



November 15, 2010

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

By Electronic Mail

RE: File Number S7-24-10

Dear Ms. Murphy:

The Education Finance Council (EFC) is the trade association representing non profit and state-based student lenders. EFC members include state agencies engaged in financing of student loans that are securitized and thus are squarely under the SEC's definition of Exchange Act ABS therefore subject to the disclosures proposed in this rulemaking. EFC's comments on File Number S7-24-10 (the "Proposed Rule") are directed primarily at Section II.A.1 – Definition of Exchange Act ABS For Purposes of Rule 15Ga-1 and we ask that the SEC issue guidance that municipal securities not be included in the definition of Exchange Act ABS.

Student loan financings by municipal issuers fall into two categories. First are loans made under the Federal Family Education Loan Program (FFELP). The FFELP offers student loans that are financed by private lenders. State guarantee agencies guarantee the loans and the federal government reinsures the guarantees. The state guarantees generally cover (i) 100 percent of loans disbursed before October 1, 1993 and (ii) not more than 98 percent of loans first disbursed on or after October 1, 1993. In addition to reinsuring the state guarantees, the federal government also reimburses the state guarantee agencies for losses incurred on the guarantees. The second type is supplemental student loans which are unsecured consumer loans that are not reinsured by the federal government. Because supplemental loans do not benefit from federal reinsurance, private lenders consider the credit risk of potential borrowers when underwriting loans. As a result, private student loans have much stricter underwriting criteria and are offered based on credit worthiness. In addition, most supplemental student loans have co-signers to minimize the risk of default, which in turn increases the credit quality of these loans.

The Proposed Rule states that the Definition of Exchange Act ABS is much broader than the definition of asset backed security used in Regulation AB. The SEC suggests that the use of a broader definition will capture securities that are exempt from registration and points to collateralized debt obligations and securities issued by Fannie Mae and Freddie Mac as examples. However, securities of this type are different from municipal student loan ABS which currently offer investors significantly more transparency. Financing structures used by non profit student loan issuers are not typically special purpose vehicles like those which are the true focus of the statutory definition of Exchange Act ABS. Moreover, the bonds issued by some municipal student loan issuers carry a statutory state pledge further reducing the possibility of default. Finally, student loans made and guaranteed under the FFELP are governed by a strict regimen set out by the Higher Education Act



of 1965 and regulations promulgated by the U.S. Department of Education. This structure offers investors a clear understanding of the loans supporting the ABS. For these reasons, it's clear that financings issued by non profit student loan providers should lie outside the definition of Exchange Act ABS.

Further supporting the conclusion that municipal student loan financings are excludable from the definition of Exchange Act ABS is language from the Dodd-Frank legislation. In reviewing the legislative underpinnings of the broader definition of Exchange Act ABS, even with the breadth of section 941(a) its notable that none of the statutory terms used in clauses (i) through (v) of the definition to identify specific types of asset-backed security ("collateralized mortgage obligation", "collateralized debt obligation", "collateralized bond obligation", "collateralized debt obligation of asset-backed securities" and "collateralized debt obligation of collateralized debt obligations") are conventionally used to describe municipal securities, especially student loan securities.

It would seem, that neither municipal securities, nor securities that are directly issued by nonprofit organizations, would be subject to characterization as an Exchange Act ABS if: (i) such securities are payable as a general obligation of the issuer; and (ii) such securities are payable from specifically pledged revenues that are not "self-liquidating" or do not constitute "financial assets."

One important tenant of the Proposed Rule is to increase information for investor on non conforming loans that have a material impact on securities. It is critical to point out that in the non profit student loan context and in particular with loans made under the FFELP, there is no evidence of investor loss due to non conforming loans. The SEC should consider the fact that non provide student loan bonds do not go into default because of non conforming loans and are thus very different asset classes.

Requiring disclosure by non profit student loan issuers on the EDGAR system will lead to more information but not necessarily more useful information for investors. In recent years, investors have come to look to the Electronic Municipal Market Access (EMMA) system for information on municipal student loan financings. Moreover, the disclosures on the EMMA system for both FFELP and supplemental loan financings have been sufficient which means there is little need for the specific disclosures contemplated by the rule. Therefore, it makes little sense to direct investors to examine two systems that would have similar information.

EFC appreciates the opportunity to comment on this important rulemaking.

Sincerely,

A handwritten signature in black ink that reads "V. Sampson".

Vince Sampson
President
Education Finance Council