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August 2, 2010

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

RE: File No. S7-08-10
Comments from Trepp, LLC on the Proposed Regulation AB Requirement to Provide a Cashflow Waterfall Program
[Release Nos. 33-9117; 34-61858]

Trepp, LLC appreciates the opportunity to provide the SEC with comments and discussions on the newly proposed rule for asset-backed securities ("ABS") as published in the Federal Register on May 3, 2010. Our comments are provided based on the experience garnered over 30 years as consultants and service providers to the ABS industry and are focused on the requirement to publish a waterfall program. Trepp looks forward to continuing the dialogue with the SEC, both through the public comment process and in public and private meetings with the SEC.

Background on Trepp, LLC:

Trepp is a leading provider of analytics, models, software and data to the ABS market, particularly in the commercial mortgage backed securities ("CMBS") market. Over 20 years ago, Trepp was the *first* firm, in a joint venture with the Bond Buyer and the Public Securities Association to develop, publish and distribute a library of cashflow models which investors could use to analyze and value ABS securities. Today, Trepp is but one firm in the competitive third-party analytics industry, which includes a range of firms such as Lewtan Technologies, Bloomberg, YieldBook, Thomson-Reuters, Intex, Markit Partners, ABSXchange and Bond Edge.

Trepp engaged members of our staff who work in the areas of cashflow modeling, product design, software development and client services to review and comment on the SEC's proposal to require an issuer of ABS securities to provide a Python Cashflow Waterfall Program.

Trepp's Overview of the Proposed Rule:

Trepp recognizes that the SEC is responding to public demands for changes in the ABS market, however, the focus of the SEC on the waterfall model does not address the true causes of the crisis in the credit markets. The ABS market failure was produced by a failure in collateral viability, rather than modeling deficiencies. Trepp believes that the waterfall requirement will not only fail to address the need for more stringent collateral underwriting, but, taken in its entirety, the waterfall requirement will impose significant

costs to end users of securitization capital without providing additional transparency and will increase the risks associated with ABS securities. Increased costs of securitization will serve to reduce the supply of capital to those segments of the economy that rely on ABS issuers and further disadvantage small issuers which provide ABS funded financing as they will find it more difficult to achieve the scale necessary to compete in this space.

The SEC has based its proposal on several observations and conclusions about the ABS market. The SEC observed that

- "*The waterfall is a critical component of a ABS.*" (Fed. Reg., v 75, n 84, p 23378)
- Most investors do not create their own waterfall models. (Fed. Reg., v75, n 84, p 23378)
- Creating waterfall models requires financial and technological expertise. (Fed. Reg., v75, n 84, p 23379)

Early recognition of these realities by issuers, bankers, traders and investors led to the start of a robust, competitive analytics industry which continues to provide ready access to independent, third-party waterfall models for ABS transactions. Today, the third-party analytics industry provides investors with a wealth of alternatives to the issuer's computational materials and to credit rating agency analyses.

Third-party firms are best positioned to handle the ongoing task of modeling and updating the cashflows for ABS securities. Third-party services are more efficient, and reduce the overall cost to end users of securitization capital, because the cost of modeling and maintenance is shared across the entire industry and avoids duplication of systems and resources at each and every investor. At the same time, investors who want to build proprietary analytical tools can use the underlying models, data and software of third-party firms to build more advanced tools by leveraging the shared industry resource of third-party firms and focusing on proprietary "value added" analysis.

Increased Costs and Risks Resulting from the Proposed Rule:

ABS issuers will be forced to incur significant new costs from the requirement to provide the Python program. The expertise available to build and maintain models is limited and will require additions to staff and technology. Issuers will need to pass these increased costs through to borrowers, thus making securitization a less competitive form of financing. Also, the cost of gaining access to that expertise could be particularly burdensome to smaller issuers, who have less lending volume to support these additional expenses. Cumulatively, these factors will produce higher costs to the ultimate users of ABS financed capital, both in terms of rate and of capital availability.

The increased risks to investors include technological and operational risks. An investor will need to be able to implement an environment to use the source code models and maintain large amounts of data internally. This will lead to investors focusing more time

and resources on loading and updating models rather than focusing their analysis on credit issues surrounding a particular ABS transaction. Meeting these new risks will generate costs for investors, even if the waterfall program itself does not entail any fees. Further, investors not only buy a single bond at issuance, but must also administer the resulting portfolio, engage in ongoing surveillance and conduct secondary market trading. Integrating a set of Python programs into these ongoing processes will amplify the risks and costs associated with investing in ABS, and these risks and costs will fall most heavily on the smaller investor, thereby making ABS a less attractive investment.

Trepp's Overview of the Assumptions Underlying the Proposed Rule:

While Trepp agrees with the assessment of certain characteristics of the ABS market, we disagree with the SEC's statements about the market's reaction to those characteristics.

1) Trepp disagrees with the following statement:

> *"[U]nder current conditions, an investor must create its own computer program."*
> *(Fed. Reg., v 75, n 84, p 23378)*

In fact, the majority of investors in ABS, both small and large institutions, rely on third party vendors to provide such cashflow models AND a robust system for entering, storing and updating collateral level performance assumptions critical in valuing ABS. Independent modeling companies play an important role in maintaining transparency in the markets. In the CMBS market in particular, third-party models provide an additional check on the accuracy of an issuer's cashflows. There is an extensive tie out process in which firms such as Trepp use the original deal documents and collateral information to create an independent cashflow waterfall model. The output of this model is checked under a number of collateral performance assumptions and the resulting cashflows are "tied out". In Trepp's case, we indicate to our clients the extent to which the tie out results matched, both through a "trading quality" indicator, as well as through "deal notes". This provides a comfort level to the investor with regard to the robustness of the model.

The services available from the third-party firms extend beyond the creation of the deal model. Trepp, for example, also acts as a centralized collection point for updated collateral and bond information, provides a suite of reporting tools to support portfolio management, and provides scenario analysis tools to support ongoing risk management. During the process of updating collateral information, companies such as Trepp perform quality control and other checks to identify inconsistencies in monthly remittance data, and act to correct any errors before they adversely affect secondary market trading. Trepp also maintains a trained team of support staff who can assist clients with using the products, interpret the results of computations, and handle inquiries about the performance of loans and bonds.

Recent events in the CMBS market, involving modifications and bankruptcies, reinforce the market's decision to use third-parties to provide and maintain models and collateral information. For example, in 2009, the General Growth Properties ("GGP") bankruptcy pulled hundreds of millions of dollars of GGP sponsored loans, spread across numerous CMBS transactions, into bankruptcy. These individual loans had been structured with bankruptcy remote special purpose entities, which the industry believed would prevent them from being consolidated in the event of parent bankruptcy. Once drawn into the bankruptcy case, the individual loans were restructured, each with its own unique changes to the original terms. The third-party analytics firms raced to glean the new loan terms buried in the assorted bankruptcy filings and remodeled all of the deals that contained GGP sponsored loans for investors to analyze. This was done for all of the loans, across all of the deals and issuers simultaneously. The restructuring occurred 4 or 5 years after many of these loans were originated and securitized, so it is easy to see why a waterfall distributed by individual issuers at origination could fall far short of what the CMBS industry currently has available in a thriving, competitive private-sector analytics industry.

Another recent event highlighting the complexity of maintaining models involves servicer advances. In CMBS, servicers are obligated to advance interest payments to the bondholders when a delinquent borrower is no longer able to make loan payments. This ensures continued cashflow to bondholders until the distressed loan is liquidated or modified. Historically in CMBS, the borrower would be required to reimburse all prior servicer advances before any modification could be completed, and this continued to be true until 2010. However, due to the current commercial real estate environment, this condition has been relaxed and borrowers have been able to execute a modification by agreeing to repay the outstanding advances at a later date. This leaves the servicer with material unreimbursed advances which they are now reimbursing from the deal's principal account by employing the workout delayed reimbursement amount ("WODRA") mechanism. This mechanism allows the servicer to be reimbursed for outstanding advances from the principal received on the underlying commercial real estate loans instead of applying such principal to the payment of the CMBS bonds. The result is that the deal is undercollateralized and, in certain cases, there will be no principal payments on the bonds at all for successive payment dates. Here again, the third party analytics industry has been racing to keep up with this development and restructure the models and waterfalls to incorporate this changing environment and market. These are material and far reaching changes to the deal waterfall and structure and the investor's expected repayment and bond valuation. The old waterfall is invalid at this point, and so a closing date waterfall without the third party analytics industry continuously updating the models would not be usable to any investor (and would give them incorrect and misleading results).

Additionally, some third party analytics firms are publishing research on the impact of WODRAs, others are catching trustee remittance payment errors to bondholders and having them resubmit, and all firms are currently and for the foreseeable future restructuring their models and waterfalls to accommodate these new developments.

2) Trepp disagrees with the following statement:

> *[F]or smaller institutional investors . . . investment decisions with respect to ABS may be made without the benefit of the investor performing its own quantitative valuation analysis. (Fed. Reg., v 75, n 84, p 23378-23379)*

This statement continues to ignore the availability and affordability of third-party analytics services as a viable alternative for a small institution to conduct quantitative analysis of ABS purchases. In fact, services such as Trepp's are purchased by a wide range of both small and large firms. Therefore, small investors who seriously want to invest in ABS securities have access to the same data, models, and information as large investors, while benefitting from reduced costs as the cost of modeling and maintenance is shared across the entire industry. The level of technical expertise required to use a service such as Trepp's is significantly lower than that required to install and operate a Python environment, to build and maintain a data infrastructure and to understand a Python waterfall model. The ease of access enhances the ability of a small investor to focus on the credit issues surrounding a particular ABS transaction, and simplifies the process of relative value analysis when making investment decisions. Further, the interface in third-party systems like Trepp's allows an investor to store assumptions which can be applied to subsequent issues, secondary offerings and portfolio management, all without having to reenter the assumptions for each issue.

3) Trepp disagrees with the following statement:

> *Without these tools, market participants must rely on third party vendors to provide quantitative analysis of the asset-backed security or must rely on computational materials provided by the issuer, without the opportunity to test the model or vary the assumptions used by the issuer. (Fed. Reg., v 75, n 84, p 23378)*

In the ABS market as it currently exists, companies such as Trepp are used by investors for the cost efficiencies of leveraging a common infrastructure for updates, and for the ease of accessing models and applying assumptions. As a result, investors are able to focus on credit and risk analysis rather than seeking out and gathering the latest data. The use of a Python program by an investor would impose new administrative and personnel costs on investors as they attempt to develop and deploy the systems, policies and procedures necessary to incorporate the Python models into their portfolio management processes. Increased costs will lead investors to demand higher gross returns for ABS, which will lead to increased borrowing costs for those segments of the market that rely on ABS.

The analytics capability offered by Trepp and its competitors give all investors the opportunity to do their own quantitative analysis of collateral performance in ABS securities. Use of a service such as Trepp's *increases* the ability of an investor to conduct its own quantitative analysis by eliminating the need to develop in-house modeling and data management expertise. Trepp's products also provide a convenient platform for

investors to gather information from third parties which provide supplementary information about the market. Information from the multiple sources available to an investor is aggregated on a single platform, which incorporates a number of checks and balances to reduce errors and increase transparency.

Further, building and managing such in-house systems is very costly in comparison to using a third-party service, even for a modest portfolio of ABS securities. In addition to Trepp's own services, there are a number of other third party platforms which incorporate Trepp's models and data into their proprietary portfolio management systems, further expanding the pool of resources which an investor can use for analyzing ABS. Also, the existence of competitive firms acts as a built-in set of checks and balances on data and model quality.

Response to Request for Comment:

- *Is it appropriate for us to require most ABS issuers to file the waterfall computer program? Is there an alternative form of required information filing that would be more useful to investors, subject to the limitation that executable code may not be filed on EDGAR?*

  Trepp does not believe it is appropriate that the SEC require ABS issuers to file a computer program. The assumption that ABS investors, including small institutional investors, have no other alternative for performing quantitative analysis does not reflect market reality. Trepp is one firm in a thriving, competitive market which provides access to the analytical tools necessary to evaluate ABS securities, whether at new issue, during secondary trading or ongoing portfolio surveillance, reporting and risk management.

  The operational details of implementing the totality of the SEC's proposal extend well beyond the waterfall itself. The program must include, in source code, a complete collateral cashflow projection routine, which is capable of reading the new data file, integrating the investor's assumptions with regard to interest rates and collateral performance, generating the payments from the collateral, and passing those payments to the transaction bond cashflow waterfall.

  The SEC's requirement will not provide the robust resources needed by investors to manage portfolios of ABS securities. In order to use the issuer provided models with potentially different interfaces, investors will need to develop flexible systems to perform comparative analysis across new issues which are in the market at the same time and to efficiently perform portfolio surveillance. Additionally, the level of programming expertise necessary to use a Python program is significantly higher than the level of expertise needed to use most third-party systems. Therefore, investors will be loath to incur the high overhead costs necessary to use the Python program on an ongoing basis. Further, it is unlikely that an issuer provided Python program will meet the requirements of

Sarbanes Oxley or SAS-70, to the extent these are required by an investor's reporting regimen. Finally, an investor's internal risk managers may question the validity of using an issuer provided model to manage that investor's portfolio.

The SEC's proposal would force all issuers, even those in a functioning, information rich industry such as CMBS, to adopt new practices which may or may not offset the negative consequences experienced by issuers and investors who did not avail themselves of third-party services. The cost of developing a model is essentially a fixed cost, and, as such, would impose a disproportionate burden on smaller issuers, particularly where the issuer has limited alternatives to ABS capital.

- *Should we require, as proposed, that the Rule 424(h) filing include the waterfall computer program?*

No. Requiring the waterfall program does not improve the quality of the disclosure available to the investor.

- *Does access to the waterfall computer program decrease the amount of time needed to analyze the information in a prospectus?*

No. In CMBS and other ABS asset classes, investors currently have access to third-party cashflow waterfall models during the offering process and the availability of a separate computer program would not change the time needed for analysis. The waterfall program may increase the amount of time needed to analyze a transaction, since the investor must first familiarize themselves with the input and output mechanisms contained in the program. There is no guarantee that issuers will adopt a standard format for the inputs, nor standard nomenclature to describe the relevant inputs. The need to familiarize oneself with the specific interface requirements would also make it harder to actually use the Python models. As a result, an investor is distracted from the real issue at hand, which is the evaluation of the quality of the collateral supporting the ABS transaction.

If we adopt the waterfall computer program filing requirement, would less time be needed for investors to review transaction-specific information?

The quality of the underlying pledged assets is a key component of the investment decision, especially in CMBS due to the heterogeneous nature of the underlying assets. The availability of a cashflow waterfall program will not change or assist in that critical component of the review. Also, the technical issues associated with using an individual issuer's cashflow waterfall program may, in fact, increase the amount of time required.

If so, how much time would be needed after the waterfall computer program is filed? Four days? Two days? Does analysis of the waterfall computer program require more time than

what we allow as proposed so that we should increase the time period for the Rule 424(h) filing?

No additional comment on these questions since the usage of an issuer provided Python waterfall program will be more costly and time consuming.

- *Is it appropriate to require issuers to submit the waterfall computer program in a single programming language, such as Python, to give investors the benefit of a standardized process? If so, is Python the best choice or are there other open source programming language alternatives (such as PERL) that would be better suited for these purposes?*

The requirement of each issuer providing its own Python source code program does not provide a standardized process. There is no requirement or standard beyond the requirement of using the Python language. Each issuer is free to implement the waterfall using its own naming convention and programming style. One issuer could adopt a conventional programming approach, while another would use the object-oriented features, and a third could use a functional approach.

The current practice of using third-party providers to handle the model creation provides a higher degree of standardization, particularly when it comes to standardization of the interface which an investor uses to specify its assumptions and receive the output from a computation. The use of a third-party also makes it easier for an investor to move from the primary purchase decision, into ongoing portfolio reporting and risk management, through to the final maturity or sale of the investment.

Integrating multiple models from multiple issuers would also increase the ongoing cost for an investor over the life of the holding, as additional resources would have to be devoted to updating collateral information, monitoring the EDGAR site for model updates and performing ongoing valuation exercises.

- *Should more than one programming language be allowed? If so, which ones and why?*

Trepp disagrees with the basic SEC proposal to require a waterfall source code. However, designating a single programming language reduces the list of resources which an investor must acquire and master prior to beginning the process of evaluating a particular ABS security. As long as that language is actively supported by a development community, then it could continue to form a basis for regulatory action. But, the history of programming languages shows that languages can, in fact, fall from favor, wither away and be relegated to areas of academic study. This could produce major new costs for investors who must then maintain outdated software and hardware in order to maintain access to waterfall models written in an outdated computer language.

Should we restrict ourselves to only open source programming languages or allow fully commercial or partly-commercial languages (such as C-Sharp or Java) to be used? If so, what factors should be considered?

The SEC has expressed a concern that cost prevents investors from fully utilizing the available third-party cashflow models. Providing source code in a commercial language may require an investor to obtain the appropriate license for a compiler to translate from source code to compiled code.

There are additional complications to the choice of language, whether open source or commercial. Specifically, an issuer waterfall program may be constructed under the assumption that certain language options or optional libraries are installed and operational for the program to run correctly.

- *Are there other requirements we should impose on the possible computer programming languages that are used to satisfy this requirement, other than that such languages be open source and interpreted?*

Trepp does not believe that the requirement for an issuer provided waterfall program is appropriate.

- *Under our proposal, issuers would be required to file the waterfall computer program in the form of downloadable source code on EDGAR. Prior to filing, the code would not be tested by the Commission. Would downloading the code onto a local computer give rise to any significant risks for investors? If so, please identify those risks and what steps or measures we should take to address the risks, if any.*

Yes, downloading source code from a public site to a local computer presents issues and risks for investors. Hence, many firms have adopted IT best practices which prohibit the download and installation of source code, scripts or executable code on individual computers.

Further, every computer program operates on a specific platform. It is more than likely that a given investor's computer will not be configured in the same manner as the computer of the programmer who built the Python source code program. It is impossible to say ahead of time whether or not the program will run, and, if it does not run, what the impact of the failure to run might be on a given investor.

There are also issues relating to version control with regard to the Python language itself. According to the Python.org website, there are two generations of Python available. Python 2 is the current generation of Python and the current release is version 2.7.1. Python 3 is the next generation of Python, currently available in version 3.1, with version 3.2 soon to be released. Python 2 and Python 3 are incompatible, with Python 3 not maintaining backwards compatibility with Python 2. To quote from www.python.org:

> 3.x is the newest branch of Python and the intended future of the language. Guido van Rossum (the original creator of the Python language) decided to clean up Python 2.x properly, with less regard for backwards compatibility than is the case for new releases in the 2.x range.

Python's lack of backward compatibility will produce a situation where an investor must maintain multiple versions of Python on a single computer, each of which is necessary to run one or more waterfall programs. This aspect further complicates the investor's tasks for portfolio maintenance and analysis.

Python also runs on multiple operating systems. Again, Python.org shows versions for Windows, Windows 64, Mac, Linux, UNIX, Solaris and others. Different versions of Python are required depending on the architecture of the analytical environment in which it is run. Systems built around Java require jPython, and those using Microsoft's .NET environment should use IronPython.

Who is responsible where a waterfall program is built under one operating system or a particular version of Python, and then is run under a different operating system or version of Python? Something as simple as a text file has different characteristics under a Windows system versus a Linux system.

- *Are the proposed input and output requirements for the waterfall computer program appropriate? If not, what type of output and tests should be required for the waterfall computer program? Should the outputs of the waterfall computer program be specified in detail by rule, or broadly defined to afford flexibility to ABS issuers?*

The SEC's proposed input and output requirements are stated in general terms. "Programmatic input" does not define any standard at all, and leaves it completely to the discretion of the issuer's programmer to define an independent interface for the assumptions which an investor must supply to run the waterfall program. Requiring a detailed set of input and output specifications does not solve the problem in its entirety, since no formal system, such as a computer language, which is sufficient to model structured finance, can cover every conceivable situation without the risk of introducing error or contradiction.

The potential for different programmatic input interfaces for each issuer is a realistic concern. The need to maintain multiple sets of assumptions, each tailored to different issuers' programs, will increase the complexity imposed on investors who seek to manage portfolios of ABS securities, even if a portfolio is limited to a single asset class. Again, the imposition of additional complexity in administering ABS portfolios will only increase the return requirements for investors, which will lead to higher charges for capital provided to end users through the securitization markets.

The output requirement is that the output be machine readable. Again, this is not a standard, since files which are delivered in binary, ASCII text and UNICODE are all machine readable. Just as the ordering of the input assumptions could vary by issuer, the order of the output items is also determined by the issuer, and could vary. Thus, an investor's ability to actually derive trading and risk metrics (such as price, yield, average life, duration, convexity, DV01) could be complicated by the need to first reorder or remap the programmatic output to the next stage of computation.

- *Should we require comments in the code that explain what each line does? Is this necessary given the narrative disclosure of the waterfall in the prospectus? If it is appropriate, are there any specific explanations we should require?*

Comments will improve readability of source code, provided the comments are written in a way which conveys information beyond the text of the code itself. Providing sample inputs and outputs, which show that the program is producing the output the issuer anticipated with the sample inputs, would allow an investor some degree of confidence that the model downloaded is the model the issuer used.

- *Is it appropriate to exempt issuers of ABS backed by stranded costs from the requirement to provide a waterfall computer program? If not, what types of inputs would be necessary to run the waterfall computer program? How would issuers obtain these inputs?*

Stranded costs are outside the area of CMBS, and Trepp does not have any comments.

- *Is our proposal to require credit card master trusts to report changes to the waterfall computer program on Form 8-K and file the updated waterfall computer program as an exhibit appropriate? Would the flow of funds, and thus the waterfall computer program, change over time? If so, how and why would it change? Should we require the waterfall computer program be filed at any other time? Should we require it be filed with each Form 10-D?*

While Trepp does not model master trust transactions, the questions asked by the SEC point out the inherent difficulty of maintaining waterfall models over time, particularly as the underlying collateral evolves. Master trusts, which provide for the introduction of new collateral, are particularly obvious examples of the problems. However, even within the CMBS space, the fact that loan modifications can occur in ways which were not contemplated at the time of issuance introduces a need to update the models. Even when an issuer is able to maintain an updated model, how would an issuer know that investors had in fact relied on the updated model, and not been using an out of date version?

- *Is the proposed requirement to provide the waterfall computer program with the proposed Rule 424(h) prospectus as of the date of filing and a final prospectus under Rule 424(b) as of the date of filing appropriate? Should the waterfall computer program be*

required to be filed at any other time? If so, please tell us why. As we discuss above in Section II.B.1.a., under our proposal, for material changes in information, other than offering price, which would include material changes to the waterfall computer program, a new Rule 424(h) filing would be required as well as a new five business-day waiting period.

No additional comment on this question.

- *Should we adopt the proposed changes to Item 601 of Regulation S-K and to Regulation S-T?*

No additional comment on this question.

- *Is the proposed temporary hardship exemption appropriate? Should we allow a continuing hardship exemption?*

This question presupposes that the SEC has already decided to implement the Python requirement. Since we believe the entire proposal will be impractical, and impose unnecessary costs on securitization, the question about hardships is moot.

- *We propose to use existing submission types in order to enable filers to attach the proposed waterfall computer program as an exhibit. Specifications that explain the requirements would be included in the EDGAR technical specifications. Are there other specifications that would be helpful that should be provided in the EDGAR Filer Manual for the waterfall computer program that are not currently included in other technical specifications? Please be specific in your response.*

No additional comment on this question.

- *Should we provide a transition period prior to the required compliance date that would allow filers to submit only test filings? Please be specific in your response.*

No additional comment on this question.

- *Is our proposal to permit the filing of an exhibit to disclose additional program functionality appropriate?*

No additional comment on this question.

- *Are there any impediments that issuers would face if they are required to file the waterfall computer program on EDGAR?*

The issuer has to find the resources to create and maintain a Python waterfall program. The issuer also has to develop and publish a source code engine for the creation of the collateral cashflows which are needed to feed the cashflow waterfall. Once the waterfall program is created, will an issuer be required to provide support staff which can answer investor questions relating to the program? Third-party vendors such as Trepp maintain large support teams to

answer questions and train users on the use of the models. If the market imposes such a demand on an issuer, then the Python program requirement becomes particularly burdensome for small issuers who do not have alternative capital sources available, further biasing the market in favor of larger players.

The SEC is imposing a requirement on the issuer that the waterfall program be complete (i.e., able to cover all possible combinations of assumptions on the performance of the collateral) and correct (i.e., that it accurately and reliably reflects the language of the legal contract embodied in the governing documents of the transaction). There is no system of programming, or computer language, which does, or could, provide the issuer with necessary resources to carry out the SEC's requirements.

As a further complexity, industry conventions with regard to calculation standards change over time. Will an issuer be required to monitor and update models to take into account such changes? For example, within the market for multi-family agency securities, the industry uses a trading convention called "CPJ", which incorporates certain prepayment and default assumptions on the underlying loans. These underlying assumptions have evolved over time, and analytics firms have been required to modify their systems to accommodate these changes. Will an issuer who uses an industry convention current at the time of issuance be required to update a model if the industry convention changes?

One other example of such changes to industry convention is the selection of points for use as U.S. Treasury benchmarks. Over the past few years, the industry convention has at various times dropped the one year and three year Treasury rates from the benchmark curve, and then added them back. Would such changes require an issuer model to be updated?

The SEC, to the extent an issuer attempts to meet the requirement, is also imposing what could be a "dead" cost on the issuer, which could hurt the reestablishment of the securitization markets. The addition of these fixed costs would tilt the playing field, further disadvantaging small issuers and reducing competition among lenders as larger firms become more dominant.

Conclusion:

Trepp appreciates that the waterfall program is one component of the SEC's overall effort to provide investors with the time and opportunity to analyze ABS securities in detail prior to being asked to make a purchase commitment. However, the focus of the SEC on the waterfall model does not address the true causes of the crisis in the credit markets. The ABS market failure was produced by a failure in collateral viability, not modeling deficiencies. Within CMBS, it is common practice for investors to defer any purchase decisions until a model is made available and investors have had time to analyze the cashflow performance of the various tranches in some detail. Trepp has always worked closely with the rest of the CMBS industry to develop information standards as an

important component of supporting the development of the CMBS market. Building and maintaining a library of cash flow waterfalls for CMBS is one component of Trepp's ongoing services in this market.

Our overwhelming conclusion is that the SEC's proposed rule requiring an issuer to file a Python source code waterfall is not viable. Trepp believes that this is one area where the dynamics of the marketplace are more capable of delivering a viable solution. The proposed rule, if implemented, will lead to increased costs and risks for all issuers and investors, and particularly disadvantage small issuers and small investors.

Trepp would like to thank the SEC for the opportunity to respond to the proposed changes to the disclosure regime for ABS, particularly as it relates to the requirement to publish a waterfall program. We trust that our comments have been helpful, and we are prepared to discuss any questions which the SEC may have on our letter.

Thank you.

Sincerely,

Thomas A. Fink
Senior Vice President