



December 3, 2018

Mr. Brent J. Fields, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File No. S7-19-18
Proposed Rule: Financial Disclosures About Guarantors and Issuers of Guaranteed Securities and Affiliates Whose Securities Collateralize a Registrant's Securities

Submitted via rule-comments@sec.gov

Dear Mr. Fields:

This letter is being submitted by Financial Executives International's (FEI) Committee on Corporate Reporting (CCR) in response to the Securities and Exchange Commission's (SEC or "the Commission") request for comment on the proposed rule: Financial Disclosures About Guarantors and Issuers of Guaranteed Securities and Affiliates Whose Securities Collateralize a Registrant's Securities (the "proposal").

FEI is a leading international organization of more than 10,000 members, including Chief Financial Officers, Controllers, Treasurers, Tax Executives and other senior-level financial executives. The Committee on Corporate Reporting (CCR) is a technical committee of FEI that reviews and responds to research studies, statements, pronouncements, pending legislation, proposals and other documents issued by domestic and international agencies and organizations. CCR member companies represent approximately \$8.6 trillion in market capitalization and actively monitor the regulatory activities of the SEC.

This letter represents the views of CCR and not necessarily the views of FEI or its members individually.

Executive Summary

We commend and support the Commission's proposed amendments to simplify the disclosure requirements for guarantors and issuers of guaranteed securities as well as for affiliates whose securities collateralize a registrant's securities. We believe the amendments appropriately reflect a direct alignment to the overarching principles of both Rule 3-10 and Rule 3-16. The more principles-based approach taken in revising these amendments, particularly as it relates to the conditions for relief and abbreviated disclosures, narrows in on the information about the issuers, guarantors and affiliate collateralization that is most critical to an investor's decision making. Further, these amendments are likely to significantly reduce the burden and cost to registrants of complying with the current requirements and encourage



additional debt offerings including guarantees. Because of this reduced burden, we expect to gain efficiencies with our auditors, including removing review time from the process which could allow some companies to file earlier. Additionally, we encourage the Commission to issue a final release as soon as possible, so that registrants can take advantage of the relief provided.

We have highlighted below some of the key amendments that we support and have also included for your consideration, additional recommendations that we believe can further enhance the improvements as proposed.

Rule 3-10 – Proposed amendments

Conditions to omit the financial statements of a subsidiary issuer or guarantor

We appreciate the Commission’s proposal to simplify the eligibility conditions that allow for the omission of financial statements of a subsidiary or guarantor. We believe the proposed changes to the eligibility conditions are better aligned with the overarching principles of Rule 3-10 and will simplify application of the rules.

Specifically, we support the Commission’s proposal to update the definition of “parent company” by replacing the requirement that each subsidiary issuer or guarantor be 100% directly or indirectly owned by the registrant, with the requirement that the registrant must consolidate each subsidiary issuer and guarantor in its consolidated financial statements. Similarly, we support the proposed amendment that explicitly identifies as an eligibility condition for omitting separate financial statements, the requirement that the subsidiary issuer or guarantor be a consolidated subsidiary of the parent company (i.e., can be less than 100% owned). We do not believe that the existence of non-controlling interest holders singlehandedly presents new, or alters existing risks or conditions, that would necessitate separate financial statements in order to satisfy a debt holder’s assessment of the subsidiary’s creditworthiness. We therefore support the Commission’s related proposed amendments and believe they would result in a positive expansion of the scope of subsidiary issuers and/or guarantors that would be eligible to omit separate financial statements.

Additionally, we appreciate the Commission’s efforts to streamline the specific issuer and guarantor structures that make a subsidiary issuer and guarantor eligible to omit financial statements. We appreciate the specific inclusion in the proposed eligible structures, including the requirement that the security is guaranteed fully and unconditionally by the parent company. We believe the parent company’s financial statements serve as the primary source of information for investors when debt securities are issued, and thus such requirements align the rationale for permitting omission with the overarching principles of Rule 3-10.



Recently-acquired subsidiary issuers and guarantors

We support the Commission's proposal to remove existing Rule 3-10(g) that requires pre-acquisition financial statements of recently acquired subsidiary issuers and guarantors. The related existing requirements result in more detail for recently acquired entities than is required for other subsidiary issuers and guarantors and require significant effort to compile. Thus, we believe this proposed amendment appropriately reduces the burden to preparers without forgoing pertinent information that would otherwise be largely covered by the requirements in Rule 3-05.

Disclosures

The current requirements to provide Consolidating Information often involves significant effort and presents various challenges to issuers. Systems are generally not set up to easily aggregate data needed to prepare the current disclosures based on the relevant debt structures, thus often requiring significant manual intervention. Additionally, we have observed that it is extremely rare for issuers to receive inquiries from investors on this information. We believe the Commission's proposal to replace Consolidating Information with Summarized Financial Information, supplemented by any additional line items if material to an investment decision, is a significant improvement to Rule 3-10. We further support the Commission's focus on the collective obligations of the issuers and guarantors, thus allowing for the presentation of the Summarized Financial Information on a combined basis. We believe these amendments would significantly reduce the complexity and level of effort required to prepare these disclosures, while providing more concise and focused information to investors. However, we believe there is room for even more streamlining and therefore offer the recommendations outlined below for further improvements to the presentation of the proposed Summarized Financial Information.

Rule 3-10 - Additional recommendations

Balance sheet information only

The proposed amendment requires Summarized Financial Information on select balance sheet and income statement line items. We believe the primary objective of these disclosures should be to provide investors with information regarding the issuer's ability to repay its guaranteed obligations. Therefore, we believe that for most entities, balance sheet information on current and non-current assets and liabilities is sufficient to allow investors to monitor and assess the obligor's ability to make payments as due. For many users of the financial statements, balance sheet information would be sufficient to provide a debt holder with insight into the nature and liquidity of the assets held by the issuer and guarantors, as well as the composition of liabilities and obligations. In the event of default, these assets would potentially be used to satisfy obligations, as well as service the debt in connection with the guarantee. We recommend the Commission consider revising the proposed amendment to allow presentation of balance



sheet guarantor financial information only (i.e., and not summary income statement information) in circumstances where such information is sufficient to provide transparency into the entity's financial condition.

Periods to present

We also applaud the Commission's proposal to reduce the number of periods presented and to require Summarized Financial Information only for the most recently completed annual and year-to-date interim periods. We believe this proposed amendment is important because many issuers experience changes to the legal-entity structure. We have the following additional recommendations regarding the frequency of disclosures and the number of periods presented.

Frequency

We believe that these disclosures should only be required at interim periods if material changes have occurred since the most recent annual period. We believe preparers should not be required to repeat annual disclosures in interim reporting if no material changes have occurred, similar to Rule 10-01 (a)(5) of Regulation S-X, which allows registrants to apply judgment and omit details of accounts that have not changed significantly in amount or composition since the end of the most recently completed fiscal year.

Number of periods presented

Additionally, whether Summarized Financial Information is required for interim periods or just annually, we believe that only the current period information should be required because that is the most relevant information to an investor's decision-making, particularly because many issuers experience legal-entity structure changes. In such circumstances, recast financial information from a prior period is not useful to investors when presented alongside the more current information that already reflects the respective changes to the legal-entity structure. Further, the proposed enhanced qualitative disclosures sufficiently address the impacts of any legal-entity reorganization in the guaranteed securities.

Thus, we recommend the Commission reassess the proposed amendment regarding periods presented in an effort to further streamline the information provided.

Related party balances and transactions

We recommend the Commission consider permitting companies to elect whether to exclude all related party balances and transactions with subsidiaries that are not issuers or guarantors ("Other Subs") from the Summarized Financial Information of the Obligors. The exclusion of non-obligated subsidiaries eliminates possible confusion over amounts attributable to them and the use of the equity or cost method



of accounting for investments in Other Subs, as well as intercompany receivables and loans with Other Subs, all result in indirectly including Other Subs' value within the Obligor disclosures. Therefore, for some entities, the exclusion of transactions and balances with Other Subs may result in management's most accurate portrayal of the financial information of the Obligors. We believe allowing this as an election is important in order to address the variety of legal-entity structures that may exist in connection with this type of debt.

We agree with the Commission that related party transactions with Other Subs is an example of additional information that may be material to investor decisions, and thus may require disclosure. However, we believe that it would be even more meaningful to simply exclude these balances and transactions all together.

Rule 3-16 – Proposed amendments

We are supportive of the Commission's proposed amendments that would replace the requirement to provide separate financial statements for each affiliate whose securities are pledged as collateral with a requirement to provide, when material to investors in the collateralized security, Summary Financial Information, non-financial information and additional qualitative or quantitative information.

We believe these proposed amendments are more aligned with the overarching principles of Rule 3-16 and like the proposed amendments to Rule 3-10, would result in increased focus on the most pertinent information to investors while also easing the burden to registrants.

Consistent with our recommendation for Rule 3-10, we suggest the Commission consider limiting the proposed amended disclosures to annual periods only, unless there are material changes since the last annual period. We also offer the same recommendation regarding the number of periods presented, recommending that only the current period information be required.

Conclusion

We believe the proposed amendments to Rule 3-10 and to Rule 3-16 respectively, would result in disclosures that best reflect the overarching principle that the consolidated parent company is the primary source of information for investors when evaluating the debt security and its guarantees, and when making decisions about the registrant's securities that are collateralized by securities of its affiliate(s). The proposed amendments will streamline disclosures to focus on the most relevant information, effectively reducing the complexities involved in both preparing and interpreting the related disclosures. We hope that you also consider our additional recommendations. We stand ready to assist in continued dialogue on this topic, again, we encourage the Commission to issue a final release as soon as possible.



Sincerely,

Mick Homan

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Chairman, Committee on Corporate Reporting
Financial Executives International

Cc: Wes Bricker, Chief Accountant, Office of Chief Accountant
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