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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

Re: *Disclosure for Asset-Backed Securities Required by Section 943 of the Dodd-Frank Wall Street Reform and Consumer Protection Act*  
Securities Act of 1933 Rel. No. 9148 (October 4, 2010)  
File No. S7-24-10

Dear Ms. Murphy:

Standard & Poor's Ratings Services, a nationally recognized statistical rating organization ("NRSRO") registered under Section 15E of the Securities Exchange Act of 1934 (as amended, the "Exchange Act"), welcomes the opportunity to comment on proposed Rule 17g-7 under the Exchange Act contained in the proposing release referenced above.

New Rule 17g-7 would implement Section 943(1) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") by requiring each NRSRO to include, in any report accompanying an asset-backed security ("ABS") credit rating, a description of (i) the representations, warranties and enforcement mechanisms available to investors and (ii) how they differ from the representations, warranties and enforcement mechanisms in issuances of similar securities. A note to the proposed Rule would clarify that a "credit rating" includes any expected or preliminary credit rating issued by an NRSRO.

Our responses to certain of the questions raised in the proposing release follow. As a general matter, we believe that investors will be best served if those who must prepare the proposed disclosure have the discretion to decide upon appropriate comparisons. We also believe that since it is the issuers or sponsors of ABS that determine the representations, warranties and enforcement mechanisms applicable to each security, it would be appropriate for NRSROs to be able to satisfy their Rule 17g-7 disclosure requirements, for both registered and unregistered transactions, by referring to the issuer's or sponsor's publicly available information.

QUESTION 31. *The Act and our proposed new Rule 17g-7 require disclosure of how the representations, warranties and enforcement mechanisms in a particular deal differ from the representations, warranties and enforcement mechanisms in the issuance of similar securities. We are not specifying in this release a definition for the term "similar securities." Should we define "similar securities"? If so, how should it be defined? Should similar securities be defined by*

*underlying asset classes (i.e., residential mortgages, commercial mortgages, auto loans, or auto leases, etc.)? Or should the distinction be narrower (i.e., prime residential mortgages, Alt-A residential mortgages, or subprime residential mortgages)? Or by sponsor (Originator A or Originator B, etc.)? Or by other ABS rated by the same NRSRO?*

We believe it would be appropriate to give the parties preparing the disclosure required by the new rule the flexibility to determine what constitute similar securities. Deciding whether one security is similar to another, and therefore deciding whether their terms are comparable, is ultimately a question of analytic judgment. For the Commission to substitute its judgment for an NRSRO's would risk limiting the NRSRO's analytic independence. That sort of a determination would involve regulating the substance of credit ratings and the procedures and methodologies by which they are determined, contrary to Section 15E(c)(2) of the Exchange Act.

As a practical matter, attempting to define the term "similar securities" prescriptively would risk artificially freezing the definition in time while the marketplace continues to evolve, because ABS that may be considered similar to one another today may not be in the future. For example, issuers of small-balance loans can originate loans based on numerous factors, resulting in a segment that today is less standardized than other loan products, but that is still evolving. The representations and warranties appropriate to this subset of transactions, and the securities to which they are similar, may therefore change over time. While we believe that investors, issuers, sponsors and other market participants will often conclude that the underlying asset class is a primary factor for characterizing asset-backed securities, there are often (as the Commission's question implies) many different ways to subcategorize and divide assets within a class, and the existence and popularity of these subcategories will not remain static. Within an asset class, representations and warranties will often vary significantly. For example, a set of representations and warranties for seasoned collateral which has a substantial track record of payment may not be appropriate for newly originated collateral where the accuracy of disclosures made at the time of origination is more relevant. At the same time, there may be cases in which the asset class is not as relevant as, for example, the form of credit enhancement accompanying the security, structural attributes such as the security's priority or term, or any combination of other factors. If the Commission were to define what makes one security similar to another, instead of letting NRSROs look to current market practice and apply their own analytic judgment, the new rule may end up mandating disclosures that investors over time come to find irrelevant. Additionally, investors might incorrectly (but reasonably) assume that regulators have made a determination that a new issue being marketed is similar to – and should be expected to perform similarly to – another available investment opportunity.

On the other hand, leaving the term undefined and allowing NRSROs latitude and judgment in selecting the relevant comparator group would maintain flexibility in the rule's application in the face of an ever-evolving market. The Commission and its staff would be

able to monitor similarity determinations, and issue comment letters and compliance and disclosure interpretations in order to guide market practice. This process would enable the Commission and its staff to formulate views over time and respond flexibly to market developments, without running the risk of pegging the rules to a snapshot of the ABS industry as it exists in 2010.

If the Commission nevertheless determines to define “similar securities,” or to issue detailed guidance in the adopting release for the new rule, we believe that a definition tied to underlying asset classes, while imperfect, would be preferable to a definition tied either to sponsor or to other ABS rated by the same NRSRO. Representations, warranties and enforcement mechanisms crafted for ABS composed of one asset class may be wholly inappropriate for another asset class, regardless of whether the sponsor and the rating agency are the same, and the resulting comparisons would therefore be largely meaningless. Representations and warranties regarding mortgage loans, for example, are very different from those regarding unsecured credit card loans, both of which are different from representations and warranties for loans secured by automobiles, or equipment leases; describing the differences between these representations and warranties simply because they involve transactions from the same sponsor or rated by the same NRSRO would result in information of little value.

QUESTION 32. *Section 932 of the Act further amends the Exchange Act by adding a new paragraph (s) to Section 15E requiring a form to accompany the publication of each credit rating that discloses certain information and requiring that we adopt rules requiring NRSROs to prescribe and use such a form. Would it be appropriate to require the inclusion of the disclosures about representations, warranties and enforcement mechanisms required under proposed Rule 17g-7 in the form used to make the disclosures that will be required under rules adopted pursuant to Exchange Act Section 15E(s)? Are there any timing issues that we should take into account in determining whether to do so?*

We believe it important that the form contemplated by Section 15E(s) of the Exchange Act not require information about representations, warranties and enforcement mechanisms, or similar securities, that is different from, or in addition to, the disclosures required by Rule 17g-7, because investors should not need to consult two different sources to locate relevant information on these topics. We also believe that when the Section 15E(s) form accompanies a rating report, the NRSRO should be permitted to include or refer to the Rule 17g-7 information in the Section 15E(s) form only, in order to avoid repetitive disclosure. We will be in a better position to comment on any timing issues associated with publication of the form after the Commission has proposed implementing rules.

QUESTION 33. *Should we require the proposed disclosure to include comparisons to industry standards in addition to similar securities? For instance, one organization has published model standards for representations, warranties and enforcement*

*mechanisms with respect to residential mortgage backed securities. What would be an industry standard for other asset classes?*

Like the question of what constitutes a “similar security,” the question of what constitutes an “industry standard” is one that will evolve over time, and for the reasons discussed above we do not think it would be appropriate for the Commission to select and designate “industry standards.” In addition to raising questions of analytic independence, such a designation could cause investor confusion, as investors may interpret it to mean that the Commission has decided what the representations, warranties and enforcement mechanisms for a particular ABS should include and what they may omit. In addition, certain securitization transactions are by their nature unique, and may not lend themselves to a comparison with “industry standards.” For instance, it would be difficult to set such standards for whole-business securitization transactions.

On the other hand, we believe there would be a real benefit to an interpretation that validates the use of market-driven standards for purposes of (rather than in addition to) the “similar securities” comparison. In those cases where investors regularly use a particular set of published standards to evaluate a new issue, this sort of comparison is likely to be much more useful than a comparison to a group of specific securities that investors on the whole may not have familiarity with. For example, the American Securitization Forum has published a standard set of representations and warranties for consideration in U.S. RMBS transactions, and may issue such guidance for other asset classes. As investors who focus on a particular market segment gain familiarity with these model standards, it is plausible to assume that they will derive more of an informational benefit from a “similar securities” discussion that describes how the representations and warranties for a particular security vary from these standards, than from a discussion of how they vary from other securities in the marketplace (indeed, the ABS being offered may largely duplicate other similar securities in the marketplace while materially deviating from model standards).

QUESTION 34. *Is there any reason not to consider an expected or preliminary credit rating to be a “credit rating” for the purposes of the proposed rule? If so, why?*

Assuming the Commission agrees with our suggestion below to permit disclosure of Rule 17g-7 information by reference to information made public by the ABS issuer or sponsor, we believe it makes sense for the rule to cover expected or preliminary credit ratings so investors have access to this information during the investment decision-making process. As noted below, representations, warranties and enforcement mechanisms can change up until pricing, and in some cases closing, of an ABS transaction. As a result, if the preliminary rating report is required to set forth Rule 17g-7 information (as opposed to referring the investor to up-to-date information), an investor reading a preliminary rating report after it is published may be presented with outdated information on the representations, warranties and enforcement mechanisms included within the ABS transaction.

QUESTION 35. *In the case of a registered ABS transaction, should we allow NRSROs to satisfy the requirement to disclose representations, warranties and enforcement mechanisms by referring to disclosure about those matters that is included in a prospectus prepared by an issuer?*

We believe it would be appropriate in both registered and unregistered transactions for an NRSRO to be able to satisfy Rule 17g-7 disclosure requirements by including a clear reference, in the published rating report, to information that is available to investors at the time of publication through EDGAR or through a public website maintained by the ABS issuer or sponsor.

The representations, warranties and enforcement mechanisms available to investors are determined by the issuer or sponsor and not by the NRSRO. As the Commission correctly noted in the proposing release, “the disclosures and drafts of transaction agreements that contain the representations, warranties and enforcement mechanisms related to an ABS transaction are prepared by the issuer and made available to NRSROs during the rating process.” (Proposing release at p. 47.) Importantly, representations, warranties and enforcement mechanisms can continue to be revised by the issuer or sponsor until the ABS transaction prices and closes. Therefore, the relevance and accuracy of any discussion of these matters by the NRSRO will be wholly dependent on information provided by ABS issuers and sponsors. We believe investors will be best served by being directed to the source of this information so that what they obtain will be the most current information available.

QUESTION 36. *Rule 17g-5, among other things, is designed to facilitate the performance of unsolicited credit ratings for structured finance products by providing a mechanism for NRSROs not hired by arrangers of structured finance products to obtain the same information provided to NRSROs hired by such arrangers to rate those products. As such, non-hired NRSROs performing unsolicited credit ratings pursuant to the Rule 17g-5 mechanism would have access to the same information on a transaction’s representations, warranties, and enforcement mechanisms at the same time as hired NRSROs. However, in the event that a non-hired NRSRO elected to perform an unsolicited credit rating not pursuant to Rule 17g-5, it would likely not have access to such information until it was made public. It is the Commission’s understanding that prior to the introduction of the Rule 17g-5 mechanism described above, NRSROs rarely, if ever, performed unsolicited credit ratings for structured finance products. Given the availability of the Rule 17g-5 mechanism, is it likely that any NRSROs would perform unsolicited credit ratings for structured finance products in the future without relying on that mechanism to obtain information from securitizers? If so, would such NRSROs be able to comply with proposed Rule 17g-7? Would it be appropriate for such NRSROs to include an explanatory note accompanying the disclosures required by proposed Rule*

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*17g-7 indicating that such disclosures were based only on publicly available information?*

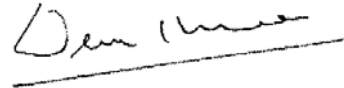
We agree that prior to the introduction of Rule 17g-5(a)(3) it was unusual for a non-hired NRSRO to issue an unsolicited ABS credit rating, and given the availability of the Rule 17g-5 mechanism it seems unlikely that a non-hired NRSRO would in the future attempt to issue such a rating without taking advantage of the mechanism. If the Commission agrees with our suggestion above, in the event a non-hired NRSRO that does not rely on the Rule 17g-5 mechanism issues a rating report after the first report issued by the hired NRSRO, the non-hired NRSRO will be able to include information in its report directing investors to EDGAR or the issuer's or sponsor's public website for up-to-date information on the transaction's representations, warranties and enforcement mechanisms. If such a non-hired NRSRO issues its rating report beforehand, however, we agree that the non-hired NRSRO should be able to indicate that its disclosures were based only on publicly available information. We do not think non-hired NRSROs that do not rely on the Rule 17g-5 mechanism should be excused from providing Rule 17g-7 information however, since Section 943(1) of the Dodd-Frank Act does not discriminate between NRSRO business models and Congress therefore presumably intended that investors have access to this information regardless of which NRSRO issues the rating report.

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We appreciate the opportunity to comment on the questions posed in the proposing release. Please feel free to contact me or Rita Bolger, Senior Vice President and Associate General Counsel, Global Regulatory Affairs, at (212) 438-6602, with any questions regarding our comments.

Sincerely yours,



Deven Sharma  
President  
Standard & Poor's

cc: Hon. Mary L. Schapiro, Chairman  
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