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November 15, 2010

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

SEC Release Nos. 33-9150; 34-63091; File No. S7-26-10
Proposed Rules: Issuer Review of Assets in Offerings of Asset-Backed Securities

Dear Ms. Murphy:

We appreciate the opportunity to respond to the Securities and Exchange Commission's (SEC or Commission) proposed rules regarding the requirements for a review of assets by issuers of asset-backed securities (ABS) and the related disclosure requirements, entitled *Issuer Review of Assets in Offerings of Asset-Back Securities* (the Proposal or the Proposed Rules). We support the efforts of the Commission to implement provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Act) and to provide better investor protections within the context of the asset-backed securitization markets. Our comments and observations on the Proposed Rules relate to the following:

- Scope of the Proposed Rules
- Use of the Terms "review" and "reasonable assurance"
- Value of Integrated Rule-Making

Scope of the Proposed Rules

The SEC has indicated that the provisions of the Act related to ABS were in response to the significant losses holders of ABS suffered during the financial crisis and the realization that many investors were not fully aware of the risk in the underlying mortgages (or other financial instruments) within the pools of securitized assets. We believe that the Proposed Rules implementing Sections 945 and 932 of the Act are intended to provide additional information to potential investors related to the credit quality of the assets underlying the ABS to better inform investment decisions, and we support this objective. However, we do not believe that services provided by accountants pursuant to agreed-upon procedures engagements should be included within the scope of the Proposed Rules.

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Accountants are often engaged by issuers to perform certain procedures associated with the accuracy of information included in offering documents related to ABS and report their findings to the issuer and underwriter. These procedures typically consist of agreeing information back to source documents that provide the foundation for disclosures in the offering documents, or recalculating the information included in those disclosures for accuracy. These procedures do not include verifying information contained within the source documents (e.g., verifying information related to income levels in mortgage loan documents to income tax records or W-2s) or providing any evaluation or assurance regarding the credit quality of the underlying assets, adherence to underwriting standards or compliance of the credit origination with applicable laws and regulations. Traditionally, accountants have not been engaged to perform procedures related to the credit quality of specific assets underlying ABS.

The accountant's services described above are conducted pursuant to agreed-upon procedures engagements in accordance with American Institute of Certified Public Accountants Statements on Standards for Attestation Engagements, AT Section 201, *Agreed-Upon Procedures Engagements*. Such engagements require the underwriter or issuer to specify the particular procedures to be performed by the accountant and to take responsibility for the sufficiency of such procedures for their particular purpose. Integral to the performance of the engagements is the fact that the underwriter or issuer is responsible for defining the criteria to be used in the determination of findings, which ultimately dictates the content of the accountant's report. Accordingly, the accountant does not render any opinion but instead provides a detailed description of the procedures performed and the related findings.

Further, the operative AICPA professional standards require that the users of the accountant's report of findings be limited to only those parties who have taken responsibility for the sufficiency of the procedures performed. This requirement is intended to prevent other parties from placing reliance on the report for purposes other than those specifically intended by those who engaged the accountant and determined the nature and scope of the procedures.

Like traditional comfort letters, reports of findings from performing procedures prescribed by the underwriter or issuer are designed solely for the limited purpose of providing the underwriter or issuer with evidence to support the discharge of their responsibilities under the Securities Act of 1933 about the accuracy of disclosures in the ABS offering document. These reports are not designed to assist in the evaluation of the credit quality of the assets underlying the ABS.

We believe that providing potential investors with additional information with which to evaluate the credit quality of the assets underlying the ABS is consistent with the intent of the Act. Procedures performed for that purpose are distinct from procedures performed for the purpose of supporting a due diligence defense under Section 11 and Section 12(a)(2) of the Securities Act of 1933 with respect to disclosures in the registration statement and prospectus. We believe that the services provided by accountants, which are intended to provide evidence to the underwriter or issuer to support the accuracy of the disclosures in the offering document, do not provide additional information to assist investors in evaluating the underlying credit quality of the assets;

instead, the primary objective of the accountant's procedures is to provide evidence about the accuracy of disclosures in the offering document.

Accordingly, we do not believe the results of such accountants' procedures would provide the additional information the SEC is striving to provide investors for evaluating the credit quality of the assets underlying the ABS. In addition, including these services within the scope of the Proposed Rules would necessitate the inclusion of the accountant's report in an offering document, which would be prohibited under current professional standards and would inhibit the ability of accountants to perform such procedures. Therefore, we recommend the SEC explicitly clarify in the final rule that accountants' agreed-upon procedures engagements of the type described above do not address the credit quality of the underlying assets in an ABS and do not fall within the scope of the Proposed Rules.

Use of the Terms "review" and "reasonable assurance"

The Proposed Rules would require each issuer of ABS to perform a review of the assets underlying registered ABS offerings and disclose the nature of such a review pursuant to Section 945 of the Act. However, the Proposal does not define what constitutes a review, provide a minimum level of review or prescribe procedures that must be performed as part of such review. Various questions posed in the Proposal request comment on the type of review that should be performed. In addition, question 2 of the Proposal requests comment on whether the review should provide "reasonable assurance." The terms "review" and "reasonable assurance" are used and defined in standards of the Public Company Accounting Oversight Board (PCAOB) and in the internal control provisions of Section 13(b)(2) of the Securities Exchange Act of 1934 with respect to audits and reviews of financial statements or a company's internal control over financial reporting. We are concerned that investors may confuse the Proposal's use of these terms with the degree of reliance they place on the terms when used in the context of financial statements and internal control.

We therefore recommend that the Proposal provide alternative defined terms to allow investors and other users of ABS offering documents to understand the level of review and the degree of reliance that can be placed on such review. We believe it is important to convey to investors the level of due diligence procedures performed by the issuer or the underwriter under the Proposed Rules, and that this level of due diligence differs from the level of procedures performed in connection with audits and reviews of financial statements and audits of internal control over financial reporting.

Value of Integrated Rule-Making

We support the regulatory efforts being undertaken to implement the provisions of the Act and to provide better investor protections within the context of ABS markets. However, we are concerned about the ability of respondents to study and consider the interdependencies of the Proposed Rules with other regulatory initiatives. The Proposed Rules address only a portion of the necessary rulemaking expected within the ABS markets. As a result, it is unclear how the

Proposed Rules will interact with other ABS rule-making and what the ultimate combined effects will be on the ABS markets. For example, Section 932 of the Act requires nationally recognized statistical rating organizations to disclose the extent of third party due diligence services that have been used by the organization, a description of such services and the findings or conclusions of such third party. It is unclear how this requirement will interact with the Proposed Rules and if they will be independent of each other or interdependent. Evaluating the Proposed Rules in isolation, over a brief period of time, hampers the ability of respondents to provide high quality feedback.

We recommend that the SEC address the regulatory requirements for participants in the ABS market in an integrated manner by harmonizing the timing (either actual rule-making or effective dates) of the Proposed Rules with other rule-making efforts, including Regulation AB and related proposed updates and bank regulatory proposals impacting the ABS markets (e.g., FDIC proposals concerning the regulatory treatment of securitizations). We believe that the benefits of integrated rule-making include permitting issuers and other market participants to more clearly understand and respond to the proposed requirements, leading to more effective feedback and, ultimately, better rule-making. We believe integration of the various rule-making efforts applicable to the ABS markets will not result in significant cost to market participants or regulators. On the contrary, we believe such integration will actually streamline the process and ultimately reduce the cost of rule-making and the related implementation.

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We appreciate the opportunity to submit our comments on the Proposal. If you have any questions regarding our comments or other information included in this letter, please do not hesitate to contact Sam Ranzilla, (212) 909-5837, sranzilla@kpmg.com, or Glen L. Davison, (212) 909-5839, gdavison@kpmg.com.

Very truly yours,

KPMG LLP

cc:

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Commissioner Luis A. Aguilar
Commissioner Kathleen L. Casey
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James L. Kroeker, Chief Accountant