THE EPICURUS INSTITUTE

August 1, 2010

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

File Number: S7-08-10

Dear Ms. Murphy,

Please find the response of The Epicurus Institute to the proposal, No. S7-08-10.

We believe there are many privacy concerns, and that the Commission has failed to distinguish the data requirements of actual, versus prospective investors. Further, we express concerns about the risk that private and small institutional investors will have difficulties analyzing the proposed raw data files.

While we object to specific concepts within the proffer, we believe there are fundamental positive things about the proposal.

Our objections are attached below.

Sincerely,

Robert Angelone

Robert Angelone, Ph.D.
Chief Economist and Executive Director

Attachment:

Objections to Securities and Exchange Commission Proposal No. S7-08-10

THE EPICURUS INSTITUTE

Robert Angelone, Ph.D.

Chief Economist and Director

www.epicurusinstitute.org

August 1, 2010

Abstract

Based upon proposal No. S7-08-10 as written, The Epicurus Institute presents its objections to several sections of the proposal that we believe to pose serious issues with privacy, market stability and other factors. While we believe these component sections of the proposal should be either withdrawn for further study or removed entirely without intent to restore, there are many portions of the proposal that are meritorious. Our primary concerns center around the maintenance of borrower privacy and risks afforded under the proposal that could, and we believe would result in identity theft. Moreover, we express herein our additional concerns about the manipulation and timing of released asset level data that we believe could lead to market volatility and pose a serious risk to property values, bank liquidity and the international financial system. For these and other reasons specified below, we present our objections in further detail in this document.

Contents

1 Introduction

On April 7th, 2010, months after the House of Representatives passed HR 4173 and after the Senate Committee on Banking, Housing and Urban Affairs presented its Financial Reform Proposal; at a time when the media was abuzz with word that the Senate would finally take up that legislation and as word of one financial scandal after another came to light, the Securities and Exchange Commission released S7-08-10.

Clearly a diminution of the intent of the Congress and an impatient effort to rush headlong towards unwise "solutions" led not by regulators, but by the industry which the Securities and Exchange Commission is, by its responsibilities, duties and obligations, charged to regulate. This contumacious proposal is yet another example of the egregious disregard of the Commission for the will of the American people, and the desire of the Congress to enact meaningful financial reform. It continues the inconsonant precedent of a Federal regulator working in close partnership with the regulated to create the regulations. Such discordant behavior contributed greatly to the financial crisis this very proposal allegedly seeks, in part, to resolve.

Throughout its prolific pages, the proposal improvidently references numerous corporations, both public and private, who, by the very nature of the proposal will not only profit, but may become dominant market participants in some cases. Our review leads us to believe the proposal is perpetuating and some might say, codifying the crimes which caused the financial crisis at its very roots. Whether the proposal actually will resolve any factor that caused the financial crisis is extremely difficult to determine, as the unintended consequences of this expansive proffer are unproven, unmeasured and poorly conceived.

The proposal includes dozens of references to an industry association, including footnotes speaking to the future plans thereof, which seek not merely to represent the interests of their members, but to engage in their own right, in services within their industry, and to profit by them. References are made that if promulgated by this proposal will, without a doubt, result in market manipulation, loss of privacy for borrowers, increased costs in all lending activities without measure or regulation and worst of all, to exacerbate the potential for market volatility in what was once, a stable and safe area of investment – asset backed securities. Further, no transparency about those companies or associations is made where pellucidity is called for, to disclose the nature of those interests and why the Commission has elected to so notably specify their exploits. Who are the market participants in this proposal, and who benefits? How did the Commission determine that the models set forth for Asset Backed Securities, for

numbering systems and database structures by these organizations are correct, or without contrarious objectives?

It is clear to any who reads through its voluminous, complex pages that the Securities and Exchange Commission allowed others, outside its staff to contribute greatly towards its crafting of this document and to influence the scope of the proposal for their own gain. These individuals and organizations would impeach the rights of the Nation, of investors and of the government to regulate for the benefit of their own earnings.

Perhaps the worst part of this proposal, we feel, is the ultimate result; it is antithetical to its stated principle of lessening interdependence of investors upon ratings. It will create greater, not lesser reliance upon the ratings by making the volume of data so great, and by failing to provide the necessary standardized tools for data analysis available. Independent investors will be compelled to rely upon those ratings, where institutional investors alone will benefit without them. In this, the Commission ensures that the independent ABS investor is forsaken in favor of the institutional investor, thereby providing the future of ABS markets with a bleak and dismal outlook.

The Commission lacked the technical expertise to craft so complex a scheme and factor in unintended consequences, such as data security, privacy protection from online data gathering tools, or the use of analytical tools to "play" the data in manners unbefitting the stated purposes of the Proposal.

We will address three areas of concern:

1. Privacy and rights thereto of the borrowers, whose data the Commission proposes to make available via the EDGAR website.
2. The failure to distinguish the needs of prospective versus actual investors in terms of the quantity and quality of the data made available.
3. The release of asset- and pool-level data in formats that will undoubtedly result in market manipulation, fraud, identity theft, data mining, and, coincidentally, raise the cost of investment for individual and small institutional investors far too high to justify market participation.

We believe the Commission should withdraw specified sections of the proposal, reconsider them and republish after careful review for further comment.

2 Privacy Concerns

The Proposal states "*We are sensitive to the possibility that certain asset-level disclosure may raise concerns about the personal privacy of the underlying obligors. In particular, we are aware that data points requiring disclosure about the geographic location of the obligor or the collateralized property, credit scores, income and debt may raise privacy concerns. As we stated in the 2004 ABS Adopting Release, issuers and underwriters should be mindful of any privacy, consumer protection or other regulatory requirements when providing loan-level information, especially given that in most cases, the information would be publicly filed on EDGAR.*"

While it is complaisant of the Commission to remind issuers and underwriters of privacy concerns, it would be far more effective if the Commission established definitive rules and particularly, penalties for violations of privacy laws, separate from those laws and applicable to the posting, use and dissemination of private data on EDGAR.

The Commission should consider that in making such a panoptic, and indeed, impuissant statement as above, the market participants may, whether by intent or simply by failure of guidance, release private information onto the EDGAR website. This would result in considerable disputation between a borrower and their lender, as well as any party in receipt of that data. The volume of potential lawsuits this may give rise to could be unparalleled in American judicial history, suffocating the already clogged courts as a result of massive identity theft and data mining activities.

The Commission continued "*However, as we noted above, information about credit scores, employment status and income would permit investors to perform better credit analysis of the underlying assets. In light of privacy concerns, instead of requiring issuers to disclose a specific location, credit score, or exact income and debt amounts, we are proposing ranges, or categories of coded responses.*"

There is considerably more information proposed to be collected and made available as asset-level data than merely locations, credit scores, income and debt amounts. The Commission must be profoundly concerned about these. For example, most county clerks take extraordinary efforts to protect the information in UCC filings, which likely contain such information as Social Security numbers, proof of employment, identification (such as driver's licenses, passports, etc.), signatures, dates of birth, telephone and other contact information. The potential risk of that information being made available in geo-mapping is exceptionally high. Such information may also include

information about parties other than the borrower, such as co-signers, responsible parents, business owners and principal shareholders in small enterprises.

In September 2009, the Institute submitted testimony in HR 1242 before the House Financial Services Committee Subcommittee on Oversight and Investigations. The original draft of that legislation proposed to permit the release of UCC and other asset level data in geo-mapping. We, at the Institute saw the grave risk to borrowers and originators alike, both becoming litigious with the other, as well as with the various county governments for release of private information in a public format. The bill, as a side note, was amended, taking into account our testimony and passed the House 420-0.

We believe that if not constrained by the Commission from its earliest stages, the release of private information will become rampant, and damages to individuals, small businesses, originators, local governments will become so illimitable that the Commission will be compelled to revisit this issue and make emergency changes. The question becomes simply whether it is easier to fix this now or later, at a point where many affected may take legal action against the Commission itself.

3 The Creation of Transparency and Needs of Investors

The ultimate goal of any proffer intended to afford transparency to investors is to make available such information as would countenance qualified, informed decisions by incorporating information provided by independent, disinterested third parties. The needs of such investors may indeed extend to massive volumes of data, but overall, their needs are not generally requisite of data minutia as proposed.

The data provided to any investor should not overload the individual investor's ability to analyze it. The Commission should consider the specific needs of the individual, not the institutional investor as their benchmark for setting standards of data availability.

The data should be made accessible in two levels – minimal and maximum – the former for the prospective and the latter for actual investors. As the proposal is written, only the maximum level of data is made available, compelling the investor to select which fields apply to their own decision making process. It is likely, this will result in misinterpretation of such data, and potentially, if analysis is released by institutional investors or analysts working on their behalf, we may see intentional market manipulation.

It is essential that prospective investors are capable of making the most educated, informed decisions and to achieve this, a system must be developed that is both crystalline and resourceful. However, there is a fundamental difference between transparency and excess. For example, if the data necessary to evaluate risk was determined to include 100 fields, is it then necessary to offer 137 fields? Are the surplus fields simply an invitation to future problems and potentially risk to the system if such data affords difficulties for investors in analysis or its costs?

Does the excess data pose the risk that the investor will be unable to comprehend, or to analyze the essential data needed to make the best qualified decision about a potential investment? Will the volume of data overload, slow or essentially break down the process, essentially pulling the emergency brakes on the Asset Backed Securities market when it really requires a gradual energy surge? Will it force small, independent investors out of the market; cause them to spend unacceptable sums to program bespoke analytical tools; or compel them to use ratings agency analysis, rather than performing their own analysis?

Whether a prospective investor requires the same level of asset information that the actual investor requires should be subject to study before action is taken. We do not believe the two have the same requirements, as evidenced in the responses to our own surveys of ABS and MBS investors. Rather than acceding to post-crisis pandemonium or a rush to make everything available, letting the "chips fall where they may", it might be more productive and prudent to trim back the volume of data to the bare bones and then, as needed, expand it to the point that the market is not unduly burdened.

The Commission must first ask what information is needed, before acting *pendente lite* before the Dodd-Frank Bill (Dodd-Frank Wall Street Reform and Consumer Protection Act) goes into effect in earnest.

On Page 108, the Proposal states "*To augment our current principles-based pool-level disclosure requirements, we are proposing a new requirement to disclose asset-level information. Investors, market participants, policy makers and others have increasingly noted that asset-level information is essential to evaluating an asset-backed security. Some have said that there is a need and investor appetite for increased asset-level disclosures. We have heard that understanding a borrower's ability to repay may be more important than the features of the underlying loan, or even the collateral, on an asset-level basis. Others have stated that having access only to pool data (and not asset-level data) has made it difficult to discern whether the riskiest loans were to the most creditworthy borrowers or to the least creditworthy borrowers in the asset pool.*"

It is most true that asset-level information is essential in evaluating an asset. Further, it is equally true that understanding the borrower's ability to repay the obligation behind the asset is critical, more so indeed, than the actual asset, which we've seen can deflate in value below the outstanding debt. Similarly, pool data alone does not make it possible for the investor to discern the quality or worthiness of an investment.

However, it is essential to understand that not every soupçon of data will give an investor a perspicuous view of the quality of the lending; the due diligence performed by the originator; or the practicality of the appraisal (in the case of MBS).

Whilst we argue that less is more, we also point out that throughout the entire proffer, the concept of validating pre-market participants has gone without mention. Who, for example, tracks the record of appraisers and mortgage brokers... their standing in the communities they serve, licenses and complaints? Shouldn't an investor know whether the appraiser of a property has a good or bad track record? Or if a mortgage broker has had their operation shut down in another locale? These are, after all, just as important as the borrower's ability to repay. Is the property actually worth what is being borrowed against it? Since the people making that determination are not the originator,

but a third party hired by the originator, is it not right that the investor be made aware of the quality of those service providers?

We note the communal cache-phrase “skin-in-the-game”, which seems almost exclusively applicable to the originator. Though we support the privacy of the obligor throughout this document, we do believe it essential to release the obligor’s “skin-in-the-game” or equity, as it applies to mortgages or automobiles (and other tangible assets). This, we feel, is important for investment grading, risk assessment and qualified decision-making.

4 Political Realities

One of the companies that benefits most is indeed a partner of the aforementioned trade association in the creation of a unique numbering system. Part of the company's plans, as published in several of their announcements includes the rating of all lending at point of origination and throughout the life of the debt obligation. The proposal does not specify what timeframe the rating must be published, and as a result, the rating may be published prematurely, along with asset level data.

The political reality of this would be that some market participants may take advantage of that data, concomitantly usurping advance knowledge of the quality of originations with the intent to short-sell as has been demonstrated recently in the case of Goldman Sachs' relationship with Paulson & Co. both of which are members of that association. What protection does the Commission or the Association provide that no-one will have access to asset level data before it is made public within a structured and regulated timeframe?

Should such a market manipulation take place as a direct result of this misbegotten proposal, it is the Securities and Exchange Commission that will take all the blame, not only in the court of public opinion, but amongst those to whom the Commission reports – The Congress and the American People, the latter ever increasingly skeptical of the relationships between regulators and those regulated. One could reasonably project that the outcome of this proposal, and indeed others that the Commission may promulgate in future will determine the public reaction to, support for, and logically opposition to the Commission should anything go wrong.

Thus, it is critical that the Commission gets this right the first time out of the door. There is no room for ambiguity, error, or subsequent atonement by the Commission to the Nation. The hazards associated with failure of restoration of the Asset Backed Securities market is nothing less than monumental in scope and one the public is unlikely to absolve. The consequences of failure to get this right are themselves nothing less than risk to the economy of the Nation and indeed the world.

As the Congress completes its work on the Restoring American Financial Stability Act of 2010, the Securities and Exchange Commission should not be acting interphrastically to publish regulations or rules that may affect the outcome of that most important financial reform legislation in nearly 80 years.

Would not the more prudent policy be for the Commission to more cautiously draft a proposal for rulemaking and regulations in compliance with the Dodd-Frank Bill and with well thought-out consequences, ready to issue at some future point?

The present proposal is patently an effort to antecede any legislatorial action that might place regulations upon those individuals and enterprises that would gain by the Commission's anticipative rulemaking.

5 Asset Data and Computer Systems

The presentation of asset level data to investors is something Epicurus Institute has been proposing since December 2007 as a tool investors require in association with the identification of risk from the point of origination through the course of the debt obligation. However, there are fundamental differences between the Institute's proposal and that of the Commission.

We are concerned by the scope and nature of the data being made available and the presumption of the Commission that "*with the waterfall computer program and the asset data file, investors would be better able to conduct their own evaluations of ABS and may be less likely to be dependent on the opinions of credit rating agencies*".

In point of fact, the availability of the waterfall computer program and asset data file as described in the proposal will have the opposite effect sought by the Commission and will make it more necessary for the investor to review the opinions of credit rating agencies. It will make it more essential than it ever was for independent investors to rely upon any third-party analysis, whether credible or not. The better solution would be the establishment of independent disinterested third party analysis being made available to investors on an individual asset and aggregate basis, and, for investors to be provided with direct analysis tools in a monitored, subscriber basis without any download of raw data.

Python, one of the many database systems in the marketplace is inadequate to the task specified if the purpose is to provide a waterfall program directly available by investors for use on their own computers. While XML is a standard for the release of data across Web-based platforms, the Commission appears to ignore the fact that the overall control of the release of the data must be centralized or the data will become useless, corrupted or worse, ignored. If investors discover that they cannot trust the data, the question arises as to their future decisions – whether to participate in the market or to withdraw once again, prompting a replay of the September 2008 financial crisis.

Potentially, the more effective means of making asset level data particularly useful to investors is the provision of that resource in an online structured format. Preferably, a program that investors may use routinely to analyze the data via a web-based subscriber model, allowing the Commission or a regulated designee (not a market participant or trade association) to offer the tools required for the use of registered subscribers. Individual investors or researchers can be logged in by such a method that

will provide an autonomous trail in the event of any market exploitation or manipulation of the data potentially violating Federal and/or state law, Commission rules or regulations or those of other government agencies or authorities.

With the right analysis tools, standardized across a single platform, the investment community has a level playing field. However, as proposed, the community will have nothing less than absolute confusion, not only in investments, but of mind as each investor may interpret the data in individual ways and use different tools to review it. If institutional investors do this, are they not likely to publish their interpretations, perhaps incorrect ones; leading individual or other institutional investors to make bad investments or; to influence the market?

Whilst the intent to create a standardized format for the release of asset level data is commendable, and something The Institute wholeheartedly supports, the manner in which the Commission is going about it, we believe to be fraught with dangers. We strongly urge the Commission to withdraw those portions of the proposal that require additional thought and to return to the drawing boards for the creation of a new proposal specific to those areas of this proposal we have objected to and return with a better, more sound concept.

6 Questions Posed and Answers Tendered

The following questions, quoted directly from the proposal are paired with our replies.

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QUESTION: *Is our proposal to require asset-level disclosure with data points identified in our rules appropriate?*

ANSWER: To some extent, save the fact that the quantity of data does not necessarily equate well to the quality insofar as the ability of the prospective investor to analyze the data, under the proposal is unstructured, costly and time-consuming. As a direct result, individual investors will find the data cumbersome and useless, continuing to rely upon ratings agency reports or analysis performed by research arms of their brokerages.

QUESTION: *Is a different approach to asset-level disclosure preferable, such as requiring it generally, but relying on industry to set standards or requirements? If so, how would data be disclosed for all the asset classes for which no industry standard exists or for which multiple standards may exist? To the extent multiple standards exist, how would investors be able to compare pools? Please be detailed in your response.*

ANSWER: Indeed, requiring it generally is better than specificity, but the creation of rules under which disclosures may made, such as timing, privacy protections, embargoed access are critical, so that the industry has sufficient guidance and parameters to maintain a safe system.

The Commission should require that some data is made available publicly, but it must discern between the minimally essential needs a prospective investor and one who has made an investment in order to protect the privacy rights of the borrower. The level of data needed to make an investment decision is less than that needed by the individual or institutional investor. Therefore, the broad approach taken in the Commission's proposal is far too comprehensive, potentially overwhelming investors with an excess of data. This voluminous data presents, as the proposal acknowledges, the risk that borrower privacy may be violated.

The core concept to release a certain amount of data, whether asset or pool level, to prospective investors, while sound, has clearly not received sufficient planning in the proposal. For example, there is discussion about releasing the asset-level data in the

prospectus. When we looked at this, it became clear that release of so much data would cause the average prospectus to be thicker than the Manhattan phone book. Rather, we believe that the prospectus should contain a hypertext link (with instructions for accessing a website to obtain the data). Further, we believe only registered prospective investors should have traceable access to the data, and that they never have the opportunity to download, as described, raw data in any format. Such information should be accessible, in a structured format only, with the results of queries, reports and analysis conducted downloadable in a PDF format, in which security has been invoked within the file, preventing copying and pasting of data.

QUESTION: *We note that there are several different standards under which asset-level data is already required. Would our requirements impose undue burdens on ABS issuers?*

ANSWER: We do not believe the requirements pose any undue burdens on the issuers, but do so for the investors. In making the extensive data available, the Commission anticipates the ability of the investor to read the data, from what appears to be downloadable raw files. This would require individual investors to have custom programmed tools available to analyze the information. This could be extremely expensive. XML, for example does not lend itself well to data analysis without specific tools not available off the shelf. Python has few scripts available that could analyze the data, thus we may reasonably presume that an investor, other than an institutional investor, would be required to spend enormous sums to engage programming staff to create the tools to analyze the information available. This would be cost prohibitive to smaller investors, and as such, many would likely remain out of this market sector, or, they will continue to rely upon the reports of ratings agencies, which is the antithesis of the core point of this proposal as stated.

Simply the availability of the data in raw format incentivizes those who do spend on bespoke analytical programming to tailor their tools to meet their own desired results. As a consequence, it is possible that two investors might view the exact same data but their programs yield totally different results.

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QUESTION: *Are the proposed coded responses contained in the attached tables appropriate? Please be specific in your responses by commenting on specific proposed line items and codes.*

ANSWER: In many cases, no. Specifically our initial concerns center around Item[s] 1(a)(1) and 1(a)(2) which reference one of four approved unique numbering systems. The Commission appears to have ignored other unique numbering systems, in particular one that protects the private asset level data from data mining and identity theft. The true question becomes whether publication of the direct standardized unique number may provide access to all the underlying data, including private data and documented resources to anyone capable of tracing it back to its sources.

If an individual or company were able to obtain, via EDGAR, the proposed unique identification number, they could easily trace a loan through a variety of other sources, ultimately leading them to documents which may include signatures, social security numbers, photocopied ID and other items very useful in identity fraud and a variety of other crimes. Hence, the unique numbering system must be protected data.

QUESTION: *The combination of certain asset-level data disclosures may raise privacy concerns. Are there particular asset-level data points that give rise to privacy concerns, in addition to the ones noted above and why? Are there other ways we could provide investors with similar information and lessen privacy concerns? Which information raises the most significant privacy concerns?*

ANSWER: There is a very wide range of information specified in the table in the proposal that could, and likely would, result in privacy concerns. As discussed in earlier sections of our objections, the quantity of data specified is excessive for the actual needs of the prospective investor. The Commission must consider that even behind a series of firewalls, some of the asset-level data will be scrutinized by data-mining software, resulting in a number of privacy intrusions, and potentially, violations of criminal laws.

We believe a thorough review of the data points is essential to determine which specific data points are required for investment decision making purposes. We do not believe the investment decision-making process requires as many data points as proffered.

QUESTION: *Which data points, or combination of data points would be the most important to an investor's analysis? For instance, if we do not adopt any requirement to disclose geographic location, would the coded range of FICO score, coded range of income, and sales price still be useful to investors? If we do not adopt a requirement to disclose geographic location, a coded range of FICO score and coded range of income, would the sales price alone still be useful to investors? Please be specific in your response.*

ANSWER: As we've stated above, a serious review of the specific data points required for investment decision-making is critical prior to the approval of the proposed range of asset-level data. Indeed the examples provided in the question above would be appropriate, particularly those with coded ranges, however, some data points may be inappropriate. One specific example would be in a multiple dwelling, where Item 3(b)(20) – the largest tenant – could release the name of an individual not party to the actual obligation. Though an asset investor has the right to such information, in anything other than a commercial property, no prospective investor requires such information. Much of the related information proposed surrounding that data point is also unimportant to an investment decision, such as square feet. Any prospective investor in a commercial mortgage backed security would simply need to know the total number of tenants; total rentable square feet; total revenue (monthly and annually); occupancy rate; and some indicator of payment lateness or frequency. Singling out a particular tenant is actually unimportant to the decision making process and could be used to improperly influence a decision to invest. Isn't the naming of the largest tenant potentially an appeal to the snobbery value of the information? Doesn't it seem that such data is intended to appeal to interests other than those that simply quantify the decision?

In a wide variety of data points, it appears there is "information overload". In automobile loans, for example, is it necessary to specify the "other income of co-obligors" to prospective investors? These and other points lead us to believe a more thorough review of these data points must be made within the context of the prospective versus the actual investor. We believe that upon investment, the issuer should release the comprehensive asset data file to the investor.

QUESTION: *Is our approach to geographic location appropriate? Does the use of the Metropolitan or Micropolitan Statistical Area, or Metropolitan Division provide investors with meaningful disclosure? Should we require only Metropolitan and Micropolitan Statistical Area which would be a broader description? For example, for a property in Alexandria, Virginia, 47900 Washington-Arlington-Alexandria, DC-VA-MD-WV Metropolitan Statistical Area would be the appropriate designation that would be a larger geographic area than Metropolitan Division. Would disclosure by state or zip code be appropriate? If a particular geographic area is experiencing a low volume of real estate transactions, would the low volume of transactions make it easier to identify the underlying obligor using other publicly available resources? Are there other ways to designate geographic location that would provide investors meaningful disclosure while also addressing privacy concerns? For instance, instead of requiring geographic location at the asset-level, should we proscribe requirements for a pool-level table that presents the geographic concentration of the pool subdivided*

by state, size of loan and number of loans? In using such a pool-level disclosure approach would it also be necessary to subdivide by income, credit score and sales price?

ANSWER: There is valid cause to specify postcode and state, rather than Metropolitan and Micropolitan Statistical Areas to identify property locations. One of them, a data point missing from the table and critical to investment decision-making is whether a property lies in a flood, volcano or earthquake zone. This area must be coordinated with FEMA, so that investors can determine risk to the property, particularly in determining whether mortgage insurance is necessary for the investor to validate an investment. Though we have postulated less information for prospective investors versus actual investors, in this particular case, we firmly hold that the risk of damage to a property, irrespective of loan repayment issues, will be of considerable import to the investor, at any stage. A sound investment decision must consider whether the property could survive catastrophic storms, earthquakes or other natural events.

QUESTION: *Is our approach to credit scores, income and debt appropriate? Does our approach appropriately balance investor need for the information while addressing privacy concerns? Do the categories provide meaningful ranges for investor analysis? If not, please be specific in your response. Should we instead require asset-level disclosure of the specific credit score, amount of income and amount of debt of an obligor?*

ANSWER: The approach taken is appropriate and the Commission should not require the specific credit score, amount of income or debt of the obligor. However, it would be appropriate to require a certification from the originator that these data points were verified.

QUESTION: *Are there other privacy issues that arise for issuers of ABS backed by foreign assets? How do the privacy laws of foreign jurisdictions differ from U.S. privacy laws? If the privacy laws of foreign jurisdictions are more restrictive regarding the disclosure of information, how should we accommodate issuers of ABS backed by foreign assets? Is there substitute information that could be provided to investors? Please be specific in your response.*

ANSWER: There should be coordination of privacy protections for release of asset-level data, with the most stringent among these becoming the international standard. To effect this, it would probably be best to form and participate in an international committee to evaluate those standards and set forth mutually agreed terms for all participating nations to follow. However, in the shorter term, until such standards are

set, observance of privacy concerns based on where the asset is based, or, if a mobile asset (cars, yachts, etc.), where the obligation was made, with the highest possible standard maintained.

If an auto loan were made in a nation where there is a low standard, but the asset is being offered in the United States, where a higher standard prevails, then the U.S. standard should be applied as it affords higher levels of protections. However, if a series of assets are offered, all of them for U.S. based with originations in this country, then as a domestic-only offering, U.S. privacy standards must apply. This may preclude foreign investment. A waiver process, in which investors are provided a statement of risk, they sign and acknowledge, could permit qualified foreign investors to make an investment through a U.S. representative.

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QUESTION: *Are the general data points that would apply to all securitizations (other than credit cards, charge cards and stranded costs) appropriate? Should any be deleted or made applicable only to certain asset classes? If so, what data points? Are there any other data points that should apply to all asset classes? Please provide a detailed explanation of the reasons why or why not.*

ANSWER: Previously, we have explained that there is a fundamental difference between the actual investor and the prospective. Actual investors have a right to a greater level of information, provided upon investment, by the issuer. Prospective investors require considerably less than is proposed. To identify which specific data points, we hold that a committee should be established to examine these and report in due course to the Commission, based on the actual decision-making requirements of a prospective investor.

QUESTION: *Is the approach to asset number identifier workable? Should we only require or permit one type of asset number for all asset classes? If so, which one would be most useful? It appears that our proposed naming convention of "[CIK-number]-[Sequential asset number]" would be applicable to all asset classes. Does the use of an asset number alleviate potential privacy issues for the underlying obligor? Why or why not? What issues arise if the asset number is determined by the registrant? Would there be any issues with investors being able to specifically identify each asset and follow its performance through periodic reporting?*

ANSWER: No, the approach to asset number identification is not workable as proposed. Yes, only one unique asset number should be used. However, that

number should be protected using the LEMAC Process. As presently proffered, the asset number, if directly published and associated with the core asset records could result in privacy, as previously described herein above. Every asset class should have a combination of specific identifiers to ease the identification of the asset. The LEMAC Process does exactly that, providing [3-digit class code][LEMAC Number] and subsequently additional numbers, identifying the originator and other data. The LEMAC Number is a protected version of a standardized numbering system, whether CIK, ASF or any other. It protects the privacy of the borrower by preventing any individual with access to the asset-level data from tracing back to the point of origin with an identification that could yield more data than is authorized (UCC filings, etc.).

The LEMAC Process was described in our testimony submitted in H.R. 1242 in September 2009. The Process is a joint venture of Integrated Regulatory Technologies and The Epicurus Institute and should be made available shortly to market participants.

QUESTION: *Should we require a data point to disclose the CIK number of the sponsor? Would all sponsors have a CIK number? If not, in what other ways could we require standardized disclosure of the identity of sponsors?*

ANSWER: No, the CIK number should not be required.

QUESTION: *Should we define delinquency in order to provide comparable delinquency disclosure across issuers and asset classes? If so, how should it be defined and why? Would market participants be able to make changes to their current systems to capture information to satisfy a standardized delinquency disclosure requirement? Would such a requirement be burdensome? Is there another way to provide comparable delinquency disclosure across issuers and asset classes? Please be detailed in your response.*

ANSWER: Yes, but of course this only applies to accounts held by borrowers for a period greater than "x" days. Care must be taken that the data fields don't show up in reports before they are qualified to do so, lest they prejudice an investment decision unfairly. The risk of incorrect data in any data point, is always high, but in this case, with many market participants capable of adding input to this area, that risk is higher. We must presume, from the massive volume of erroneous entries on individual credit reports that the same risk exists in any database that will subsequently be incorporated into this set of data points. Therefore, it is essential that the Commission define delinquency and place strict guidelines and rules for the accuracy of related data.

QUESTION: *The response to some data points requires the identification of a party (e.g., originator or servicer) or the MERS generated number of the organization. Is this approach to identification workable? Do any issues arise with allowing a text response to these types of data points? What alternatives would alleviate such issues? What if the organization does not have a MERS number?*

ANSWER: The identification of the party or parties submitting data is critical, and it must be included, even if it is not published for investor consumption. For example, if there are twenty companies (originator, mortgage broker, servicers) over the life of an asset, does that information have to be available to any prospective investor, or, does the current servicer alone need be identified, and the originator? Would it not work better if a database entry were added for Commission eyes only, to track the history of an asset.

We have described very briefly, the LEMAC Process. This would create and maintain a unique identification code for any company that does not have a MERS number, but submits data (mortgage brokers, originators, servicers, agents, etc.)

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QUESTION: *Should asset-level data be provided by credit card, charge card or stranded cost issuers? If so, please explain why and what asset-level data should be provided.*

ANSWER: Yes, credit and charge card issuers should provide asset-level data, however, there are many risks associated with this. First, the accuracy of the data submitted must be paramount. Most credit report errors emanate from poor credit and charge card reporting. The timing of reporting too, will be critical. Reporting companies must report changes within 48 hours. No-one knows exactly when a customer will pay his or her bill, but that payment may shift an account from overdue to on-time. Disputes must also be noted and flagged, so that any investor looking at this data can see that an account is being disputed by the borrower. This is critical in regard to identity theft cases.

In terms of stranded costs however, we believe these issuers should also report, however, there is less risk associated with this area, as far as we're able to discern.

QUESTION: *Would requiring asset-level data for these asset classes, rather than grouped asset data, as proposed below, be useful for investors? Is the volume of data in these types of asset classes a concern to investors? If so, are there ways to*

address this, for example, by facilitating the presentation of the data, to make it more useful to investors?

ANSWER: Asset-level data for these classes would indeed be helpful to investors, but likely not for prospective investors. This is a classic representation of the fundamental difference between the two. Through this particular question, the Commission has recognized some of the issues of data volume, which is answered by distinguishing prospective versus actual investors and their individual requirements. To address this, we strongly urge minimization of data, such as grouped asset data in these classes for prospective investors, with the full data available only to those who have made their investment and now have a vested interest. One might question why the Commission might be involved in the issuer's release of asset-level data to (and for) actual investors. The purpose is simply that by placing the data within the system, even though it is not as accessible as that intended for prospects, the Commission can monitor it, regulate whether the information is being made accessible and available to those who deserve rights to it and have an actual need.

QUESTION: *Are there any other asset classes that should be exempt from the requirement to provide asset-level data and why?*

ANSWER: No.

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QUESTION: *Are all of the RMBS data points appropriate? Are there other data points that should be required for all RMBS issuers? Are any data points not necessary or overly burdensome to obtain? Please specify the proposed data points and provide a detailed explanation of the reasons why or why not.*

ANSWER: While these data points are correct for actual investors in several cases as stated above, there are excesses. It is doubtful that the data points are difficult to obtain, but what may be difficult is getting all the participants to provide the data so that the collective asset-level data is comprehensive. We must consider that the data does not come from a singular source.

QUESTION: *Some data points request the results of calculations, such as debt-to-income ratios. Can these ratios otherwise be calculated from data provided by the other asset-level data points? If so, can users of the information independently*

calculate these data points? And should we not require these data points to be included in the asset-level data file?

ANSWERS: These are best calculated by the prospective investor, rather than by those supplying the data. However, it is more critical for the originator to certify that debt-to-income and loan-to-value have been independently verified. Such certification should be subject to perjury laws, and signed (electronically) by the underwriting officer and cos-signed by the originator's compliance officer.

QUESTION: *Should we include a data point to require what effort an originator or sponsor made to see if there are other loans secured by the same property? If we were to code the response, what code descriptions should we provide?*

ANSWER: Yes, however, this may pose some problems as paperwork for one debt obligation may not catch up with the proposed process. Would it be possible for the attorney or title company at closing, to certify that a title search was completed and that the property has "x" other debts held against it? Obviously, the ideal number would be zero, but if any other obligation is present, the rights of this investor may be limited in the event of a foreclosure. That could affect a number of things moving forward. It would not be appropriate to provide prospective investors with any specific details about who holds those other rights.

QUESTION: *What privacy concerns arise if we require issuers to disclose the sales price of the property, if any? Would rounding the sales price to the nearest thousandth alleviate privacy concerns? If not, what would be the appropriate rounding method? If we instead required the disclosure of sales price be provided by a coded range of dollar amounts, would that alleviate privacy concerns? What would be the appropriate ranges of dollar amounts? Would the above mentioned options have an effect on an investor's ability to analyze the asset-level data or use the waterfall computer program? If so, please be specific in your response. In what other ways could we require the disclosure of sales price so that investors receive useful information and also address any privacy concerns?*

ANSWER: The exact sale price would not provide any more violation of privacy than a data point for the location of an asset, even in general terms. However, we question whether this is important to a prospective investor's decision making. Ultimately, it does not help to determine actual loan-to-value, as there may be a second mortgage not disclosed in the data; or, there may be other equity in the deal, coming from such sources as an accrual of equity from lease payments where a property converts from leased to owned, etc. Many variables exist that the Commission couldn't possible take

into account in creating data points. It might be better to simply disclose the percentage of equity held by the obligor in the asset. This also helps investors to understand the risk level of the loan.

7 Conclusions

The proposal, while in its fundamental concept is good, lacks proposed information in some areas, and proffers excessive data in others. Areas of privacy, the difference between a prospective and actual investor and other matters lead us to believe that the proposal simply requires fine tuning.

Thus, we are not opposing the entire proposal, but selected parts thereof. We do have some grave concerns about the connection between this proposal and Project RESTART, and its lack of prescribed, stated exclusion from its members. While those market participants are important, indeed critical, players in the marketplace, the potential risk of dissemination of this data amongst them, we believe will cause serious problems unless controls and timing are accurately regulated.

We are concerned that there is risk of market manipulation, fraud, and other crimes that could harm, rather than help restoration of the asset-backed securities market.

We look forward to the Commission's concomitant rule-making and decisions in this proposal.