NCSHA

May 15, 2017

Brent J. Fields
Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20002

RE: Proposed Amendments to Exchange Act Rule 15c2-12, RIN: 3235-AL97

Mr. Fields:

On behalf of the state Housing Finance Agencies (HFAs) it represents, the National Council of State Housing Agencies (NCSHA) appreciates the opportunity to comment on the Securities and Exchange Commission's (SEC) proposed amendments to the Municipal Securities Disclosure Rule, Rule 15c2-12, that were published in the *Federal Register* on March 15, 2017 (RIN: 3235-AL97).

HFAs are state-chartered housing agencies that operate in every state, the District of Columbia, New York City, Puerto Rico, and the U.S. Virgin Islands. Though they vary widely in their characteristics, including their relationship to state government, they share a common goal of providing affordable housing help to their constituents who need it.

The sale of tax-exempt municipal Housing Bonds is vital to HFAs' affordable housing activities. HFAs utilize single-family Mortgage Revenue Bonds (MRBs) to help working families purchase their first homes. Through multifamily bonds, HFAs finance the development of affordable rental housing that would otherwise not have been built.

NCSHA supports SEC's goal of increasing transparency in the municipal securities market. However, we are strongly concerned that the proposed rule places overly broad and unduly burdensome disclosure obligations upon HFAs and other municipal issuers that will divert time and resources toward compliance and away from their public missions while providing little benefit to investors. We believe that SEC has already published sufficient regulations to ensure that issuers and their underwriters properly disclose material information and that, therefore, the proposed amendments are unnecessary. If SEC does go forward with this rule, we request that it include clear and narrowly tailored standards that describe what financial obligations need to be disclosed and limit such disclosures to such information that will clearly benefit investors.

The proposed rule would effectively require HFAs and other issuers to disclose within ten days any financial obligations the issuer enters into if they are "material." According to the proposed rule, "financial obligations" are short-term and long-term "debt obligations, leases, guarantees, derivative instruments, and monetary obligations resulting from judicial, administrative, or arbitration proceedings."

This expansive definition could easily be interpreted as compelling HFAs to disclose almost all obligations that they enter into. This includes direct placement bonds, loan obligations, routine draws from lines of credit, and standard business expenses such as purchases of equipment, software, and office space.

Satisfying these new reporting requirements will increase substantially the amount of time and resources that issuers will have to devote to meeting their reporting requirements at a time when they are already stretched thin. For each obligation, an issuer (or its counsel) would first have to determine whether the obligation is material, a difficult task given the proposed rule's dearth of guidance on how to determine materiality. If the issuer determines that the obligation is material and warrants disclosure, it will have to negotiate with the counterparty about what information the issuer can disclose; prepare a document outlining the germane factors for disclosure; respond to and address inquiries from all third parties (broker/dealer compliance offices and counsel) regarding both the disclosure and decision points; and negotiate the certifications they will require relating to the decision regarding the disclosure or non-disclosure. All these tasks must be completed before the obligation can be disclosed on the Electronic Municipal Market Access website (EMMA).

SEC estimates in the proposed rule that the new disclosure requirements will take issuers just over two hours to complete for each obligation reported. However, a comprehensive survey of municipal issuers, underwriters, and bond counsel conducted by the National Association of Bond Lawyers (NABL), which NABL submitted to SEC on April 11, finds that the information collection burden of the proposed rule could be 100 times greater than SEC's estimate.

In addition, because the proposed rule offers little substantive guidance on how issuers may determine whether a financial obligation is "material," HFAs and other issuers are likely to disclose all obligations that they enter into so as to avoid inadvertent violations. This will result in issuers spending an exorbitant amount of time compiling and reporting disclosures and flood EMMA with new information that is of little value to investors and other market participants.

The new disclosure obligations are likely to acutely impact HFAs. Many HFAs currently utilize mortgage-backed securities (MBS) sold through the to-be-announced market (TBA) to finance their affordable homeownership programs. Unlike with MRBs, HFAs first have to acquire program loans before packaging them into MBSs and selling the securities to investors. To facilitate this process, some HFAs have established lines of credit that they frequently draw on, sometimes daily, to finance the purchase of single-family loans. Under the proposed rule, HFAs would have to file a disclosure for each draw they make on these lines of credit, even though such draws are a part of routine program operations.

Secondly, many HFAs have also started issuing more bonds through direct placements, which the proposed rule would now require issuers to disclose. This alone would increase greatly HFAs' reporting requirements.

While the proposed rule would force HFAs and other issuers to devote more of their strained resources toward compliance, we do not believe that it would significantly improve market transparency. All material financial transactions are already required to be included in issuers' audited annual financial statements, which issuers are mandated to upload to EMMA in a timely manner. HFAs and other issuers also post other disclosures to EMMA, including any changes to their credit ratings or the ratings of their individual bond issuances. In addition, before issuing bonds, HFAs and their underwriters often conduct a thorough review of their public disclosures to ensure that they are up to date. The information provided in these disclosures should be sufficient to allow investors to make informed decisions about the quality of an HFA's bonds.

State HFAs and their partners rely on a high-functioning municipal securities market to finance their critical affordable housing programs. NCSHA recognizes the importance of transparency in ensuring that the market operates as efficiently and effectively as possible. That being said, we strongly believe that the proposed rule takes the wrong approach and will only serve to impose excessive disclosure obligations on issuers while providing little relevant information to investors.

For the reasons stated above, NCSHA believes that the proposed amendments are unnecessary, and that SEC should consider different means for increasing transparency and information-sharing in the municipal bond market. If SEC should decide to continue with this rulemaking, we ask that the final rule include clear and narrow definitions of "financial obligation" and "material" that: a) allow issuers to easily determine which financial obligations they must disclose; and b) require issuers to disclose only those obligations that are truly relevant to investors.

Thank you for your consideration of our comments. Please do not hesitate to contact me if we can provide additional information.

Sincerely,

Garth Rieman
Director of Housing Advocacy and Strategic Initiatives