

September 8, 2009

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

Filed Electronically

RE: Release No. 34 - 60332; File No. S7-15-09, Proposed Amendment to Municipal Securities Disclosure

Dear Ms. Murphy:

Digital Assurance Certification, LLC (“DAC”) is pleased to respond to the request by the U.S. Securities and Exchange Commission (the “Commission”) for comments on proposed amendments to Rule 15c2-12 (“Rule 15c2-12,” or the “Rule”) under the Securities Exchange Act of 1934 (the “Exchange Act”).

DAC has over eight years of experience providing real-time disclosure and information dissemination services to the municipal market. Our business is based on the premise that the municipal market deserves accurate and timely disclosure at no cost to investors. DAC is proud to be recognized as a reliable information bridge between issuers of municipal bonds and the marketplace. The DAC system provides a database of municipal issuers' continuing disclosure materials that when utilized assist brokers and dealers in fulfilling their obligations under the securities laws.¹

The DAC system removes uncertainty as to whether or not an issuer or obligated person is making required disclosure filings. Issuers and Obligated Persons using DAC irrevocably instruct DAC to file a failure to file notice if the required annual disclosure is not provided as required under the continuing disclosure agreement used in the DAC system. The resulting “red light -- green light” provides investors and broker-dealers assurance that an issuer either is or is not in compliance with its disclosure undertaking. The SEC staff issued a one of a kind no action letter to DAC on September 21, 2001 (the “DAC No-Action Letter”), stating:

“the Division of Market Regulation will not recommend any enforcement action to the Commission against any broker, dealer, or municipal securities dealer (each, a “dealer”) for violation of Subsection (c) of Rule 15c2-12 of the Securities Exchange Act of 1934 because the dealer uses the DAC database as its source of Information in the procedures

¹ Please see the no-action requesting letter, dated September 7, 2001, attached to [Re: Digital Assurance Certification, L.L.C.](#) (Sep. 21, 2001) for a description of the basic DAC System.



it establishes in order to have reasonable assurance that it will receive prompt notice of any event disclosed pursuant to paragraph (b)(5)(i)(C), paragraph (b)(5)(i)(D), and paragraph (d)(2)(ii)(B) of Rule 15c2-12 for DAC Bonds.”²

Over the course of its operating history, DAC has experienced a filing compliance rate exceeding 90%, and submitted failure to file notices on the remainder. The integrity provided by this feature provides issuers and obligated persons who have previously failed to meet their disclosure requirements with the ability to assure both investors as well as underwriters (on whom Rule 15c2-12 places the regulatory consequences) that their future filing obligations will be met or immediate notice of failure will be provided to the public. Of course, DAC has and continues to expand the features through the patented DAC system and additional DAC services to address the needs of all municipal market participants.³

Since January 31, 2005, DAC has provided MSRB RTRS secondary market trade data to the municipal market, combining both current disclosure and trade data for DAC Bonds in one location free of charge. DAC has developed a robust system of proven reliability with demonstrated ability to serve in implementing the Board’s proposal for collection and dissemination of market information for Auction Rate Securities.

DAC has provided information on variable rate obligations as an additional service to certain of its issuer and investor clients since 2005. DAC stores and provides issuers the ability to share liquidity documents, including contracts, counsel opinions, extensions and substitution agreements. DAC has provided this service since 2005. The following year, DAC added additional tools for auction rate securities (“ARS”) and transaction reporting and monitoring. The DAC system provides issuers the tools to enter reset rates by date, for a specific period, identified by Series, CUSIP, issue description, borrower, remarketing agent, liquidity provider and expiration date of facility. DAC also provides reminders to its issuers of upcoming expiration dates and provides a link to the SIFMA (BMA) index in an excel spreadsheet format, to allow issuers the ability to compare rates. DAC recently moved this information to its home page to provide for broader sharing of data throughout the municipal market. DAC has also added an audit trail function that records conversion dates and the new rate mode for any VRDO transaction.

DAC initiated its support of the municipal Auction Rate Securities market when the market needed it most. Within four business days of the release of the Commission’s March 14, 2008 no-action letter (the “ARS Letter”), issuers and obligated persons were able to post required information called for under the ARS Letter on the DAC system where it may be viewed by all without charge. As of today, information on 3124 ARS auctions has been posted on the DAC site and 17 brokerage firms have established links to the site. DAC’s ability to provide vital support to the municipal Auction Rate Securities Market in such short time is solid proof of the robust nature of the DAC system.

DAC looks forward to continuing to bring improvements in disclosure dissemination, investor communication, and other services to the municipal market.

² Id.

³ DAC has received U.S. Patent No. 7,155,408; Other Patents Pending.



DAC is pleased to provide its comments below in response to the Commission's request.

A. Modification of the Exemption for Demand Securities

1. The Commission requests comment on whether it is appropriate to revise the Rule's exemption for demand securities by proposing to apply paragraphs (b)(5) and (c) of the Rule to the offering of demand securities.

DAC Response

DAC stands ready to modify its current system to incorporate, facilitate and timely satisfy any additional requirements under Rule 15c2-12 resulting from the application of paragraphs (b)(5) and (c) of the Rule to the offering of demand securities, should the Commission choose to do so.

As we note above, the DAC system has accommodated issuers and obligated persons who wish to voluntarily provide VRDO disclosure since 2005. Specifically, DAC stores and provides issuers the ability to share liquidity documents, including contracts, counsel opinions, extensions and substitution agreements. DAC has provided this service since 2005. The following year, DAC added additional tools for auction rate securities ("ARS") and transaction reporting and monitoring. The DAC system provides issuers the tools to enter reset rates by date, for a specific period, identified by Series, CUSIP, issue description, borrower, remarketing agent, liquidity provider and expiration date of facility. DAC also provides reminders to its issuers of upcoming expiration dates and provides a link to the SIFMA (BMA) index in an excel spreadsheet format, to allow issuers the ability to compare rates. DAC recently moved this information to its home page to provide for broader sharing of data throughout the municipal market. DAC has also added an audit trail function that records conversion dates and the new rate mode for any VRDO transaction.

B. Time Frame for Submitting Event Notices under a Continuing Disclosure Agreement

1. The Commission requests comment concerning the ability of issuers and obligated persons to obtain information regarding the occurrence of events currently specified in, and that the proposed amendments would add to, paragraph (b)(5)(i)(C) of the Rule, in sufficient time to prepare and file a notice of such an occurrence in a timely manner not in excess of ten business days.

DAC Response

DAC stands ready to modify its current system to incorporate, facilitate, and timely satisfy any additional requirements under Rule 15c2-12 resulting from the addition of a time frame not in excess of ten business days for filings upon the



occurrence of events currently specified in, and that the proposed amendments would add to, paragraph (b)(5)(i)(C) of the Rule.

C. Materiality Determinations Regarding Event Notices

1. The Commission requests comment on the proposed amendment to delete the phrase “if material” in the case of notices for the following events: (1) principal and interest payment delinquencies with respect to the securities being offered; (2) unscheduled draws on debt service reserves reflecting financial difficulties; (3) unscheduled draws on credit enhancements reflecting financial difficulties; (4) substitution of credit or liquidity providers, or their failure to perform; (5) defeasances; and (6) rating changes.

DAC Response

DAC is proud of its proven ability to consistently process notice filings in a timely manner. DAC is prepared to timely process as well as handle any increase in the volume of notice filings in the event the Commission chooses to modify Rule 15c2-12 by deleting the phrase “if material” with respect to the events specified above.

D. Amendment Relating to Event Notices Regarding Adverse Tax Events under a Continuing Disclosure Agreement

1. The Commission requests comment on the proposed amendment to modify the provision of the Rule regarding the submission of a notice with respect to adverse tax opinions to include the issuance by the IRS of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax-exempt status of the securities, or other events affecting the tax-exempt status of the security.

DAC Response

DAC is prepared to incorporate, facilitate, and timely process all notices with respect to adverse tax opinions to include the issuance by the IRS of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax-exempt status of the securities, or other events affecting the tax-exempt status of the security, should the Commission determine to so modify the Rule.

E. Addition of Events to be Disclosed under a Continuing Disclosure Agreement

1. Tender Offers

The Commission requests comment regarding all aspects of the proposed amendment of subparagraph (b)(5)(i)(C)(8) of the Rule to include tender offers.

DAC Response



DAC is prepared to incorporate, facilitate, and timely process all requirements and notices with respect to tender offers as contemplated by the proposed amendments to the Rule, should the Commission determine to so modify the Rule.

2. The Occurrence of Bankruptcy, Insolvency, Receivership or Similar Events Regarding an Issuer or an Obligated Person

The Commission requests comment regarding all aspects of the proposed addition of the event relating to bankruptcy, insolvency, receivership or similar proceeding of the issuer or other obligated person in the Rule.

DAC Response

DAC is prepared to incorporate, facilitate, and timely process all requirements and notices with respect to events relating to bankruptcy, insolvency, receivership or similar proceedings of the issuer or other obligated persons as contemplated by the proposed amendments to the Rule, should the Commission determine to so modify the Rule.

3. Merger, Consolidation, Acquisition, and Sale of All or Substantially All Assets

The Commission requests comment regarding all aspects of the proposed addition to the Rule with respect to the consummation or entry into or termination of a definitive agreement involving a merger, consolidation, acquisition, or the sale of all or substantially all of the assets of the obligated person.

DAC Response

DAC is prepared to incorporate, facilitate, and timely process all requirements and notices with respect to the consummation or entry into or termination of a definitive agreement involving a merger, consolidation, acquisition, or the sale of all or substantially all of the assets of the obligated person as contemplated by the proposed amendments to the Rule, should the Commission determine to so modify the Rule.

4. Successor, Additional, or Change in Trustee

The Commission requests comment regarding all aspects of the proposed addition of subparagraph (b)(5)(i)(C)(14) concerning the appointment of a successor or additional trustee or the change of name of a trustee.

DAC Response

DAC is prepared to incorporate, facilitate, and timely process all requirements and notices regarding all aspects of the proposed addition of subparagraph (b)(5)(i)(C)(14) concerning the appointment of a successor or additional trustee or



the change of name of a trustee as contemplated by the proposed amendments to the Rule, should the Commission determine to so modify the Rule.

F. Effective Date and Transition

1. The Commission requests comment on the impact of the proposed amendments with respect to brokers, dealers, and municipal securities dealers that recommend the purchase or sale of municipal securities.

DAC Response

DAC foresees no difficulties in fully incorporating the proposed amendments into the DAC system and performing under the Rule as so modified, and continuing to provide prompt event notice for DAC Bonds as described in the DAC No-Action Letter with respect to the obligations for brokers, dealers and municipal securities dealers under Rule 15c2-12(c).

DAC likewise foresees no difficulties with fully adapting to the proposed amendments within a three month time frame.

III. Interpretive Guidance With Respect to Obligations of Participating Underwriters

1. Comment is solicited regarding whether there are alternative or additional ways in which an underwriter could satisfy its obligations, including obligations to ascertain whether issuers or obligated persons are abiding by their municipal disclosure commitments.

DAC Response

As illustrated by the DAC No-Action Letter, the irrevocable instruction that is a key component of DAC Continuing Disclosure Agreements for all DAC Bonds provides an instant and flawless means for brokers, dealers, and municipal securities dealers to determine whether or not an issuer or obligated person has complied with annual filing requirements. All DAC Continuing Disclosure Agreements contain an irrevocable instruction from the issuer or obligated person to us to immediately file a failure to file notice if the complete annual filing requirement, that is the Annual Financial Information and Audited Financial Statements, is not filed when due. So on and after each year's filing date, a green or red indication is given for all DAC Bonds. In addition, DAC provides immediate “green light/red light” five year compliance history for annual filing requirements on easy to view screens right on the DAC website. This feature may be viewed at www.dacbond.com by clicking on Broker Dealer Compliance Report, found on the horizontal navigation bar, which appears after logging on to the DAC site.



2. Commenters should address the current practices used by underwriters to satisfy their “reasonable basis” obligation and any aspects of such practices that could be addressed through further Commission interpretation or rulemaking.

DAC Response

As described in the immediately preceding answer, DAC provides brokers, dealers, and municipal securities dealers (as well as all investors and other interested parties) with a “green light/red light” compliance history on the DAC website. The DAC system provides a means of rehabilitation for issuers and obligated persons who repeatedly fail to file as required under their continuing disclosure agreements through implementation of the “green light/red light” irrevocable instruction system on a going-forward basis, while enabling creation of a five-year look-back history by the issuer or obligated person. DAC will work with the issuer or obligated person to establish filings and non-compliance indicators for up to the last five years reporting as applicable and, upon execution of our Continuing Disclosure Agreement, provide “green light/red light” compliance alerts going forward.

IV. Request for Comments

1. The Commission seeks comment regarding the impact of the proposed amendments on Participating Underwriters, issuers and obligated persons, institutional and individual investors, the MSRB, information vendors, and others that may be affected by the proposed amendments.

DAC Response

As we note above, DAC foresees no difficulties in fully incorporating the proposed amendments into the DAC system and performing under the Rule as so modified, and continuing to provide prompt event notice for DAC Bonds as described in the DAC No-Action Letter with respect to the obligations for brokers, dealers and municipal securities dealers under Rule 15c2-12(c).

Sincerely,

A handwritten signature in blue ink that reads "Paula Stuart".

Paula Stuart
Chief Executive Officer