



ASSOCIATION OF FINANCIAL GUARANTY INSURERS

Unconditional, Irrevocable Guaranty ®

August 8, 2011

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

Re: Release No. 34-64514; File Number S7-18-11, Proposed Rules for Nationally Recognized Statistical Rating Organizations (the “**Rating Agency Release**”)

Dear Ms. Murphy:

The Association of Financial Guaranty Insurers (“**AFGI**”) appreciates the opportunity to provide the Securities and Exchange Commission (the “**Commission**”) with its comments on the Rating Agency Release, issued pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “**Dodd-Frank Act**”).

AFGI is the trade association for financial guaranty insurers and reinsurers. Financial guaranty insurers apply their credit underwriting judgment, risk management skills and capital markets experience to develop insurance and reinsurance products, including their primary product: the guaranty of principal and interest payments on third party debt securities. Debt securities guaranteed by such insurers include municipal finance obligations issued by state and municipal governmental authorities, utility districts and facilities, as well as notes and bonds issued for international infrastructure projects and asset-backed securities issued by special purpose entities. Financial guaranty insurance policies facilitate the access of municipalities and other issuers to the capital markets and lower their borrowing costs.

Both the Dodd-Frank Act and Rating Agency Release recognize the importance of the consistent application of credit rating procedures by nationally recognized statistical rating organizations (“**NRSROs**”) by specifically requiring that material changes to the credit rating procedures and methodologies employed by NRSROs are applied consistently to all applicable credit ratings.¹ Given the importance of credit ratings and the reliance on credit ratings by individual and institutional investors, consistency in the credit rating process also protects investors, a stated goal of Section 15E(r) of the Securities Exchange Act of 1934.

AFGI fully supports the goal of providing for the consistent application of credit rating procedures and methodologies, and we write to propose that the Commission adopt

¹ 15 U.S.C. 78o-7(r)(2)(A); Proposed rule 17g-8(a)(3)(i).

additional regulations that would help to ensure the consistent application of credit rating procedures and methodologies in a transparent manner in all circumstances, whether or not there has been a material change to such procedures or methodologies.

We also write to propose that the Commission clarify through rulemaking that, as a matter of public policy, NRSROs are not able to transfer liability for compliance with the applicable provisions of the Dodd-Frank Act and the rules and regulations thereunder to third parties.

Consistent Application of Credit Rating Procedures and Methodologies

The Commission requested comments on, among other things, whether (i) the Commission should require NRSROs to maintain internal controls that allow market participants an opportunity to provide public comments on credit rating methodologies which would be considered by the applicable NRSRO and (ii) whether proposed rule 17-g(a)(3)(i), which requires NRSROs to apply material changes to credit rating procedures and methodologies consistently, should be modified. We write to propose that the Commission establish specific procedures, applicable to both the establishment and maintenance of internal controls as well as the adoption of material changes to credit rating procedures and methodologies that would require that NRSROs respond, in a public and transparent manner, to inquiries by market participants as to whether an NRSRO's credit rating procedures and methodologies are being consistently applied.

Our specific proposal is that the Commission establish procedures to:

- create a formal, transparent process whereby market participants could submit a notice to an NRSRO detailing any inconsistencies in credit rating procedures and methodologies of such NRSRO (including in respect of any material changes to an NRSRO's credit rating procedures and methodologies);
- require an NRSRO to establish an internal control structure to review any such notice in a timely manner;
- require an NRSRO, following its internal review, to respond to any such notice by either modifying applicable procedures and methodologies or setting forth the reasons why its current credit rating procedures and methodologies are consistent; and
- provide that such communications between market participants and NRSROs be accessible by the investing public.

We believe that providing market participants with a formal process to provide feedback to NRSROs would be an efficient and transparent means to ensure the

consistent application of credit rating procedures and methodologies. Such a process would promote greater consistency in the credit rating process, increase transparency in the marketplace and provide for greater investor protection.

Enforcement of Liabilities

It has become increasingly common for NRSROs to attempt to transfer liability under applicable securities laws to third parties via contractual indemnity provisions. These indemnity provisions typically require a third party, such as a financial guaranty insurer, to indemnify an NRSRO for liabilities incurred by the NRSRO in connection with its undertaking to assign a credit rating.

We submit that these indemnity provisions violate public policy and are contrary to Congressional findings that NRSROs should be subject to the same standards of liability and oversight as apply to auditors, securities analysts and investment bankers.² Accordingly, we respectfully suggest that the Commission use its rulemaking authority³ to clarify that, as a matter of public policy, NRSROs are not able to transfer liability for compliance with applicable securities laws to third parties and that any such transfer is unenforceable.

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We thank the Commission for the opportunity to comment on these matters. If you have any questions, please do not hesitate to contact me at bstern@assuredguaranty.com or (212) 339-3482.

Sincerely,



Bruce E. Stern, Chairman

² Dodd-Frank Act, Section 931(3).

³ 15 U.S.C. 78o-7(p)(4)(B).