



Via Email

March 26, 2014

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

*Re: File Number S7-08-10*

Dear Ms. Murphy:

The Council of Institutional Investors (CII) welcomes the opportunity to submit comments in response to the U.S. Securities and Exchange Commission's (Commission) Re-Proposal of Shelf Eligibility Conditions for Asset-Backed Securities,<sup>1</sup> and the re-opening of the "comment period to permit interested persons to comment on an approach for the dissemination of potentially sensitive asset-level data."<sup>2</sup>

CII is a nonprofit, nonpartisan, association of pension funds, other employee benefit funds, endowments and foundations with combined assets that exceed \$3 trillion. Our members include long-term shareowners with the duty to protect the retirement assets of millions of workers and retirees.<sup>3</sup>

As indicated in our July 2010 comment letter in response to the Commission's initial asset-backed securities proposal,<sup>4</sup> we believe requiring "[c]omprehensive asset level disclosures available electronically . . . will enhance investors' understanding of extremely complex securitized products."<sup>5</sup>

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<sup>1</sup> Re-Proposal of Shelf Eligibility Conditions for Asset-Backed Securities, Securities Act Release No. 9244, Exchange Act Release No. 64968, 76 Fed. Reg. 47,948 (Aug. 5, 2011), *available at* <http://www.sec.gov/about/sec-strategic-plan-2014-2018-draft.pdf>.

<sup>2</sup> Securities and Exchange Commission, Re-Opening of Comment Period for Asset-Backed Securities Release 1 (Feb. 5, 2014), <http://www.sec.gov/rules/proposed/2014/33-9552.pdf>.

<sup>3</sup> Additional information about the Council of Institutional Investors (CII) and its members is available from CII's web site at <http://www.cii.org/members>.

<sup>4</sup> Asset-Backed Securities, Securities Act Release No. 9117, Exchange Act Release No. 61858, 75 Fed. Reg. 23,328 (proposed May 3, 2010), *available at* <http://www.sec.gov/rules/proposed/2010/33-9117fr.pdf>.

<sup>5</sup> Letter from Jonathan D. Urick, Analyst, to Elizabeth M. Murphy, Secretary 2 (July 15, 2010), <http://www.sec.gov/comments/s7-08-10/s70810-44.pdf>.

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Our support for comprehensive asset level disclosures is derived from the following recommendation of the Investors' Working Group:

**The SEC should require sponsors of asset-backed securities to improve the timeliness and quality of disclosures to investors in these instruments and other structured products.** Current rules allow sponsors to issue asset-backed securities . . . [with] woefully inadequate disclosures to potential investors in these products. . . . [T]he SEC should develop a regulatory regime for such asset-backed securities that would require issuers to . . . disclose important information about the securities, including the terms of the offering, information about the sponsor, the issuer and the trust, and details about the collateral supporting the securities. Such new rules would give investors critical information they need to perform due diligence on offerings prior to investing.<sup>6</sup>

In reviewing the background for the staff's new proposed approach for the dissemination of potentially sensitive asset-level data,<sup>7</sup> it is unclear to us whether the issues relating to privacy rights that some parties have raised are legitimate or simply a delay tactic by those who oppose the disclosure of asset-level data under any circumstances.<sup>8</sup> In any event, we do not object to the staff's new proposed approach to require that "potentially sensitive asset-level information . . . be made available by issuers to investors and potential investors."<sup>9</sup>

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<sup>6</sup> Investors' Working Group, U.S. Financial Regulatory Reform: The Investors' Perspective 14 (July 2009), [http://www.cii.org/files/issues\\_and\\_advocacy/dodd-frank\\_act/07\\_01\\_09\\_iwg\\_report.pdf](http://www.cii.org/files/issues_and_advocacy/dodd-frank_act/07_01_09_iwg_report.pdf).

<sup>7</sup> Memorandum from Division of Corporation Finance to Commission File No. S7-08-10, at 2-8 (Feb. 25, 2014), available at <http://www.sec.gov/comments/s7-08-10/s70810-258.pdf> [hereinafter Memorandum].

<sup>8</sup> See, e.g., Further Delays Seen on Changes to Reg AB, Asset-Backed Alert (Mar. 21, 2014) ("The reality is, the issuers believe [loan-by-loan data] is proprietary information and they don't want to share any of it with the competition, but they have already lost that argument," a securitization lawyer said[.] . . . '[s]o now Ford and others are doing an end-around and really pushing this as a big privacy problem . . . .'), <http://www.abalert.com/headlines.php?hid=184540>.

<sup>9</sup> Memorandum, *supra* note 7, at 8.

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Our lack of an objection to the staff's new proposed approach presumes at least two conditions: (1) issuer controls over the access and use of the information are no more restrictive than the "user accounts and confidentiality agreements" currently required by some third-party providers of asset-level information;<sup>10</sup> and (2) issuers are required to disclose "specific credit scores, income and debt amounts, instead of coded ranges, as proposed . . . ."<sup>11</sup> If those two conditions are met, we generally agree with the staff that the new proposed approach would:

Provid[e] investors with access to such information about obligors [that] would allow investors to more accurately evaluate risk, price the securities, and verify issuer disclosures. This, in turn, may enable investors to more accurately price the securities, which would improve allocative efficiency.<sup>12</sup>

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Thank you for consideration of CII views. If you should have any questions regarding this letter, please do not hesitate to contact me at 202.261.7081 or [jeff@cii.org](mailto:jeff@cii.org).

Sincerely,



Jeff Mahoney  
General Counsel

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<sup>10</sup> *Id.* at 13 (Noting that some "[t]hird-party providers obtain the asset-level data from the issuer or the servicer, and the third-party providers put in place certain controls over the access and the use of the information (e.g., user accounts and confidentiality agreements).").

<sup>11</sup> *Id.* at 19.

<sup>12</sup> *Id.*