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Office of the Secretary  
U.S. Securities and Exchange Commission  
100 F Street, NE  
Washington, D.C. 20549-1090

Re: **File No. S7-19-18**  
**Financial Disclosures about Guarantors and Issuers of Guaranteed Securities and**  
**Affiliates Whose Securities Collateralize a Registrant's Securities**

Dear Office of the Secretary:

This letter is the response of BDO USA, LLP to your request for comments regarding the proposed rule amendments referred to above.

We support the Commission's initiative to improve the effectiveness of financial disclosures under Regulation S-X. In this regard, we agree with the direction of the proposed changes to Rules 3-10 and 3-16 and believe the proposed amendments largely address the Commission's stated objective to provide investors with material information that is easier to understand. We encourage the Commission to continue to listen to the feedback from companies and investors as we believe they are best positioned to comment on whether the level of disclosure is appropriate. If the Commission moves forward with the disclosure framework in the proposed amendments, we have the following comments based upon our experience working with registrants and their compliance with these rules.

#### **Location of Proposed Alternative Disclosures and Audit Requirement**

The proposed amendments provide issuers with the flexibility to present the summarized financial information and other related disclosures for the Obligor Group and/or Collateral Entities ("Proposed Alternative Disclosures") inside or outside of the consolidated financial statements in registration statements covering the offer and sale of guaranteed and/or collateralized securities as well as in annual and quarterly reports during the year in which the first bona fide sale of the security is completed. Beginning with the filing of Form 10-K for the fiscal year during which the first bona fide sale of the securities is completed, the Proposed Alternative Disclosures must be presented in a footnote to the consolidated financial statements in annual and quarterly reports.

We note that these proposed amendments may allow a parent company to register guaranteed debt securities and access capital markets more quickly than under existing rules, given the time to prepare consolidating financial statements and/or collateral



entity financial statements and have them audited as currently required may result in filing delays. However, we also observe that initial investment decisions made at the time of takedown may be based on unaudited information under the proposed amendments. As such, an investor does not receive the benefit of audited Proposed Alternative Disclosures until after the initial purchase.

Underwriters in a registered offering will typically request that an independent auditor provide comfort in accordance with PCAOB Auditing Standard 6101 on financial information presented outside the consolidated financial statements. The independent auditor must perform additional procedures on such disclosures to provide comfort. While the scope and time required to perform such procedures will be less than an audit, the auditor involvement may delay the time to market for underwritten offerings, which limits the intended benefit of allowing such information to be presented on an unaudited basis outside the consolidated financial statements. Consequently, we recommend the Commission consider whether the Proposed Alternative Disclosures should be audited at the time of initial presentation, or the ability to present unaudited information should be limited to underwritten offerings.

#### **Presentation on a Combined Basis**

We agree that the summarized financial information is more meaningful if it excludes the financial information of non-issuer and non-guarantor subsidiaries. However, we believe questions may arise from the flexibility in the method of excluding non-issuer and non-guarantor information provided by the proposed amendments, as the proposed amendments do not address the option to fully exclude investments in non-issuer and non-guarantor subsidiaries from the summarized financial information of the Obligor Group. We recommend that the Commission provide a list of acceptable methods to present the financial information of the non-issuer and non-guarantor subsidiaries in the summarized financial information of the Obligor Group and/or indicate whether the complete exclusion is an acceptable option.

#### **When Disclosure is Required**

We note that Proposed Rules 13-01(a)(5) and 13-02(1)(5) require disclosure of any other quantitative or qualitative information that would be material in making an investment decision with respect to the guaranteed or collateralized security. The broad nature of such requirements may be difficult for companies to apply and for auditors to assess the adequacy of such disclosures. We believe the expansive nature of such requirements may cause confusion and raise concern about the scope of an audit as this materiality assessment is inconsistent with the evaluation of disclosures by management and auditors in the context of the financial statements taken as a whole. We believe the Commission should consider preserving the existing requirements in Rule 3-10(i)(11), which prohibit the omission of disclosures about each guarantor if such information would be material to an investor's evaluation of the sufficiency of the guarantee, or



revising the proposed amendments to clarify the types of disclosures contemplated by such requirements.

### Consideration of Schedule I Requirements

Rules 5-04 and 12-04 of Regulation S-X require parent company-only condensed financial statements when there is a specified level of restriction on an issuer's subsidiaries' ability to transfer funds to the parent. For the same reasons as the Commission decided to propose replacing condensed consolidating financial information with summarized financial information, we suggest that the Commission consider replacing the requirement for parent company-only condensed financial statements with parent company-only summarized financial information.

### Transition

We recommend that the Commission include transition guidance in the adopting release that addresses the effective date of the rules for Exchange Act and Securities Act filings. As the objectives of the proposed amendments are to provide investors with material information that is easier to understand and to reduce registrant costs and burdens, we believe registrants should have the option to apply the final rule to filings on or after publication to the Federal Register.

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We appreciate this opportunity to express our views to the Commission. We would be pleased to answer any questions the Commission or its staff might have about our comments. Please contact Tim Kviz, National Assurance Managing Partner - SEC Services, at [REDACTED] or via e-mail at [REDACTED], or Christopher Tower, National Managing Partner - Audit Quality and Professional Practice Leader, at [REDACTED] or via e-mail at [REDACTED].

Very truly yours,

BDO USA, LLP