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[DATE]

Vanessa Countryman, Secretary
Office of the Secretary
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Re: Request for Exemptive Order Pursuant to Rule 15c2-11(g)

The Securities Industry and Financial Markets Association (“SIFMA”) and the Bond Dealers of America (“BDA”) and their members appreciate this opportunity to engage with the U.S. Securities and Exchange Commission (“Commission”) and its staff on this important development in the over-the-counter (“OTC”) securities markets.¹

On September 16, 2020, the Commission adopted a final rule amending Rule 15c2-11 under the Securities Exchange Act of 1934 (“Exchange Act”),² which addresses disclosures in the OTC markets and imposes requirements upon broker-dealers who publish quotations in such markets.³ Rule 15c2-11, as amended, will require a broker-dealer or a qualified interdealer quotation system to collect, record, and review for timeliness, accuracy, reliability, and public availability certain information related to securities before publishing a quotation, or submitting a quotation for publication, in any quotation medium for an OTC security, unless an exception applies. The rule on its face does not distinguish between types of securities, other than municipal securities, which Rule 15c2-11 expressly excepts.⁴ The amendments became effective on December 20, 2020, with a compliance date of September 26, 2021.⁵

¹ SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry's nearly 1 million employees, we advocate for legislation, regulation and business policy, affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). **Bond Dealers of America** is the only DC-based organization exclusively representing the interests of securities dealers and banks focused on the US fixed income markets.

² 17 C.F.R. § 240.15c2-11.

³ Publication or Submission of Quotations Without Specified Information, 85 FR 68124 (Oct. 27, 2020) (“Adopting Release”).

⁴ 17 C.F.R. § 240.15c2-11(f)(4).

⁵ Adopting Release at 68172. The compliance date is nine months after the effective date of the amended rule, except for the compliance date for paragraph (b)(5)(i)(M) of the amended rule, which is two years after the effective date of the amended rule. Paragraph (b)(5)(i)(M) requires a broker-dealer or a qualified interdealer quotation system, before publishing a quotation in a quotation medium, if relying on the “catch-all” provision, to collect and place in its records, review for timeliness and public availability, accuracy, and reliability, “similar financial information for such part of the two preceding fiscal years as the issuer or its predecessors have been in existence.”

For the reasons discussed below, we seek an order pursuant to Rule 15c2-11(g) to exempt the publication of quotations for fixed income securities from Rule 15c2-11.⁶ Below we discuss why this exemption is in the public interest and is consistent with the protection of investors. The fixed income market, unlike the equity market, is almost exclusively an OTC market, so the rule as written purports to apply to the publication of quotations in a quotation medium for virtually all fixed income securities, other than municipal securities. “Quotation” and “quotation medium” are each defined broadly in the rule.⁷ These broadly defined terms potentially capture significant amount of quotation activity in the fixed income markets. The act of publishing or submitting quotations for publication is the trigger for the application of the rule, but the word publish is not a defined term. We are concerned that the rule as written could apply broadly to quotation activity for fixed income securities, and that the application of the rule to quotations for fixed income securities will deter that quotation activity in a way that will have a significant, deleterious effect on the fixed income markets. We believe that such an application of the rule is overbroad and unnecessary and will increase costs, decrease liquidity, and reverse the gains in transparency that the fixed income markets have achieved in recent years as the market has become more electronic.

Below we provide background on the rule, explain why the differences between the fixed income and equity markets mean that the application of the rule to the publication of quotations for fixed income securities is not in the public interest and would be detrimental to issuers and investors, and describe how fixed income investors are protected by existing regulations. We respectfully request that the Commission exempt fixed income securities from Rule 15c2-11 pursuant to Rule 15c2-11(g).

I. Background

A. The Application of Rule 15c2-11 to the Publication of Quotations for Fixed Income Securities Will Be Detrimental to Investors and Is Not in the Public Interest

The application of Rule 15c2-11 to the publication of quotations for fixed income securities will increase the costs and hence deter quotations for those securities. In some cases, publication of quotations may not be possible. The cost of publishing such quotations will be high because of the vast number of fixed income securities, the fact that these securities trade almost exclusively OTC, the significant costs associated with complying with the rule’s requirements before publishing a quotation, and the lack of any meaningful exceptions from the rule relevant to fixed income securities (*e.g.*, the average daily trading volume (“ADTV”) and piggyback exceptions will be extremely limited because most fixed income securities are

⁶ 17 C.F.R. § 240.15c2-11(g) (“Exemptive authority. Upon written application or upon its own motion, the Commission may, conditionally or unconditionally, exempt by order any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of this section, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.”).

⁷ Quotation includes prices bids or offers for a security, indications of interest for a security, and indication of wishes to advertise a general interest in a particular security; quotation medium includes an interdealer quotation system (itself a defined term), or any publication or electronic communication network or other device used by broker-dealers to make known to others there interest in transaction in a security, including offers to buy or sell at a stated price or otherwise, or invitations of offers to buy and sell. 17 C.F.R. § 15c2-11(e)(7) and (e)(8).

infrequently traded, and the exchange listing exception will be largely unavailable because very few fixed income securities are listed and traded on an exchange). Accordingly, the rule will apply to the publication of quotations for virtually all non-municipal fixed income securities, without discrimination, regardless of the nature of the issuer, the amount of available information, or the liquidity of the security.

Recently, the fixed income markets have been evolving to be more electronic. This electronification has led to greater transparency, improved price discovery, and increased efficiency in these markets – a positive development for fixed income markets. The application of Rule 15c2-11 to the publication of quotations in the fixed income markets will create serious headwinds for electronic trading of fixed income securities, and quotations will move to methods where the requirements of Rule 15c2-11 do not apply., e.g., the telephone.⁸ A retreat to less transparent and less liquid fixed income markets will increase investors' costs, as dealers will be reluctant to provide liquidity due to the difficulty of reoffering bonds, or will provide liquidity at worse prices due to the increased risk and costs. In addition, retail customers may lose access to quotations for fixed income securities they seek to sell, especially on self-directed platforms.

Further, it is clear that the rule is tailored to the OTC equity market, where the fraud and manipulation at which the rule is targeted have historically occurred; there is no history of this type of fraud or manipulation in the fixed income markets. The existing regulations in the fixed income markets has proven sufficient to protect investors, and there is no demonstrated need to layer the additional requirements of Rule 15c2-11 atop the existing regulatory structure for fixed income securities.

B. The History of the Rule Demonstrates It Was Aimed to Protect Retail Investors in the OTC Equity Markets, and the Rule Will Impose Significant Costs Without Countervailing Benefits to the Fixed Income Markets

Rule 15c2-11 was initially adopted in 1971 and was last substantively amended in 1991 prior to the December 2020 amendments.⁹ As the Commission stated in connection with the current amendments, “the amendments are narrowly tailored to further the Commission’s ongoing effort to protect retail investors from fraud and manipulation in the OTC market, maintain the integrity of the OTC market, promote a more efficient and effective OTC market, and facilitate capital formation for issuers that make their information current and publicly available.”¹⁰ Further, the recent amendments are based on the premise that “[s]ecurities that trade in the OTC market are primarily owned by retail investors.”¹¹ These concerns, while clearly relevant to the OTC equity markets, have much less salience in the fixed income markets, which are dominated by institutional investors, not retail investors, and which do not have a history of fraud and manipulation aimed at retail investors that is at issue in the OTC equity markets. In fact, we have not identified any domestic securities enforcement action against a

⁸ It is estimated that from 2010 to 2021 (year to date), the volume of investment grade corporate bonds traded electronically has increased from 7% to 39% and the volume of high yield bond traded electronically from 1% to 25%. From 2017 to 2021 (year to date) the volume of U.S. Treasuries traded electronically has increased from 34% to 60%.

⁹ Adopting Release at 68125.

¹⁰ *Id.* at 68128

¹¹ *Id.* at 68125.

broker-dealer that involved fraud and manipulation in fixed income markets that would be related to the information requirements of Rule 15c2-11. While the recent Rule 15c2-11 amendments have been narrowly tailored to the OTC equity markets, they (and the rule itself) are not tailored to the fixed income markets.

In fact, the Commission previously proposed, in 1999, to expressly exclude fixed income securities from Rule 15c2-11. While that proposed rule was not adopted, the Commission made certain observations still relevant today. At the time, the Commission stated that “[w]e agree that applying the Rule to . . . certain fixed income debt securities is not directly related to microcap fraud concerns.”¹² “The fraud and manipulation that we have observed in the microcap securities have not been evident in the fixed income market.”¹³ Excluded by the Reproposing Release were “exempted securities, non-convertible debt securities, non-participatory preferred stock, and investment grade rated asset backed securities.”¹⁴ The rationale for excluding fixed income securities from the rule in 1999 is even more valid today.

The Commission, however, did not address these exclusions in the most recent rulemaking. With respect to fixed income securities, the sole mention in the proposing release for the recent amendments was question 87 (of 128 questions), which asked if the “publications or submissions of quotations for other securities (*e.g.*, debt securities, non-participatory preferred stock, or investment grade asset-backed securities) . . . should also be excepted from the Rule’s provisions.”¹⁵ We understand that the Commission did not receive any comments in response to this question. This is the only place the word “debt” appears in the proposal, and the issue is not analyzed. Because this rule has never been applied to fixed income, bond market professionals were not aware of the request for comment on the application of the rule to markets other than equity markets. Further, the Commission included the question in a discussion of the underwritten offering exception, which would not necessarily be noticed by the fixed income professionals or dealers that do not engage in underwriting. Further, in the Adopting Release, the Commission did not address the issue of the applicability of the rule to fixed income securities, did not conduct any cost benefit analysis of the question, and relied on data solely relating to OTC equity markets.¹⁶ We anticipate that applying the rule to fixed income securities would result in a significant decrease in the publication of quotations for a wide range of such securities. Applying Rule 15c2-11 to the fixed income market without sufficient analysis is neither in the public interest nor consistent with the protection of investors.

¹² Publication or Submission of Quotations Without Specified Information, 64 FR 11124, 11128 (Mar. 8, 1999) (“Reproposing Release”).

¹³ *Id.* at 11130.

¹⁴ *Id.* at 11144. The Commission withdrew the proposal on November 1, 2013.

¹⁵ Publication or Submission of Quotations Without Specified Information, 84 FR 58206, 58230 (Oct. 30, 2019).

¹⁶ See *e.g.*, Adopting Release at 68185 n.640 (Describing how the Commission based its economic analysis of information from OTC Markets Group related to the U.S. OTC equity market and stating that the “Commission believes that OTC Markets Group data are reasonably representatives of all OTC quoting and trading activity in the U.S.” This data, however, does not address fixed income securities.)

C. The Fixed Income Markets Are Different from the Equity Markets; We Anticipate Significant Costs from the Application of Rule 15c2-11 with No Benefit

1. The Large Variety of Fixed Income Products Complicates Application of the Rule

The fixed income markets are quite varied, with many different types of instruments and many different types of issuers. The fixed income markets include government securities, a broad category that includes securities issued by the U.S. Treasury, by agencies whose obligations are guaranteed by the full faith and credit of the United States, and by government sponsored enterprises (“GSEs”) (including mortgage-backed securities issued or guaranteed by GSEs). The fixed income market also includes asset-backed securities, including mortgage-backed securities, that are privately issued, typically by trusts or some other form of special purpose vehicle, securities issued by foreign sovereigns, securities issued by corporations, and commercial paper. Fixed income issuers include companies that are subject to the mandatory reporting regimes of the federal securities laws, including Sections 13 or 15(d) of the Exchange Act, and issuers that are not so subject; and fixed income securities include securities offered and sold privately in transactions exempt from Section 5 of the Securities Act of 1933 (“Securities Act”) and securities that are offered and sold publicly pursuant to registration statements filed with the Commission pursuant to Section 5 of the Securities Act. The permutations are numerous and wide-ranging; the effects of applying Rule 15c2-11 to each of these types of securities vary and have not been analyzed by the Commission.

2. There Are Many Fixed Income Securities and Few Meaningful Exceptions

Another key difference between the fixed income markets and the equity markets is the sheer number of instruments. An issuer may sell multiple fixed income instruments with different coupons, different maturities, and different call features. A single asset-backed security offering may be comprised of many tranches with different characteristics and be based on different cashflows. Fixed income securities may trade frequently for a short period of time after issuance but trade only infrequently, “by appointment” after that. The large number of fixed income securities significantly complicates compliance because the requirements of the rule will trigger much more frequently than in the equity markets (*i.e.*, each time a broker-dealer publishes a quotation for a unique fixed income security).¹⁷ The systems and procedures that broker-dealers would have to build to comply with the information review requirements of Rule 15c2-11 with respect to this large number of securities would undoubtedly increase transaction costs and deter the publication of quotations.

Another significant difference between equity markets and bond markets is that a vast majority of equity securities that are most likely to trade are listed and traded on a national securities exchange, whereas very few fixed income securities are listed or traded on exchanges. The OTC equity market is a relatively small segment of the overall equity market. The fixed income market, by contrast, is almost exclusively an OTC market. This distinction is critical because Rule 15c2-11 contains a broad exception for the publication of quotations for securities that are listed and traded on a national securities exchange, excepting thousands of equities (both

¹⁷ A search on Bloomberg indicates approximately 2.5 million fixed income securities currently outstanding.

stocks and options) from the scope of the rule.¹⁸ This exception, however, is generally not relevant for fixed income securities, as very few such securities are listed and traded on exchanges. Absence of an available exception for fixed income securities leads to absurd results. For example, as written, the rule would apply to the publication of quotations for highly liquid U.S. government securities, such as the on-the-run 10-year U.S. Treasury note, but not to quotations for volatile equity securities such as “meme” stocks; the rule would apply to the publication of quotations for bonds issued by Ford Motor Company but not to the publication of quotations for stock issued by Ford Motor Company. We are very concerned that applying Rule 15c2-11 to fixed income securities would deter dealers from publishing quotations promptly (if at all) for fixed income securities, including those issued by large, investment-grade issuers. We do not believe that the Commission intended these results.

In addition, due the large number of fixed income securities, many trade infrequently, making other exceptions scarcer for bonds than for stocks. For example, the rule contains a “piggyback” exception that is conditioned on, among other things, four consecutive days of quotations.¹⁹ Because the vast majority of bonds trade infrequently, this four consecutive day condition is relatively less likely to be met.²⁰ Further, the application of the piggyback exception is very difficult to monitor and efficiently apply, as it would effectively require a broker-dealer to monitor for every potential source of a publication of a quotation – there could be multiple potential sources and not all broker-dealers may have prompt access to them, if at all.

Similarly, Rule 15c2-11 contains an exception for actively traded securities if the ADTV is at least \$100,000 during the 60 calendar days preceding the publication of the quotation and the issuer meets certain asset and shareholder equity requirements.²¹ Again, because many fixed income securities trade infrequently, this exception may be of little value, even if it could be monitored and complied with, which is not clear to us.

In addition, many fixed income platforms that are alternative trading systems (“ATs”) display participant quotations anonymously, using the market participant identifier of the ATs, and therefore are not interdealer quotation systems, as the definition of interdealer quotation system requires that the system disseminates quotations of “identified brokers or dealers.”²² Thus, in the context of these fixed income ATs, the exception that permits a broker-dealer to rely on a public availability determination by a qualified interdealer quotation system appears to be unavailable. Other fixed income platforms may not be ATs, or may not be registered as dealers, also making them ineligible to be qualified interdealer quotation systems and making the

¹⁸ 17 C.F.R. § 240.15c2-11(f)(1) (“Except as provided in paragraph (d)(2) of this section, the provisions of this section shall not apply to: (1) The publication or submission of a quotation for a security that is admitted to trading on a national securities exchange and that is traded on such an exchange on the same day as, or on the business day next preceding, the day the quotation is published or submitted.”).

¹⁹ 17 C.F.R. § 240.15c2-11(f)(3).

²⁰ For example, four consecutive days of quoting makes no sense in the context of the vast number of corporate bonds that do not trade each day. Only 17% of the over 43,000 unique U.S. dollar-denominated investment-grade bonds were traded on any given day in 2020.

²¹ 17 C.F.R. § 240.15c2-11(f)(5).

²² 17 C.F.R. § 240.15c2-11(e)(3), (6).

exception unavailable.²³ The absence of an exception would require each dealer participant separately to comply with the requirements of the rule.²⁴

Each time a broker-dealer publishes a quotation for a unique fixed income security, it will need to determine whether an exception may exist. For example, the broker-dealer will need to figure out whether another dealer has been publishing quotations in a manner that could make available the piggyback exception by reviewing quotation activity across multiple platforms, or if the security was traded frequently enough in the last 60 days such that the ADTV exception is available. If neither these nor any other exception is available, before publishing a quotation, the broker-dealer would need to collect materials, record the materials in its books and records, verify that the material is current and publicly available, and determine that it has a reasonable basis for believing that the information is accurate in all material respects and that the source of the materials is reliable. In some instances, the information, while available to investors and prospective investors, may not be publicly available, preventing quotations completely.²⁵ Further, even if an exception is available on one day, it may not be available the next, so a broker-dealer may need to determine the availability of exceptions repeatedly each day with respect to each fixed income security quoted.

The application of the rule to fixed income securities inevitably will increase the cost of quoting by the broker-dealer, decreasing transparency and liquidity. Decreased transparency and liquidity will result in wider bid-offer spreads, wider spreads to benchmarks, increased cost of issuing debt, increased costs of price discovery, and less efficient markets. The ongoing electronification of the fixed income markets will be adversely impacted. These outcomes are not in the public interest and do not protect investors and would instead be detrimental to the public interest and investors. Accordingly, an exemption from Rule 15c2-11 for fixed income securities is warranted.²⁶

²³ “[T]he fixed income electronic trading platforms that are regulated as ATs were those that had live matching trading protocols that brought together the orders of multiple buyers and sellers.... Importantly, request-for-quote (RFQ) platforms, which execute the large majority of electronically-traded corporate bond volumes, generally are excluded from Regulation ATS based on the characteristics of the RFQ trading protocol.” Recommendation Regarding Defining ‘Electronic Trading’ for Regulatory Purposes (Oct. 5, 2020).

²⁴ The Commission stated that one qualified interdealer quotation system would be subject to the rule. Adopting Release at 68174, n. 565 and accompanying text.

²⁵ Information may be available to investors or prospective investors privately, but not publicly; for example, if the fixed income security is issued by a non-reporting company and offered pursuant to Rule 144A or the security is offered to investors that may receive information subject to a non-disclosure agreement due to the sensitivity of the information relevant to an investment decision.

²⁶ Rule 15c2-11 also contains an unsolicited customer order exception. The utility of this exception is unclear in the fixed income markets, which tend to involve more principal trading than trading on an agency basis. In its cost-benefit analysis of this exception, the Commission referenced costs related to Regulation SHO and FINRA Rule 6432. Regulation SHO and FINRA Rule 6432 both apply only to equity securities, not to fixed income securities, so they are not appropriate reference points for the costs related to compliance with this exception. See Adopting Release at 68179, n. 602 and 603 and accompanying text.

D. Examples of Situations in Which the Application of the Rule to the Publication of Quotations for Fixed Income Securities Will Have a Negative Effect on Investors

The following examples demonstrate how the rule may harm fixed income markets.

A customer may approach a dealer to sell a bond that has not traded in quite some time. If the dealer buys the bond, providing the customer liquidity, the dealer may not be able to re-offer the bond without complying with the requirements of the rule, dissuading the dealer from providing a bid, or the dealer may lower the bid to incorporate the additional risks and costs. If dealers are dissuaded from bidding, the overall quality of information in markets will decrease, and investors will experience frustration in trying to sell fixed income securities efficiently. We would then expect investors to require higher yields to offset these risks, damaging issuers. As this hypothetical example illustrates, this outcome is negative for market participants, is not in the public interest, and is inconsistent with the protection of investors.

By way of another example, many quotations (or requests for quotations) for fixed income securities may be made available on platforms, such as ATSS. A platform may support broker-dealer quotations for tens of thousands of unique fixed income securities. Participants may seek to publish quotations for any bond at any time. It is not possible for a platform to collect the information and conduct the analysis on each bond each time, which we anticipate would reduce the number of quotations available on the platforms for a broad range of fixed income securities, further reducing transparency and increasing the cost of price discovery. Further, no reference data service currently provides a “Rule 15c2-11 compliant flag” to market participants; although, it is not apparent that the rule would permit such reliance in any event.²⁷ Market participants are concerned that applying Rule 15c2-11 to electronic platforms will reduce quotation activity on those platforms, decrease transparency, increase costs and interfere with the increasing electronification of the fixed income markets.

Further, the applying the rule may have a negative impact on retail investors’ ability to access quotations, including, for example, in situations where a retail investor seeks to sell a fixed income security.

E. No Problem Exists in the Fixed Income Markets that Necessitates Application of the Rule

There is no demonstrated reason to apply Rule 15c2-11 to fixed income securities. As noted above, the fixed income markets, unlike the OTC equity markets, are primarily institutional markets.²⁸ The Commission has put forth no evidence of fraud or manipulation in the fixed income market that would be addressed by the application of the rule to the fixed income market, and we have identified no such activities. If the Commission wants to apply

²⁷ See Adopting Release at 68132 (“the Commission does not believe that it would be appropriate to further expand the scope of entities that may comply with the Rule’s information review requirement....”)

²⁸ Hendrik Bessembinder, Chester Spatt, and Kumar Venkataraman, *A Survey of the Microstructure of Fixed-Income Markets*, 55 J. OF FIN. AND QUANTITATIVE ANALYSIS 1, pg. 6-7 (Feb. 2020), available at <https://www.sec.gov/spotlight/fixed-income-advisory-committee/survey-of-microstructure-of-fixed-income-market.pdf> (Indicating that households make up only a small percentage of ownership for the fixed income securities surveyed outside of municipal securities).

Rule 15c2-11 to the fixed income markets, it will need to tailor its approach to identify those areas of the bond market where fraud or manipulation are risks and target the rule accordingly. No such tailoring has been undertaken, and the rule as written would apply to quotations to all types of investors across the entire fixed income market, other than to quotations for municipal bonds, without discrimination. The Adopting Release does not provide any guidance on the application of the rule to the fixed income markets. Accordingly, the application of Rule 15c2-11 to the fixed income markets has definite costs, but no demonstrable benefits.²⁹ The rule may be properly tailored to the retail-focused OTC equity markets, but it misses the mark when applied to fixed income securities.

F. Fixed Income Investors Are Fully Protected by the Existing Regulatory Scheme

In addition to the absence of evidence of fraud or manipulation in the fixed income markets that would be addressed by applying Rule 15c2-11, investors in that market are adequately protected by the existing regulatory scheme. Many fixed income issuers conduct offerings pursuant to Section 5 of the Securities Act, and are reporting companies that file current and periodic reports pursuant to Section 13 or Section 15(b) of the Exchange Act. Foreign private issuers relying on Rule 12g3-2(b) are also subject to public information availability requirements.³⁰ Further, many non-reporting issuers are subject to Rule 144A³¹ or to Regulation D,³² each of which contain information disclosure requirements. These existing disclosure regimes are heavily relied upon by issuers and fixed income investors, and there is no indication that the additional requirements of the rule are necessary in this context.

Fixed income investors are also protected by best execution requirements³³ and FINRA markup rules.³⁴ Retail fixed income investors to whom recommendations are made are further protected by Regulation Best Interest, which requires a broker-dealer when making a recommendation only to recommend financial products to their customers that are in their customers' best interests and to clearly identify any potential conflicts of interest and financial incentives the broker-dealer may have.³⁵ Such investors are also afforded the protections of

²⁹ The Commission staff has expressed concerns with the sale of foreign-listed exchange-traded notes to retail investors in the United States. A tailored approach could exclude these types of securities from any exemptive order.

³⁰ 17 C.F.R. § 240.12g3-2(b)(1)(iii).

³¹ 17 C.F.R. § 144A(d)(4)(i) (if the issuer is not a reporting company or exempt under specific provisions, security holders and prospective purchasers have the right to obtain from the issuer or the seller prior to the sale certain information; Rule 144A is available for sales only to qualified institutional buyers, which are generally institutions with more than \$100,000,000 in assets or assets under management or dealers with at least \$10 million in securities or dealers acting on a riskless principal basis.).

³² 17 C.F.R. § 502(b) (general conditions to be met, including when information must be furnished). Securities sold pursuant to Regulation D would generally be considered restricted securities. See 17 C.F.R. § 502(d); 17 C.F.R. § 144(a)(3)(ii) ("the term restricted securities means...[s]ecurities acquired from the issuer that are subject to the resale limitations of § 502(d) under Regulation D ..."). Resales of restricted securities would be permitted only with registration or pursuant to an exemption from registration for example, pursuant to Rule 144 or privately pursuant to the so-called 4(a)(1 ½) exemption. Private resales of restricted securities would be subject to the standards set forth in *SEC v. Ralston Purina Co.*, 346 U.S. 119 (1953), which include that offerees and purchasers have access to the type of information necessary to make an informed investment decision.

³³ See FINRA Rule 5310; FINRA Regulatory Notice 15-46 (Nov. 2015).

³⁴ See FINRA Rule 2121.02.

³⁵ Regulation Best Interest, 17 C.F.R. § 240.15l-1.

FINRA Rule 2232, which requires disclosure of markups to retail customers on confirmations. These are a carefully tailored, interrelated set of requirements that are effective in ensuring that fixed income investors have the information necessary to make informed investment decisions and are otherwise protected from potential harm. We have seen no evidence in the fixed income markets of the type of issues that exist in the OTC equity markets that led to the Commission's decision to amend Rule 15c2-11. The existing regulatory scheme related to fixed income securities offer the requisite protection to investors without the added measures in Rule 15c2-11 given the nature of the fixed income markets and the limited risks of fraud and manipulation as compared to the OTC equity markets.

Fixed income markets drive real-world economic activity and credit availability. For example, the vast majority of U.S. mortgage lending is funded by fixed income securities, as are significant portions of auto lending, credit cards and other consumer products. Fixed income markets are an important source of capital for thousands of companies across the U.S. and the globe. To the extent that liquidity and activity in fixed income markets is harmed, the costs will be borne not only by broker-dealers and their investor clients, but also corporate issuers and consumers seeking to obtain credit. Given the harms that the rule would cause to the fixed income markets, its application to those markets is unwarranted.

II. Exemptive Relief Sought

Based on the above, we respectfully request that the Commission issue an exemptive order excluding quotations published for fixed income securities from the scope of Rule 15c2-11. We request that any security that is a debt security and any non-convertible preferred stock, collectively referred to herein as "fixed income securities" be included within the scope of the exemption.

If the Commission is unwilling to exempt all fixed income securities, we request that the Commission delay implementation of Rule 15c2-11 until such time that a cost-benefit analysis for the application of Rule 15c2-11 to fixed income securities is completed and published for comment as part of the standard rule amendment process, to determine whether a specific subset of fixed income securities can be identified as suitable for coverage by the rule. Currently, it is already clear that the application of Rule 15c2-11 to large portions, if not all, of the fixed income market would be unnecessary, inefficient, and ineffective due to the nature of the securities, the method of offering the securities, the market for the securities, the disclosure regime applicable to the securities, or the nature of the transaction involving the securities. Without attempting to describe every instance, we note obvious examples such as (i) exempted securities including Treasury or GSE securities, (ii) securities already subject to mandatory disclosure requirements, and (iii) securities that are sold to qualified institutional buyers under Rule 144A.

SIFMA and BDA are willing and open to continued discussions with the Commission about the application of Rule 15c2-11 to the fixed income market.

Regards,

cc: Stephanie Dumont, FINRA