which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove proposed rule change SR–FICC–2017–010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority. 6
Eduardo A. Aleman, Assistant Secretary.

[FR Doc. 2017–12156 Filed 6–12–17; 8:45 am]
BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80870]

Commission Statement Concerning a Request for an Interpretation as to Whether a Particular Agreement Is a Swap, Security-Based Swap, or Mixed Swap

AGENCY: Securities and Exchange Commission.

ACTION: Commission statement.

SUMMARY: The Securities and Exchange Commission (the “Commission”) is publishing this statement concerning a request for an interpretation as to whether a particular agreement is a swap, security-based swap, or mixed swap.

FOR FURTHER INFORMATION CONTACT:
Andrew Bernstein, Senior Special Counsel, Office of Derivatives Policy, Division of Trading and Markets, at (202) 551–5870, or Andrew Schoeffler, Special Counsel, Office of Capital Markets Trends, Division of Corporation Finance, at (202) 551–3860; U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

Statement

This statement pertains to a letter that Commission staff received from Breakaway Courier Corporation (“Breakaway”), through its counsel, requesting a joint interpretation from the Commission and the Commodity Futures Trading Commission (“CFTC”) pursuant to Rule 3a68–2 and the Securities Exchange Act of 1934 (“Exchange Act”) as to whether a particular agreement, contract, or transaction (or class thereof) is a swap, security-based swap, or mixed swap.

Breakaway’s request relates to a contract labeled as a Reinsurance Participation Agreement (“RPA”), which it has previously executed with Applied Underwriters Captive Risk Assurance Company, Inc. (“AUCRA”). According to Breakaway’s submission, it entered into two RPs with AUCRA, one of which has a stated effective date of July 1, 2009, and the other of July 1, 2012.

The Commission and the CFTC jointly adopted Exchange Act Rule 3a68–2 and CEA Rule 1.8 in 2012 pursuant to Section 712(d)(4) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”). 4

The rules establish a process for parties to request a joint interpretation as to whether a particular agreement, contract, or transaction (or class thereof) is a swap, security-based swap, or a mixed swap. Among other things, the rules set forth the information required to be included in a request and a process for withdrawing a request. Rule 3a68–2 also includes requirements governing the manner and timing by which the two agencies must act after the receipt of a complete submission under the rule, if they determine to issue such joint interpretation. In addition, paragraph (e)(5) of Rule 3a68–2 provides that “[i]f the Commission and the [CFTC] do not issue a joint interpretation within the time period described in paragraph (e)(1) or (e)(3) of the rule, each of the Commission and the [CFTC] shall publicly provide the reasons for not issuing such a joint interpretation within the applicable timeframes.”

Pursuant to paragraph (e)(5) of Rule 3a68–2, the Commission is declining to issue a joint interpretation with the CFTC in connection with Breakaway’s request. 6

The Commission understands that the status of the RPs is already subject to ongoing private litigation and that the petitioners’ request may bear directly on that litigation. We believe that the Rule 3a68–2 process is not an appropriate vehicle for litigants such as Breakaway to obtain the views of the Commission in connection with issues in ongoing litigation, and we therefore decline Breakaway’s request that we state an interpretive position as to the proper characterization of the RPs. 7

Finally, to help ensure that requests under Rule 3a68–2 are expeditiously routed to appropriate staff, the Commission encourages market participants to provide the requests to the Office of the Secretary, with copies to the Division of Trading and Markets and the Division of Corporation Finance.

By the Commission.

Dated: June 7, 2017.

Brent J. Fields, Secretary.

[FR Doc. 2017–12140 Filed 6–12–17; 8:45 am]
BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; The Depository Trust Company; Fixed Income Clearing Corporation; National Securities Clearing Corporation; Notice of Designation of Longer Period for Commission Action on Proposed Rule Changes To Adopt the Clearing Agency Stress Testing Framework (Market Risk)

June 7, 2017.


The Proposed Rule Changes would adopt the clearing agency stress testing framework (market risk) that DTC and FICC proposed in their respective Notice of Proposed Rule Changes as of June 6, 2016.

The Proposed Rule Changes would require the Clearing Agencies to develop and submit to the Commission, for approval, a clearing agency stress testing framework (market risk) in advance of the third quarter of each calendar year, and to maintain such framework.

Dated: June 7, 2017.

Eduardo A. Aleman, Assistant Secretary.

[FR Doc. 2017–12140 Filed 6–12–17; 8:45 am]
BILLING CODE 8011–01–P

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7 As we and the CFTC explained when we jointly adopted Rule 3a68–2 in 2012 (as well as the corresponding rule under the CEA), the purpose of the rule is to “afford market participants with the opportunity to obtain greater certainty from the Commissions regarding the regulatory status of particular Title VII instruments under the Dodd-Frank Act. This provision should decrease the possibility that market participants inadvertently might fail to meet the regulatory requirements applicable to a particular Title VII instrument. See Product Definitions Adopting Release, 77 FR at 48295. We and the CFTC also noted our belief that “it is essential that the characterization of an instrument be established prior to any party engaging in the transactions so that the appropriate regulatory schemes apply.” See Product Definitions Adopting Release, 77 FR at 48297.