

September 26, 2008

Via email: rule-comments@sec.gov

Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090

Re: Release No. 33-8940; 34-58071; File No. S7-18-08

Dear Secretary,

Boeing Capital Corporation (“BCC”) submits this comment letter in response to the Commission’s request for comments in its rule proposal release entitled Security Ratings (the “Proposal”). BCC believes that the proposed \$1 billion debt issuance threshold contemplated by the Proposal is not an appropriate alternative standard for Form S-3 eligibility as it would impede the cost efficient and flexible access to capital currently enjoyed by many well known issuers. In addition, BCC believes that if the Commission does adopt the changes contemplated by the Proposal, additional changes should be made to permit certain subsidiary issuers to continue to be eligible to follow the reduced disclosure format used in their periodic reports.

### **Form S-3 Eligibility for Primary Offerings of Non-Convertible Securities**

BCC is the finance subsidiary of The Boeing Company (“Boeing”), which is a well-known seasoned issuer with a current market capitalization of over \$40 billion. BCC is a separate reporting company under the Securities Exchange Act of 1934, has outstanding \$3.7 billion of non-convertible investment grade rated debt securities and maintains shelf registration statements on Form S-3 for further public offering of investment grade debt securities. BCC has historically used Form S-3 registration statements to issue its public debt, which has provided it with the flexibility to issue approximately \$9.3 billion of debt securities from 2000 through 2003. However, BCC has not publicly issued any debt securities since December 2003, and therefore would not be eligible for Form S-3 if the Proposal were adopted.

In the proposing release, the Commission indicates that it believes that having issued \$1 billion of registered non-convertible securities over the prior three years would lead to a wide following in the marketplace, and that approximately six issuers would file on Form S-1 instead of Form S-3 under the changes contemplated by the Proposal. BCC believes that even though it has not issued securities in the public markets in over 4 1/2 years, as a wholly-owned subsidiary of Boeing and as a company with over \$3.7 billion of publicly issued debt securities outstanding, it is well known in the marketplace and should remain eligible for Form S-3 eligibility.

We agree with the comments on page 5 of the comment letter submitted on



September 4, 2008 by American Electric Power Company, Inc. regarding the effect that the loss of S-3 eligibility would have on impacted companies. Form S-3 eligibility significantly facilitates the capital raising process for well known issuers like BCC, and the loss of such eligibility would make the debt issuance process more expensive and less flexible, or alternatively, force BCC to issue its debt through exempt private offerings. In addition, we do not believe that requiring companies like BCC to register on Form S-1 would provide any tangible benefits to investors.

### **Reduced Disclosure Format for Certain Subsidiary Issuers Does not Apply to Form S-1**



In addition to our concerns about the loss of Form S-3 eligibility, we are concerned that if the Proposal were adopted as drafted, the disclosures that would be required of BCC and other similarly situated companies in order to publicly issue securities would increase dramatically. General Instruction I of Form 10-K and General Instruction H of Form 10-Q (the “Abbreviated Disclosure Instructions”) permit certain wholly-owned subsidiaries of reporting companies to file those forms with abbreviated disclosure. For example, subsidiary registrants like BCC are permitted to omit from their Form 10-K filings disclosure otherwise called for by the following Form 10-K items:

- Item 4, Submission of Matters to a Vote of Security Holders,
- Item 10, Directors and Executive Officers of the Registrant,
- Item 11, Management Remuneration,
- Item 12, Security Ownership of Certain Beneficial Owners and Management and
- Item 13, Certain Relationships and Related Transactions.

Because the integrated disclosure system utilized by Form S-3 permits eligible issuers to meet their disclosure obligations largely by incorporating by reference from their Form 10-K and 10-Q filings, subsidiary issuers that follow the reduced disclosure format are not required to include certain disclosures otherwise required by those forms in Form S-3. Form S-1, however, follows a detailed disclosure system requiring specific items from Regulation S-K, including many items not currently required of wholly-owned subsidiaries covered by the Abbreviated Disclosure Instructions. If the Proposal were adopted as drafted, BCC could only issue debt securities to the public pursuant to Form S-1. While Form S-1 would permit incorporation by reference of Form 10-K and other reports filed pursuant to Section 13(a) or 15(d) of the Exchange Act, for subsidiary issuers like BCC following the Abbreviated Disclosure Instructions, those incorporated filings would not satisfy certain of the disclosures required by Item 11 of Form S-1. That item would require the following Regulation S-K disclosures that BCC would not otherwise be required to include in its SEC filings:

- Item 401, directors and executive officers,
- Item 402, executive compensation,
- Item 404 transactions with related persons, and
- Item 407(e)(4), corporate governance.

Reporting subsidiaries such as BCC have a long history of filing their periodic



reports under the abbreviated disclosure regime and, accordingly, accumulating the information necessary to satisfy the additional required disclosures of Form S-1 would be time consuming and expensive. We also believe the inclusion of the Abbreviated Disclosure Instructions in Form 10-K and 10-Q reflects the view that the otherwise required disclosures are not critical to investors in debt securities of subsidiary issuers, a position which should not change merely because those issuers may need to register securities on Form S-1. The likely effect of these significant additional disclosure requirements would be to incentivize affected subsidiary issuers to issue securities pursuant to exempt private placements under Section 4(2) and Rule 144A, which could keep these securities from being available to the public. We do not believe this is the intent of the Proposal and believe that, at a minimum, the Proposal should be revised to take into account the effects on subsidiary issuers, which were not addressed in the proposing release.

### **Conclusion**

For the reasons stated above, BCC does not believe that the Commission should revise the eligibility criteria to use Form S-3 for issuers of non-convertible debt that is rated investment grade. If the Commission does revise its Form S-3 eligibility rules, it should make additional changes to its forms and rules to continue to permit subsidiary issuers that are eligible for the Abbreviated Disclosure Instructions to continue to have the benefits provided by those instructions in Form S-1.

Very truly yours,

A handwritten signature in blue ink that reads "Walter E. Skowronski".

Walter E. Skowronski  
President  
Boeing Capital Corporation