



**Mortgage
Insurance
Companies
of America**

Suzanne C. Hutchinson
Executive Vice President

July 25, 2008

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

File No: S7-13-08

Dear Secretary:

The Mortgage Insurance Companies of America (MICA) is pleased to comment on the Securities and Exchange Commission (SEC) proposals to tighten the standards governing conflicts of interest at credit ratings agencies (CRAs) and to require differentiation of symbols used for structured finance [73 Fed. Reg. 36212]. MICA is the trade association of the private mortgage insurance (MI) industry. As such, we have a keen interest in CRA issues. All MICA members are rated both as issuers (sometimes in conjunction with a parent firm) and in terms of claims-paying ability. CRA determinations have profound impact on MICA member eligibility to provide mortgage insurance to government-sponsored enterprises (GSEs), as well as to offer this insurance product to other mortgage lenders and investors.

MICA has long worked with the nationally-recognized statistical ratings organizations (NRSROs) to ensure that their approach to mortgage risk is prudent, forward-looking and appropriately takes into account capital and other critical risk-management concerns. We have frequently found that the NRSRO approach to rating mortgage instruments is seriously deficient – for example, with regard to the credit risk associated with second liens in “piggyback” mortgages, where the NRSROs vastly under-estimated a risk now roiling financial markets. With specific regard to ratings of mortgage insurers, there has been considerable confusion within the NRSROs on the differences between an issuer rating – which should pertain solely to the default risk associated with corporate obligations – and claims-paying ability – which should focus on long-term capital adequacy that ensures the ability of a provider of credit-risk mitigation to honor its commitments. Although recent NRSRO determinations on MI claims-paying ability have found firms to have AAA or equivalent capitalization, extraneous factors, germane only to an issuer rating (if at all) have adversely affected claims-paying determinations. Indeed, several of the NRSROs have even publicly opined on the merger-and-acquisition prospects for MI firms – an issue very far afield from appropriate, disciplined credit-ratings determinations.

1425 K Street, NW
Suite 210
Washington, DC 20005
(202) 682-2683
Fax (202) 842-9252

Some of these issues were addressed in the Commission's study of NRSRO practices¹, and we urge continued scrutiny of this critical issue as well as ongoing regulatory reform. In summary, MICA's comments are:

- We strongly support the proposed conflict-of-interest restrictions and associated disclosures. However, we urge the SEC carefully to monitor credit markets to ensure that new products are not developed to evade the definition of those that would be subject to these requirements. We also suggest clarification of the new structured-finance disclosures to be provided by arrangers to state that no non-public information related to third parties is subject to such disclosure.
- MICA also strongly supports the proposed requirement for separate reports or symbols that would differentiate ratings for structured-finance products from other asset categories with different default characteristics. As has been clearly demonstrated – with profound cost to homeowners, investors and the nation – structured-finance mortgage assets are wholly different than traditional mortgage-backed securities, with CRA determinations in the past derived from untested models – not proven performance of comparable obligations over complete business cycles. Separate symbols will alert investors to default risk, enhancing independent credit-risk analytics and, thus, investor and market protection. MICA suggests that the SEC clarify its rule to stipulate that any reports provided to guide investors to structured-finance default characteristics be clear and provide conspicuous, up-front summaries of critical information to ensure that these reports are useful alternatives to separate symbols.

Conflicts of Interest

MICA strongly supports the SEC's proposed approach to CRA conflicts of interest and urges quick adoption of a tough final rule, coupled with effective enforcement of its requirements. Although the SEC and, we hope, other regulators will soon take action to enhance investor understanding of the limitations of CRA determinations, they will remain a critical determinant of investor and regulatory decisions

¹ Summary Report of Issues Identified in the Commission Staff's Examination of Select Credit Ratings Agencies, United States Securities and Exchange Commission, July 2008.

for the foreseeable future. It is thus critical that rapid action be taken quickly to remedy not only conflicts of interest, but also faulty modeling, validation and other techniques used by the NRSROs.

MICA believes that SEC requirements in this area in no way violate current statutory restrictions on Commission interference with CRA methodology. As proposed, the SEC provisions leave the quantitative and qualitative aspects of CRA methodology solely within the agencies' purview, requiring only disclosures and validation subject to appropriate public and SEC scrutiny.

As proposed, many of the specific requirements apply to structured finance – an area where CRA determinations and procedures have of course been especially problematic. MICA supports this approach, but we urge the Commission carefully to monitor CRA practices going forward so that new structures that evade the technical definition of structured-financial instruments are not developed to circumvent needed conflict and process improvements. For example, one major problem in structured finance has been reliance on excess spread or similar fee-based forms of credit enhancement instead of proven forms of capitalized credit risk mitigation provided by regulated firms (such as private mortgage insurers). Because these forms of credit risk mitigation are backed by hard capital committed to make investors whole, they can be initially more costly than alternatives, creating an incentive for structures that may well leave investors taking unanticipated credit losses – of course, the result of current structured-finance arrangements in the private-label mortgage arena. The SEC should thus carefully address in this rule and subsequent enforcement actions any structures designed to evade urgently-needed ratings-agency discipline and disclosure.

While it is the job of the investor to look at the credit risk involved in a securitization, there has not been enough disclosure by the rating agencies with regard to their assumptions about the various forms of credit enhancement. Regardless of the form of credit enhancement present, potential investors should have a firm understanding of the assumptions used by the rating agencies with regard to mortgage insurance, excess spread and other forms of credit enhancement. In many cases, incorrect assumptions by the rating agencies regarding the value that mortgage insurance provides, coupled with incorrect assumptions about the amount of excess spread that would ultimately be available, led to the improper valuation of credit enhancement alternatives when structuring the deal. It also led to an inability for the investor to determine if they indeed had the proper amount and type of credit enhancement. Better disclosure of the methodologies used to model credit enhancement are critical and would

help investors determine whether these models were correct, adjust their risk appetite accordingly, and ultimately result in the proper valuation of different forms of credit enhancement. There are currently no incentives for rating agencies to disclose as this could result in less profitable securitizations for issuers, and competitive pressures would have ultimately driven business to those rating agencies that were less transparent in this regard.

Consistent with our support for the SEC's proposal, MICA endorses the new disclosures by structured-finance arrangers that will facilitate third-party validation of CRA conclusions and promote CRA competition. As noted, MICA has observed numerous serious lapses in CRA mortgage methodology and we believe these disclosures will bring needed discipline into the ratings process. We believe that the proposal, as released, provides protection for proprietary information submitted to CRAs, as well as protection for any personal information associated with individuals whose loans are included in structured-finance instruments. However, the Commission may wish to clarify the final rule to ensure that CRAs and arrangers fully understand that non-public information on third parties – such as mortgage insurers – involved in any structured-finance instrument may not be disclosed in connection with a CRA determination.

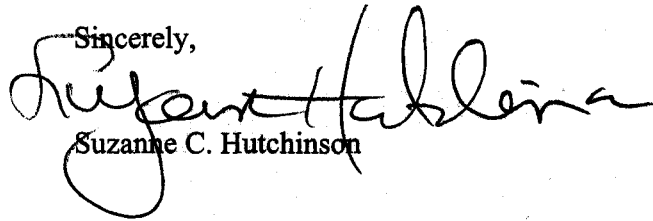
Symbology

As noted, MICA also supports the second aspect of the Commission's proposal, which would require NRSROs either to provide reports detailing the nature of their structured-finance ratings and clarifying their relation to other asset-class determinations or the use of separate symbols to differentiate such ratings. We have long been puzzled – if not appalled – by the ease with which AAA or equivalent ratings were granted to senior tranches in high-risk structured mortgage obligations that relied on unproven forms of credit risk mitigation (if any). These AAA designations led investors to conclude that these tranches were the risk equivalent of mortgage-backed securities backed by the express guarantees of the government-sponsored enterprises, diverting capital from prudent mortgage securitization into high-risk assets now posing profound systemic risk.

MICA is concerned, however, that CRAs could attempt to comply with the requirements by using only reports that, if too long and/or complex, could become the equivalent of prospectuses all too often ignored by investors in favor of simple ratings symbols. Thus, should the Commission decide not only to provide for separate ratings symbols for structured finance, but also to permit reports, MICA

suggests that the final rule be clarified to mandate that any such reports be clear and as short as possible, with clear conclusions that guide investors to key default-risk differences for structured finance clearly identified in a conspicuous statement summary at the outset of any such report.

Sincerely,

A handwritten signature in cursive script, appearing to read "Suzanne C. Hutchinson". The signature is written in black ink and is positioned above the printed name.

Suzanne C. Hutchinson