November 30, 2015

Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File Number S7-20-15 / Request for Comment on the Effectiveness of Financial Disclosures about Entities other than the Registrant

Ladies and Gentlemen:

This letter is submitted on behalf of Covenant Review, LLC with respect to the "Disclosure Effectiveness" initiative and request for public comment by the Securities and Exchange Commission (the "Commission"). In particular, we are responding to the Commission's invitation for public comment on Rule 3-16 of Regulation S-X—Financial Statements of Affiliates Whose Securities Collateralize an Issue Registered or Being Registered.

Based on our experience reviewing disclosure documents and interacting with investors, we are pleased to submit the recommendation below to improve the quality of disclosure in ways we believe will be beneficial to investors, as well as registrants.

Recommendation on Rule 3-16 of Regulation S-X: The Commission should consider eliminating the requirement under S-X Rule 3-16 for separate financial statements for each affiliate whose securities would constitute a substantial portion of the collateral for any class of securities registered or being registered, and instead permit disclosure about such grantors to be satisfied by footnotes to the registrant's audited financial statement presenting summarized financial information similar to that required by S-X Rule 3-10.

It has been historically common in the high yield bond market for corporate bonds to be issued under Rule 144A and then later be exchanged for registered bonds. However, when faced with the significant burden of producing the separate financial statements that would be required by S-X Rule 3-16 in connection with a secured debt offering, many companies choose to avoid ever registering bond transactions altogether or, alternatively, structure collateral pledges to fall away automatically if the pledge would trigger a separate financial statement requirement. As a result, many deals are intentionally structured as "144A-for-life" transactions, or even if registered, are designed to have investor protections *fall away* to avoid S-X Rule 3-16 compliance. This has increasingly become an important issue for investors as the incidence of secured bond offerings

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has dramatically increased from being an occasional occurrence a decade ago to where now there can be several secured corporate bond offerings in a single week. There are *tens of billions* of dollars of high yield bond offerings that "would have" been reviewed by the S.EC. except for companies wanting to avoid dealing with S-X Rule 3-16. Just a few of the major *secured* bond issues in 2015 above $500 million by public S.E.C. filing companies which have registered *unsecured* bond issues outstanding include First Data Corporation's $1.21 billion offering of its 5.3765% Senior Secured Notes due 2023, Energy XXI Gulf Coast, Inc.'s $1.45 billion of its 11% Senior Secured Second Lien Notes due 2020, and Comstock Resources, Inc.'s $700 million offering of its 10% Senior Secured Notes due 2020. It would appear that the reason these bonds were not registered was to avoid complying with S-X Rule 3-16.

This common strategy of skipping S.E.C. registration may initially be chosen primarily to avoid the rigorous disclosure requirements of S-X Rule 3-16, but it quite often has the unfortunate and ironic consequence of lowering the overall quality of disclosure available to the investor because once the issuer has made the decision to avoid a registered offering, it is not unusual for the issuer to forego compliance with other inconvenient disclosure "requirements" and processes that it would otherwise have made every effort to satisfy. These incremental choices invariably lead to lower quality disclosure and ultimately work against the best interests of investors. Further, the Commission loses its opportunity to survey the greatest possible volume of deals to protect investors.

We appreciate the opportunity to comment on the Commission's Disclosure Effectiveness initiative, and respectfully request that the Commission and the Staff consider our recommendation and suggestion. We are available to meet and discuss these matters with the Commission and/or the Staff and to respond to any questions.

Sincerely,

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Founder, Covenant Review, LLC

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