



Intex Solutions, Inc.
Boston/London/Tokyo

December 3, 2010

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

Re: Proposed Rule Regarding Asset-Backed Securities: File No. S7-08-10

Dear Ms. Murphy:

On July 30, 2010, Intex Solutions, Inc. (“Intex”) submitted a letter in response to the request of the Securities and Exchange Commission (the “SEC”) for comments regarding Regulation AB and the proposal to implement new asset-backed securities requirements. Given that the SEC continues to receive comments on, and meet with parties regarding the proposal, we are offering a supplemental comment to highlight a number of important developments that have occurred since the July 30 comment letter. The following developments weigh ever more strongly in favor of the SEC withdrawing the proposed requirement that issuers submit a waterfall computer program. Should the SEC nonetheless require issuers to file a waterfall, we believe that the comments received sufficiently demonstrate the numerous deleterious and unnecessary consequences that will follow from mandating a particular technology or even that the technology is open-source.

Before diving into the details, we do wish sincerely to thank the SEC for the time, effort and thoughtfulness it has put into not only its April 7 proposal, but also its related ABS proposals mandated by the Dodd-Frank Act. We believe that the majority of the SEC’s proposed disclosure requirements will strike at the heart of many of the misaligned incentives that played a part in perpetuating the financial crisis. We also would like to thank the SEC staff for their willingness to meet with us and engage in open dialogue. We look forward to continuing the discussion.

We are writing because events that have occurred since the SEC put out its proposal for comment demonstrate that:

- One of the root causes of the financial crisis was that investors had inadequate access to information about the assets underlying securitizations, NOT that they failed to understand the cash-flows of the securitization; and
- Mandating the waterfall computer program is written in Python, or any other open source language is inappropriate because it will inhibit investor analysis and crowd out existing, viable alternatives currently available to smaller investors.



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The Dodd-Frank Act, the Federal Reserve Board’s Risk Retention Study and the SEC’s related proposals suggest that improved disclosure, not waterfall programs, will improve the securitization market.

In the time that the SEC’s ABS proposal has been out for comment, the federal government has taken great strides to diagnose the problems in the securitization market and is acting to ensure that another financial crisis does not occur.

On October 19, 2010, the Federal Reserve Board issued its *Report to Congress on Risk Retention*.¹ Mandated by the Dodd-Frank Act, the Board’s study set out to “provide information and analysis on the impact of various risk retention and incentive alignment practices for individual classes of asset-backed securities both before and after the recent financial crisis.” One conclusion of the study was that uniform risk retention rules would be “unlikely to achieve the stated objective of the Act – namely, to improve the asset-backed securitization process and protect investors from losses associated with poorly underwritten loans.” The study goes on to recommend that, when the agencies are writing their rules, they should “consider that capital markets are, and should remain, dynamic.” In its section entitled “Incentive and Information Issues in Securitization,” the Board notes that current problems with the securitization market are the result of “situations in which one party has better or more complete information than do other parties. One possible solution, of course, is increased or enhanced mandated disclosure of information.”

It’s the assets..... The SEC clearly addresses the Board recommendation by requiring comprehensive asset level disclosure in its ABS proposal. Investors, armed with the knowledge of, say, a borrower’s FICO score or LTV, will be able to better assess for themselves how risky the assets underlying the security are. This will enable them to apply more realistic forecasting assumptions regarding a borrower’s ability to pay, which will ultimately lead to better, more informed, investment decisions. Furthermore, the SEC’s October proposals specifically promulgated to Dodd-Frank, would require disclosures of repurchase requests, representations and warranties and would direct issuers to perform and disclose a due diligence on a sample of the underlying assets. All of these proposed requirements would get at the key problem of the financial crisis as identified by Congress and the Board – the lack of transparency surrounding the quality of the underlying assets.

Mandating that the issuer include a waterfall computer program, while potentially appealing to investors, does not address the problems of transparency the Board has identified. Rather, it provides them a predictive model for analysis of the material information being disclosed. This mandate is anathema to the SEC’s central mission of

¹ The study can be found at: <http://federalreserve.gov/boarddocs/rptcongress/securitization/riskretention.pdf>



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ensuring the disclosure of material information so that investors can come to their own investment decisions. Therefore, Intex believes that the Board's findings, along with the SEC's proposals implementing the Dodd-Frank risk retention provisions, are sufficient to address previous shortcomings in the securitization market. The waterfall would be a step too far.

Even if the SEC eventually requires a waterfall program, the SEC should not mandate any specific technology.

As the comments the SEC has already received make clear, there is no reasonable basis for the SEC to mandate the use of a particular technology - whether it be Python or any other open source alternative - to construct an issuer-provided waterfall. The regulatory record substantiates that most active participants in the ABS industry do not currently use these languages to create waterfall models. This is obviously not because of the cost of obtaining Python, but because there are numerous better and more practical alternatives in use. It has taken decades to develop these languages, which are specifically tailored toward modeling ABS, and, not surprisingly, able to outcompete Python and similar languages in the market. If the SEC's goal is to help re-start the securitization market and to provide small investors with a tool to analyze ABS issuances, mandating that the tool be written in an unproven language in which most market players have little experience will not help the SEC achieve its goal. While any waterfall requirement would be an impediment to new issuance, a specific technology mandate would further handicap issuers by forcing them to re-tool using a technology that is not optimized nor widely used for that purpose. Compared to the availability of existing solutions, Python, or a similar open-source language, would provide a sub-standard solution to small investors. Furthermore, the hidden costs associated with such a requirement would likely be passed along to those same small investors, which could actually make such a solution more expensive than a commercial product they could purchase when needed. The cost would obviously be passed on to large investors as well without any tangible benefit.²

An SEC mandate that any technology may be used so long as it is written in open-source code would not track with the SEC's stated goals in this proposal.³ In meetings with the SEC, Intex was told that an advantage of mandating open source technology is that it

²See, e.g., Comment of Charles S. Scully, Managing Director, Structured Finance, Metropolitan Life Insurance Company (August 2, 2010) "In order to evaluate ABS, institutional investors typically use waterfall and asset performance information systems offered by third-party data providers, such as Intex, Tripp, Bloomberg and others. Many investors have built extensive IT system infrastructure around these platforms and are unlikely to move away from them. If the SEC's proposal stops (as it currently does) with the requirement that issuers provide the waterfall program, there are no assurances that the third-party data providers that most investors employ will use this program and that investors will realize the benefits from this initiative."

³ Page 23330 of the proposal states "The proposals are intended to provide investors with timely and sufficient information, including information in and about the private market for asset-backed securities, reduce the likelihood of undue reliance on credit ratings, and help restore investor confidence in the representations and warranties regarding the assets."



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would allow for academic institutions, think tanks, regulatory bodies and other firms on the periphery of the securitization market to programmatically benefit from this disclosure. Not only is it questionable that the SEC would mandate something for the benefit of those other than investors, but in fact this particular mandate would be to the detriment of small investors – the audience which the SEC is ostensibly attempting to help with this requirement. It's highly unlikely that small investors will have the technical wherewithal, or desire, to de-code the program, make desired adjustments, and then reanalyze the issuance. In fact, if they had the technical capability they would probably just build their own model. To the small investor what is important is having an affordable, easy to use waterfall program that will enable them to efficiently analyze investment opportunities.

Finally, and perhaps most importantly, affordable alternatives along the lines of what the SEC seeks to require are currently available. In its October 19, 2010 meeting with the SEC, Intex presented INTEXreds, a web-based solution that would provide small investors with access to a transparent waterfall program at no cost.⁴ While the Intex product is written in proprietary source code, it would give the small investor the opportunity to go online and utilize a model built with a leading and proven technology rather than an unproven, open-source alternative, and with no market disruption.

We do not mention the existence of INTEXreds to suggest that the SEC mandate an Intex language. Rather, we note this fact because it is clear that the investor will be best served if the markets have the dynamic ability to choose the languages and the models.

Conclusion

We again appreciate the SEC's consideration of this proposal and its willingness to work with all interested parties.

We hope that the SEC will amend the proposal by determining that a waterfall computer program requirement is not necessary or even useful to the ABS market or, failing that, remove the technology mandate so market forces can shape for investors the best waterfall models possible.

Respectfully,

Kevin F. McCarthy
Managing Director

⁴ Notes from this meeting with screenshots of the INTEXreds interface can be found at <http://www.sec.gov/comments/s7-08-10/s70810-170.pdf>.



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