PHFA
PENNSYLVANIA HOUSING FINANCE AGENCY

211 North Front Street
P.O. Box 8029
Harrisburg, PA 17105-8029
(717) 780-3800

Direct Dial: (717) 780-3849
email: rpeace@phfa.org

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Via Email Only - rule-comments@sec.gov

Re: File No. S7-01-17

The Pennsylvania Housing Finance Agency is submitting these comments to the proposed amendments to Rule 15c2-12.

PHFA is a state housing finance agency, ("HFA"), existing and operating to finance affordable housing in the Commonwealth of Pennsylvania. Since 1982, PHFA has been an active market issuer, and we currently have approximately $3B in outstanding bonds and notes. Ready access to the capital markets is critical for the performance of our mission. PHFA has long recognized and appreciated the importance of providing accurate and thoughtful disclosure of financial obligations and significant matters to the market and investors. Like many HFAs, PHFA has participated in a voluntary quarterly disclosure program since the mid 1990's to provide financial information on a quarterly basis on its website so investors in the secondary market have up to date information regarding its financial condition and the performance of its bond financed housing programs.

The proposed changes to Rule 15c2-12 rule may seem innocuous to some. After all, the notion that issuers should undertake disclosure of material matters to better inform the market is a fundamental concept upon which all should agree. However, the proposed Rule changes will not enhance the market or clarity in disclosure practices. The implementation of these proposed changes will be time-consuming, extremely costly and confusing.

First, the language in both amendments includes words which lack precise definition. "Financial obligation" seems to be broadly used to include just about anything. And, of course, the words "material" and "materiality" create nebulous standards which can depend on what transpires in the future affecting an issuer. The lack of a standard definition and clear guidance about what constitutes "material" makes everything a matter of judgment, subject to scrutiny, challenge and Monday-morning quarterbacking.

The judgment of an issuer regarding what items may be "material" will be suspect and challenged during the due diligence process. While that didactic process may sound appealing to the SEC, it will be difficult in practice and very time-consuming. Issuers will be the ones bearing the burden and the cost.

To elaborate, the added disclosures being required on EMMA would take considerable additional time and effort. First, there will need to be a standard consideration of what to disclose and why. Benchmarks and thresholds will need to be developed for issuers. These standards will need to be reviewed each time we engage in any type of financing transaction (and perhaps these benchmarks will need to be applied even more globally to statutory changes or legislative impacts which may have a financial impact on issuers.) The thresholds will need to be adjusted on a continuing basis and periodically revisited.

These disclosures will also involve other parties, including counterparties on each transaction. These parties may have sensitive information requiring redaction and negotiation relating to disclosure.

The disclosures need to be crafted carefully to ensure they are thorough and appropriately descriptive of the transaction. These documents will likely be prepared by disclosure counsel or other third party professionals (few issuers have dedicated in-house counsel to perform these on-going services). Hence, there will be added expense and professional fees passed along to issuers as part of the compliance process. Once filed on EMMA, the obligation continues in the event of any change to terms of these instruments or events which affect them (downgrade of the counterparty; change in collateral posted by counterparty; rule, regulatory change or litigation affecting the banking sector; federal or state tax matters that may impact the counterparty's performance or the benefits of the underlying financing may all need to be considered.) This compliance disclosure process will be a full time and costly challenge, especially for smaller issuers.

Even assuming the issuer has undertaken a review and produced a disclosure document for EMMA filing, underwriters counsel and their compliance desks may - and pursuant to the Rule- must make reasonable inquiry beyond the issuer's disclosure. Due diligence calls will be longer and documents may be demanded from underwriters for review by their compliance departments and counsel to determine if the issuer characterization is accurate. Ultimately, I expect there will be additional covenants and representations expected of issuers in the Bond Purchase Agreements- as underwriters seek to ensure that they have no risk and no stone is unturned regarding even minor issues that may someday-or under some stretch of the imagination- be viewed as material in an ultimate financial issue affecting the issuer. Further, even after complying with document reviews and requests as described above, I expect underwriters and their counsel will develop additional covenants for issuers to attest to in the underlying bond purchase agreements for each underwriting transaction.

One of the possible consequences of this regime would be for issuers to simply determine to submit everything to EMMA. Rather than be criticized or challenged for missing something someone else may deem "material" or "substantive", issuers could determine to just file everything. Filings of many nonmaterial transactions, insignificant events, and non-consequential items would actually flood the market. While clearly not the intended result, disclosure of actual material items would be much more obscured for investors forced to separate all of the filings stimulated by the Rule.

In my opinion, the cost and burden of the proposed changes is greatly underestimated. In addition, the time estimated for compliance with these changes is woefully understated.

The proposed Rule seems punitive and unnecessarily expensive, especially to HFA issuers like PHFA who have long respected the importance of providing meaningful disclosure to the secondary market. The SEC already has the power to enforce misleading underwritings that fail to disclose "material" items to the marketplace. The proposed Rule is not clear; it would create more harm than good- and would actually be counterproductive to creating robust meaningful disclosure.

Thank you for the opportunity to comment on this proposed rule. I urge you to withdraw the proposed Rule.

Sincerely,

Rebecca L. Peace
Deputy Executive Director and Chief Counsel

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