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NewsAlert

For Immediate Release:

Important Fiduciary Duty Case Won With Support of SIFMA and Cadwalader

New York, NY, September 13, 2011, Cadwalader, Wickersham & Taft LLP, a leading counselor to global financial institutions and corporations, and The Securities Industry and Financial Markets Association (SIFMA), are pleased to announce a significant vindication of the right of multiservice financial services firms to engage in lending or other transactions with companies whose securities are held on behalf of a firm's fiduciary or trust clients in a case that drew the close attention of securities firms, banks and asset managers across the financial services industry.

On August 5, 2011, U.S. District Judge Shira Scheindlin granted partial summary judgment to JPMorgan Chase Bank NA in a class action where plaintiffs asserted claims for breach of fiduciary duty against JPMorgan on allegations that JPMorgan's investment of fiduciary clients' cash collateral in medium term notes issued by Sigma Finance, Inc., a structured investment vehicle, and subsequent unrelated extension of "repo" financing to Sigma, by the bank somehow breached JPMorgan's duty of loyalty owed to its fiduciary clients.

Judge Scheindlin rejected plaintiffs' theory and held that the "extension of repo financing to a nonfiduciary client (Sigma) in a nonfiduciary capacity did not constitute a conflict of interest." Judge Scheindlin further held that "any other finding would supplant Congressional and regulatory determinations as to the appropriate tradeoff between the facilitation of credit and capital formation . . . and the alignment of incentives such that financial services firms' bottom lines are driven *exclusively* by the success of their fiduciary clients' investments."

SIFMA, represented at Cadwalader by partner Martin Seidel and associate Nathan Bull, filed an amicus curiae brief in support of JPMorgan's motion. Mr. Seidel commented, "The court's decision preserves critical market liquidity and reaffirms almost a century of Congressional and regulatory guidance permitting integrated financial institutions to provide both investment management and corporate finance services."

About SIFMA:

SIFMA brings together the shared interests of hundreds of securities firms, banks and asset managers. Together, our industry employs almost 800,000 people nation-wide. These individuals are engaged in communities across the country to raise capital for businesses, promote job creation and lead economic growth.

About Cadwalader:

Cadwalader, Wickersham & Taft LLP, established in 1792, is one of the world's leading international law firms, with offices in New York, London, Charlotte, Washington, Houston, Beijing, Hong Kong and Brussels. Cadwalader serves a diverse client base, including many of the world's top financial institutions and corporations, undertaking business in more than 50 countries. The firm offers legal expertise in antitrust, banking, business fraud, corporate finance, corporate governance, energy, environmental, financial restructuring, healthcare, intellectual property, litigation, mergers and acquisitions, private equity, private wealth, real estate, regulation, securitization, structured finance, and tax. More information about Cadwalader can be found at www.cadwalader.com.