February 28, 2011

By Electronic Submission

Stephen Kane
U.S. Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Stable Value Contracts

Dear Mr. Kane:

On behalf of the Stable Value Investment Association ("SVIA") and its members, we wish to recognize and express our appreciation for the working group's continued efforts to understand stable value funds and the important role that the $520 billion invested in these investment instruments play in over 173,000[1] defined contribution retirement savings plans. As a part of that process, we expect that the working group is evaluating the usefulness of superimposing the new swap regulatory structure over the existing framework within which the industry currently operates.

Section 719(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank")[2] requires the Commodity Futures Trading Commission ("CFTC") and the Securities and Exchange Commission (collectively "Commissions") to conduct a study, in consultation with the Department of Labor, the Department of the Treasury, and the State entities that regulate the stable value industry, to determine whether stable value contracts fall within the definition of "swap" in Title VII of Dodd-Frank. We submit this letter to facilitate the Commissions' ongoing study of stable value contracts[3] and, in particular, to provide the Commissions with more detailed information about the existing, robust regulatory framework within which stable value contracts have operated for many years.

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1 SVIA 14th Annual Stable Value Funds' Investment and Policy Survey covering $520 billion in assets as of December 31, 2009.

2 Pub. Law No. 111-203, 124 Stat. 1376 (2010).

3 We are submitting this letter pursuant to the CFTC's general authority to accept comments regarding Dodd-Frank and the CFTC's rulemakings thereunder. *See* Acceptance of Public Submissions on the Wall Street Reform and Consumer Protection Act and the Rulemakings That Will Be Proposed by the Commission, 75 Fed. Reg. 52512 (Aug. 26, 2010).

For the reasons outlined below, the SVIA believes that the existing regulatory structure applicable to issuers of stable value contracts and the defined contribution retirement savings plans that offer stable value funds, achieves the goals Congress set out in Dodd-Frank – namely, to provide transparency, safeguards against systemic risks to the U.S. financial system, and more hands-on oversight of the swap markets. For reasons previously articulated, the SVIA does not believe that stable value contracts fall within the definition of "swap." However, even if they do, Section 719(d) of Dodd-Frank expressly authorizes the Commissions to exempt these contracts from the definition of "swap." Given the current regulatory structure applicable to the stable value industry, the SVIA believes that such an exemption would be in the public interest should the Commissions conclude that stable value contracts fall within the definition.

I. Stable Value Contracts are not "Swaps" Under Dodd-Frank

Stable value investment options are included in half of all 401(k) plans,[4] and represent approximately 15% of 401(k) plan assets.[5] We believe that their continued use in defined contribution plans is largely attributable to plan participants' desire to avoid loss and minimize risk. The desire to minimize risk and potential loss stems from a number of factors, including the aging of our population; increased volatility of equity assets combined with lower equity return expectations; the market correction of 2008 that produced significant declines in equity assets in most defined contribution plans; a long standing concern with the volatility of bonds and associated loss of principal; and a decline in interest rates, which make money market funds less appealing.

Stable value funds are, by their nature, fixed income investments in which participants receive interest income comparable to that earned on an intermediate-term investment grade bond fund, but without the associated volatility. To reduce the volatility associated with the underlying investments, stable value funds enter into different types of stable value contracts offered by banks and/or insurance companies as described below:

(1) *Guaranteed Investment Contracts ("GICs")*. These contracts are purchased from insurance companies. Pursuant to these contracts, the seller guarantees the purchaser a stated rate of interest (which may be adjusted) and return of principal;

(2) *Synthetic GICs*. These contracts are portfolios of diversified, high-quality (usually rated AA or better) intermediate-term fixed income securities combined with benefit-responsive contracts (each, a "stable value contract") purchased from a bank or insurance company. Pursuant to these contracts, the bank or insurer agrees to maintain the principal value and accumulated interest for benefit-responsive withdrawals;

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[4] "401(k) Plan Asset, Allocation Account, Balance and Loan Activity in 2008," Investment Company Institute Research Perspective, October 2009, Vol. 15, No. 3.

[5] *Id.*

(3) *Insurance Company Segregated Account Stable Value Investments ("Separate Account GICs")*. Under a Separate Account GIC, the segregated account of an insurance company supports the insurance company's obligation to pay principal to plan participants and to pay interest in an amount determined by a formula to plan participants;[6] and

(4) *Insurance Company General Account Portfolio Rate Products ("Insurance Company General Accounts")*. Under these arrangements, the general account of an insurance company supports the insurance company's obligations to pay principal and interest to plan participants.

Currently, stable value funds hold 8 percent of assets in GICs, 27 percent in insurance company Synthetic GICs, 23 percent in bank Synthetic GICs, 6 percent in Separate Account GICs, 30 percent in Insurance Company General Accounts, and 6 percent in cash.[7] For purposes of this discussion, we focus primarily on Synthetic GICs because the study team has asked for more information on this particular stable value product. The term "stable value contracts" is used to encompass Synthetic GICs.

While stable value contracts and derivative instruments generally involve the transfer of certain financial risks between parties to a transaction, important characteristics of stable value contracts demonstrate that they are more appropriately regulated as investment contracts and contractual assurances than over-the-counter derivatives or "swaps" under Title VII of Dodd-Frank:

- *Stable Value Contracts Protect Investors from Losses*. Investors in a stable value fund can make benefit-responsive withdrawals regardless of declines in the market value of the fund's underlying assets. In fact, applicable accounting rules, which permit stable value funds to value fund assets at "contract value," which is principal plus accumulated interest, regardless of fluctuations in the value of the fund's investments, *require* the fund to obtain a stable value contract providing this investor protection.[8] As a result, any difference between the market and contract value of the fund is a difference that cannot be realized by the participant through the exercise of the stable value contract. This is a fundamental difference between a stable value contract and a derivative or swap.[9]

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[6] This type of investment may alternatively be supported by an insurance company's general account, and the term Separate Account GIC is intended to include this type of investment regardless of the account supporting the obligation.

[7] SVIA 14th Annual Stable Value Funds Investment and Policy Survey covering assets as of December 31, 2009, and SVIA's Issuers' Survey, February 14, 2011.

[8] *See* FASB Staff Position Nos. AAG INV-1 and SOP 94-4-1.

[9] The imposition of initial and variation margin with respect to stable value contracts, as is required of "swaps" under Dodd-Frank, would be inconsistent with the existing regulatory framework applicable to stable value funds. Stable value funds do not report assets at fair value, but rather at contract value, pursuant to FASB rules. *See* FASB

- *There is No Market and No Trading in Stable Value Contracts*. Each stable value contract is tailored to meet the specific needs of the associated plan and its investors. Because these contracts are individually tailored to the unique requirements of a specific defined contribution retirement savings plan, stable value contracts cannot be traded or assigned. There is no market for stable value contracts, nor could such a market exist. One of the primary goals of Dodd-Frank was to strengthen the integrity of the market for "swaps" by moving swap transactions onto exchanges and imposing certain public reporting requirements on participants to certain "swap" transactions.[10] However, to the extent that stable value contracts are not traded (publicly or privately), this goal would not be achieved. Further, stable value funds are already subject to comprehensive reporting requirements as part of the regulatory obligations imposed by the Employee Retirement Income Security Act of 1974 ("ERISA")[11] on plan sponsors who offer stable value funds and stable value fund investment managers.

- *Stable Value Contracts Cannot Be Cleared*. Each stable value contract is the product of a lengthy analysis that includes a comprehensive review of the associated fund's investment strategy, relevant benchmarks (*e.g.*, bond indices, money market funds), and cash flow history. In addition, through this analysis, the stable value contract is designed to take into account the demographics of the particular benefit plan's participants, the other investment options offered by the plan, the plan's management and the characteristics of the plan sponsor. As a result, stable value contracts are intrinsically non-standardized agreements that cannot be cleared by a clearinghouse and, therefore, likely would not be subject to mandatory clearing even if they were deemed to be "swaps" under Title VII of Dodd-Frank. Accordingly, the Congressional mandate to reduce default risk among counterparties in the swaps market by requiring central clearing of

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Staff Position Nos. AAG INV-1 and SOP 94-4-1. Indeed, the ability to report assets at contract value rather than market value is a fundamental advantage that stable value funds have relative to bond funds as a retirement savings plan investment alternative.

[10] All "swaps," including those that are exempt from mandatory clearing, are subject to reporting requirements. With respect to swaps that are cleared, regulatory reporting and public dissemination of swap information is handled by the relevant clearinghouse and/or trade execution facility. Swaps that are not accepted for clearing at a clearinghouse must be reported to a "registered swap data repository" or a "registered securities-based swap data repository" (together, "swap data repositories") or, if no swap data repository will accept the report, directly to the relevant Commission. *See* Dodd-Frank §§ 727-29.

[11] Employee Retirement Income Security Act of 1974 (ERISA), Pub.L. No. 93-406, 88 Stat. 829 (codified as amended in scattered sections of 5 U.S.C., 18 U.S.C., 26 U.S.C , 29 U.S.C., and 42 U.S.C.). Public plans also use stable value funds and these plans are subject to similar ERISA standards that are mandated by the states.

certain standardized swaps cannot be applied regardless of whether stable value contracts are regulated as swaps.[12]

- *Stable Value Contracts Do Not Provide a Leveraged Investment*. Stable value contracts are not utilized by stable value funds as a means of obtaining a leveraged investment. Moreover, stable value funds themselves are generally non-leveraged investment vehicles. Each stable value fund is well-collateralized and supported by a diverse portfolio of high-quality bonds, typically rated AA or better, with an average maturity date of approximately three years.[13] Exposure to the issuers of stable value contracts is limited to participant withdrawals of the difference between the market value of the underlying portfolio and the contract value of the portfolio at a certain point in time – a difference that is generally less than four percent of the fund's overall value. *This exposure is generally much less than four percent, because all participants must exit simultaneously for the exposure to be realized. While not impossible, the risk of this happening is remote.* In December 2008, at the height of the financial crisis, the market to contract ratio for stable value funds averaged 95%. As of December 30, 2010, stable value funds' market-to-contract ratio averaged 103%.[14] To the extent that Congress intended through Dodd-Frank to reduce the unregulated use of leverage by financial market participants, the SVIA submits that stable value contracts are not a source or a contributing factor to this concern.

II. Existing Regulatory Requirements Applicable To Issuers of Stable Value Contracts Makes Regulation of Such Contracts as "Swaps" Unnecessary

The requirements of Dodd-Frank applicable to "swaps" generally were a response to the financial crisis of 2008 and, in particular, the perception that the lack of regulation in the over-the-counter derivatives markets with respect to capital requirements, transaction reporting, and default risk posed unacceptable levels of systemic risk to the U.S. financial system. The Dodd-Frank regime for regulation of "swaps" attempts to ameliorate these perceived shortcomings by: (i) imposing certain capital and margin requirements with respect to swaps and certain swap entities; (ii) requiring enhanced reporting of certain transactions in swaps to the Commissions and to other financial market participants (such as clearinghouses, exchanges, and swap data repositories); and (iii) requiring standardized "swaps" to be executed on a registered exchange and centrally cleared.

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[12] "Swaps" are subject to mandatory clearing only if a derivatives clearing organization or clearing agency has been approved to clear the swap, and the relevant Commission has determined, after at least a 30-day notice and comment period, that the relevant "swap, or group, category, type or class of swaps" described in the submission is required to be cleared. *See* Dodd-Frank § 723.

[13] SVIA's Stable Value Funds' Quarterly Characteristics Survey as of December 31, 2010.

[14] *Id.*

However, the goals of Dodd-Frank, as applied to the stable value industry, are already achieved by regulatory requirements imposed by state and federal regulatory authorities responsible for supervising issuers of stable value contracts. Indeed, the banking institutions and insurers who issue stable value contracts are subject to significant and continuous oversight that exceed Dodd-Frank's stated goals.

A. Regulatory Requirements Applicable to Banking Institution Issuers of Stable Value Contracts

Banking institutions that issue stable value contracts are already subject to significant regulatory requirements that are consistent with the fundamental objectives of Dodd-Frank, including substantial risk-based and leverage capital requirements under Basel I, Basel II and Basel III. Banking institutions are regulated and supervised by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation (collectively "Federal Banking Agencies"). This oversight is comprehensive and pervasive. For example, in many instances, examiners of the Federal Banking Agencies generally remain on-site at large banking institutions to facilitate ongoing supervision of the activities of the bank.

Although the Federal Banking Agencies may impose regulatory obligations on issuers of stable value contracts and their products that differ from what would be required under the Commissions' regulations, the purpose and effect of these regulations are wholly consistent with the basic goals of Dodd-Frank. As with comparable requirements that will be established by the Commissions to impose minimum capital and margin requirements or mandatory clearing for swaps, the regulations applicable to banking institutions that issue stable value contracts reduce the risk inherently associated with banking activities by ensuring that regulated entities have adequate capital and liquidity to meet their obligations, even during extreme periods of market stress. Likewise, the disclosure and reporting requirements that apply to banking institutions that issue stable value contracts, although different from the swap reporting provisions proposed by the Commissions, are meant to advance the same goals of transparency and promote market integrity as contemplated in Dodd-Frank. Additional regulatory requirements, therefore, would be unnecessary, costly, and potentially incompatible with the current regulatory regime.

Banking institutions are required to hold capital against their obligations under stable value contracts in accordance with risk-based capital guidelines. These guidelines are a largely uniform set of risk-based capital standards applicable to all national banks, bank holding companies, and state FDIC-member banks.[15] The guidelines generally require banks to risk-weight assets to account for credit, market, and operational risks.[16] Banks calculate their risk-based capital ratio by risk-weighting assets and off balance sheet items to account for the particular risks associated with each asset and off balance sheet item.[17] Stable value contracts

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[15] *See* 12 C.F.R. Part 225, Appendix A; 12 C.F.R. Part 208, Appendix A; 12 C.F.R. Part 3, Appendix A; 12 C.F.R. Part 325, Appendix A; Risk-Based Capital Guidelines, 54 Fed. Reg. 4186 (Jan. 18, 1989).

[16] Basel I does not require risk-weighted assets for operational risk unlike Basel II and Basel III.

[17] 12 C.F.R. Part 225, App. A, III(A).

issued by banks must be risk-weighted under the same guidelines. Accordingly, banks subject to these guidelines must hold capital against the market risk under Basel I and the market, credit and operational risks under Basel II and Basel III associated with the stable value contracts they have issued. The Basel II and Basel III framework are expected to result in higher capital requirements for all banks, including banks that issue stable value contracts.

The Basel I guidelines, which are currently in force in the United States, require banks to calculate risk-based capital under the market risk measure to ensure that banks hold sufficient capital to provide a cushion against changes in the market value of "trading book" exposures.[18] Under the market risk measure, a stable value contract issued by a bank would be treated as a "trading book" activity of the bank for regulatory capital purposes, and the bank would thus be required to calculate a market risk capital charge with respect to each stable value contract.[19] The capital charge that a bank takes under the market risk measure generally includes a credit risk measure, if applicable.[20]

The Federal Banking Agencies are currently transitioning to the Basel II framework for large, internationally-active banks. Basel II is comprised of three Pillars that address minimum capital requirements, the supervisory review process and enhancement of disclosure on a bank's risk process and risk profile. Under Pillar I, risk-weighted assets are estimated (i) using internal quantitative models for market and operational risk, and (ii) inputting parameter estimates into regulatory formulas for credit risk. Pillar II requires the development of an internal capital adequacy assessment process (ICAAP), where each institution determines the amount of capital needed to support their specific risk profile. ICAAP is intended to capture the credit, market and operational risks of Pillar I, in addition to any other material risks faced by that institution. Pillar III increases transparency through enhanced disclosure requirements, enabling the market to make a more informed assessment of an institution's creditworthiness. Examiners from the Federal Banking Agencies must approve a bank's internal models, and parameter estimates, stress testing approaches, assumptions and processes under Pillars I and II.[21]

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[18] 12 C.F.R. Part 225, Appendix E; Risk-Based Capital Standards: Market Risk, 61 Fed. Reg. 47358 (Sept. 6, 1996).

[19] Banking institutions generally must categorize assets and liabilities as being held in either the "banking book" or the "trading book" when filing their quarterly and annual Reports of Condition and Income. "Banking book" assets are those the bank intends to hold for an extended period of time, and which the bank may value at cost, while "trading book" assets generally are those that the bank must mark-to market with any change in value recorded through its profit and loss statement; "trading assets" are intended to be held for a short time-period (*i.e.*, it must apply "fair value" accounting.) *See generally* Consolidated Reports of Condition and Income, FFIEC 031 (March 2011) at A-78a, *available at* http://www.fdic.gov/regulations/resources/call/crinst/callinst2011_mar.html. Note the distinction between (a) the obligation of the bank to assess its exposures under a stable value contract at fair value and (b) the obligation of the stable value fund to value its assets at cost pursuant to FASB rules, as discussed above.

[20] Note that a bank need only calculate capital adequacy under the market risk measure if its worldwide trading activity is at least $1 billion or 10% of total assets. Otherwise, the credit risk measure alone applies. 12 C.F.R. Part 225, App. E, § 1(b); Risk-Based Capital Standards: Market Risk, 61 Fed. Reg. at 47362.

[21] Note that the implementation period for Basel II has been delayed due to ongoing discussions at the Basel Committee on Banking Supervision regarding Basel III.

Basel II, and specifically Pillar II, and Basel III have resulted in the development of a stress testing framework for large, complex financial institutions, both domestically and internationally. In the U.S. the Federal Reserve is making regular use of stress testing in the assessment of capital adequacy and more recently, the ability of banks to increase their dividend payouts. Large, complex banks, which are the ones offering stable value wrap products, are the main focus of these tests. The potential effects on the value of the stable value wrap product under extreme economic conditions can have a material impact on the capital adequacy of the offering institution. This is another example of the increased capital impact that the implementation of Basel II and Basel III will have on this product.

Maintenance of the relevant capital ratios is a continuous, ongoing requirement.[22] Banking institutions with capital ratios that do not meet the minimum requirements must submit plans to their regulator describing the manner in which they plan to remedy the capital shortfall.[23] A bank's Examiner-in-Charge ("EIC") must examine the bank at least once during each 12-month period.[24] The EIC, in its discretion may, and for large complex institutions almost certainly does, examine a bank more frequently, and such an examination may be tailored to any one or more of the bank's business lines and products.[25]

In addition, FASB rules require banking institutions to account for stable value contracts at "fair value."[26] The determination of fair value requires the banking institution to make certain assumptions regarding redemption levels that the underlying funds may experience. Redemption levels depend on the performance of the manager of the stable value fund, the fund's investment strategy, investor demographics, and other general market factors. Banking institutions must report their stable value contract exposures in the footnotes to the banking institution's consolidated financial statements.

B. Regulatory Requirements Applicable to Insurance Company Issuers of Synthetic GICs[27]

Insurers, which have been involved in the stable value fund market for approximately twenty years, are regulated by state insurance commissions in each state in which the insurer is

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[22] 12 C.F.R. § 3.6 (national banks).

[23] 12 C.F.R. § 3.7 (national banks).

[24] *See* 12 C.F.R. § 4.6 (national banks); *see generally* Comptroller's Handbook: Bank Supervision Process (Sept. 2007), *available at* http://www.occ.gov/handbook/banksup.pdf.

[25] *See id.* at 8.

[26] *See* FASB Accounting Standards Codification Topic 820, Fair Value Measurements and Disclosures (formerly FAS No. 157).

[27] Please note that the term Synthetic GIC will now be used to describe stable value contracts since it is the term that state departments of insurance and the NAIC use in their respective regulations.

licensed.[28] State insurance commissions generally implement regulatory requirements recommended by the National Association of Insurance Commissioners ("NAIC"). As with regulated banking institutions, insurance companies that provide stable value products are already subject to a combination of regulatory requirements that are in accord with the goals of Dodd-Frank. For example, insurers that issue stable value contracts are subject to substantial capital and surplus requirements to guarantee their ability to safely absorb losses while continuing to perform. Insurers that issue stable value contracts also are subject to comprehensive disclosure and reporting requirements that are intended to improve industry oversight and transparency. As explained below, additional regulation of insurance companies that issue stable value contracts under Dodd-Frank would be unnecessary and would not advance the goals of the statute further.

Stable value contracts issued by insurers are generally referred to as Synthetic GICs. The NAIC Synthetic GIC Model Regulation ("NAIC Model") imposes specific disclosure obligations, in addition to reserve requirements, with respect to Synthetic GICs.[29] Because Synthetic GICs are generally considered to be a type of annuity product under the insurance laws of most states, many state insurance commissions require that the Synthetic GIC contract forms be filed with the state insurance commission prior to the issuance of a Synthetic GIC.[30] The filing allows the commissions to evaluate whether the contract terms of a Synthetic GIC comply with the insurance regulatory requirements and whether the issuing insurer maintains the capital level and status qualification requirements applicable to insurance company issuers of Synthetic GICs.

Insurers that have issued Synthetic GICs are required to disclose specific reserves relating to their exposures under Synthetic GICs on their statutorily required financial statements.[31] Insurers are required to maintain reserves in support of issued Synthetic GICs in an amount estimated in the aggregate to provide for payment of all potential losses and claims.[32] The insurer must retain actuaries to calculate required reserves in accordance with applicable

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[28] Note that there are generally two types of insurance companies: life insurers and property and casualty insurers. Because the authorization to issue Synthetic GICs under state law is generally limited to life insurers, references herein to "insurers" are to life insurers only.

[29] The reserve requirements of the NAIC Model have been widely adopted by the state insurance commissions, either directly through implementation of the NAIC Model itself or through the adoption of the NAIC's Accounting Practices & Procedures Manual, Appendix A-695. Appendix A-695 includes the reserve requirement in the NAIC Model. The NAIC Model provides additional information that the Commissions may find useful. Accordingly, the NAIC Model is available through the state insurance commissions.

[30] *See, e.g.*, N.Y. Ins. Law § 3201(b)(1).

[31] In New York, the obligation to comply with reserve and risk-based capital requirements is determined as of the time the insurance company files statutory financial statements. N.Y. INS. LAW § 307. *See generally* Harry P. Kamen & William J. Toppeta, The Life Insurance Law Of New York, 33-36 (1991).

[32] N.Y. Ins. Law § 1303. *See* Kamen & Toppeta, *supra* note 31, at 34.

regulatory requirements. These actuaries are subject to an independent set of professional actuarial standards.[33]

State insurance commissions have adopted different rules as to the reserves required for Synthetic GICs. These reserves must be reported (often quarterly) to the state insurance commission and, for entities required to file periodic reports pursuant to the Securities Exchange Act of 1934, to the Securities and Exchange Commission. An insurer subject to the risk-based reserving requirements set forth in the NAIC Model is required to maintain specific reserves relating to its actuarially determined economic exposure associated with issued and outstanding Synthetic GICs. These reserves represent an estimate of the insurer's expected liabilities relating to each Synthetic GIC, taking into account both the nature of the specific liabilities associated with the Synthetic GIC and the underlying investment account to which the Synthetic GIC relates. Some state insurance departments, such as California's and Nebraska's, mandate premium-based reserving requirements, which require insurers to identify specific reserves relating to risk premiums[34] collected by the insurer in connection with Synthetic GICs. Such premium-based reserve requirements generally equal the sum of the insurer's gross unearned risk premiums on its Synthetic GIC business plus at least 30% of any annual excess of the risk premium over claims, subject to a maximum required reserve of 150% of the current annualized risk premium the insurer collects under issued Synthetic GICs.

In addition to the specific reserves that must be maintained with respect to the issuance of Synthetic GICs, life insurers are required to hold levels of capital to support all aspects of their operations, including those relating to the issuance of Synthetic GICs. Pursuant to the NAIC's risk-based capital system, insurance regulators calculate an insurer's target capital, based on a comprehensive formula that includes specific capital charges relating to the insurer's assets, underwriting activities, the mismatch between such assets and liabilities (including interest rate exposures) and operational risk.[35] This target capital is then compared to the insurer's actual total adjusted capital to arrive at a risk-based capital ratio ("RBC Ratio") that the insurance commission uses to assess the relative financial strength of the insurer. The RBC Ratio is the basic metric underlying the NAIC's Risk-Based Capital Model Act, a version of which has been adopted in every state.[36]

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[33] Similar to banking institutions, insurers are subject to ongoing examination by insurance regulators; in New York State, the New York State Insurance Department must examine life insurers at least once every five years. N.Y. Ins. Law § 309.

[34] The "risk premium" under a Synthetic GIC is the fee that an insurer charges the plan for the guarantee provided under the Synthetic GIC.

[35] NAIC's model risk-based capital measurements take account of "asset market and credit risks (often referred to as C-1 risk), underwriting and pricing risks (C-2 risk), the risk of that the return from assets are not aligned with the requirements of the company's liabilities (C-3 risk) and general business risk (C-4 risk)." *See* Risk-Based Capital, at 3, *available at* http://rmtf.soa.org/riskbased_capital.pdf.

[36] Note that Standard and Poor's has published a capital framework for life insurers that issue Synthetic GICs, which effectively imposes additional capital requirements on insurers in the ratings process from the agency.

III. Conclusion

The SVIA is a non-profit organization dedicated to educating public policymakers and the public about the importance of saving for retirement and the contribution stable value funds can make toward achieving a financially secure retirement. We hope that this discussion provides the Commissions with a better understanding of the existing regulatory framework that governs the $520 billion in assets invested by 25 million plan participants in stable value funds. The SVIA believes that the existing regulatory requirements applicable to banking institution and insurance company issuers of stable value contracts achieve the goals of Dodd-Frank with respect to "swaps." We further hope that the information we have provided in this letter serves as a useful supplement to discussions you have with the state and federal regulatory agencies during the course of your study of stable value contracts and the stable value industry.

We are available to answer any additional questions you may have at your convenience.

Sincerely,

Gina Mitchell
President
Stable Value Investment Association