BILL LOCKYER
TREASURER
STATE OF CALIFORNIA

September 8, 2009

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

Re: File No. S7-15-09

Members and Staff of the Commission:

On behalf of California Treasurer Bill Lockyer, I am providing comments on the Commission's proposed Amendment to Rule 15c2-12 (Rule), as contained in Release No. 34-60332 (Release).

The California State Treasurer's Office (STO) issues and manages a large amount of debt. During the 2008-09 fiscal year (ending June 30, 2009), we issued more than $22 billion in bonds for the State of California (State) and various governmental agencies. Additionally, the STO served as agent for sale on an additional $5 billion in bonds for various conduit financing authorities. Furthermore, we currently provide continuing disclosure for 197 separate bond issues.

California always has maintained a policy to provide extensive disclosure to its bondholders, regardless of regulations. The STO has for a number of years voluntarily entered into continuing disclosure undertakings for its general obligation variable rate demand bonds (VRDOs), even though such issues were exempt from the Rule. Therefore, we do not object in principle to the proposal in the Release to eliminate the exemption for VRDOs. However, we have comments regarding the requirements for notices of events, as we have had extensive experience with these requirements over the last few years.

I. Time for Filing Notices.

The Release proposes to set a single, 10-day deadline to file notices of any of the events under Section (b)(5)(i)(C) of the Rule. The proposal requires the notice to be filed

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within 10 days of the occurrence of the event. We recommend that if any fixed deadline for filing notices is adopted, it should be measured from the time the issuer gains knowledge of the event, rather than from the time the event occurs. We have had actual experience in the past year where we did not receive in a timely manner actual notice of various rating changes affecting credit providers (i.e. bond insurers or banks), which would affect some of our bond issues. Had the proposed Rule change been in effect, we would have failed to comply with the 10-day requirement.

We also can envision situations where we might not become immediately aware of various events relating to the tax status of bonds involved in an I.R.S. audit. Sometimes these developments may be handled by persons outside our office. Further, notices occasionally may be sent to the office of another state agency involved in the bond issue, and not be forwarded immediately to the STO.

If the Commission adopts a filing requirement measured from the issuer's receipt of knowledge of the event, we think a 10-business day period is reasonable. Any shorter time would be problematic, given our administrative and legal review requirements. The STO would oppose a notice requirement of less than 10 days.

II. Change in Materiality Standard

The Release proposes to eliminate the "materiality" standard for filing notices of six events. We agree these events are important to investors, and generally should be known immediately to the issuer (save for rating changes, discussed below). We note, however, there are circumstances where a delinquent payment of principal or interest could be caused by factors beyond an issuer's control. In such cases, delinquencies would not represent a financial failure on the issuer's part. For example, a disruption in the Federal Reserve Wire system, or an error or lapse by a trustee or paying agent, or a clerical error at DTC, might result in a very short-term delay in crediting payments to bondholders. In the past, we would have treated such an event as not material. Requiring issuers to file a notice in such instances would create an unwarranted implication that the issuer had suffered financial adversity.

III. Notice of Rating Changes

We respectfully urge the Commission to amend Section (b)(5)(i)(C)(11) of the Rule to eliminate the requirement that issuers (or other obligated persons) file notices regarding changes in bond ratings, when those events are caused by changes in credit providers' ratings. In our compliance with the Rule, this requirement has imposed the greatest burden – a burden that outweighs any benefit.

First, issuers do not control rating changes to credit providers. Our knowledge of these developments comes from third parties, press releases or news stories. The rating agencies do not directly contact issuers with detailed information regarding these types of rating changes. As noted above, sometimes the change is so obscure that we do not realize it affects one of our bond issues. This has been particularly problematic in the past two years, when credit providers have been subject to multiple rating actions.

Second, the availability of information has greatly expanded since the current version of the Rule was adopted in 1995. Investors can access numerous electronic sources of information about bond ratings, including the rating agencies themselves. However, if it is determined that it is necessary or desirable to provide this information in one electronic location for easy reference, we believe it would make the most sense to require rating agencies to timely post the changes they make at the MSRB EMMA site.

During the 2008-09 fiscal year, the STO filed 169 separate "material event notices" relating to rating changes alone, by far the largest single category. That task consumed 340 to 420 hours of staff time – equivalent to 8 to 10 weeks of work for one full-time employee. Given today's market realities, that is not good government.

The proposed Rule change, by imposing a 10-day notice deadline, would exacerbate the problem. To make sure we complied with the requirement, we would have to devote even more staff time to monitor rating agency information, rather than wait to get the information from third parties.

In view of multiple, optional sources of rating information in today's marketplace, we believe additionally imposing this requirement on public-agency issuers is not necessary and can no longer be justified on a cost-benefit basis. We can protect investors without mandating duplicative and inefficient government work at a time when state and local governments can ill afford it. We strongly urge the Commission to eliminate this occurrence as an event that requires notice under the Rule.

Sincerely,

MARK PAXSON
General Counsel
Office of California State Treasurer
Bill Lockyer