

**ISDA.**

International Swaps and Derivatives Association, Inc.



Securities Industry Association

September 28, 2005

**Re: Proposed Interagency Statement on Sound Practices
Regarding Complex Structured Finance Activities**

The Bond Market Association, the International Swaps and Derivatives Association, Inc. and the Securities Industry Association ("the Associations") understand that the federal agencies ("the Agencies") that published the Proposed Interagency Statement on Sound Practices Regarding Complex Structured Finance Activities (the "Proposed Guidance")¹ in 2004 have completed or are nearing completion of revisions to the Proposed Guidance. We further understand that the Agencies may publish revised guidance in final form without an opportunity for further comment by the public or market participants. The Associations believe that doing so would be imprudent, and urge the Agencies to republish the revised guidance for an additional period of public comment prior to its finalization.

We appreciate the lengths to which the Agencies have gone in engaging us in a dialogue on this subject. However, as noted in our joint comment letter of last July and in subsequent discussions, the Proposed Guidance, while well-intentioned, was deeply flawed and raised many serious issues of cost, law, and policy. While the express purpose was to enhance the risk management practices of financial institutions, we believe the most likely outcome would have been to greatly increase the legal and reputational risk of dealers in the capital markets.

Our comment letter stressed the importance of international coordination to avoid competitive disparities between U.S. financial institutions and their competitors. Subsequent to the publication of the Guidance, the standards for complex structured finance transactions ultimately adopted in various foreign jurisdictions adhere to the more principles-based approach that we proposed. We also note the considerable private sector efforts already undertaken to address the concerns giving rise to the Proposed Guidance.² We urge that both market participants and supervisors be given the opportunity to review the Proposed Guidance against the background of these developments before it is finalized.

Additionally, we note that there have been a number of recent changes in leadership at several of the agencies. Publication of the revised guidance in final form

¹ 69 Fed. Reg. 28980 (May 19, 2004).

² In particular, see *Toward Greater Financial Stability: A Private Sector Perspective*; The Report of the Counterparty Risk Management Policy Group II, July 27, 2005.

would essentially require those policy makers to make a final decision on the merits without the benefit of private sector input on this crucially important issue.

While revision of the Proposed Guidance has been pending for some time, the potential harm arising from a flawed final guidance far outweighs any harm that might arise from an additional period for public comment. It is simply far more important for the Agencies to get the guidance right than it is to finalize it quickly.

Accordingly, we urge the Agencies to republish the revised guidance for comment prior to publication of the final document. Both our staff and our member firms would be pleased to discuss this matter with you at your convenience, and stand ready to assist the staff of the Agencies in connection with efforts to finalize the Proposed Guidance.

Respectfully submitted,

The Bond Market Association



International Swaps and Derivatives
Association, Inc.



Securities Industry Association

