

Hawkins Delafield & Wood LLP

601 THIRTEENTH STREET, N.W.
WASHINGTON, DC 20005
WWW.HAWKINS.COM

March 21, 2017

Brent J. Fields, Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

Re: File No. S7-01-17


Dear Mr. Fields:

We are writing to request clarification of the compliance date of the proposed amendments to Rule 15c2-12 (17 CFR § 240.15c2-12) published for comment in SEC Rel. No. 34-80130 (Mar. 1, 2017) (the "Release")¹.

The Release provides that if the amendments were adopted, "they would apply to continuing disclosure agreements that are entered into in connection with primary offerings occurring on or after the compliance date of such proposed amendments." "Primary offering" defines when Rule 15c2-12 is applicable, absent an exemption.² In addition, the Staff has advised that "[t]he term 'offer' traditionally has been defined broadly under the federal securities laws and, for purposes of Rule 15c2-12, would encompass the distribution of a Preliminary Official Statement by the underwriter."³

This raises the question of whether the "compliance date," being tied to when the "primary offering" occurs, should be (i) the date of the distribution of the Preliminary Official Statement or (ii) the date the corresponding bond issue is settled, i.e., bonds are issued in exchange for payment of the purchase price, at which time the Continuing Disclosure Agreement is executed. It is our understanding that the Commission intended the latter. If that is the case, could the Commission or the Staff please confirm (either in response to this letter or in the Adopting Release) that the amendments, if and when adopted, would apply to Continuing Disclosure Agreements that are executed on or after the compliance date of the amendments (without regard to whether the applicable Preliminary Official Statement was used in connection with a primary offering that occurred prior to such compliance date).

Very truly yours,


John M. McNally

¹ 82 FR 13928 (Mar. 15, 2017).

² Rule 15c2-12(a) provides: "it shall be unlawful for any broker, dealer, or municipal securities dealer . . . to act as an underwriter in a primary offering of municipal securities" unless the provisions of the Rule are satisfied.

³ SEC Staff No-Action Letter to Mudge Rose Guthrie Alexander & Ferdon (Apr. 4, 1990).