

IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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Docket No. 22-1864

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CONSUMER FINANCIAL PROTECTION BUREAU,  
Plaintiff-Appellee,

v.

NATIONAL COLLEGIATE MASTER STUDENT LOAN TRUST, *et al.*,  
Defendants-Appellants.

On Appeal From: The United States District Court for the District of  
Delaware (Docket No. 1:17-cv-1323-SB)  
Sat Below: The Honorable Stephanos Bibas, United States Circuit  
Judge, sitting by designation

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**MOTION FOR LEAVE TO FILE BRIEF OF  
STRUCTURED FINANCE ASSOCIATION  
AS *AMICUS CURIAE* IN SUPPORT OF  
APPELLANTS AND REVERSAL**

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Rachel Rodman  
**CADWALADER,  
WICKERSHAM & TAFT LLP**  
700 Sixth Street, N.W.  
Washington, D.C. 20001  
(202) 682-2210

Ellen V. Holloman  
**CADWALADER,  
WICKERSHAM & TAFT LLP**  
200 Liberty Street  
New York, NY 10028  
(212) 504-6200

*Attorneys for Amicus Curiae*  
Structured Finance Association

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Pursuant to Federal Rule of Appellate Procedure 29(a)(3), the Structured Finance Association, by and through its undersigned counsel, respectfully moves for leave to file the accompanying brief (the “Brief”) as amicus curiae in support of appellants. SFA provided notice to the parties of its intent to file this Brief. Appellants have consented to its filing. Appellee declined to consent, but does not oppose SFA’s motion for leave to file.

## **I. SFA’S INTEREST**

This case concerns whether a securitization trust is a “covered person” under the Consumer Financial Protection Act and thus subject to certain enforcement authorities of the Consumer Financial Protection Bureau. SFA is a member-based trade industry advocacy group focused on improving and strengthening the broader structured finance and securitization market to help its members and public policy makers responsibly grow credit availability for consumers and business across all communities. With over 370 members, SFA represents all stakeholders in the securitization market, including consumer and commercial lenders, institutional investors, financial intermediaries, law firms, accounting firms, technology firms, rating agencies, servicers, and

trustees. SFA was established with the core mission of supporting a robust and liquid securitization market, recognizing that securitization is an essential source of core funding for the real economy. As part of that core mission, SFA is dedicated to furthering public understanding among members, policy makers, consumer and business advocacy groups, and other constituencies about structured finance, securitization, and related capital markets. Given these purposes, SFA has a substantial interest in the scope of the Bureau's enforcement authority over securitization trusts.

**II. SFA'S BRIEF IS DESIRABLE AND THE MATTERS ASSERTED ARE RELEVANT TO THE DISPOSITION OF THE CASE.**

SFA's Brief is desirable and relevant for the following reasons. First, this case concerns 15 Delaware statutory securitization trusts. Securitization transactions are complex. Through this Brief, SFA seeks to educate the Court about the purpose and mechanics of securitization and, in particular, the role of the trust. Second, the multi-trillion dollar securitization market plays a key role in the national economy. While SFA's members play diverse roles and have varying perspectives on securitization transactions, all members have a strong interest in

maintaining a strong and liquid U.S. securitization market. SFA seeks to file this Brief to describe how the district court’s ruling poses a material threat to this market. Third, the Brief explains why the district court erred in holding that the defendant securitization trusts are “covered persons” under the Act.

### CONCLUSION

For the foregoing reasons, SFA respectfully requests that the Court grant it leave to file the accompanying brief as *amicus curiae* in support of Appellants.

CADWALADER,  
WICKERSHAM & TAFT LLP

/s/ Rachel Rodman  
Rachel Rodman  
700 Sixth Street, N.W.  
Washington, D.C. 20001  
(202) 682-2210  
rachel.rodman@cwt.com

Ellen V. Holloman  
200 Liberty Street  
New York, NY 10281  
(212) 504-6200  
ellen.holloman@cwt.com

*Attorneys for Amicus Curiae  
Structured Finance Association*

Dated: September 30, 2022

**CERTIFICATE OF BAR MEMBERSHIP**

Pursuant to Third Circuit Local Appellate Rule 46.1, I, Rachel Rodman, hereby certify that I am a member in good standing of the bar of the United States Court of Appeals for the Third Circuit.

/s/ Rachel Rodman  
Rachel Rodman

Dated: September 30, 2022

## CERTIFICATE OF COMPLIANCE

I, Rachel Rodman, Esquire, hereby certify that:

(1) This motion complies with the type-volume limitations required by Fed. R. App. P. 27(d)(2) and 32(a)(7)(B) because it contains 428 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f);

(2) This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the typestyle requirements of Fed. R. App. P. 32(a)(6) because it has been prepared using a proportionally spaced typeface, in 14-point font, using Microsoft Word 2016; and

(3) This brief complies with 3d Cir. L.A.R. 31.0(c) because the electronic PDF of the brief has been prepared on a computer that is automatically protected with a virus detection program, namely a continuously updated version of Symantec, version 14.2.5569.2100, and no virus was detected.

*/s/ Rachel Rodman*

Rachel Rodman

September 30, 2022

## CERTIFICATE OF FILING AND SERVICE

I, Rachel Rodman, Esquire, hereby certify that:

On September 30, 2022, an electronic copy of this Motion for Leave to File Brief of *Amicus Curiae* Structured Finance Association was filed with the Clerk of the United States Court of Appeals for the Third Circuit using the CM/ECF system. I certify that all participants in the case are registered Filing Users of CM/ECF and that service will be accomplished by the CM/ECF system.

I also certify that, pursuant to Fed. R. App. P. 25(a)(2)(B), 3d Cir. L.A.R. 31.1, 3d Cir. L.A.R. 113.1(a), ten copies of the Brief of *Amicus Curiae* Structured Finance Association are being dispatched to the Clerk's Office of the United States Court of Appeals for the Third Circuit for delivery within 5 days of filing.

September 30, 2022

/s/ Rachel Rodman

Rachel Rodman

**CADWALADER,**

**WICKERSHAM & TAFT LLP**

700 6<sup>th</sup> Street N.W.

Washington, DC 20001

202-862-2210