

MEMO# 34167

June 1, 2022

ICI Draft Comment Letter on SEC's SBSEF Proposal - Your Comments Requested by June 7

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TO: Derivatives Markets Advisory Committee RE: ICI Draft Comment Letter on SEC's SBSEF Proposal - Your Comments Requested by June 7

On April 6, the SEC proposed a regime for the registration and regulation of security-based swap execution facilities (SBSEFs). The Proposal seeks to closely harmonize with analogous CFTC rules for swap execution facilities (SEFs), except in certain instances.

ICI has prepared the attached draft letter, which is summarized below. Please provide your written comments on the draft by the end of the day, Tuesday, June 7. You can send your comments to Nicolas Valderrama at nvalderrama@ici.org.

ICI's letter generally supports the SEC's efforts to harmonize its regulatory approach with the CFTC's, subject to our recommended modifications. The letter recommends that the SEC strengthen the proposed "made available to trade" (MAT) process for SB swaps by:

- Clarifying that eligible MAT determinations may include only SB swaps that have been determined to be subject to mandatory clearing;
- Enhancing and mandating consideration of all factors, and establishing a robust process and standards for determining that an SB swap is no longer available to trade;
- Establishing a 60-day public comment period for all proposed MAT determinations and providing a compliance period of at least 90 days for implementation; and
- Creating an advisory board to help facilitate the process

The letter further recommends a more tailored approach to the proposed block trade exception from the methods of execution for required transactions, and requests guidance on the use of pre-execution communications.

Nicolas Valderrama
Counsel

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