TBA transactions for good delivery and TBA transactions not for good delivery. Agency Pass-Through MBS and SBA-Backed ABS are defined under FINRA Rule 6710(v) and FINRA Rule 6710(bb), respectively. The term "Time of Execution" is defined under FINRA Rule 6710(d).

9 FINRA Rule 6710(x) defines Specified Pool Transaction to mean a transaction in an Agency Pass-Through MBS or an SBA-Backed ABS requiring the delivery at settlement of a pool or pools that is identified by a unique pool identification number at the Time of Execution.

the difference between the trade date and contractual settlement date is greater than one business day; and

- CMOs, as defined in FINRA Rule 6710(dd),[10] issued in conformity with a program of an agency, as defined in FINRA Rule 6710(k),[11] or a GSE, as defined in FINRA Rule 6710(n),[12] for which the difference between the trade date and contractual settlement date is greater than three business days.

In Partial Amendment No. 1, FINRA proposed to add, and in Partial Amendment No. 2 FINRA further modified, paragraph (e)(2)(H)(ii)a.2., which, as set forth more fully in the Partial Amendments, clarifies that a member is not required to apply the margin requirements of paragraph (e)(2)(H) of the rule with respect to Covered Agency Transactions with a counterparty in multifamily housing securities or project loan program securities, provided that: (i) such securities are issued in conformity with a program of an agency, as defined in FINRA Rule 6710(k),[13] or a GSE, as defined in

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10 FINRA Rule 6710(dd) defines CMO to mean a type of Securitized Product backed by Agency Pass-Through MBS, mortgage loans, certificates backed by project loans or construction loans, other types of MBS or assets derivative of MBS, structured in multiple classes or tranches with each class or tranche entitled to receive distributions of principal or interest according to the requirements adopted for the specific class or tranche, and includes a real estate mortgage investment conduit ("REMIC").

11 FINRA Rule 6710(k) defines "agency" to mean a United States executive agency as defined in 5 U.S.C. 105 that is authorized to issue debt directly or through a related entity, such as a government corporation, or to guarantee the repayment of principal or interest of a debt security issued by another entity. The term excludes the U.S. Department of the Treasury in the exercise of its authority to issue U.S. Treasury Securities as defined under FINRA Rule 6710(p). Under 5 U.S.C. 105, the term "executive agency" is defined to mean an "Executive department, a Government corporation, and an independent establishment."

12 FINRA Rule 6710(n) defines GSE to have the meaning set forth in 2 U.S.C. 622(8). Under 2 U.S.C. 622(8), a GSE is defined, in part, to mean a corporate entity created by a law of the United States that has a Federal charter authorized by law, is privately owned, is under the direction of a board of directors, a majority of which is elected by private owners, and, among other things, is a financial institution with power to make loans or loan guarantees for limited purposes such as to provide credit for specific borrowers or one sector and raise funds by borrowing (which does not carry the full faith and credit of the Federal Government) or to guarantee the debt of others in unlimited amounts.

13 See note 11 supra.

FINRA Rule 6710(n),[14] and are documented as Freddie Mac K Certificates, Fannie Mae Delegated Underwriting and Servicing bonds, or Ginnie Mae Construction Loan or Project Loan Certificates, as commonly known to the trade, or are such other multifamily housing securities or project loan program securities with substantially similar characteristics, issued in conformity with a program of an Agency or a Government-Sponsored Enterprise, as FINRA may designate by Regulatory Notice or similar communication; and (ii) the member makes a written risk limit determination for each such counterparty that the member shall enforce pursuant to paragraph (e)(2)(H)(ii)b. of Rule 4210.[15]

MBA said that it strongly supports the modifications in the Partial Amendments as to multifamily housing securities and project loan program securities and that it appreciates FINRA's response to this issue.

B. General Comments on the Proposal and Its Impact

Similar to comments discussed in Partial Amendment No. 1 and Partial Amendment No. 2, commenters expressed continued opposition to the proposal on account of its potential impact. SIFMA said that it believes there is a basic disagreement between FINRA and the industry as to the cost and difficulties of the proposal. Thomson Reuters said that FINRA had failed to address recommendations to simplify the proposal. In similar vein, SIFMA said that FINRA has not made any meaningful adjustments to the proposal, that the proposal is not tailored to reduce counterparty risk without undue burdens on members and their clients, and that the proposal fundamentally differs from the best practices recommendations of the Treasury Market Practices Group ("TMPG"), from requirements that apply to other fixed income products under current Rule 4210, and from requirements that apply to swaps under other regulatory regimes. SIFMA said that the risk profile of Covered Agency Transactions is not greater than that of other fixed income transactions, but that Covered Agency Transactions are being treated under the proposal in a manner more burdensome than these other products. SIFMA said that, based on conversations SIFMA has had with its members, FINRA's estimates of the cost of implementing the proposal are at the low end and that smaller firms will need to decide whether they can remain in business involving Covered Agency Transactions. In similar vein, Coastal Securities said that the proposal is anti-competitive and costly, and BDA said that the proposal would negatively impact small- and medium-sized firms. BDA said that FINRA's estimates of the costs of implementing the rule are unfair and biased. BDA said that the proposal would apply unnecessarily to transactions that do not create systemic risk. Brean Capital said the proposal would drive business away from introducing firms and toward larger firms. Brean Capital said that it has observed instances where larger firms are using margin to gain competitive advantage.

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[14] See note 12 supra.

[15] As discussed more fully in the original filing, proposed Rule 4210(e)(2)(H)(ii)b. sets forth the proposed rule's requirements as to written risk limits.

In response to these comments, FINRA notes that it has actively sought input from the industry and other members of the public throughout the rulemaking process. In total, there have been four opportunities to comment on the proposal, beginning with comment on the proposal as originally published in Regulatory Notice 14-02.[16] FINRA engaged in discussions with industry participants and engaged in analysis of the potential economic impact of the proposal, including the potential costs of implementation.[17] As FINRA has previously discussed, in response to the input received from commenters, FINRA made several changes to the proposal, including the establishment of an exception for gross open positions, up to an aggregate specified amount, for cash accounts as specified by the rule,[18] and an exception, again for cash accounts as specified by the rule, from the rule's maintenance margin requirements.[19] These measures were expressly intended to address the concerns of smaller participants in the TBA market. Again, with such concerns in mind, FINRA included provision for the $250,000 de minimis transfer amount.[20] In arriving at the de minimis transfer amount, FINRA gave careful consideration to the needs of small firms that could otherwise potentially be at a disadvantage, if the de minimis amount were higher, vis-à-vis larger, more highly capitalized firms, while at the same time taking into account the need to reduce the risk of material credit exposure. To address the rule's potential impact on mortgage bankers, FINRA made provision for such market participants to be treated as exempt accounts, subject to specified conditions, and thereby not subject to maintenance margin.[21] To

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[16] See Regulatory Notice 14-02 (FINRA Requests Comment on Proposed Amendments to FINRA Rule 4210 for Transactions in the TBA Market) (January 2014) (the "Notice"). In the original filing, FINRA discussed comments received in response to the Notice. See 80 FR 63603, 63615 through 63620.

[17] See 80 FR 63603, 63609 through 63615; see also Partial Amendment No. 1 and Partial Amendment No. 2.

[18] See proposed paragraph (e)(2)(H)(ii)c.2. in Exhibit 4 and Exhibit 5 in this Partial Amendment No. 3. As discussed more fully in Section C of this Partial Amendment No. 3, in response to ongoing concerns expressed in comment about the rule's potential impact, FINRA is amending the exception from the proposed margin requirements for counterparties whose gross open positions in Covered Agency Transactions with the member amount to $2.5 million or less in aggregate, so as to increase the $2.5 million amount to $10 million.

[19] See proposed paragraph (e)(2)(H)(ii)e. in Exhibit 5 in this Partial Amendment No. 3.

[20] See proposed paragraph (e)(2)(H)(ii)f. in Exhibit 5 in this Partial Amendment No. 3.

[21] See proposed paragraph (e)(2)(H)(ii)d. and Supplementary Material .02 in Exhibit 5 in this Partial Amendment No. 3.

address concerns regarding the rule's potential impact on the market for multifamily housing securities and project loan program securities, FINRA revised the proposal to expressly provide that members are not required to apply the rule's margin requirements to such securities, subject to specified conditions.[22] FINRA does not believe that the commenters, in the most recent round of comment on the proposal, have raised new issues as to the rule's impact. However, FINRA is mindful of the ongoing concerns of market participants that believe smaller firms may be adversely affected by the proposal. To that end, as discussed more in Section C below, FINRA is amending the exception from the proposed margin requirements[23] for counterparties whose gross open positions in Covered Agency Transactions with the member amount to $2.5 million or less in aggregate, so as to increase the $2.5 million amount to $10 million. Further, FINRA notes that, if approved by the Commission, it will monitor the proposal's impact when the new rule takes effect and, if the requirements prove overly onerous or otherwise are shown to negatively impact the market, will consider revisiting such requirements as may be necessary to mitigate the rule's impact.

C. Gross Open Position Exception and the $250,000 De Minimis Transfer Amount

As proposed in the original filing, Partial Amendment No. 1 and Partial Amendment No. 2, the proposed rule would set forth an exception from the proposed margin requirements for counterparties whose gross open positions in Covered Agency Transactions with the member amount to $2.5 million or less in aggregate, subject to specified conditions. As proposed in the original filing, and as reiterated in Partial Amendment No. 1 and Partial Amendment No. 2, the proposed rule also sets forth, for a single counterparty, a $250,000 de minimis transfer amount up to which margin need not be collected or charged to net capital, subject to specified conditions.[24]

Similar to comments discussed in Partial Amendment No. 1 and Partial Amendment No. 2, commenters suggested increasing the $2.5 million gross open position amount and the $250,000 de minimis transfer amount. Brean Capital and Thomson Reuters said that the $2.5 million amount should be increased to $10 million. Thomson Reuters suggested that increasing the gross open position amount to $10 million would have a material impact in reducing compliance burdens. Brean Capital suggested that an

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22 See proposed paragraph (e)(2)(H)(ii)a.2. in Exhibit 5 in this Partial Amendment No. 3.

23 In the interest of clarity, FINRA notes that the "proposed margin requirements" refers to the margin requirements as to Covered Agency Transactions as set forth in the original filing, as amended by Partial Amendment No. 1 and Partial Amendment No. 2 and this Partial Amendment No. 3. Products or transactions that are outside the scope of Covered Agency Transactions are otherwise subject to the requirements of FINRA Rule 4210, as applicable.

24 See, e.g., 80 FR 63603, 63608.

increase to $10 million would help the market's liquidity, stability and competition. With respect to the $250,000 de minimis transfer amount, Thomson Reuters suggested increasing to $500,000.

In response, with respect to the amount of the proposed gross open position exception, FINRA has reconsidered and proposes to increase the specified amount from $2.5 million or less in aggregate to $10 million or less in aggregate.[25] FINRA has taken note of the ongoing concerns expressed in comment and believes that increasing the amount to $10 million is consistent with the goal, as noted in the original filing, of ameliorating the rule's impact on business activity and addressing the concerns of smaller firms and customers.

To estimate the likely impact of the proposed increase for the gross open position amount, FINRA staff analyzed the dataset that was provided to FINRA by a major clearing broker and contained 5,201 open positions as of May 30, 2014, in 375 customer accounts from ten introducing broker-dealers.[26] In this dataset, only 66 accounts had gross open positions less than the originally proposed threshold of $2.5 million. Increasing the gross open position exception to $10 million would include within the proposed exception an additional 150 accounts that had exposures greater than $2.5 million but less than or equal to $10 million. Hence, FINRA concludes that a greater number of smaller firms and customers would be subject to the gross open position exception for the proposed margin obligations.

Based on the sample of data available, FINRA estimates that neither the number of the accounts that would be required to post margin under the proposed rule, nor the estimated margin that would have to be posted for those accounts, would change due to the proposed increase in the gross open position amount. This result is mainly due to the proposed $250,000 de minimis transfer amount, which already provides significant relief to customers with smaller aggregate positions. Therefore, to the extent the sample examined is representative of the activity in Covered Agency Transactions more generally, FINRA believes that the proposed change is not likely to have significant impact on the expected margin obligations of firms and customers with large gross open positions. The proposed increase for the gross open position amount is expected to benefit smaller firms and customers, as the higher aggregate limits the costs to increasing business activity in Covered Agency Transactions without having to post margin under the proposed rule requirements.

With respect to the $250,000 de minimis transfer amount, as noted in Partial Amendment No. 1 and Partial Amendment No. 2, FINRA believes that the proposed

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25 See proposed paragraph (e)(2)(H)(ii)c.2. in Exhibit 4 in this Partial Amendment No. 3.

26 FINRA made use of this dataset in the original filing. See 80 FR 63603, 63611 through 63612. The dataset provides account-level information.

threshold is appropriate for the rule's purposes and does not propose to amend the requirement at this time. However, FINRA will reconsider the requirement as appropriate when the Commission completes its rulemaking as to margin requirements for security-based swaps.[27]

D. "Cash Account" Exceptions

As set forth more fully in the original filing, and revised in this Partial Amendment No. 3, the proposed margin requirements would not apply to any counterparty that has gross open positions[28] in Covered Agency Transactions with the member amounting to $10 million or less in aggregate, if the original contractual settlement for all such transactions is in the month of the trade date for such transactions or in the month succeeding the trade date for such transactions and the counterparty regularly settles its Covered Agency Transactions on a DVP basis or for cash. Similarly, a non-exempt account would be excepted from the rule's proposed two percent maintenance margin requirement, for any size transaction, if the original contractual settlement for the Covered Agency Transaction is in the month of the trade date for such transaction or in the month succeeding the trade date for such transaction and the customer regularly settles its Covered Agency Transactions on a DVP basis or for cash. The proposed rule uses parallel language with respect to both of these exceptions to provide that they are not available to a counterparty that, in its transactions with the member, engages in dollar rolls, as defined in FINRA Rule 6710(z),[29] or "round robin"[30]

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[27] See Securities Exchange Act Release No. 68071 (October 18, 2012), 77 FR 70214 (November 23, 2012) (Proposed Rule: Capital, Margin, and Segregation Requirements for Security-Based Swap Dealers and Major Security-Based Swap Participants and Capital Requirements for Broker-Dealers).

[28] Paragraph (e)(2)(H)(i)e. of the proposed rule defines "gross open position" to mean, with respect to Covered Agency Transactions, the amount of the absolute dollar value of all contracts entered into by a counterparty, in all CUSIPs; provided, however, that such amount shall be computed net of any settled position of the counterparty held at the member and deliverable under one or more of the counterparty's contracts with the member and which the counterparty intends to deliver. See Exhibit 5 in this Partial Amendment No. 3.

[29] FINRA Rule 6710(z) defines "dollar roll" to mean a simultaneous sale and purchase of an Agency Pass-Through MBS for different settlement dates, where the initial seller agrees to take delivery, upon settlement of the re-purchase transaction, of the same or substantially similar securities.

[30] Paragraph (e)(2)(H)(i)i. defines "round robin" trade to mean any transaction or transactions resulting in equal and offsetting positions by one customer with two separate dealers for the purpose of eliminating a turnaround delivery obligation by the customer. See Exhibit 5 in this Partial Amendment No. 3.

trades, or that uses other financing techniques for its Covered Agency Transactions. FINRA noted that these exceptions are intended to address the concerns of smaller customers engaging in non-margined, cash account business.[31]

Similar to comments discussed in Partial Amendment No. 1 and Partial Amendment No. 2, Thomson Reuters said it is concerned about implementing the cash account exceptions and that the proposed rule's provisions as to dollar rolls and round robin trades are not feasible. In response, FINRA spoke to this issue in Partial Amendment No. 1 and Partial Amendment No. 2. FINRA believes that the provisions as to dollar rolls and round robins are appropriate given that these are types of financing techniques. As such, FINRA does not propose to modify the proposed requirements, other than, as discussed above, to increase the amount for the gross open position exception from $2.5 million or less to $10 million or less.

E. Two-Way (Bilateral) Margin and Third Party Custodians

Similar to comments discussed in Partial Amendment No. 1 and Partial Amendment No. 2, FHL Banks and FC Banks said they oppose the proposed rule change because the proposal does not require two-way margin. The commenters said that the best practices recommendations of the TMPG expressly call for two-way margining to mitigate counterparty risk, that requiring only one-way margin increases systemic risk, that the proposal fails to recognize the counterparty credit risk to non-FINRA members, and that prudential regulators have adopted two-way margining in the context of requirements for swaps. The commenters said that providing for two-way margining and affording the counterparties the right to segregate, by means of third party custodian relationships, the margin they post to a FINRA member would provide heightened protection.

In response, FINRA noted in the original filing,[32] and again in Partial Amendment No. 1 and in Partial Amendment No. 2, that though FINRA supports the use of two-way margining, FINRA does not propose to address two-way margining as part of the current rulemaking. With respect to third party custodial arrangements, FINRA said these are best addressed in a separate rulemaking or guidance, as appropriate. FINRA reiterates that it is mindful of the concerns that commenters have expressed, and will revisit two-way margining and related issues when the Commission completes its rulemaking as to margin requirements for security-based swaps.[33] FINRA notes that the proposed rule does not prevent parties from entering into agreements that provide for two-way

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31 See 80 FR 63603, 63605. For convenience, in the Partial Amendments and for purposes of this letter, the $2.5 million and maintenance margin exceptions are referred to as the "cash account" exceptions.

32 See 80 FR 63603, 63620.

33 See note 27 supra.

margining should they wish to do so, provided those parties comply with all applicable requirements.

F. Risk Limit Determinations

As proposed in the original filing, proposed Supplementary Material .05(a)(1) requires that, for purposes of any risk limit determination pursuant to paragraphs (e)(2)(F), (e)(2)(G), or (e)(2)(H) of Rule 4210, if a member engages in transactions with advisory clients of a registered investment adviser, the member may elect to make the risk limit determination at the investment adviser level, except with respect to any account or group of commonly controlled accounts whose assets managed by that investment adviser constitute more than 10 percent of the investment adviser's regulatory assets under management as reported on the investment adviser's most recent Form ADV.[34]

Similar to comments discussed in Partial Amendment No. 1, Brean Capital expressed concern that members may have difficulty determining which accounts constitute more than 10 percent of an investment adviser's regulatory assets. Brean Capital proffered rule language to address this issue.

In response, FINRA has reconsidered the proposed requirements set forth in Supplementary Material .05(a)(1) and is revising the proposed language so as to delete the clause that reads "except with respect to any account or group of commonly controlled accounts whose assets managed by that investment adviser constitute more than 10 percent of the investment adviser's regulatory assets under management as reported on the investment adviser's most recent Form ADV." As such, for purposes of any risk limit determination pursuant to paragraphs (e)(2)(F), (e)(2)(G) or (e)(2)(H) of Rule 4210, the proposed requirement under Supplementary Material .05(a)(1) as revised would read: "If a member engages in transactions with advisory clients of a registered investment adviser, the member may elect to make the risk limit determination at the investment adviser level; . . ."[35] As noted earlier, FINRA is mindful of the concerns members have expressed as to potential burdens under the rule, and believes the revision is appropriate. However, FINRA notes that it expects members to be mindful of their obligations as to making and enforcing risk limits under the rule. In making risk limit determinations as to advisory accounts, FINRA expects members to exercise appropriate diligence in understanding the extent of their risk and to craft their risk limit determinations accordingly.

FINRA does not have data to assess the number of accounts, investment advisers or firms that might be impacted by this amendment. FINRA anticipates that this change to the proposed rule will reduce the regulatory burden since it reduces the regulatory

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[34] See 80 FR 63603, 63606, 63617 through 63618.

[35] See Exhibit 4 in this Partial Amendment No. 3.

compliance costs associated with making the required risk limit determinations. The change does create the potential for firms to accept higher risk limits than they otherwise would, given that FINRA proposes to delete the 10 percent threshold. But FINRA believes this additional risk is mitigated by the firms' obligations to make and enforce appropriate risk limits as described above.

G. Cleared Covered Agency Transactions

Brean Capital expressed concern that the proposed rule would impose a double margin requirement on introducing firms that are already required to post margin pursuant to agreements with clearing firms. Brean Capital proffered language to exempt such transactions from the rule's margin requirements. Thomson Reuters said that FINRA should coordinate with the Mortgage-Backed Securities Division ("MBSD") of Fixed Income Clearing Corporation to leverage MBSD's infrastructure.

In response, FINRA reminds members that paragraph (e)(2)(H)(ii)c.1. of the proposed rule provides that the margin requirements of paragraph (e)(2)(H) do not apply to Covered Agency Transactions that are cleared through a registered clearing agency, as specified by the rule.[36] Furthermore, it is not the rule's intent to regulate the commercial agreements of members, provided the rule's specified requirements are met. As such, FINRA does not propose to adopt the proffered language. FINRA has noted, in Partial Amendment No. 1 and in Partial Amendment No. 2, that the MBSD infrastructure is outside the scope of the proposed rule change, which, as already noted, is not intended to apply the proposed margin requirements to Covered Agency Transactions cleared through a registered clearing agency.

H. Trading Activity and Alternative Requirements

Brean Capital expressed a number of concerns with respect to trading activity under the proposed rule. Brean Capital proffered language to exempt from the rule's margin requirements transactions that are offset by bilateral transactions with investment companies, to amend the position liquidation requirements to apply solely to TBA transactions (as opposed to the other types of Covered Agency Transactions), to exclude from the margin requirements any mark to market losses that are offset by gains on a cleared trade, and to prescribe required procedures as to position marking that would require reference to a "generally recognized source" and agreement of the parties. Thomson Reuters suggested the rule should permit members to take a capital charge as an alternative to collecting maintenance margin.

In response, FINRA does not believe that the proffered language is consistent with the rule's purposes. FINRA does not believe there is a public policy purpose in writing into the rule an exemption for offsets with investment companies or cleared trades, or to restrict the liquidation requirements to TBA transactions only. FINRA does not propose to incorporate the proffered language as to position marking given that, for

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36 See Exhibit 5 in this Partial Amendment No. 3.

purposes of the rule, this is the province of the parties' commercial relations. FINRA does not propose to revise the rule to permit members to take a capital charge as an alternative to collection of maintenance margin from counterparties, as FINRA believes this would not protect members from the risk of counterparty default. Further, FINRA believes this would have the effect of disadvantaging small firms that are not in a position to absorb capital charges to the same extent as larger, more highly capitalized firms. FINRA believes the rule as proposed puts all firms on an equal footing, leveling the playing field between large and small firms, since all firms can collect maintenance margin, but not all firms can absorb the same amount of capital charges.

I. Timing of Margin Collection and Position Liquidation

As set forth more fully in the original filing, and as reiterated in Partial Amendment No. 1 and Partial Amendment No. 2, the proposed rule provides that, with respect to exempt accounts, if a mark to market loss, or, with respect to non-exempt accounts, a deficiency, is not satisfied by the close of business on the next business day after the business day on which the mark to market loss or deficiency arises, the member must deduct the amount of the mark to market loss or deficiency from net capital as provided in SEA Rule 15c3-1. Further, unless FINRA has granted the member additional time to collect the mark to market loss or deficiency, the member is required to liquidate positions if, with respect to exempt accounts, a mark to market loss is not satisfied within five business days, or, with respect to non-exempt accounts, a deficiency is not satisfied within such period.[37]

Similar to comments discussed in the original filing,[38] Partial Amendment No. 1 and Partial Amendment No. 2, SIFMA said the proposed requirements are difficult to implement and are not compatible with existing systems and procedures for other fixed income products. Thomson Reuters said these differences reduce the ability to leverage the functionality of existing systems. In response, as FINRA noted in the original filing, Partial Amendment No. 1 and Partial Amendment No. 2, FINRA does not propose to modify the proposed requirements. FINRA reiterates that the proposed language as to timing of margin collection is consistent with existing language under Rule 4210.[39] With respect to the liquidation requirement, FINRA believes that the five business day period, along with the opportunity to seek an extension of time when circumstances warrant, should provide sufficient time for members to resolve issues.

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[37] See 80 FR 63603, 63607 through 63608.

[38] See 80 FR 63603, 63619.

[39] See FINRA Rule 4210(g)(10)(B).

J. Scope of the Proposal

Similar to comments discussed in Partial Amendment No. 1 and Partial Amendment No. 2, Coastal Securities said the proposal should not include Specified Pool Transactions because these products do not share the same risk as other Covered Agency Transactions. BDA said that the proposed definition of Covered Agency Transactions should be revised to focus on long-dated settlements and that Specified Pool Transactions should not be included within the rule's scope. BDA proffered a definition of Covered Agency Transactions.[40] In response, as discussed in Partial Amendment No. 1 and Partial Amendment No. 2, FINRA does not believe there is a compelling reason to revise the proposed definition and settlement scope of Covered Agency Transactions, nor does FINRA believe there is a compelling reason to except Specified Pool Transactions from the definition of Covered Agency Transactions. FINRA is mindful of the concerns of commenters and, as discussed in Section C above, is proposing in this Partial Amendment No. 3 to increase the $2.5 million gross open position exception to $10 million, which FINRA believes should benefit smaller firms and customers.

K. Scope of FINRA's Authority

Similar to comments discussed in Partial Amendment No. 1 and Partial Amendment No. 2, BDA and Coastal Securities said FINRA does not have authority to impose the proposed margin requirements. As discussed in Partial Amendment No. 1 and Partial Amendment No. 2, FINRA disagrees. FINRA has noted that the rulemaking is consistent with the provisions of SEA Section 15A(b)(6).

L. Implementation

Similar to comments discussed in Partial Amendment No. 1 and Partial Amendment No. 2, Thomson Reuters said that a 24-month implementation period for the proposed rule should be permitted so as to permit adequate time for systems preparation as well as to implement other significant regulatory initiatives, such as the T+2 migration and the new conflict of interest rule promulgated by the Department of Labor.

In response, FINRA is mindful of the implementation challenges posed by various regulatory initiatives. However, FINRA continues to believe that the rule change should become effective 18 months from the date the proposed rule change is approved by the Commission, except that the risk limit determination requirements as set forth in paragraphs (e)(2)(F), (e)(2)(G) and (e)(2)(H) of Rule 4210 and proposed Supplementary Material .05 would become effective six months from the date the proposed rule change is approved by the Commission.[41] FINRA notes the rule change has been under

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40 See BDA Supplemental.

41 In the interest of clarity, FINRA notes that the following provisions would become effective six months after the proposed rule change is approved by the Commission: (1) under paragraph (e)(2)(F) and paragraph (e)(2)(G), each as

consideration in the public domain for a period of more than two years. As FINRA noted in Partial Amendment No. 2, FINRA does not believe it would serve the public interest to extend the rule's implementation beyond 18 months once approved by the Commission.

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revised by the proposed rule change, the sentences that begin "Members shall maintain a written risk analysis methodology . . ." and "The risk limit determination shall be made . . ."; (2) under proposed paragraph (e)(2)(H), as set forth in the proposed rule change, proposed paragraph (e)(2)(H)(ii)b.; and (3) proposed Supplementary Material .05, as revised by this Partial Amendment No. 3. To help effectuate the application of these provisions, the proposed definitions of "counterparty," as set forth in proposed paragraph (e)(2)(H)(i)b., and "Covered Agency Transactions," as set forth in proposed paragraph (e)(2)(H)(i)c., would also become effective six months after the proposed rule change is approved by the Commission. To ensure clarity of cross-references within the rule, under paragraph (e)(2)(F) and paragraph (e)(2)(G), each as revised by the proposed rule change, the proposed phrase "subject to the limits provided in paragraph (e)(2)(I) of this Rule" in the final sentence of the first paragraph of paragraph (e)(2)(F) and paragraph (e)(2)(G) would become effective six months after the proposed rule change is approved by the Commission, as would: (1) the proposed header for new paragraph (e)(2)(H), which, as set forth in the rule change, would read "Covered Agency Transactions"; (2) under new paragraph (e)(2)(H), as set forth in the proposed rule change, the proposed designation "(i) Definitions" and the proposed designation "(ii) Margin Requirements for Covered Agency Transactions"; (3) the phrase "For purposes of paragraph (e)(2)(H) of this Rule:" under proposed new paragraph (e)(2)(H)(i); and (4) the proposed redesignation of current paragraph (e)(2)(H) as new paragraph (e)(2)(I), except that the proposed revision to the header of paragraph (e)(2)(I) would become effective 18 months from the date the proposed rule change is approved by the Commission. See Exhibit 5 in this Partial Amendment No. 3.

EXHIBIT 4

Exhibit 4 shows the changes proposed in this Partial Amendment No. 3, with the proposed changes in the original filing, Partial Amendment No. 1 and Partial Amendment No. 2 shown as if adopted. Proposed new language in this Partial Amendment No. 3 is underlined; proposed deletions in this Partial Amendment No. 3 are in brackets.

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4000. FINANCIAL AND OPERATIONAL RULES

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4210. Margin Requirements

(a) through (d) No Change.

(e) Exceptions to Rule

The foregoing requirements of this Rule are subject to the following exceptions:

(1) No Change.

(2) Exempted Securities, Non-equity Securities and Baskets

(A) through (G) No Change.

(H) Covered Agency Transactions

(i) No Change.

(ii) Margin Requirements for Covered Agency Transactions

a. through b. No Change.

c. The margin requirements specified in paragraph (e)(2)(H) of this Rule shall not apply to:

1. Covered Agency Transactions that are cleared through a registered clearing agency, as defined in paragraph (f)(2)(A)(xxviii) of this Rule,

and are subject to the margin requirements of that clearing agency; and

2. any counterparty that has gross open positions in Covered Agency Transactions with the member amounting to [$2.5] <u>$10</u> million or less in aggregate, if the original contractual settlement for all such transactions is in the month of the trade date for such transactions or in the month succeeding the trade date for such transactions and the counterparty regularly settles its Covered Agency Transactions on a Delivery Versus Payment ("DVP") basis or for "cash"; provided, however, that such exception from the margin requirements shall not apply to a counterparty that, in its transactions with the member, engages in dollar rolls, as defined in Rule 6710(z), or "round robin" trades, or that uses other financing techniques for its Covered Agency Transactions.

d. through g. No Change.

(I) No Change.

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(f) through (h) No Change.

• • • Supplementary Material: ---------------

.01 through .04 No Change.

.05 Risk Limit Determination.

(a) For purposes of any risk limit determination pursuant to paragraphs (e)(2)(F), (e)(2)(G) or (e)(2)(H) of this Rule:

(1) If a member engages in transactions with advisory clients of a registered investment adviser, the member may elect to make the risk limit determination at the investment adviser level[, except with respect to any account or group of commonly controlled accounts whose assets managed by that investment adviser constitute more than 10 percent of the investment adviser’s regulatory assets under management as reported on the investment adviser’s most recent Form ADV];

(2) Members of limited size and resources that do not have a credit risk officer or credit risk committee may designate an appropriately registered principal to make the risk limit determinations;

(3) The member may base the risk limit determination on consideration of all products involved in the member’s business with the counterparty, provided the member makes a daily record of the counterparty’s risk limit usage; and

(4) A member shall consider whether the margin required pursuant to this Rule is adequate with respect to a particular counterparty account or all its counterparty accounts and, where appropriate, increase such requirements.

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EXHIBIT 5

Exhibit 5 shows the text of the proposed rule change, as amended by this Partial Amendment No. 3. Proposed new language is underlined; proposed deletions are in brackets.

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4000. FINANCIAL AND OPERATIONAL RULES

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4210. Margin Requirements

(a) Definitions

For purposes of this Rule, the following terms shall have the meanings specified below:

(1) through (12) No Change.

(13) The term “exempt account” means:

(A) No Change.

(B) any person that:

(i) has a net worth of at least $45 million and financial assets of at least $40 million for purposes of paragraphs (e)(2)(F), [and] (e)(2)(G)[,] and (e)(2)(H), and

(ii) No Change.

(14) through (16) No Change.

(b) through (d) No Change.

(e) Exceptions to Rule

The foregoing requirements of this Rule are subject to the following exceptions:

(1) No Change.

(2) Exempted Securities, Non-equity Securities and Baskets

(A) through (E) No Change.

(F) Transactions with Exempt Accounts Involving Certain "Good Faith" Securities

<u>Other than for Covered Agency Transactions as defined in paragraph (e)(2)(H) of this Rule,</u> [O]<u>o</u>n any "long" or "short" position resulting from a transaction involving exempted securities, mortgage related securities, or major foreign sovereign debt securities made for or with an "exempt account," no margin need be required and any marked to the market loss on such position need not be collected. However, the amount of any uncollected marked to the market loss shall be deducted in computing the member's net capital as provided in SEA Rule 15c3-1 and, if applicable, Rule 4110(a), subject to the limits provided in paragraph (e)(2)([H]<u>I</u>) [below] <u>of this Rule</u>.

<u>Members shall maintain a written risk analysis methodology for assessing the amount of credit extended to exempt accounts pursuant to paragraph (e)(2)(F) of this Rule which shall be made available to FINRA upon request. The risk limit determination shall be made by a designated credit risk officer or credit risk committee in accordance with the member's written risk policies and procedures.</u>

(G) Transactions With Exempt Accounts Involving Highly Rated Foreign Sovereign Debt Securities and Investment Grade Debt Securities

On any “long” or “short” position resulting from a transaction made for or with an “exempt account” (other than a position subject to paragraph (e)(2)(F) or (e)(2)(H) of this Rule), the margin to be maintained on highly rated foreign sovereign debt and investment grade debt securities shall be, in lieu of any greater requirements imposed under this Rule, (i) 0.5 percent of current market value in the case of highly rated foreign sovereign debt securities, and (ii) 3 percent of current market value in the case of all other investment grade debt securities. The member need not collect any such margin, provided the amount equal to the margin required shall be deducted in computing the member’s net capital as provided in SEA Rule 15c3-1 and, if applicable, Rule 4110(a), subject to the limits provided in paragraph (e)(2)([H]I) [below] of this Rule.

Members shall maintain a written risk analysis methodology for assessing the amount of credit extended to exempt accounts pursuant to paragraph (e)(2)(G) of this Rule which shall be made available to FINRA upon request. The risk limit determination shall be made by a designated credit risk officer or credit risk committee in accordance with the member’s written risk policies and procedures.

(H) Covered Agency Transactions

(i) Definitions

For purposes of paragraph (e)(2)(H) of this Rule:

a. The term “bilateral transaction” means a Covered Agency Transaction that is not cleared through a registered clearing agency as defined in paragraph (f)(2)(A)(xxviii) of this Rule.

b. The term "counterparty" means any person that enters into a Covered Agency Transaction with a member and includes a "customer" as defined in paragraph (a)(3) of this Rule.

c. The term "Covered Agency Transaction" means:

1. To Be Announced ("TBA") transactions, as defined in Rule 6710(u), inclusive of adjustable rate mortgage ("ARM") transactions, for which the difference between the trade date and contractual settlement date is greater than one business day;

2. Specified Pool Transactions, as defined in Rule 6710(x), for which the difference between the trade date and contractual settlement date is greater than one business day; and

3. Transactions in Collateralized Mortgage Obligations ("CMOs"), as defined in Rule 6710(dd), issued in conformity with a program of an Agency, as defined in Rule 6710(k), or a Government-Sponsored Enterprise, as defined in Rule 6710(n), for which the difference between the trade date and

contractual settlement date is greater than three business days.

d. The term “deficiency” means the amount of any required but uncollected maintenance margin and any required but uncollected mark to market loss.

e. The term “gross open position” means, with respect to Covered Agency Transactions, the amount of the absolute dollar value of all contracts entered into by a counterparty, in all CUSIPs; provided, however, that such amount shall be computed net of any settled position of the counterparty held at the member and deliverable under one or more of the counterparty’s contracts with the member and which the counterparty intends to deliver.

f. The term “maintenance margin” means margin equal to 2 percent of the contract value of the net “long” or net “short” position, by CUSIP, with the counterparty.

g. The term “mark to market loss” means the counterparty’s loss resulting from marking a Covered Agency Transaction to the market.

h. The term “mortgage banker” means an entity, however organized, that engages in the business of providing real estate financing collateralized by liens on such real estate.

i. The term "round robin" trade means any transaction or transactions resulting in equal and offsetting positions by one customer with two separate dealers for the purpose of eliminating a turnaround delivery obligation by the customer.

j. The term "standby" means contracts that are put options that trade OTC, as defined in paragraph (f)(2)(A)(xxvii) of this Rule, with initial and final confirmation procedures similar to those on forward transactions.

(ii) Margin Requirements for Covered Agency Transactions

a. All Covered Agency Transactions with any counterparty, regardless of the type of account to which booked, shall be subject to the provisions of paragraph (e)(2)(H) of this Rule, except:

1. with respect to Covered Agency Transactions with any counterparty that is a Federal banking agency, as defined in 12 U.S.C. 1813(z), central bank, multinational central bank, foreign sovereign, multilateral development bank, or the Bank for International Settlements, a member may elect not to apply the margin requirements specified

in paragraph (e)(2)(H) of this Rule provided the member makes a written risk limit determination for each such counterparty that the member shall enforce pursuant to paragraph (e)(2)(H)(ii)b.; and

2. a member is not required to apply the margin requirements specified in paragraph (e)(2)(H) of this Rule with respect to Covered Agency Transactions with a counterparty in multifamily housing securities or project loan program securities, provided:

A. such securities are issued in conformity with a program of an Agency, as defined in Rule 6710(k), or a Government-Sponsored Enterprise, as defined in Rule 6710(n), and are documented as Freddie Mac K Certificates, Fannie Mae Delegated Underwriting and Servicing bonds, or Ginnie Mae Construction Loan or Project Loan Certificates, as commonly known to the trade, or are such other multifamily housing securities or project loan program securities with substantially similar characteristics, issued in conformity with a program of an Agency or a Government-Sponsored Enterprise, as FINRA may designate by Regulatory Notice or similar communication; and

B. the member makes a written risk limit determination for each such counterparty that the member shall enforce pursuant to paragraph (e)(2)(H)(ii)b.

b. A member that engages in Covered Agency Transactions with any counterparty shall make a determination in writing of a risk limit for each such counterparty that the member shall enforce. The risk limit determination shall be made by a designated credit risk officer or credit risk committee in accordance with the member's written risk policies and procedures.

c. The margin requirements specified in paragraph (e)(2)(H) of this Rule shall not apply to:

1. Covered Agency Transactions that are cleared through a registered clearing agency, as defined in paragraph (f)(2)(A)(xxviii) of this Rule, and are subject to the margin requirements of that clearing agency; and

2. any counterparty that has gross open positions in Covered Agency Transactions with the member amounting to $10 million or less in aggregate, if the original contractual settlement for all such transactions is in the month of the trade date for such transactions or in the month succeeding the trade date for such transactions and the counterparty regularly settles its Covered Agency Transactions on a Delivery Versus Payment ("DVP") basis or for "cash"; provided, however, that such exception from the margin requirements shall not apply to a counterparty that, in its transactions with the member, engages in dollar rolls, as defined in Rule 6710(z), or "round robin" trades, or that uses other financing techniques for its Covered Agency Transactions.

d. Transactions with Exempt Accounts: On any net "long" or net "short" position, by CUSIP, resulting from bilateral transactions with a counterparty that is an "exempt account" no maintenance margin shall be required. However, such transactions shall be marked to the market daily and the member shall collect any net mark to market loss, unless otherwise provided under paragraph (e)(2)(H)(ii)f. of this Rule. If the mark to market loss is not satisfied by the close of business on the next business day after the business day on which the mark to market loss arises, the member shall be required to deduct the amount of the mark to market loss from net capital as provided in SEA Rule 15c3-1 until such time the mark to market loss is satisfied. If such mark to market loss is not satisfied within five business days from the date the loss was created, the member shall promptly liquidate positions to satisfy the mark to market loss, unless FINRA has specifically granted the member additional time. Members may treat mortgage bankers that use Covered Agency Transactions to hedge their pipeline of mortgage commitments as exempt accounts for purposes of paragraph (e)(2)(H) of this Rule.

e. Transactions with Non-Exempt Accounts: On any net "long" or net "short" position, by CUSIP, resulting from bilateral transactions with a counterparty that is not an "exempt account," maintenance margin, plus any net mark to market loss on such transactions, shall be required margin, and the member shall collect the deficiency, as defined in paragraph (e)(2)(H)(i)d. of this Rule, unless otherwise provided under paragraph (e)(2)(H)(ii)f. of this Rule. If the deficiency is not satisfied by the close of business on the next business day after the business day on which the deficiency arises, the member shall be required to deduct the amount of the deficiency from net capital as provided in SEA Rule 15c3-1 until such time the deficiency is satisfied. If such deficiency is not satisfied within five business days from the date the deficiency was created, the member shall promptly liquidate positions to satisfy the deficiency, unless FINRA has specifically granted the member additional time. No maintenance margin is required if the original contractual settlement for the Covered Agency Transaction is in the month of the trade date for such transaction or in the month succeeding the trade date for such transaction and the customer regularly settles its Covered Agency Transactions on a DVP basis or for "cash"; provided, however, that such exception from the required maintenance margin shall not apply to a non-exempt account that, in its transactions with the member, engages in dollar rolls, as defined in Rule 6710(z), or "round robin" trades, or that uses other financing techniques for its Covered Agency Transactions.

f. Any aforementioned deficiency, as set forth in paragraph (e)(2)(H)(ii)e. of this Rule, or mark to market losses, as set forth in paragraph (e)(2)(H)(ii)d. of this Rule, with a single counterparty shall not give rise to any margin requirement, and as such need not be collected or charged to net capital, if the aggregate of such amounts with such counterparty does not exceed $250,000 ("the de minimis transfer amount"). The full amount of the sum of the required maintenance margin and any mark to market loss must be collected when such sum exceeds the de minimis transfer amount.

g. Unrealized profits in one Covered Agency Transaction position may offset losses from other Covered Agency Transaction positions in the same counterparty's account and the amount of net unrealized profits may be used to reduce margin requirements. With respect to standbys, only profits (in-the-money amounts), if any, on "long" standbys shall be recognized.

([H]I) Limits on Net Capital Deductions [for Exempt Accounts]

[(i) Members shall maintain a written risk analysis methodology for assessing the amount of credit extended to exempt accounts pursuant to paragraph (e)(2)(F) and (e)(2)(G) which shall be made available to FINRA upon request.]

([ii]i) In the event that the net capital deductions taken by a member as a result of deficiencies or marked to the market losses incurred under paragraphs (e)(2)(F) and (e)(2)(G) of this Rule (exclusive of the percentage requirements established thereunder), plus any mark to market loss as set forth under paragraph (e)(2)(H)(ii)d. of this Rule and any deficiency as set forth under paragraph (e)(2)(H)(ii)e. of this Rule, and inclusive of all amounts excepted from margin requirements as set forth under paragraph (e)(2)(H)(ii)c.2. of this Rule or any de minimis transfer amount as set forth under paragraph (e)(2)(H)(ii)f. of this Rule, exceed:

a. [on] for any one account or group of commonly controlled accounts, 5 percent of the member's tentative net capital (as such term is defined in SEA Rule 15c3-1), or

b. [on] for all accounts combined, 25 percent of the member's tentative net capital (as such term is defined in SEA Rule 15c3-1), and,

c. such excess as calculated in paragraphs (e)(2)(I)(i)a. or b. of this Rule continues to exist[s] on the fifth business day after it was incurred,

the member shall give prompt written notice to FINRA and shall not enter into any new transaction(s) subject to the provisions of paragraphs (e)(2)(F), [or] (e)(2)(G) or (e)(2)(H) of this Rule that would result in an increase in the amount of such excess under, as applicable, [subparagraph (ii)] paragraph (e)(2)(I)(i) of this Rule.

(3) through (8) No Change.

(f) Other Provisions

(1) through (5) No Change.

(6) Time Within Which Margin or "Mark to Market" Must Be Obtained

The amount of margin or "mark to market" required by any provision of this Rule, other than that required under paragraph (e)(2)(H) of this Rule, shall be obtained as promptly as possible and in any event within 15 business days from the date such deficiency occurred, unless FINRA has specifically granted the member additional time.

(7) through (10) No Change.

(g) through (h) No Change.

• • • Supplementary Material: ---------------

.01 No Change.

.02 Monitoring Procedures. For purposes of paragraph (e)(2)(H)(ii)d. of this Rule, members shall adopt written procedures to monitor the mortgage banker's pipeline of mortgage loan commitments to assess whether the Covered Agency Transactions are being used for hedging purposes.

.03 Mark to Market Loss/Deficiency. For purposes of paragraph (e)(2)(H) of this Rule, to the extent a mark to market loss or deficiency is cured by subsequent market movements prior to the time the margin call must be met, the margin call need not be met and the position need not be liquidated; provided, however, if the mark to market loss or deficiency is not satisfied by the close of business on the next business day after the business day on which the mark to market loss or deficiency arises, the member shall be required to deduct the amount of the mark to market loss or deficiency from net capital as provided in SEA Rule 15c3-1 until such time the mark to market loss or deficiency is satisfied.

.04 Determination of Exempt Account. For purposes of paragraph (e)(2)(H) of this Rule, the determination of whether an account qualifies as an exempt account shall be made based upon the beneficial ownership of the account. Sub-accounts managed by an investment adviser, where the beneficial owner is other than the investment adviser, shall be margined individually.

.05 Risk Limit Determination.

(a) For purposes of any risk limit determination pursuant to paragraphs (e)(2)(F), (e)(2)(G) or (e)(2)(H) of this Rule:

(1) If a member engages in transactions with advisory clients of a registered investment adviser, the member may elect to make the risk limit determination at the investment adviser level;

(2) Members of limited size and resources that do not have a credit risk officer or credit risk committee may designate an appropriately registered principal to make the risk limit determinations;

(3) The member may base the risk limit determination on consideration of all products involved in the member's business with the counterparty, provided the member makes a daily record of the counterparty's risk limit usage; and

(4) A member shall consider whether the margin required pursuant to this Rule is adequate with respect to a particular counterparty account or all its counterparty accounts and, where appropriate, increase such requirements.

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