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Chairman Jay Clayton
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Dear Chairman Clayton:

I write today to express concern with amendments to Financial Industry Regulatory Authority (FINRA) Rule 4210. The effective date has now been delayed to March 25, 2019. These amendments will require U.S. registered broker-dealers to collect margin from their customers on certain mortgage transactions.

Small and medium-sized dealers in my home state of Illinois have shared with me that they feel these margin requirements will push small- to medium-sized dealers nationwide out of the trading of these securities with large buy-side institutions. While the amendments do not require dealers to have Master Securities Forward Transaction Agreements (MSFTAs) in place with customers, dealers do not believe they can implement effective compliance procedures unless those agreements are in place, in case margin thresholds are triggered.

The Amended Rule also provides commercial banks and similar unregulated intermediaries a competitive edge over FINRA members. Though it requires FINRA members to collect margin from counterparties and each other, commercial banks are not required to follow the same rules. Thus, when a counterparty is given the choice between posting margin to a FINRA member, or avoiding this obligation and associated costs by trading with a non-FINRA member, the less expensive choice is clear. Loan originators will inevitably eliminate their dealings with FINRA member firms, and/or reduce the number of counterparties with whom they will trade. This consolidation may contribute to concentration risk in the marketplace. Furthermore, this shift may reduce transparency in these markets given that non-FINRA members are not subject to TRACE Reporting requirements.

One improvement to the rule that FINRA should consider is allowing dealers to take a capital charge instead of requiring them to enter into margining agreements with customers. A capital charge would allow these dealers to remain competitive and still manage any systemic risk. Other margin requirements are handled through a capital charge rather than collecting customer margin, corporate bonds are one such example. As you know, dealer margin is already highly regulated by FINRA and the Securities and Exchange Commission; therefore this rule

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modification would fit into the currentl regulatory framework. Another improvement that should be considered would be limiting the scope of the rule to To-be-announced markets – specified pools and collateralized mortgage obligations should be excluded.

Finally, I am concerned about the broad statutory authority FINRA is using to establish these amendments. I believe that FINRA may be overstepping Congressional intent by attempting to regulate credit markets, this authority has traditionally been reserved for the Federal Reserve Board.

I again urge the Commission to carefully reconsider the potential impacts and statutory limitations of this proposal.

Sincerely,

Randy Hultgren
MEMBER OF CONGRESS

Cc: Robert W. Cook, President & CEO, Financial Industry Regulatory Authority