September 17, 2013

VIA E-MAIL TO RULE-COMMENTS@SEC.GOV

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

RE: Structured Finance Industry Group Comments on Money Market Fund Reform Release No. IC-30551, File No. S7-03-13 (the "**Release**")

Dear Ms. Murphy:

The Structured Finance Industry Group ("**SFIG**") appreciates the opportunity to comment on the Release issued June 5, 2013 by the Securities and Exchange Commission (the "**SEC**") regarding revised regulations for money market mutual funds. SFIG is a broad-based, member-directed non-profit organization dedicated to providing education and advocacy on matters relating to the structured finance, securitization and related debt capital markets, and to providing a forum for exchanging ideas and career development for members.[1] Our views as expressed in this letter are based on feedback received from our broad membership.

The SEC is proposing certain amendments to Rule 2a-7 ("**Rule**") under the Investment Company Act of 1940, as amended, to make money market funds more resilient by increasing the diversification of their portfolios. We are concerned that the broad nature of some of the proposed amendments may restrict the amount of asset-backed securities (**"ABS"**) available for purchase by money market funds.

The proposals would in particular affect asset-backed commercial paper ("**ABCP**"). ABCP is a form of ABS issued by a special purpose entity (an "**ABCP conduit**") that is frequently sold to money market funds. ABCP is an important source of funding to the real economy, providing substantial funding of trade receivables, auto loan and lease receivables, equipment loans and leases, student loans and credit card and consumer loan receivables and

[1] Structured Finance Industry Group (available at http://www.sfindustry.org).

other corporate and consumer financial assets.[2] As of July 31, 2013, money market funds held over $94 billion[3] of ABCP representing approximately 36% of the overall ABCP market.[4]

The comments provided herein are intended to highlight the concerns of our members regarding these enhanced diversification proposals. We understand that the scope of the Release is far-reaching, however, we express no views about any of the proposed amendments other than those discussed in this letter.

1. The New Affiliate Aggregation Rule

Recommendation: Exclude equity owners of ABCP conduits and equity owners of special purpose entities obtaining financing from ABCP conduits from the new affiliate aggregation rule.

A. Exclude Equity Owners of ABCP Conduits from the New Affiliate Aggregation Rule

The SEC proposes to require money market funds, when calculating the amount of their total assets invested in securities issued by any particular issuer for purposes of the Rule's issuer diversification restrictions, to treat as a single issuer two or more issuers of securities owned by a fund if one issuer controls the other, is controlled by the other issuer, or is under common control with the other issuer. Furthermore, the proposal would define "control" for this purpose to mean ownership of more than 50% of the issuer's voting securities.

We recommend that the SEC's final rules specifically exclude equity owners of ABCP conduits from the new affiliate aggregation rule, allowing funds to treat each special-purpose entity ("**SPE**") issuing ABS as a separate issuer for purposes of issuer diversification testing even if the same entity or affiliate group controls the voting equity of multiple ABCP conduits.

The voting equity of an ABCP conduit is typically owned not by the ABCP conduit sponsor, but by an unaffiliated third-party that is in the business of owning such entities and that provides certain routine management services to the ABCP conduit but otherwise provides no meaningful financial or other support to the ABCP conduit. As illustrated on Appendix I attached hereto, these entities or one of their control affiliates own the voting equity of multiple conduits sponsored by several unaffiliated financial institutions, making each of those conduits "under common control" under the SEC's definition. For example, one company informed us that it owns the equity interest in 35 ABCP conduits sponsored by 21 unaffiliated financial institutions. Another company informed us it owns the equity interests in 17 ABCP conduits

---

[2] For example, as of March 31, 2013, multi-seller asset-backed commercial paper conduits financed approximately $53 billion of trade receivables, $59 billion in auto loan and lease receivables, $6.5 billion of equipment loans and leases, $11 billion of student loans and $15 billion of credit card and consumer loan receivables. Source: Moody's Investors Service, ABCP Market at a Glance: ABCP Multiseller Market Snapshot, June 25, 2013.

[3] Source: Crane Data, *Money Fund Intelligence* (as of July 31, 2013).

[4] Source: The Board of Governors of the Federal Reserve System (reporting not seasonally adjusted ABCP outstanding of $259.8 billion as of July 31, 2013) (*available at* http://www.federalreserve.gov/releases/cp/).

sponsored by 11 unaffiliated financial institutions. Under the proposed rules, money market funds would be required to aggregate exposure to all 35 and 17 of these ABCP conduits, respectively.

Requiring money market funds to aggregate a large number of conduits solely on the basis of common equity ownership would unnecessarily restrict the amount of ABCP available for purchase by money market funds. Our concern is magnified given that the SEC's proposed rules would treat ABCP conduit sponsors as "controlled persons" for purposes of the Rule's guarantor diversification requirements, thereby requiring fund investors in ABCP to apply issuer diversification testing even to fully-supported ABCP conduits.

B. Exclude Equity Owners of Special Purpose Entities Obtaining Financing from ABCP Conduits from the New Affiliate Aggregation Rule

Additionally, we believe that requiring aggregation of separate special purpose entities with their parent as a single issuer in determining whether a 10% obligor exists that should be treated as an issuer of ABCP would be detrimental to the ABCP conduit market and would not serve any meaningful purpose. Requiring such aggregation (i) would create legal and practical issues for ABCP conduit sponsors and (ii) would not be warranted by the actual economic risks to money market fund investors that invest in the ABCP of ABCP conduits that fund transactions that would be affected by the rule change. Furthermore, not requiring issuer aggregation in these circumstances would not substantively alter the obligations of liquidity and credit support providers and ABCP conduit sponsors in any manner that could adversely affect money market fund investors holding ABCP.

It is common for multiple special purpose entities financed by a single ABCP conduit to be owned by a common originator parent entity. For example, an auto finance company may establish multiple special purpose entities to fund discrete pools of auto loans, auto leases and dealer floorplan loans, each of which finances itself through a single ABCP conduit. Each separate securitization would be payable from the cash flows from the specific pool assets, no entity would guarantee any resulting securitization exposures, and the separate asset pools held by each special purpose entity would not be available to collateralize the obligations of any other special purpose entity. Credit and liquidity facilities provided by one or more regulated financial institutions would cover the face amount of all related ABCP and the sponsor of the ABCP conduit would be treated as the guarantor of such conduit under the new asset-backed securities sponsor rule.

A number of our members have indicated that aggregation of multiple special purpose entities financed by an ABCP conduit pursuant to the new affiliate aggregation rule would result in 10% obligors which would need to be reported to money market fund investors. However, in many cases, ABCP conduits are bound by confidentiality restrictions which would preclude them from disclosing information to an ABCP investor in a manner which identifies the originator of the assets underlying the ABS. Although ABCP conduits could ask originators to consent to disclosure of their transactions to ABCP investors, in the past originators have indicated a strong preference that their identities not be disclosed. In the event that a conduit is not able to obtain the consent of its originators to identify them in reporting to ABCP investors, the conduit may need to reduce its existing exposure to any one affiliated originator group in order to ensure that

no 10% obligor exists. While some ABCP conduit sponsors may be willing and able to provide this funding directly (not through an ABCP conduit), some financial institutions will not be able to do so, and the funding provided by other institutions may be more costly than an ABCP conduit facility.

The reduction in availability of ABCP conduit financing as a result of the application of the new affiliate aggregation rule to the 10% obligor analysis does not appear to be warranted where the conduit sponsor is deemed to be the guarantor of the ABCP under the new ABS sponsor rule. As the SEC explains in the Release, the new ABS sponsor rule is based on the presumption that the sponsor of the ABCP conduit will provide 100% liquidity and credit support to the conduit. Additionally, although we acknowledge that market value correlation existed as amongst separate securitization transactions originated by the same affiliated group of originator-sellers during the recent financial crisis, we are in the process of analyzing the issue of whether losses in the underlying asset pools funded by ABCP were correlated to the market value of the originator-sellers. Once our study is completed, we would welcome the opportunity to discuss our analysis and this issue further with the SEC staff. Meanwhile, however, it is important to note that the risks associated with market value fluctuations would be fully absorbed by the credit and liquidity support providers to the relevant ABCP conduit. We would welcome the opportunity to discuss this analysis and this issue further with SEC staff.

C. Proposed Rule Changes

In light of these concerns, we suggest the following changes to proposed Rule 2a-7(d)(3)(ii)(F):

> *(F) Treatment of certain affiliated entities. The money market fund, when calculating the amount of its total assets invested in securities issued by any particular issuer for purposes of paragraph (d)(3)(i) of this section, must treat as a single issuer two or more issuers of securities owned by the money market fund if one issuer controls the other, is controlled by the other issuer, or is under common control with the other issuer, provided that "control" for this purpose means ownership of more than 50 percent of the issuer's voting securities**; except that the money market fund need not treat as a single issuer two or more special purpose entities that are issuers of asset-backed securities under common control by the same owner (i) if (x) owning equity interests in special purpose entities is a primary line of business for such owner and (y) no qualifying assets (as defined in paragraph (a)(3) of this section) of any such issuer originated from or were sold to any such issuer by such owner or any affiliate of such owner that is not a special purpose entity, or (ii) for purposes of determining whether any entity is a ten percent obligor of asset-backed commercial paper if either (x) the sponsor of such asset-backed commercial paper conduit is treated as the guarantor of all of the asset-backed commercial paper of such conduit hereunder, or (y) all of the obligations of such obligor with respect to the relevant security are the subject of a guarantee issued by a non-controlled person**.

2. The New Asset-Backed Securities Sponsor Rule

Recommendations: (1) Define the term "sponsor" in the final rule and (2) exclude ABS other than ABCP from the new ABS sponsor rule.

The SEC proposes to require that all ABS sponsors be deemed to guarantee their ABS. Accordingly, money market funds would be required to treat the sponsor of an SPE issuing ABS as a guarantor subject to the Rule's 10% diversification restriction for demand features and guarantees. Under this new ABS sponsor rule, money market funds would generally be required to deem the sponsor as having provided a guarantee of the entire principal amount of the ABS, whether or not the sponsor has committed to provide any explicit credit or liquidity support. As we understand the general rationale for the new rule, money market funds investing in ABS without explicit support or with only partial explicit support may presume that the sponsor will take steps, including committing capital, to permit the SPE to make payments when due even if not formally obligated to do so. An exception to the deemed guarantee is available if the fund's board of directors (or its delegate) were to determine that the fund is not relying on the sponsor's financial strength or its ability or willingness to provide liquidity, credit or other support in connection with the ABS to determine quality or liquidity.

We are concerned that because the term "sponsor" is not defined in the current or proposed rules, it may be difficult in the context of some ABS for funds to determine who is providing the deemed guarantee. The Release noted that ABCP conduits typically receive explicit liquidity and credit support from a financial institution that also provides administrative services to the conduit, and therefore that institution is commonly understood to be the "sponsor" of the conduit. However, this arrangement (*i.e.*, the provision of liquidity and credit support from a single financial institution) is not a feature that is shared by other types of ABS, or even by all ABCP conduits. The explicit support would not always be dispositive in determining the sponsor's identity.

A subset of ABCP conduits are administered by entities that are not financial institutions. In some of these programs (single seller programs) the financial assets financed by the ABCP conduit are transferred to the ABCP conduit by the administrator or its affiliates, but credit or liquidity support to the ABCP conduit is provided by financial institutions that are not affiliated with the administrator. Yet another subset of ABCP conduits is administered by entities that are specifically in the business of providing such administrative services. Securitization transactions entered into by these ABCP conduits are typically sourced by one or more unaffiliated financial institutions, which also provide credit or liquidity support to the ABCP conduit with respect to the portion of the ABCP of the ABCP conduit attributable to these transactions. In general the administrator for these conduits would not have the financial wherewithal to provide such credit or liquidity support. In each of these cases the market would commonly think of the administrator as the "sponsor" of the relevant ABCP conduit. To the extent that the SEC elects to retain the new sponsor rule in the final Rule amendments, however, treating such entities as the "sponsors" of such ABCP conduits and thus as guarantors would not reflect the real economic risks to such ABCP conduits.

In the final Rule amendments, we would recommend that the SEC adopt a specific definition of sponsor that treats a provider of credit and liquidity support to an ABCP conduit

that equals or exceeds 50% of the outstanding face amount of the ABCP of such conduit as the sponsor of such conduit. Where no such entity exists, we submit that the likelihood of implicit support by a sponsor that has led the SEC to propose the new sponsor rule would not be present. To the extent that specific financial institutions provide actual guarantees of a portion of the ABCP of such an ABCP conduit, the current guarantor diversification requirement would appropriately address the concentration risk to the relevant financial institutions.

Regardless of how the SEC elects to treat sponsors of ABCP conduits under the final Rule amendments, sponsors of other types of ABS should not be deemed guarantors under the Rule. Sponsors of non-ABCP ABS do not typically provide explicit credit or liquidity support to such ABS, and to the extent that actual guarantees of the ABS are so provided, the current rule text appropriately would require such sponsors to be subject to the guarantor diversification requirement. To assume that such entities would guarantee the full amount of issued ABS would not accurately reflect the exposure to the credit risk of the underlying assets in these transactions.

3. The Effect of the New Asset-Backed Securities Sponsor Rule on the Ten Percent Obligor Rule

Recommendation: Clarify that the new ABS sponsor rule should not be applied to ten percent obligors.

As discussed above, the proposed amendments would require money market funds to treat the sponsor of any ABS as a guarantor subject to the Rule's 10% diversification restriction for demand features and guarantees. To the extent that a sponsor is deemed to guarantee the obligations of a ten percent obligor of an SPE, we believe existing provisions of the Rule would require funds to subject such sponsor's deemed guarantee to the 10% diversification restriction for demand features and guarantees.[5] However, because the Release does not specifically discuss the treatment of ten percent obligors in the context of the new ABS sponsor rule, we request that the SEC clarify its expectations in the interest of consistent application of the Rule. Consistent with our comment above regarding excluding ABS sponsors that are not sponsors of ABCP conduits from the scope of any new sponsor rule, we are of the view that the final rule amendments should clarify that any new sponsor rule would not apply to sponsors of ABS that become subject to the Rule's ten percent obligor provisions. Originators of the ABS invested in by ABCP conduits do not provide substantial credit or liquidity support to such ABS. In fact, in order to protect the isolation of the assets from the creditors of the originator in an insolvency proceeding, the amount of recourse that such an originator can provide to ABS holders would be severely limited and normally takes the form of asset over-collateralization or the retention of a subordinated ABS interest.

* * *

[5] *See* Rule 2a-7(c)(4)(ii)(D)(3).

SFIG appreciates the opportunity to provide the foregoing comments. Should you wish to discuss any matters addressed in this letter further, please contact me at (571) 296-6017 or at richard.johns@sfindustry.org.

Very truly yours,

APPENDIX I

The Proposed Affiliate Rule: Equity Interests in ABCP Conduits of Multiple Separate Financial Institutions Owned by a Single Entity

Impact on ABCP

- A small number of entities in the business of owning SPEs own the equity interests in multiple ABCP conduits sponsored by separate financial institutions. For example, one company informed us that it owns the equity interest in 35 ABCP conduits sponsored by 21 unaffiliated financial institutions. Another company informed us it owns the equity interests in 17 ABCP conduits sponsored by 11 unaffiliated financial institutions. Under the proposed rules, MMFs would be required to aggregate exposure to all 35 and 17 of these ABCP conduits, respectively.