

National Federation of Municipal Analysts
Recommended Best Practices in Disclosure
for Variable Rate Demand and Short-Term Securities



The National Federation of Municipal Analysts (NFMA), since our 1983 inception, has been in the forefront of efforts to improve disclosure of credit and market risks that have faced analysts and investors in the taxable and tax-exempt municipal bond markets. Our work in this regard has been recognized by other industry associations and by various regulatory bodies, and an amicus brief we filed with the US Supreme Court in re Davis v Kentucky was cited by the Court in support of their decision in that case.

NFMA is an organization of over 1,200 members, primarily research analysts, whose profession is to evaluate credit and other risks of municipal securities. These individuals represent, among other types of firms, mutual funds, insurance companies, broker/dealers, commercial banks, and rating agencies.

NFMA's disclosure efforts have ranged from global issues, some of which are communicated to members of Congress and federal regulatory agencies, to detailed work on specific credit sectors. For further information on our continuing efforts to improve municipal disclosure, please refer to "Disclosure Guidelines" and "Position Statements" in the "Publications" section of our website (www.nfma.org).

Our primary means of communicating sector-specific recommendations are "White Papers" and "Recommended Best Practices in Disclosure" (RBPs).

White Papers are NFMA's preferred method of comment when our disclosure recommendations have not previously been articulated in a detailed or organized manner. As a rule, White Papers are written by a team of NFMA members who represent different types of companies.

Recommended Best Practices in Disclosure (RBPs), on the other hand, are utilized when a given analytical topic has previously been subject to thorough discussion. When RBPs are developed, diverse groups of NFMA analysts work with representatives of industry groups and other market professionals to develop best practices guidelines on certain market sectors or topics.

This Recommended Best Practices for Variable Rate Demand and Short-Term Securities updates a 2003 RBP on the same topic to account for changes that have occurred in the market since that time. This document is not intended to supplant the amendments to Rule 15c2-12 or Rule 2a-7 and should be used in conjunction with the guidance provided in these rules and amendments. It is important to note that the NFMA's disclosure efforts are a continuing process. These guidelines are not static documents, and will be revisited and changed as market conditions warrant. We encourage interested parties to submit comments at any time to lgood@nfma.org so that they can be considered in the development of future versions of these RBPs.

The NFMA Recommended Best Practices in Disclosure are not intended to be a "one size fits all" recommendation, and all the information requested may not apply to every transaction in

the sector. We encourage the providers of information to indicate when a specific item requested in the Recommended Best Practices is not applicable to a specific transaction.

Introduction

This document focuses on disclosure needs associated with variable rate demand and short-term securities. These disclosure recommendations are driven primarily by the regulations applicable to money market investors, who are the largest purchasers of short-term securities. These investors are responsible for compliance with the March 1996, December 1997 and May 2010 Amendments to Rule 2a-7 issued under the Investment Company Act of 1940 (together referred to herein as “Rule 2a-7”), which governs eligible investments for money market funds.¹² Although some municipal obligors are aware of the requirements of Rule 2a-7 and have adopted the disclosure practices required for their securities to be Rule 2a-7 eligible, a material number of new and remarketed issues require structural modifications to be considered eligible for money market investment. This typically reflects an incomplete or incorrect understanding of the intricacies of Rule 2a-7 on the part of the obligor and its bankers and counsel.

The thrust of Rule 2a-7 is to allow a mutual fund to utilize the amortized cost method of security valuation. To do this, the portfolio must conform to strict requirements with respect to security structure, portfolio diversification, effective maturity, and credit quality. As a result, many of the following disclosure best practices discussed in this RBP address structural characteristics of the security and not credit *per se*. Money market investors must also have access to regularly updated information to make regular determinations of creditworthiness of the obligor, the credit enhancer or liquidity provider, as applicable.

The following RBP for Variable Rate Demand and Short-Term Securities apply to a broad range of issuers and debt issues of varying size and complexity. For variable rate demand bonds and notes (“VRDNs”), particularly credit-enhanced deals, our analysis is focused on the aspects that are required to allow for a full substitution of the ultimate borrower's credit by a third party for purposes of Rule 2a-7. The analysis is more of a structural nature encompassing aspects of Rule 2a-7, certain aspects of Subchapter M of the Internal Revenue Code (which extends pass-through status to certain regulated investment companies or “RICs”), the tax-exempt status of the VRDNs and review of automatic termination events, and less on traditional credit analysis of the borrower or credit enhancer. We recognize that a traditional credit analysis of the principal obligor(s) is also required to make an informed investment decision. When the issuer's or

¹ 17 CFR 270.2a-7, as amended by Release 21837, 22921 and 29132. Revisions to Rules Regulating Money Market Funds, Investment Company Act Release No. 21837 (March 21, 1996) [61 FR 13956 (March 28, 1996)] (“Release 21837”). The current text of Rule 2a-7 effective May 5, 2010 is attached as Appendix 3 hereto. Alternatively, see internet address <http://www.sec.gov/rules/final/2010/ic-29132.pdf> for a complete copy of the Rule.

² On March 9, 2011, the SEC proposed additional amendments to Rule 2a-7 which, if adopted, would delete references to ratings and rating agencies from the rule. These proposed amendments to Rule 2a-7, while perhaps changing some of the formal requirements for ratings on money market eligible securities, would not alter the disclosure requirements and best practices summarized in this document as those requirements always applied independent from the rating requirements. See SEC Release Nos. 33-9193; IC-29592; File No.S7-07-11]RIN 3235-AL02References to Credit Ratings in Certain Investment Company Act Rules and Forms.

conduit borrower's credit is relevant, market participants should look to NFMA's RBP for the sector appropriate for that issuer.

This document does not address the specifics of secondary market synthetic securities, prerefunded bonds, or any maturity of long-term bonds that has become money market eligible.

- Secondary market synthetic securities, known as tender option bonds or "TOBs," are usually structured to mimic the features of VRDNs, and have structural and disclosure issues similar to primary market securities. The structural issues will be discussed in this document. Additional analysis typically conducted on synthetic securities is of a tax and legal nature and is not within the scope of this document.
- Prerefunded or escrowed to maturity securities are specifically addressed by Rule 2a-7; special provisions include the certification of the escrow by an independent CPA or that the refunded security has been rated as defeased by a Nationally Recognized Securities Rating Organization ("NRSRO").
- For long-term bonds that have become money market eligible, we refer obligors to the sector specific NFMA RBPs.

We would also like to note that assignment of a short-term rating by the NRSROs does not mean that a security has satisfied all of the SEC requirements to be eligible to be acquired by a money market fund. To the contrary, Rule 2a-7 requires fund managers to make their own independent minimal credit risk determinations for all eligible securities based on factors the managers deem to be relevant, which may include requirements above and beyond rating agency requirements. This RBP attempts to describe the criteria applied by most money market fund managers in the course of their independent security evaluations. This is not a recapitulation of all SEC requirements, and goes beyond the rating agency and SEC requirements where appropriate. See Footnote 2 regarding proposed changes to rating requirements in Rule 2a-7.

This document is not comprehensive as to all items that should be included in an offering document, but rather has focused on some of the items that are often not uniformly disclosed for variable rate demand and short-term securities and that are required or highly desirable for purchase of the security by a money market fund. The fact that money market funds constitute the primary market for such securities should provide ample incentive for obligors and their advisors to understand and meet their requirements and preferences. Moreover, those non-money market accounts that also purchase variable rate demand and short-term securities generally are managed by fiduciaries that will require most if not all of the structuring and disclosure required by money market funds.

Obligors are encouraged to consider these suggested practices as a floor and not a ceiling. Improved disclosure is in the interest of all market participants, as it should expand the investor base and improve liquidity.

Organization of the Document

This document is organized to address the disclosure requirements of the different types of short-term debt. Section A provides an overview of pertinent requirements of Rule 2a-7. Section B discusses variable rate securities, which include variable rate demand bonds and notes, bonds in term mode ("put bonds") and commercial paper. Section C addresses short-term fixed-rate securities. Finally, Section D includes appendices addressing disclosure and Rule 2a-7. The specific sections are:

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 - a) Note Structure/Information
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Appendix 2. Cash Flows

Appendix 3. Recommended Initial and Periodic Disclosure of Investments/Liquidity

Appendix 4. Rule 2a-7

A. Overview of Rule 2a-7

All mutual funds that hold themselves out as “money market funds” are governed by Rule 2a-7 under the Investment Company Act of 1940 (the “Investment Company Act”). Rule 2a-7 establishes substantive limits on securities that are “eligible securities” for a money market fund, including strict limits on:

- 1) the quality of instruments in which a money market fund may invest;
- 2) the diversification of instruments in the fund’s portfolio; and,
- 3) the weighted average maturity of such instruments.

Rule 2a-7 also imposes procedural requirements on the fund’s board of directors and investment adviser for establishing compliance with these substantive restrictions; and allows the fund’s board of directors to delegate the administration of and compliance with these restrictions to the fund’s investment advisor pursuant to written procedures.

1) Quality Requirements

With limited exceptions, money market funds (including tax-exempt money market funds) may not purchase or hold a security unless it is rated in one of the two highest short-term rating categories by a specified number of NRSROs, or, if not rated, is comparable in quality to such rated instruments.

In addition, all securities purchased by a money market fund must meet a “minimal credit risk” requirement. The fund’s advisor must make the independent minimal credit risk determination prior to purchase, and such determination must be documented in writing.³ **It is important to note, a rating agency’s assignment of a qualifying short or long-term rating to a security is not equivalent to a determination of minimal credit risk by the fund’s advisor and, therefore, does not mean that the security is automatically suitable for purchase by a money market fund. This central requirement is all too often unknown to, or ignored by, municipal obligors and those who advise and assist municipalities in structuring VRDNs or**

³ The SEC’s Division of Investment Management has stated that examples of elements of such an independent credit analysis include: a cash flow analysis; an assessment of the issuer’s ability to react to future events, including a review of the issuer’s competitive position, cost structure and capital intensiveness; an assessment of the issuer’s liquidity, including bank lines of credit and alternative sources of liquidity to support its commercial paper; and a ‘worst case scenario’ evaluation of the issuer’s ability to repay its short-term debt from cash sources or assets liquidations in the event that the issuer’s backup credit facilities are unavailable; Letter from staff of SEC Division of Investment Management to Registrants (pub. avail. May 8, 1990); macro-economic factors which affect the issuer’s or guarantor’s current and future credit quality; the strength of the issuer’s or guarantor’s industry within the economy and relative to economic trends; the issuer’s or guarantor’s market position within its industry; cash flow adequacy; the level and nature of earnings; financial leverage; asset protection; the quality of the issuer’s or guarantor’s accounting practices and management; and the likelihood and nature of event risks; Letter from staff of SEC Division of Investment Management to Investment Company Institute (pub. avail. Dec. 6, 1989); and any additional factors it believes to be material in assessing the credit risks posed by a particular investment; Revisions to Rules Regulating Money Market Funds, July 17, 1990.

other short-term security. Further, if a security ceases to present minimal credit risk, it becomes an ineligible security and may have to be sold as promptly as practicable.

2) Diversification Requirements

Rule 2a-7 subjects money market funds to strict diversification requirements. Consequently, the identity of the obligor for a security and of any guarantor/credit enhancer or liquidity provider must be known at all times. Rule 2a-7 requires that in order for such a security to be eligible for money market fund acquisition, the obligor or some other party to the transaction must agree to provide notice prior to any substitution of a guarantor/credit enhancer or liquidity provider. In addition, because the requirements for Rule 2a-7 diversification are tighter if there is a control relationship between the obligor and a provider of credit enhancement or liquidity for a security, the existence of any such control relationship must be known at all times.

3) Maturity Requirements

Rule 2a-7 limits the portfolio weighted average maturity of the investments owned by a money market fund to 60 days, with no maturity to exceed 397 days. Rule 2a-7 also limits the weighted average maturity of portfolios, determined without regard to interest rate resetting maturity shortening features, to 120 days. Any security that has received a rating in the second highest short-term rating category, known as a “Tier 2” security, must have a maturity of no more than 45 days. A security with a nominal maturity that exceeds the maturity restrictions of Rule 2a-7 (as is the case with the typical VRDN) may nonetheless qualify if the money market fund has the right to tender or put the security at specified intervals of 397 days or less, in either case on not more than 30 days notice. Such a tender or put right may be unconditional, or, subject to certain limitations, conditional. Because the availability of the tender or put right is crucial to compliance with the maturity restrictions, the creditworthiness of the party obligated to fund the tender or put must be high, and the likelihood of occurrence of any “terminations” of such party’s funding obligation must be remote. Specifically, the following requirements of Rule 2a-7 must be satisfied for a security to comply with a money market fund’s maturity restrictions based on a conditional tender or put right (a “Conditional Demand Feature”):

Rule 2a-7(c)(3)(iv) - Portfolio Quality: Securities Subject to Conditional Demand Features

“A security that is subject to a Conditional Demand Feature (“Underlying Security”) may be determined to [satisfy the maturity and credit requirements of Rule 2a-7] only if:

- (A) The Conditional Demand Feature [meets the requirements of Rule 2a-7];
- (B) At the time of the [a]cquisition of the Underlying Security, the money market fund’s board of directors has determined that there is minimal risk that the circumstances that would result in the Conditional Demand Feature not being exercisable will occur; and

- (1) The conditions limiting exercise either can be monitored readily by the fund, or relate to the taxability, under federal, state or local law, of the interest payments on the security; or
- (2) The terms of the Conditional Demand Feature require that the fund will receive notice of the occurrence of the condition and the opportunity to exercise the Demand Feature in accordance with its terms; and,..."

4) Portfolio Liquidity

Rule 2a-7 requires funds managers to hold securities that are sufficiently liquid so that funds can to meet reasonably foreseeable shareholder redemptions. In furtherance of this general liquidity requirement, Rule 2a-7 specifically prohibits excess holdings of illiquid securities and imposes daily and weekly liquidity requirements, as follows:

- Funds cannot invest greater than 5% of their assets in securities that cannot be disposed of at cost within 7 calendar days;
- Taxable funds must hold at least 10% of their assets in cash, U.S. Treasury obligations or securities that can be tendered within one business day; and
- Both taxable and municipal funds must hold at least 30% of their assets in cash, U.S. Treasury obligations and other government securities, or securities that can be tendered within 5 business days.

5) Procedural Requirements

Compliance with the requirements of Rule 2a-7 must be tested at the time of purchase of the security, and the analyst for a money market fund must be in a position to monitor the continuing eligibility of all securities held by the fund (e.g., the identity of all obligors, credit enhancers and liquidity providers, rating status, minimal credit risk status, minimal risk status regarding loss of tender or put right). Changes to any fundamental characteristics of the security must be disclosed to investors and potential investors.

Credit-enhanced deals and deals with liquidity facilities present difficult procedural issues with respect to substitution of the credit enhancer or liquidity provider, as applicable. Even if the rating of the security will be maintained, the requirements regarding minimal credit risk determination and diversification necessitate notice to the money market fund in sufficient time for the fund to make the required determinations in advance of the substitution. Securities generally are held through the Depository Trust Company ("DTC") book-entry system, and the translation and timing risks inherent in the communication of notices from the obligor or issuer to DTC to the DTC participant to the beneficial owner/money market fund are such that most money market funds insist on a mandatory tender (with a right to retain) for any security upon a credit enhancement or liquidity facility substitution (or change of any other feature that must be evaluated for Rule 2a-7 compliance).

As noted above, where compliance with the Rule 2a-7 maturity requirements depends on the existence of a liquidity facility supporting a tender right, the conditions giving rise to

a termination or suspension of the tender right must be both remote and monitorable, and accordingly, the analyst for the money market fund must be provided with sufficient ongoing information to permit the necessary monitoring. In addition, the security must be structured in a manner that ensures that the money market fund will receive notice of the potential termination event with sufficient time to effect a tender before the liquidity facility terminates.

Rule 2a-7 can be found in Appendix 4 and should be referred to for more detail. Issuers and investment bankers who are bringing to market short-term debt that is intended to be offered to money market funds should consider consulting with or retaining bond counsel with an expertise in the Investment Company Act and regulations applicable to money market funds, including Rule 2a-7. This is particularly true for VRDNs, which often raise a variety of structuring and compliance issues. Alternatively, such issuers and investment bankers should consider speaking directly with the analysts who manage money market fund assets, most of whom are more than happy to provide their specific requirements for determining that a security is eligible for purchase.

B. Variable Rate Demand Securities

In order to facilitate a money market fund analyst's determination that a variable rate demand security is eligible for purchase and continues to be an eligible money market fund investment, the NFMA has compiled the following RBP. Even when the target market for the offering does not include money market funds, the practices outlined by these recommendations will largely be necessary to permit fiduciaries to purchase such securities on behalf of their clients. The first subsection contains recommendations applicable to all variable rate demand securities, and is followed by additional subsections containing recommendations applicable to particular types of variable rate demand securities.

1) General Items – Official Statement Disclosure

a) Concise Outline

Include near the front of the official statement a concise outline of the following terms of the security for the mode in which it is offered, if applicable:

- **Fundamental changes** – Mandatory tenders and/or notice provisions, and/or provisions of bond counsel opinions associated with:
 - substitution, termination (scheduled or early) or extension of credit or liquidity facilities;
 - interest rate mode changes; and
 - creation of or a change in a control relationship between a credit facility or liquidity facility provider and obligor.
- **Interest payment dates** – Defined interest payment dates for all interest modes summarized in the disclosure (or initial mode if conversion requires a mandatory tender).
- **Credit/liquidity changes** – Conditions, if any, that may cause termination of a credit facility or liquidity facility prior to a mandatory tender.
- **Initial terms** – Initial interest rate mode, interest accrual, initial credit/liquidity provider(s), amount of principal and interest coverage, and expiration date.
- **Table of credit/liquidity support** – If there are multiple series or subseries of bonds and multiple associated credit or liquidity enhancers, a table identifying which enhancers will be supporting each series or subseries of bonds with applicable expiration dates for each facility.

b) Underlying Obligor and Project

Identify and provide background information on the ultimate obligor, including the obligor's full legal name, corporate status, and location(s) of principal business or activities. Also, identify each of the following at a minimum:

- **Purpose** – The purpose of the borrowing and the use of proceeds, including:
 - New money – The type of project being financed (e.g., capital projects, equipment or renovations), including the location of the project and the expected timeframe for completion of the project and expenditure of the proceeds; and,
 - Refunding – Whether the bond issue constitutes a current or advance refunding, including the date on which the refunding proceeds are expected to be used to redeem or otherwise pay off existing debt. Also, identify the tax-exempt debt being refinanced and trace the use of proceeds back to the original use or project that justified the tax exemption.
- **Project funding** – If any part of the project has a private or commercial use, the project's cost and source(s) of funding should be identified.
- **Other** – If the security does not have credit enhancement (or to qualify for purchase by investors for whom the underlying obligor's credit is relevant), the specific lien pledged to the bonds should be identified. If there is no specific pledge, the description should clearly state that there is no underlying pledge. The recommended disclosure should follow the NFMA's RBPs for that sector and as provided under Section B, *Securities with Conditional Demand Features* and Section B, *Unenhanced Securities with Internal or Self-Liquidity*, on pages 22 and 26, respectively.
- **Pooled transactions** – If the security is a pooled transaction, provide the foregoing disclosure on the underlying obligors, including what percentage of the pool each obligor represents and whether each obligor's percentage will remain static over the life of the security. For diversification purposes, analysts must be able identify each obligor representing 10% or more of a pool.
 - No 10% obligors – If the pool is not static but there will never be any 10% or greater obligors, there should be an affirmative statement to that effect.
 - Disclosure of 10% obligors – If the pool is not static and there may be 10% or greater obligors, there should be periodic continuing disclosure on the composition of the pool.
- **Control relationships** – If there is credit enhancement or a liquidity provider on the security, provide an affirmative statement regarding the control relationship, if any, or the absence of a control relationship between the obligor and the institution providing the

enhancement or liquidity. Notice should be also provided if there ever is a change in the relationship, even if none exists initially.

- **Ongoing disclosure** – Issuers should be aware that some investors perform a credit review and ongoing surveillance of the underlying obligor even if the security includes full credit enhancement and liquidity support from a vehicle such as a letter of credit. Those organizations may request initial and continuing disclosure of financial and operating information for the obligor and the project. Any disclosure for such issuers should be provided consistent with the NFMA’s RBPs for the sector appropriate for that issuer.

c) Interest Modes and Conversion

Variable rate securities often have different possible interest rate modes such as daily, weekly, monthly, dutch-auction, commercial paper and term. The disclosure should provide clear information relating to legal and mechanical aspects of the securities for all interest modes that could be in effect without a mandatory tender. Disclosure, at a minimum, should include:

- **Max rate** – The maximum or ceiling interest rate for the bonds;
- **Rate determination** – When and how the interest rate is established and updated in each of the various modes, clearly indicating that the remarketing agent is obligated to establish a rate for the security that would allow it to be sold for approximately its amortized cost value (i.e., principal amount if offered and sold without premium or discount) plus accrued interest, and the method for determining a default rate if for some reason a new rate is not established or if the tender price is not paid by the obligor or liquidity provider;
- **Procedures for rate conversions** – The procedure, conditions and permissible dates for interest rate conversions, preventing rate conversions in the middle of interest rate periods, except in daily and weekly modes (mandatory tender and successful repurchase being preferred for all conversions between interest rate modes and required for conversion to a fixed rate or other non-money-market eligible mode); and
- **Interest payment schedule** – The interest accrual and payment schedule, distinguishing between the interest accrual and interest payment dates and specifying through which day interest is paid on an interest payment date.

d) Demand Feature or Optional Tender Disclosure

The demand feature is essential to satisfying Rule 2a-7 maturity requirements. Disclosure related to the demand feature should include:

- **Exercise price** – This must be the approximate amortized cost value (generally equal to principal amount) plus accrued interest.

- **Tender mechanics** –
 - Notice of tender – Disclose the form and required timing of the notice that holders must submit, whether the beneficial owner or only DTC may submit the notice and to whom the notice must be given. With respect to the timing, disclose whether the required notice period is in business or calendar days. Intervals between permitted tender dates must be no longer than 397 calendar days, and advance notice of exercise of the demand feature can be no longer than 30 calendar days.
 - Tendered securities – Disclose how tendered securities are transferred. There should not be any limitations in the governing bond documents on the transferability of tendered securities or any limitations on the trustee’s obligation to effect the transfer of tendered securities; any such limitations, such as a limitation on the trustee’s obligation to effect transfers of bonds that are being called for redemption, might curtail the ability of bondholders to tender bonds and affect the eligibility of the bonds under Rule 2a-7.
 - Source of payment of the tender price – Disclose the sources of proceeds permitted by the legal documents to be used to pay the tender price and the priority in which those funds must be used. If there is credit or liquidity enhancement, disclose the legal provisions requiring a draw on the enhancements, including the timing of required drawings and the circumstances that require a draw, and segregation and dedication of proceeds of drawings. See also “draw mechanics” below in Section B, under the discussions of *Securities Enhanced by a Letter of Credit* and *Securities with Conditional Demand Features*, located on pages 20 and 24, respectively.
- **Tender termination** – Prominently identify any events that cause a bondholder to lose the ability to tender, and provide for notification to the beneficial owners of any tender any tender termination event.
- **Insufficient funds for tender** – Disclosure should address procedures and remedies if failure by the credit or liquidity enhancer to honor a draw under the enhancement results in insufficient funds for a tender due. Disclosure should include:
 - changes, if any, on how the rate on the bonds is determined after a failure on the part of the provider (ideally, bonds should reset to the maximum rate);
 - whether the failure on the part of the bank results in an event of default under the trust indenture (recommended);
 - to the extent the obligor is a source for payment of the tender price, a clear description of whether its payment is required or optional; and,

- a description of the means for recourse against the bank for non-payment, which should include explicit rights of a designated percentage of bondholders to direct the trustee in all proceedings undertaken to seek recourse against the defaulting enhancer.

e) Notification of Substitution or Release of Credit Enhancer or Liquidity Provider

Holders of VRDNs must receive prompt notification in the event that there is a substitution or release of the provider of credit enhancement or liquidity for a tender or put feature. The disclosure must identify how and when beneficial owners will be notified of any such substitutions. Our recommended method of notification is to provide a mandatory tender prior to the expiration, termination or substitution, with a right to retain, in the case of substitutions, by the beneficial owner's exercise of an affirmative retention right or an option to repurchase.

- **Notice** – If a mandatory tender is not required prior to such a substitution or release, the disclosure must specify the time and means by which prior notice of such substitution or release will be provided to beneficial owners; due to lags in the transmission of notices through DTC, a minimum of 15 days prior notice is required and a 30 day minimum is preferred. As part of the notification and/or mandatory tender, beneficial owners, as well as the remarketing agent, should receive relevant information on the new credit or liquidity facility prior to it becoming effective, if a retention right is provided. It is recommended that this be done via a supplementary offering memorandum (which generally will be prepared in any event for remarketing purposes) provided to the existing beneficial owners, which also should be sent to Electronic Municipal Market Access system (“EMMA”).
- **VRDNs in commercial paper mode** – If documents provide for a commercial paper mode, the documents must specify that all notes are required to mature prior to the expiration date of the third party facility, as a mandatory tender upon expiration would cause a shortening of the maturity of the instrument, at best, and loss of the credit support at worst. For debt that is issued only as commercial paper, the documents should state that substitution may only be accomplished when no commercial paper is outstanding. Notification of substitution of credit or liquidity support should be provided to EMMA prior to the change, as well as to the remarketing agent, for dissemination to new purchasers of the commercial paper.

Annual statement – The documents should require an annual affirmative statement to the trustee regarding the control relationship, if any, between the institution providing the enhancement or liquidity and the obligor, and prompt notification to beneficial owners if there ever is a change in the relationship. (It is increasingly common for banks to partially own projects as part of their Community Reinvestment Act lending.)

f) Tax and Other Legal Issues

- **Bond opinion** – The opinion should address whether or not the security is legal, valid, and binding on the obligor as well as any tax exemptions with which the bonds are marketed (i.e., federally tax exempt, subject to the alternative minimum tax, state income tax exempt, and/or bank qualified). The information provided should be as complete as possible, including the post-issuance conditions to the tax exemption (highlighting any that are beyond the control of the persons obligated on the tax covenants) and the basis for the tax exemption for conduit issues, so that an investor may gain a full appreciation for the tax issues and risks involved with owning the security.
- **Determination of taxability** – Disclosure should be provided regarding any special provisions for a determination of taxability for the security and its consequences. If there is a mandatory redemption upon a determination of taxability, the specific timing of the redemption should be disclosed as well as how a premium, if any, will be funded. We recommend that mandatory redemptions be required and accomplished within a short, but finite time period after a determination.
- **Litigation** – A litigation section should address whether there is any actual, pending or threatened litigation or governmental audit or investigation that could affect the taxability of the issue or the issuer, or the creditworthiness of the obligor, if relevant.

g) Miscellaneous

- **Ratings** – Disclose whether the security will be rated by a rating agency. If the security will be rated, identify the rating agency, whether short-term and/or long-term ratings will be assigned, and the rating that has been or is expected to be assigned.
- **Contact information** – Provide the title, phone number, e-mail address, and regular mailing address for the issuer, obligor, credit enhancer, liquidity provider, trustee, bond counsel, and remarketing agent. It is recommended that the credit enhancer/liquidity provider and the trustee be different entities due to possible conflicts of interest after a default. If, however, the trustee is also the provider of credit enhancement and/or liquidity, there should be disclosure about possible conflicts of interest after a default.
- **Relevant documents** – The offering document should provide a summary of relevant provisions of the bond and credit documents, such as the indenture, loan agreement, credit enhancement agreements and/or liquidity agreements. In particular, there should be a detailed summary of the following document provisions, among others described in these best practices: custody and investment of funds used to pay or purchase the bonds, tax covenants, events of default and remedies, trustee duties and exculpation, defeasance, and amendments. Additionally, the offering document should provide information as to how complete copies of these documents can be obtained. Recommendation is to have them available from a single source at no charge to the requestor. Electronic postings are encouraged.

- **Early repayment** – Disclose all provisions for mandatory tender, extraordinary redemption or acceleration for items such as expiration or termination of a credit facility without an extension or substitution, conversion between variable interest rate modes, conversion to a fixed mode, condemnation of the project, insolvency of the credit provider, imminent termination of a liquidity facility, credit enhancer direction following obligor default, etc.
- **Control** - Disclose whether the credit enhancer or bondholders control remedies and whether bondholders are authorized to control if the credit enhancer is in default.

h) Continuing Disclosure

- **Offering documents** – An official statement generally is used in connection with the initial offering of a VRDN issue, and it should be supplemented by the obligors' annual filings with EMMA, if relevant, and supplemented or replaced by remarketing circulars or memos in connection with mode changes or credit or liquidity facility substitutions. These offering documents should accurately describe all material terms of the securities at the time of each remarketing, especially since remarketings may constitute a primary offering of securities.⁴ For example, the identity of and contact information for the *current* provider, *current* expiration date and other material terms of the *current* credit enhancement facility and liquidity facility should be reflected in the official statement as supplemented or replaced.
- **Continuing disclosure undertaking** – Participating underwriters, in connection with a primary offering of demand securities, will need to reasonably determine that the issuer or obligated person has entered into a continuing disclosure undertaking to provide audited financial statements, when available, and other financial and operating data for each obligated person for which financial or operating data is included in the official statement, as well as notices of specified events, to the MSRB for posting on EMMA.⁵ (This requirement does not apply to remarketings of demand securities that were outstanding in the form of demand securities on 11/30/2010, unless accompanied by a change in authorized denominations below \$100,000 or in the period in which a security can be tendered to greater than 9 months.) The official statement should indicate the scope of any continuing disclosure undertaking, even if not required by Rule 15c2-12.
- **Event notices** – The issuer or obligated person should agree in its continuing disclosure undertaking to submit event notices to the MSRB in a timely manner not in excess of ten business days after the occurrence of the following events, whether or not the offering is subject to Rule 15c2-12:

⁴ See SEC Release No. 34-62184A (December 20, 2010) at n. 41.

⁵ Although, at this time, there is some ambiguity as to whether primary offerings of VRDNs are subject to continuing disclosure requirements if sold to 35 or fewer sophisticated investors in \$100,000 or larger denominations, we recommend that issuers or obligors of such securities not avail themselves of any such exemption.

- principal and interest payment delinquencies;
- non-payment related defaults, if material;
- unscheduled draws on debt service reserves reflecting financial difficulties;
- unscheduled draws on credit enhancements reflecting financial difficulties;
- substitution of credit or liquidity providers, or their failure to perform;
- adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determination of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security;
- modifications to rights of security holders, if material;
- bond calls, if material, and tender offers;
- defeasances;
- release, substitution, or sale of property securing repayment of the securities, if material;
- rating changes;
- bankruptcy, insolvency, receivership or similar events of the obligated person (this could be the appointment of a receiver, fiscal agent or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court of governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court of governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person);
- the consummation of a merger, consolidation or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- appointment of a successor or additional trustee or the change of name of a trustee; and,

- notice of a failure of any person required to provide required annual financial information on or before the date specified in the written agreement or contract.
- **Periodic financial information** – The issuer or obligor should agree to update financial information and operating data of the type presented in the final official statement, whether or not the offering is subject to Rule 15c2-12, on at least an annual basis, or more frequently, if appropriate.
- **Project updates** – In addition, the issuer or obligor should covenant to provide bondholders with the following basic project information, if relevant to the tax exemptions with which the securities are offered:
 - the completion of the project and/or the expenditure of all funds;
 - the existence of any circumstances which would cause the project not to be completed or to be abandoned; and
 - the existence of any circumstance that would cause the project to be converted to a different use or ownership than that which gave rise to the tax exemption.
- **Distribution of continuing disclosure** – All continuing disclosure should be provided directly to the remarketing agents for disbursement to the beneficial owners, and simultaneously provided to EMMA for dissemination to the market. Any supplementary offering memorandum or “wrap” to an existing offering memorandum used to remarket tendered securities (including such supplementary disclosure with respect to credit enhancement or liquidity facility substitutions or amendments to structures) should also be sent by the trustee or remarketing agent to beneficial owners that are not required to tender (or have a right to retain), as well as submitted as a material event to EMMA.
- **Trustee information** – Through the appropriate documents, trustees should be instructed to provide requested information to beneficial owners of the bonds on items such as credit enhancements, liquidity facilities, extensions of expiration dates for credit enhancements or liquidity facilities, bond redemptions or tenders, etc.

2) Securities Enhanced by a Letter of Credit (“LOC”)

In issues that are enhanced with a LOC, the third-party provider’s credit stands in for that of the underlying obligor’s credit, provided that appropriate structural requirements are met to allow the investor to continue to be paid by the third-party LOC provider even while the obligor is in bankruptcy proceedings. The LOC should be an irrevocable direct-pay obligation of the provider. It is critical that the offering documents disclose any conditions or terms of the LOC that would affect the investor’s security.

a) Official Statement Disclosure

Full disclosure of the terms of the LOC as well as the actions required for a substitution of the credit enhancer, including notification to the remarketing agent, is mandatory. Primary disclosure for commercial paper (“CP”) programs enhanced by an LOC should be as complete as that provided for a VRDN.

- **LOC Terms and Coverage**

- Expiration date – The initial expiration date of the LOC and information about renewal or extension, including whether the LOC has an automatic renewal provision (“evergreen”). The governing bond documents should always require a mandatory tender prior to expiration of the LOC without replacement and notice of any extension of its term.
- Termination – Any circumstances that permit or require the termination of the LOC, such as mode changes or defeasance of the bonds, should be clearly disclosed. The governing bond documents should always require a mandatory tender prior to termination of the LOC, for any reason, including defeasance of the bonds.
- Payments covered by LOC – The type of payments for which the LOC is to be utilized – regularly scheduled principal and interest payments, purchase price for optional tender/demand feature, mandatory tenders, optional redemptions, mandatory redemptions, accelerations, etc.
- Principal coverage under the LOC.
- Interest coverage – The number of days of interest and maximum interest rate coverage under the LOC.
- Interest reinstatement provisions – Disclosure of how the LOC is reinstated for both principal and interest. After a draw to pay interest, LOCs typically provide for either immediate reinstatement or automatic reinstatement after a specified

number of days unless there is a notice of nonreinstatement to the trustee.⁶ The number of days prior to reinstatement should be clearly specified, including whether they are calendar or business days. The remedy period, often not disclosed, is also typically identified in the indenture and should be summarized in the offering documents. It is crucial that the notice of non-reinstatement must trigger an automatic, non-discretionary remedy that requires bondholders to be paid within the LOC interest coverage period and that payment must be covered by the LOC.

- Bankruptcy opinions – While there has been a trend away from providing bankruptcy (“preference”) opinions, it is recommended that these opinions be provided, or that bankruptcy risks, if any, to the enforcement of credit enhancement be disclosed, especially on non-rated securities or when a credit enhancer is secured by collateral that did not secure the credit facility being replaced or does not secure payment of the securities or the obligor’s obligations to the issuer.
- Multiple LOC providers – If there are multiple LOC providers, each provider’s degree of responsibility and participation should be clearly stated to allow money market funds to determine whether the third party support is fractional (joint) or layered (joint and several). The specific percentage covered by each provider should be clearly disclosed. Any changes in the percentages of the participation or any additions of new participating banks should be treated like a substitution, which should require notice to beneficial owners and a mandatory tender and purchase prior to the effectiveness of such changes.
- Draw mechanics – Describe the circumstances in which the trustee is required to draw on the LOC, including the required timing of the draws under the governing bond documents and the LOC, so prospective buyers can confirm that these provisions work seamlessly together. For tenders, the only acceptable terms for money market fund buyers should reflect a requirement in the bond documents to draw on the LOC prior to the LOC draw deadline if sufficient funds are not actually on hand and deposited with the trustee or tender agent prior to the draw deadline; mere notice from the remarketing agent of a purportedly successful remarketing should not be sufficient to forestall a draw on the LOC if monies are not actually on deposit with the trustee, because a failure of the remarketing agent or the prospective buyers to produce sufficient purchase funds after the draw deadline would result in a nonpayment.

⁶ The trustee must then take some action such as an acceleration or mandatory tender. In order to confirm that there is sufficient interest coverage under the LOC, analysts need to know the length of any remedy period, beginning when the trustee receives notice that a bank will not reinstate the interest portion of the LOC and ending on the date on which the bondholders will receive payment of principal and interest for their bonds. The trustee’s obligation to effect the remedy and draw on the LOC should be automatic and nondiscretionary and should not require any additional consent or direction from the LOC provider.

- **LOC release and substitution**

- Requirements – Identify whether the indenture allows for the provision of a substitute credit facility and the requirements that must be satisfied for substitute credit facility to be provided. Standard requirements are the delivery of a no adverse effect tax opinion from bond counsel, confirmation of the rating (and whether the rating maintenance applies to long-term or short-term ratings), an enforceability opinion for the new facility, and notifications. In addition, application of best practices would require mandatory tender and successful repurchase, as well as delivery of a remarketing circular if a retention right is afforded.
- Type of substitute facility - Include details of the type of substitute credit facilities (LOC, insurance policy, GIC, confirming guarantee, or liquidity facility) that can be provided. Clearly identify in the credit enhancement section of the offering document whether there are multiple definitions of substitute facilities and separate procedures (e.g., ratings lowered, ratings maintained and improved, or confirmation and wraps of existing facilities) for the different definitions. Our recommended best practice is to have one definition of a substitute credit facility, but multiple definitions can be accommodated, provided that all substitutions lead to notification. Additionally, a mandatory tender and successful repurchase in advance of any credit substitution is recommended.
- Releases – Disclose whether the LOC may be released without substitution, which must be preceded by mandatory tender and purchase.
- Procedures and timing – Disclose the procedure and timing for providing a substitute credit facility and whether (as we recommend) a mandatory tender (with a right to retain) will occur prior to such substitution and when notice of substitution is provided to the bondholder.

b) Continuing Disclosure

- **Evergreen LOC** – With an evergreen LOC, trustees should be instructed to provide an affirmative statement annually to the remarketing agent that the trustee has not received a notice of nonrenewal from the LOC provider. In addition, the credit enhancement documents should provide for an annual statement from the issuing bank of an evergreen LOC, acknowledging that it has not sent a notice of non-renewal to the trustee. These statements also should be issued at least 30 days prior to the expiration date and provided to or disclosed through EMMA.
- **Extensions** – Notices of extensions, if not an evergreen, should also be provided to EMMA and to DTC.

3) **Securities with Conditional Demand Features**

A conditional demand feature is a tender option that is supported by a standby bond purchase agreement, line of credit, revolving credit agreement or credit facility that provides liquidity for the purchase in the event of a failed remarketing but which the provider may immediately terminate upon the occurrence of certain credit events. Part (a) below describes general best disclosure and structuring practices for all conditional demand features; parts (b) and (c) are specific to bond insured transactions and uninsured transactions, respectively.

a) Official Statement Disclosure

- **Liquidity Termination Events (General)** – Liquidity or standby purchase agreements typically provide that upon the occurrence of certain events, the liquidity provider may terminate its obligation to purchase the bonds upon exercise of a demand feature. The disclosure should be very specific as to which events result or may result in an immediate termination or suspension without any prior notice versus those events which do not result in immediate termination or suspension, but do allow the liquidity provider to terminate its obligation after a mandatory tender and purchase of all bonds from beneficial owners. Rule 2a-7 requires that the conditions that permit the liquidity facility to be suspended or terminated without prior repurchase must be both remote and readily monitorable (see Rule 2a-7(3)(c)(iv)). In order to be readily monitorable, all liquidity suspension and termination events must relate directly to the credit quality of the obligor (the party responsible for regularly scheduled principal and interest payments on the bonds), and must be clearly and specifically defined and be devoid of ambiguous terms. In addition, and as described elsewhere, adequate continuing information concerning the issuer or obligor of the bonds must be readily accessible.
- **Acceptable Immediate Termination Events** – Other than a determination of taxability of an interest payment, all other conditions permitting immediate termination or suspension of a third-party liquidity provider's obligation to honor a demand should directly relate to the creditworthiness of the credit party responsible for regularly scheduled principal and interest payments. Our recommendation is to limit these conditions only to:
 - default by the obligor in principal or interest payments on the bonds or on senior or parity debt, but excluding any default in immediately accelerated principal or interest payments on bank bonds by the bank or by any other credit enhancer on parity debt;
 - adjudication of insolvency with respect to the obligor of the bonds or a voluntary or involuntary petition of insolvency, receivership or other similar action, is commenced by or against the obligor; filing of any involuntary petition should contain an appropriate cure period (typically 60 days) prior to any suspension or termination of the liquidity facility;

- all NRSROs downgrade the bonds or any parity debt to below investment grade or withdraw or suspend the rating on the bonds or any parity debt for credit related reasons;
 - final and unappealable adjudication of invalidity or unenforceability of the bonds or the provisions of the governing bond documents that relate to required principal and interest payments on the bonds, or written unambiguous repudiation of the principal and interest payment obligations on the bonds by a senior authorized officer of the issuer or obligor; and,
 - final and unappealable money judgment against the issuer or obligor that is not paid within an appropriate cure period (typically 60 days).
- **Most favored nation clauses and amendments to liquidity facilities** – Most favored nation clauses in standby bond purchase agreements supporting VRDNs are acceptable for money market funds only insofar as they are designed to confer upon a bank more favorable financial covenants or security that may have been granted to other creditors. Under no circumstance should a most favored nation clause have the design or effect of changing the suspension or termination events in the liquidity facility, even if such changes must be preceded by a notice to bond holders or by a rating confirmation; money market funds are prohibited from relying exclusively on rating agency determinations when making investment decisions, and notices through DTC and other sources rarely reach holders in a reliable or timely manner.

Any change to the liquidity suspension or termination events in a liquidity facility, whether by operation of a most favored nation clause or by normal amendment procedures, should either require 100% bondholder consent prior to any amendment or trigger a prior mandatory tender and purchase under the governing bond documents. In addition to the consent or mandatory tender, upon any change to immediate termination or suspension events, market participants should produce (and file with EMMA) new disclosure describing the changes and distribute the new disclosure in connection with a remarketing on the mandatory tender date.

- **Liquidity terms and coverage** – The basic features of the liquidity provision should be provided. In addition to disclosure regarding termination and suspension described above, the following minimum disclosure is recommended:
 - Expiration date - The initial expiration date of the liquidity facility and information about renewal or extension, including whether the liquidity facility has an evergreen provision.
 - Type of coverage - The type of payments for which the liquidity facility is to be utilized: purchase price for optional tender/demand feature, mandatory tenders, etc.
 - Funding sources – The sources of funds, including the priority, for funding the demand feature and specifically identifying whether the borrower is responsible to

- fund the purchase price, either due to insufficient funds (including failure of the liquidity provider to honor a draw) or after an automatic termination event.
- Available principal commitment – Amount of principal coverage under the liquidity facility.
 - Interest coverage – Number of days and maximum interest rate coverage under the liquidity facility.
 - Reinstatement provisions – Disclosure of how the liquidity facility is reinstated to its full amount after the remarketing of the bank bonds.
 - Draw mechanics – Clearly describe the circumstances in which the trustee is required to draw on the liquidity facility, including the required timing of the draws under the governing bond documents and the liquidity facility, so prospective buyers can confirm that these provisions work seamlessly together. For tenders, the only acceptable terms for money market fund buyers should reflect a requirement in the bond documents to draw on the liquidity facility prior to the liquidity facility draw deadline if sufficient funds are not actually on hand and deposited with the trustee or tender agent prior to that draw deadline; mere notice from the remarketing agent of a purportedly successful remarketing should not be sufficient to forestall a draw on the liquidity facility if monies are not actually on deposit with the trustee, because a failure of the remarketing agent or the prospective buyers to produce sufficient purchase funds after the draw deadline would result in a nonpayment.
- **Liquidity release and substitution**
 - Requirements – Similar to the discussion of *LOC release and substitution* on page 21, identify whether a substitute liquidity facility may be provided, or the liquidity facility may be released without substitution, under the terms of the transaction documents. Include details of the type of substitute liquidity facilities allowed, as well as the requirements (e.g., bond counsel no adverse tax opinion, rating maintenance confirmation [specify if the maintenance is based on long-term or short-term ratings], notifications, etc.) that must be satisfied for a substitute liquidity facility to be provided.
 - Procedures and timing – Disclose the procedure and timing for releasing or providing a substitute liquidity facility and whether a mandatory tender, as we recommend, with a right to retain, will occur prior to such release or substitution.
 - **Liquidity provider failure** – Disclosure should include procedures and remedies should the liquidity provider fail to honor a draw on the facility to pay purchase price of tendered bonds, particularly related to the extent of the obligor’s commitment, if any, to provide funds to pay the purchase price of tendered bonds, as outlined in the discussion of *insufficient funds for tender* on pages 13 and 14.

b) Insured Securities with Liquidity– Official Statement Disclosure

These securities (also called “insured floaters”) currently do not comprise a large part of the market, but are included due to continued, but limited, secondary market trading of these securities. Insured floaters incorporate an insurer that guarantees the regularly scheduled payment of principal and interest, and a liquidity provider that provides a conditional demand feature. In these structures, the liquidity provider relies on the insurer’s credit, and liquidity termination events should only be triggered by credit impairment of the insurer or the insurance policy, which is irrevocable and unconditional, unless the underlying obligor provides continuing disclosure, its credit is rated higher than the credit enhancer’s and bondholders (rather than the credit enhancer) control remedies. See the previous section for a discussion of liquidity automatic termination events, liquidity coverage and liquidity release and substitution.

- **Insurance coverage** – Clearly disclose the type of payments that the bond insurance policy guarantees. Typically these will be regularly scheduled principal and interest payments, sinking fund redemption payments and preference amounts. Exclusions under the policy should also be disclosed. Usual exclusions would be accelerations, optional redemptions, and redemption premiums.
- **Substitution** - Include the procedure and timing for providing a substitute bond insurance policy and identify the requirements (e.g., no adverse effect opinion from counsel, long-term rating maintenance confirmation, approval of liquidity provider, mandatory tender or notice to bondholder, etc.) that must be satisfied for a substitute bond insurance policy to be provided.
- **Liquidity provider consent** – If a VRDN is supported by a liquidity facility with conditional demand features, and the demand features terminate upon any change, amendment, modification, cancellation, or substitution of the bond insurance without the written consent of the liquidity facility provider, the relevant document(s) should include provisions that prohibit these actions without the written consent of the liquidity facility provider. The provision that prohibits any change, amendment, modification, cancellation, or substitution of the bond insurance without the written consent of the liquidity facility provider should also be summarized in the official statement.

c) Unenhanced Securities with Third-Party Liquidity – Official Statement Disclosure

These securities rely on the obligor for timely repayment of principal and interest while a third party provides a conditional demand feature. In these structures, the liquidity provider relies on the obligor’s credit, and liquidity termination events should only be triggered by credit impairment of the obligor. See pages 22, 23 and 24 for discussions of *liquidity termination events, liquidity terms and coverage, and liquidity release and substitution*, respectively. These issues should conform with the NFMA RBPs for the sector appropriate for the issuer for initial and secondary market disclosure. Continuing disclosure should be

provided to allow the investor to make regular determinations of the obligor's creditworthiness. See the discussion of *funding sources* on page 23.

d) Continuing Disclosure

- **Sector-specific guidelines** – Rely on the sector-specific NFMA RBPs as appropriate.
- **Evergreen facilities** – With an evergreen liquidity facility, trustees should be required to provide an affirmative statement annually to the remarketing agent that they have not received a notice of nonrenewal from the liquidity provider. In addition, the liquidity facility documents should provide for an annual statement from the issuing bank of an evergreen liquidity facility, acknowledging that it has not sent a notice of non-renewal to the trustee. This statement should also be provided to EMMA.
- **Extensions** – Notices of extensions, if not an evergreen, should also be provided to EMMA.

4) Unenhanced Securities with Internal or Self-Liquidity

While many obligors choose to use liquidity or standby purchase agreements to fund the demand feature, some choose to use their own liquid resources for this purpose. The credit review for issuers relying on internal or self-liquidity requires additional analysis to determine their ability to honor the demand feature. Investor confidence in an obligor's ability to honor the demand feature is built on evidence of: sufficient liquid assets, ability to generate operating cash, management experience, and proof of the investment manager's expertise and familiarity with a process to liquidate assets to pay bondholders on a tender. The focus on this section is the additional analysis to determine that an obligor has the ability to fund the demand feature.

a) Official Statement Disclosure

- **Sector-specific guidelines** – The offering document should include the content that is identified in the NFMA RBPs for that particular specific sector.
- **Recent financial information** – The most recent annual audit should be included in the offering document, as well as the most current monthly or quarterly financial information (this does not need to be audited). The more recent information is particularly crucial at times when the most recent audit addresses a fiscal year that has ended more than six months previously. The unaudited information should parallel the information provided in an audit as closely as possible (i.e., a balance sheet and statement of revenues and expenses). If liquidity is seasonal, disclose the high and low points in the last 12 months and where the most recently disclosed information falls in this spectrum.

Obligated group – If the obligor uses an obligated group structure in which “Obligated Persons” constitute a subset of a larger system or parent organization, financial and statistical information should be disclosed for both the Obligated Persons and the parent

or system organization. By doing so, analysts can assess performance of the Obligated Persons within the context of a borrower's non-obligated operations.

- **Management** – Additional discussion should be included about the management team with responsibility for the investment function, specific to the short-term monitoring and management of the portfolio.
- **Sources of funds** – The offering document should identify the sources which are legally available to pay bondholders and which of them are liquid, such as operating or maintenance reserve funds, internal debt service funds or capital project funds, with up-to-date available assets as well as projections through the fiscal year-end. Projections are particularly necessary when capital project funds are identified as a source of liquidity.
- **Asset allocation** – An asset allocation breakdown of all funds the obligor has stated are available to meet the liquidity/demand feature needs should be included. The breakdown should also include the level of accessibility of the assets by the amount of liquidity available within particular time periods. See the attached Appendix 3 for an example of asset allocation and liquidity.
- **Investment policy** – Information from the obligor's investment policy on diversification, maturity and credit quality should be included. Investment policy disclosure should specifically address the allowed use of securities lending and derivatives. It should also indicate whether the investments are managed by internal or external fund managers. See the attached Appendix 1 for an example of detailed description of available assets.
- **Lines of credit** – Include information about any direct lines of credit (not associated with a transaction) to which the obligor has access and which could be available for liquidity purposes.
- **Procedures and timing to access liquid assets** – There should be a discussion of the process and timing necessary to access the assets the obligor has deemed liquid and available to satisfy the demand feature. The ability to quickly access these assets is critical, as often the payment for the demand feature must be made the same day that the obligor has received notice of the failed remarketing. For example, it should be noted that if the funds are held in a separate foundation, the need to transfer to the obligor's accounts and the timing required to effect the transfer should be clearly disclosed.

b) Continuing Disclosure

- **Sector-specific guidelines** – Rely on NFMA RBPs for the applicable sector.
- **Quarterly filings** – Quarterly financial statements should be made available to investors and to EMMA within 45 days of the end of each fiscal quarter to allow investors to make their required determinations of creditworthiness and liquid assets and to analyze the obligor's ability to honor any demands. Quarterly financial statements need not be audited.

- **Quarterly disclosure content** – Quarterly disclosure should include a comparison against the current year’s budget and a complete set of comparable quarterly financial information for the prior fiscal year. All such statements should include a balance sheet, a statement of operations and changes in net assets, and a statement of cash flows. If possible, footnotes to the financial statements should also be included. In addition, disclosure should include detail, not net numbers, for both realized and unrealized gains and losses. A discussion of credit quality and weighted average maturity by asset class should also be included if the investments include direct obligations.
- **Explained variances** – Explanations for any material interim budget variances that have occurred should be provided, not just a statement that variances have occurred.
- **Changes in sources** – Any material changes to the sources of liquidity disclosed in the offering document should be discussed.
- **Changes in process** – Any material changes in the process or timing of access to assets to meet liquidity needs should be disclosed and discussed.
- **Changes in financing plans** – Any material changes to the obligor’s financing plans subsequent to the offering document should be discussed.
- **Investment policy changes** – Any changes in the obligor’s investment policy, including any change in internal or external fund managers should be discussed.
- **Obligor-specific disclosure** – Any disclosure should pertain to the specific obligor, not to a corporate affiliate that is not obligated to repay the security (e.g., disclosure updates about an obligor that is a subsidiary of a holding company should not be made by reference to the holding company’s financial statements or other data relating to the holding company.)

C. Short-Term Fixed Rate Notes

This section discusses the disclosure items that should be included in official statements for bond anticipation notes and cash flow notes such as tax anticipation notes, revenue anticipation notes, and tax & revenue anticipation notes. These sections refer specifically to primary market disclosure as these notes typically mature in less than thirteen months. However, as discussed in each section, obligors are encouraged to disclose any material changes that occur during the life of the notes. This is particularly true for bond anticipation notes, as material changes must be disclosed in the offering statements issued for renewal notes or for replacement bonds, and surprising information released in these subsequent documents may result in unexpected market consequences.

1) Bond Anticipation Notes (BANs)

This section discusses disclosure items that are specific to the issuance of bond anticipation notes, beyond the general items that are covered in the general obligation or other sector disclosure paper.

a) Note Structure/Information

- **Security** – Describe the revenue sources (distinguishing between limited and unlimited tax pledges) or future debt specifically securing the notes.
- **Repayment** – Describe note repayment plans, whether from future notes (include legal ability to refinance notes and the limitations thereon), long-term debt or cash, as well as the repayment schedule.
- **Rating** – Describe whether or not the notes will be rated (if the issuer has long-term ratings securing debt from the same revenue stream that will repay the notes, include both the ratings assigned to the notes and the long-term ratings assigned to the issuer’s long term debt).
- **Dates** – Dated date, maturity date, interest payment date, any callable date and price, if applicable.
- **Relevant parties** – Provide the name and contact information for the trustee or paying agent and bond counsel.
- **Purpose** – Describe the projects that the note proceeds are intended to fund; a detailed list is recommended, however more information than “various capital improvements” should be included.
- **Authorization** – Discuss the authorization for the notes, including the state or local statute permitting their issuance and reference to any associated resolutions. Also indicate

whether a voter referendum occurred to approve the debt, as well as the support rate for the referendum.

- **Program requirements** – If the notes and/or anticipated long-term debt will be subject to a specific program such as a state intercept program or building aid program, give a brief indication of the program with specific details of the conditions the issuer must satisfy to participate in the program.
- **Refinancing existing notes** – If the note issuance is intended to refinance an existing note, include information on the number of previous refinancings, the series of note that will be repaid from the proceeds of the new notes, any pay downs of the original issuance amount as well as future refinancing plans.

b) General Economy and Finances

This should include all the information that would be included in an offering statement for long-term debt, either general obligation or revenue debt. Please see the appropriate NFMA RBPs for a more detailed discussion, but generally the following items should be incorporated:

- **Financial Reports**
 - General fund – Disclose three to five years of general fund (and/or appropriate enterprise fund) statements of income and expenditures, changes in fund balance and balance sheets; the current and forthcoming year’s budget.
 - Trends – Discuss any notable trends (explain growth or declines in revenues, expenditure and/or fund balance) and policy regarding use of fund balances.
 - Note issuance timing – If the note issuance occurs near the end of the fiscal year, include an update of the current year budget, projected/estimated fiscal year-end financial reports, and status and details of next year’s budget.
- **Debt**
 - Debt data – Disclose total outstanding debt, authorized but unissued debt, debt limitations, self-liquidating debt, over-lapping debt, amortization schedule and any interest rate swap agreements; include both long-term and short-term debt (BANs, RANs, etc) with historical totals of long-term debt and historical issuance of short-term debt.
 - Market access – Discuss prior access to the capital markets (generally, the number of bids received on previous sales) and any necessary future needs/plans for market access (include any note maturities and any credit/liquidity facility expirations).

- Debt ratios – Provide debt per-capita and debt-to-full (market) value and particularly useful debt calculations.
- **Tax Base**
 - Trends – Disclose trends in (history of) property assessments, tax levy amounts and tax collection rates (millage rates); responsible tax collection agency (county, local government).
 - Assessments – Discuss any reassessment activity, major appeals or if any tax limits are applicable.
 - Taxpayer concentration – Any large taxpayer or industry concentration should be discussed more specifically.
- **Other**
 - Demographic and economic information – Disclose largest employers, per-capita and/or household income information; trends in (history of) population, labor force, employment sector and retail sales. Any large employer or employment sector should also be discussed more specifically.
 - Audited financial statements – Include a complete copy of the most recent audited financial statements, including auditor’s letter, management letter (as discussed under GASB 34), financial statements and associated notes and supplementary information.
 - Litigation – Discuss any debt-related or other litigation, as well as any potential legislative events that could affect outstanding or future debt.
 - Material events – Indicate willingness or commitment to disclose material events on an ongoing basis.

2) Cash Flow Notes

This section discusses disclosure items that are specific to the issuance of cash flow notes such as tax anticipation notes, revenue anticipation notes and tax & revenue anticipation notes beyond the general items that are covered in the NFMA RBPs for general obligation and tax-supported debt, or other sector best practices papers.

a) Note Structure/Information

- **Security** – Identify the revenue sources (distinguishing between limited and unlimited tax pledges) specifically securing the notes.
- **Rating** – Disclose whether the notes will be rated.

- **Dates** – Disclose dated date, maturity date, interest payment date, any callable date and price, if applicable, any segregation of funds (“set-asides”) date(s), and placement.
 - **Relevant parties** – Provide names and contact information for trustee or paying agent, and bond counsel.
 - **Purpose** – Describe the purpose of the issuance; a detailed list is recommended, unless to meet general cash flow deficiencies.
 - **Authorization** – Discuss the authorization for the notes, including the state or local statute permitting their issuance and reference to any associated resolutions as well as any repayment timeline.
 - **Legal authority** – Discuss the legal authority to issue cash flow notes, including the legal requirements or restrictions governing the sizing of the notes, as well as the need for the notes.
 - **Additional notes** – Discuss whether additional notes may be issued on parity with the notes, the maximum amount of notes that may be issued under the authorizing resolution and whether any additional notes would be permitted to mature prior to the notes being issued.
 - **Set-asides** – Discuss any legal and/or planned requirements regarding segregation of funds (“set-asides”); specify the date(s) and amount(s) of segregation, as well as where the funds are to be deposited.
 - **Investments** – Include plans for investment of note proceeds prior to use as well as investment of any set-aside amounts prior to maturity. In addition, discuss restrictions on use of segregated funds.
 - **Reserve/guarantee** – If the transaction includes a reserve fund or first-loss guarantee, identify the amount of reserve or guarantee and how it was determined, as well as the procedure and timing for accessing those funds in the event of a shortfall in payments.
 - **Revenue intercept** – If the obligor is subject to a revenue intercept, include an explanation of the process and legal requirements under which the intercept is utilized.
- Note issuance timing** – If notes are being issued prior to budget adoption (or prior to resolution of external revenue source), indicate the financial impact of delayed budget (or revenue stream resolution).
- **Participants** – If the issue includes more than one participant, clearly delineate each participant’s level of participation in the transaction as well as its financial obligation and whether the transaction includes any cross-collateralization among the participants. Include any legal restrictions or limitations on the proportionate size of any individual

obligor. (For diversification purposes, money funds are required to account for a pool participant that represents 10% or more of a transaction.)

b) General Economy and Finances Official Statement Disclosure

This should include all the information that would be included in an offering statement for long-term debt, either general obligation or revenue debt. Please see the appropriate NFMA RBPs for a more detailed discussion, but generally, the following items should be incorporated:

- **Financial Reports**

- General fund – Disclose three to five years of general fund (and/or appropriate enterprise fund) statements of income and expenditures, changes in fund balance and balance sheets, and the current and forthcoming year’s budget.
- Trends – Discuss any notable trends (explain growth or declines in revenues, expenditure and/or fund balance) and policy regarding use of fund balances.
- Note issuance timing – If the note issuance occurs near the end of the fiscal year, include: an update of the current year budget; projected/estimated fiscal year end financial reports; status and details of next year’s budget.

- **Debt**

- Debt data – Disclose total outstanding debt, authorized but unissued debt, debt limitations, self-liquidating debt, over-lapping debt, amortization schedule and any interest rate swap agreements; include both long-term and short-term debt (BANs, RANs, etc) with historical totals of long-term debt and historical issuance of short-term debt.
- Market access – Discuss prior access to the capital markets (generally, the number of bids received on previous sales) and any necessary future needs/plans for market access (include any note maturities and any credit/liquidity facility expirations).
- Debt ratios – Provide debt per-capita and debt-to-full (market) value and particularly useful debt calculations.

- **Tax Base**

- Trends – Disclose: trends in (history of) property assessments, tax levy amounts and tax collection rates (millage rates); responsible tax collection agency (county, local government).

- Assessments – Discuss any reassessment activity, major appeals or if any tax limits are applicable.
- Taxpayer concentration – Any large taxpayer or industry concentration should be discussed more specifically.
- **Other**
 - Demographic and economic information – Disclose largest employers, per-capita and/or household income information; trends in (history of) population, labor force, employment sector and retail sales. Any large employer or employment sector should also be discussed more specifically.
 - Audited financial statements – Include a complete copy of the most recent audited financial statements, including auditor’s letter, management letter (as discussed under GASB 34), financial statements and associated notes and supplementary information.
 - Litigation – Discuss of any debt-related or other litigation, as well as any potential legislative events that could affect outstanding or future debt.
 - Material events – Indicate willingness or commitment to disclose material events on an ongoing basis.

c) Cash Flow Data

Detailed cash flows should be provided and include (see Appendix 2 for an example of Recommended Best Practices for cash flow):

- **Financial results** – Actual results for the past fiscal year.
- **Current year results** – Actual/projected results for the current fiscal year with months that include projected results identified as such.
- **Projections** – Projections for the fiscal year in which the notes will be repaid.
- **Detailed projections** – Monthly line-item details for major (> 10%) revenues and expenditures; weekly detail may be needed in certain scenarios.
- **Discrepancies from GAAP** – Explanation of any cash flow variances versus GAAP or budget and any major (> 10%) yearly change.
- **Sinking fund data** – Impact of cash flow borrowing- proceeds, set-asides, maturity.
- **Purpose** – Identification of included funds and the need for cash flow borrowing.

- **Budgets** – Current and forthcoming years’ budgets with detail comparable to the cash flows. Indicate if cash flows are produced prior to passage of the next year’s budget. If the note issuance is to occur near the end of the fiscal year, please include an update of the current budget to date.
- **Collections** – If cash flow notes are to be repaid with a specific revenue stream, indicate the historical collection rate (and, if applicable, levy rate). Discuss any specific collection dates, noting any actual or potential discrepancies. See the discussion of the tax base in Section C, *Short Term Fixed Rate Notes*, on page 33.
- **Available resources** – Identification of any available internally borrowable resources on a monthly basis. If these resources come from more than one source, provide a breakout of the sources. Include any legally required repayment date for these resources and limitations on their usage, as well as details on how they are invested.
- **Borrowing trends** – A chart with three to five years of historical cash flow borrowings to indicate trends in sizing.

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D. Appendices

APPENDIX 1

Description of Available Assets

XYZ Medical Center

A. Liquid Assets, these assets are available at face value, at any time. (1)

Cash	\$ 10,234,000
Certificate of Deposit	\$ 12,250,000
Treasuries (1.2 WAM)	\$ 20,000,000
Corp. Bonds (7.9 WAM) (Avg Rating A)	\$ 25,000,000
Govt. Sec. Mutual Fund	\$ 45,000,000
Corp. Bond Mutual Fund	\$ 40,567,000
Equity Mutual Fund	<u>\$ 35,000,000</u>
Subtotal	<u>\$188,051,000</u>

B. Other Assets

Annuity (2)	\$ 1,500,000
Foundation (3)	\$ 25,000,000
Misc. Real Estate (4)	<u>\$ 13,000,000</u>
Physical Stock Certificate (5)	<u>\$ 3,500,000</u>
Subtotal	\$ 43,000,000

Total \$231,051,000

WAM is the weighted average maturity, please specify days or years.

- (1) XYZ Medical Center has a line of credit with Community Bank for \$15,000,000. At this time they have not drawn down any of this line of credit.
- (2) The income on this annuity goes to the donor; the principal balance is available only after the donor dies.
- (3) Foundation assets are available only upon appropriation at the quarterly board meeting.
- (4) These are income producing real estate assets. Liquidation of these assets at fair market value could take an extended time.
- (5) A gift of stock from a board member – the stock is currently subject to trading restrictions.

APPENDIX 2

NFMA Recommended Best Practices for Cash Flow Notes

Fiscal 200x, ending June 30

(\$mils)	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	TOTAL
Beg. Cash Balance	45.6	86.7	81.6	67.5	54.3	46.6	74	90.4	97.4	92.9	73.1	53.2	
REVENUES													
Property taxes	24.5	19.5	10.2	9.8	15.9	50.4	39.5	29.3	18.5	17.1	16.2	49.5	300.4
Sales taxes	12.6	11.5	12	13	14.1	15.1	20.3	15	15.1	16.4	17.1	17.5	179.7
Licenses & fees	5.6	5.4	5.6	4.9	4.8	4.7	3.5	2.9	2.8	3.5	3.6	3.5	50.8
Investment income	1.8	1.7	1.6	1.5	1.4	1.3	1.5	1.8	1.9	1.8	1.7	1.6	19.6
All other revenues	17.5	18.5	18	17.9	16.5	17	16.5	16	15.7	16	16.8	16.5	202.9
Note Borrowing	45.6	0	0	0	0	0	0	0	0	0	0	0	45.6
TOTAL REVENUES	107.6	56.6	47.4	47.1	52.7	88.5	81.3	65	54	54.8	55.4	88.6	799
EXPENDITURES													
Salaries	31.2	31.5	32	31.1	31.5	32	31.2	30.9	31.5	31.3	32	31.5	377.7
Operating Costs	25.4	26.1	25.3	25.2	25.1	26.2	27	26	25.1	25.8	25.2	26.1	308.5
Capital projects	5.4	4.1	4.2	4	3.8	2.9	1.9	1.1	1.9	2.5	3.1	4.2	39.1
Debt service	4.5	0	0	0	0	0	4.8	0	0	0	0	0	9.3
Note repayment	0	0	0	0	0	0	0	0	0	15	15	15.9	45.9
TOTAL EXPENDITURES	66.5	61.7	61.5	60.3	60.4	61.1	64.9	58	58.5	74.6	75.3	77.7	780.5
Monthly surplus/shortfall	41.1	-5.1	-14.1	-13.2	-7.7	27.4	16.4	7	-4.5	-19.8	-19.9	10.9	18.5
Ending Cash	86.7	81.6	67.5	54.3	46.6	74	90.4	97.4	92.9	73.1	53.2	64.1	
Other borrowable resources	44.8	44.8	46	46.8	47.2	45.1	46.2	46.3	43.5	44.2	43.2	45.8	

APPENDIX 3

**Recommended Initial and Periodic Disclosure
 Unrestricted Cash and Investments / Liquidity Composition**

Valuation Date:

Asset Category	Settlement / Availability						Total
	Same Day	One Week	One Month	Three Months	One Year	> One Year	
Cash & Money Market Funds							
Overnight Repurchase Agreements							
US Treasuries and "AAA" US Agency <= 3 years							
US Treasuries and "AAA" US Agency > 3 years							
Other Fixed Income "AA-/Aa3" or higher							
All Other Fixed Income							
Traditional Equity							
<i>Alternative Investments</i>							
Private Equity							
Hedge Funds							
Real Estate							
Other Alternatives							
Total Unrestricted Cash & Investments							
<i>Other Liquidity</i>							
Unused CP Authorization							
Unused Credit Lines or Revolving Credit							

APPENDIX 4

Rule 2a-7

Rule 2a-7 -- Money Market Funds

A. Definitions.

1. Acquisition (or Acquire) means any purchase or subsequent rollover (but does not include the failure to exercise a Demand Feature).
2. Amortized Cost Method of valuation means the method of calculating an investment company's net asset value whereby portfolio securities are valued at the fund's Acquisition cost as adjusted for amortization of premium or accretion of discount rather than at their value based on current market factors.
3. Asset Backed Security means a fixed income security (other than a Government security) issued by a Special Purpose Entity (as defined in this paragraph), substantially all of the assets which consist of Qualifying Assets (as defined in this paragraph). Special Purpose Entity means a trust, corporation, partnership or other entity organized for the sole purpose of issuing securities that entitle their holders to receive payments that depend primarily on the cash flow from Qualifying Assets, but does not include a registered investment company. Qualifying Assets means financial assets, either fixed or revolving, that by their terms, convert into cash within a finite time period, plus any rights or other assets designed to assure the servicing or timely distribution of proceeds to security holders.
4. Business Day means any day, other than Saturday, Sunday, or any customary business holiday.
5. Collateralized Fully means "Collateralized Fully" as defined in [Rule 5b-3\(c\)\(1\)](#) except that § 270.5b-3(c)(1)(iv)(C) and (D) shall not apply.
6. Conditional Demand Feature means a Demand Feature that is not an Unconditional Demand Feature. A Conditional Demand Feature is not a Guarantee.
7. Conduit Security means a security issued by a Municipal Issuer (as defined in this paragraph) involving an arrangement or agreement entered into, directly or indirectly, with a person other than a Municipal Issuer, which arrangement or agreement provides for or secures repayment of the security. Municipal Issuer means a state or territory of the United States (including the District of Columbia), or any political subdivision or public instrumentality of a state or territory of the United States. A Conduit Security does not include a security that is:
 - i. Fully and unconditionally guaranteed by a Municipal Issuer;
 - ii. Payable from the general revenues of the Municipal Issuer or other Municipal Issuers (other than those revenues derived from an agreement

or arrangement with a person who is not a Municipal Issuer that provides for or secures repayment of the security issued by the Municipal Issuer);

- iii. Related to a project owned and operated by a Municipal Issuer; or
- iv. Related to a facility leased to and under the control of an industrial or commercial enterprise that is part of a public project which, as a whole, is owned and under the control of a Municipal Issuer.

8. Daily Liquid Assets means:

- i. Cash;
- ii. Direct obligations of the U.S. Government; or
- iii. Securities that will mature or are subject to a Demand Feature that is exercisable and payable within one Business Day.

9. Demand Feature means:

- i. A feature permitting the holder of a security to sell the security at an exercise price equal to the approximate amortized cost of the security plus accrued interest, if any, at the time of exercise. A Demand Feature must be exercisable either:
 - a. At any time on no more than 30 calendar days' notice; or
 - b. At specified intervals not exceeding 397 calendar days and upon no more than 30 calendar days' notice; or
- ii. A feature permitting the holder of an Asset Backed Security unconditionally to receive principal and interest within 397 calendar days of making demand.

10. Demand Feature Issued By A Non-Controlled Person means a Demand Feature issued by:

- i. A person that, directly or indirectly, does not control, and is not controlled by or under common control with the issuer of the security subject to the Demand Feature (control means "control" as defined in [section 2\(a\)\(9\)](#) of the Act; or
- ii. A sponsor of a Special Purpose Entity with respect to an Asset Backed Security.

11. Designated NRSRO means any one of at least four nationally recognized statistical rating organizations, as that term is defined in section 3(a)(62) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(62)), that:

- i. The money market fund's board of directors:
 - a. Has designated as an NRSRO whose credit ratings with respect to any obligor or security or particular obligors or securities will be used by the fund to determine whether a security is an Eligible Security; and
 - b. Determines at least once each calendar year issues credit ratings that are sufficiently reliable for such use;
- ii. Is not an "affiliated person" as defined in section 2(a)(3)(C) of the Act (15 U.S.C. 80a-2(a)(3)(C)), of the issuer of, or any insurer or provider of credit support for, the security; and
- iii. The fund discloses in its statement of additional information is a Designated NRSRO, including any limitations with respect to the fund's use of such designation.

12. Eligible Security means:

- i. A Rated Security with a remaining maturity of 397 calendar days or less that has received a rating from the Requisite NRSROs in one of the two highest short-term rating categories (within which there may be sub-categories or gradations indicating relative standing); or
- ii. An Unrated Security that is of comparable quality to a security meeting the requirements for a Rated Security in paragraph (a)(12)(i) of this section, as determined by the money market fund's board of directors; provided, however, that a security that at the time of issuance had a remaining maturity of more than 397 calendar days but that has a remaining maturity of 397 calendar days or less and that is an Unrated Security is not an Eligible Security if the security has received a long-term rating from any Designated NRSRO that is not within the Designated NRSRO's three highest long-term ratings categories (within which there may be sub-categories or gradations indicating relative standing), unless the security has received a long-term rating from the Requisite NRSROs in one of the three highest rating categories.
- iii. In addition, in the case of a security that is subject to a Demand Feature or Guarantee:
 - a. The Guarantee has received a rating from a Designated NRSRO or the Guarantee is issued by a guarantor that has received a rating from a Designated NRSRO with respect to a class of debt

obligations (or any debt obligation within that class) that is comparable in priority and security to the Guarantee, unless:

1. The Guarantee is issued by a person that, directly or indirectly, controls, is controlled by or is under common control with the issuer of the security subject to the Guarantee (other than a sponsor of a Special Purpose Entity with respect to an Asset Backed Security);
 2. The security subject to the Guarantee is a repurchase agreement that is Collateralized Fully; or
 3. The Guarantee is itself a Government Security; and
- b. The issuer of the Demand Feature or Guarantee, or another institution, has undertaken promptly to notify the holder of the security in the event the Demand Feature or Guarantee is substituted with another Demand Feature or Guarantee (if such substitution is permissible under the terms of the Demand Feature or Guarantee).
13. Event of Insolvency means "Event of Insolvency" as defined in [Rule 5b-3\(c\)\(2\)](#).
14. First Tier Security means any Eligible Security that:
- i. Is a Rated Security that has received a short-term rating from the Requisite NRSROs in the highest short-term rating category for debt obligations (within which there may be sub-categories or gradations indicating relative standing);
 - ii. Is an Unrated Security that is of comparable quality to a security meeting the requirements for a Rated Security in paragraph (a)(14)(i) of this section, as determined by the fund's board of directors;
 - iii. Is a security issued by a registered investment company that is a money market fund; or
 - iv. Is a Government Security.
15. Floating Rate Security means a security the terms of which provide for the adjustment of its interest rate whenever a specified interest rate changes and that, at any time until the final maturity of the instrument or the period remaining until the principal amount can be recovered through demand, can reasonably be expected to have a market value that approximates its amortized cost.
16. Government Security means any "Government security" as defined in [section 2\(a\)\(16\)](#) of the Act.

17. Guarantee means an unconditional obligation of a person other than the issuer of the security to undertake to pay, upon presentment by the holder of the Guarantee (if required), the principal amount of the underlying security plus accrued interest when due or upon default, or, in the case of an Unconditional Demand Feature, an obligation that entitles the holder to receive upon exercise the approximate amortized cost of the underlying security or securities, plus accrued interest, if any. A Guarantee includes a LOC, financial guaranty (bond) insurance, and an Unconditional Demand Feature (other than an Unconditional Demand Feature provided by the issuer of the security).
18. Guarantee Issued By A Non-Controlled Person means a Guarantee issued by:
- i. A person that, directly or indirectly, does not control, and is not controlled by or under common control with the issuer of the security subject to the Guarantee (control means "control" as defined in [section 2\(a\)\(9\)](#) of the Act; or
 - ii. A sponsor of a Special Purpose Entity with respect to an Asset Backed Security.
19. Illiquid Security means a security that cannot be sold or disposed of in the ordinary course of business within seven calendar days at approximately the value ascribed to it by the fund.
20. Penny-Rounding Method of pricing means the method of computing an investment company's price per share for purposes of distribution, redemption and repurchase whereby the current net asset value per share is rounded to the nearest one percent.
21. Rated Security means a security that meets the requirements of paragraphs (a)(21)(i) or (ii) of this section, in each case subject to paragraph (a)(21)(iii) of this section:
- i. The security has received a short-term rating from a Designated NRSRO, or has been issued by an issuer that has received a short-term rating from a Designated NRSRO with respect to a class of debt obligations (or any debt obligation within that class) that is comparable in priority and security with the security; or
 - ii. The security is subject to a Guarantee that has received a short-term rating from a Designated NRSRO, or a Guarantee issued by a guarantor that has received a short-term rating from a Designated NRSRO with respect to a class of debt obligations (or any debt obligation within that class) that is comparable in priority and security with the Guarantee; but
 - iii. A security is not a Rated Security if it is subject to an external credit support agreement (including an arrangement by which the security has become a Refunded Security) that was not in effect when the security was assigned its rating, unless the security has received a short-term rating

reflecting the existence of the credit support agreement as provided in paragraph (a)(21)(i) of this section, or the credit support agreement with respect to the security has received a short-term rating as provided in paragraph (a)(21)(ii) of this section.

22. Refunded Security means "Refunded Security" as defined in [Rule 5b-3\(c\)\(4\)](#).
23. Requisite NRSROs means:
 - i. Any two Designated NRSROs that have issued a rating with respect to a security or class of debt obligations of an issuer; or
 - ii. If only one Designated NRSRO has issued a rating with respect to such security or class of debt obligations of an issuer at the time the fund acquires the security, that Designated NRSRO.
24. Second Tier Security means any Eligible Security that is not a First Tier Security.
25. Single State Fund means a Tax Exempt Fund that holds itself out as seeking to maximize the amount of its distributed income that is exempt from the income taxes or other taxes on investments of a particular state and, where applicable, subdivisions thereof.
26. Tax Exempt Fund means any money market fund that holds itself out as distributing income exempt from regular federal income tax.
27. Total Assets means, with respect to a money market fund using the Amortized Cost Method, the total amortized cost of its assets and, with respect to any other money market fund, the total market-based value of its assets.
28. Unconditional Demand Feature means a Demand Feature that by its terms would be readily exercisable in the event of a default in payment of principal or interest on the underlying security or securities.
29. United States Dollar-Denominated means, with reference to a security, that all principal and interest payments on such security are payable to security holders in United States dollars under all circumstances and that the interest rate of, the principal amount to be repaid, and the timing of payments related to such security do not vary or float with the value of a foreign currency, the rate of interest payable on foreign currency borrowings, or with any other interest rate or index expressed in a currency other than United States dollars.
30. Unrated Security means a security that is not a Rated Security.
31. Variable Rate Security means a security the terms of which provide for the adjustment of its interest rate on set dates (such as the last day of a month or calendar quarter) and that, upon each adjustment until the final maturity of the instrument or the period remaining until the principal amount can be recovered

through demand, can reasonably be expected to have a market value that approximates its amortized cost.

32. Weekly Liquidity Assets means:

- i. Cash;
- ii. Direct obligations of the U.S. Government; or
- iii. Government Securities that are issued by a person controlled or supervised by and acting as an instrumentality of the Government of the United States pursuant to authority granted by the Congress of the United States that:
 - a) Are issued at a discount to the principal amount to be repaid at maturity, and
 - b) Have a remaining maturity date of 60 days or less; or
- iv. Securities that will mature or are subject to a Demand Feature that is exercisable and payable within five Business Days.

B. Holding Out and Use of Names and Titles.

1. It shall be an untrue statement of material fact within the meaning of [section 34\(b\)](#) of the Act for a registered investment company, in any registration statement, application, report, account, record, or other document filed or transmitted pursuant to the Act, including any advertisement, pamphlet, circular, form letter, or other sales literature addressed to or intended for distribution to prospective investors that is required to be filed with the Commission by [section 24\(b\)](#) of the Act, to hold itself out to investors as a money market fund or the equivalent of a money market fund, unless such registered investment company meets the conditions of paragraphs [\(c\)\(2\)](#), [\(c\)\(3\)](#), (c)(4) and [\(c\)\(5\)](#) of this section.
2. It shall constitute the use of a materially deceptive or misleading name or title within the meaning of [section 35\(d\)](#) of the Act for a registered investment company to adopt the term "money market" as part of its name or title or the name or title of any redeemable securities of which it is the issuer, or to adopt a name that suggests that it is a money market fund or the equivalent of a money market fund, unless such registered investment company meets the conditions of paragraphs (c)(2), (c)(3), (c)(4) and (c)(5) of this section.
3. For purposes of this paragraph, a name that suggests that a registered investment company is a money market fund or the equivalent thereof shall include one that uses such terms as "cash," "liquid," "money," "ready assets" or similar terms.

C. Share Price Calculations. The current price per share, for purposes of distribution, redemption and repurchase, of any redeemable security issued by any registered investment company ("money market fund" or "fund"), notwithstanding the

requirements of [section 2\(a\)\(41\)](#) of the Act and of [Rule 2a-4](#) and [Rule 22c-1](#) there under, may be computed by use of the Amortized Cost Method or the Penny-Rounding Method; provided, however, that:

1. **Board Findings.** The board of directors of the money market fund shall determine, in good faith, that it is in the best interests of the fund and its shareholders to maintain a stable net asset value per share or stable price per share, by virtue of either the Amortized Cost Method or the Penny-Rounding Method, and that the money market fund will continue to use such method only so long as the board of directors believes that it fairly reflects the market-based net asset value per share.
2. **Portfolio Maturity.** The money market fund shall maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share or price per share; provided, however, that the money market fund will not:
 - i. Acquire any instrument with a remaining maturity of greater than 397 calendar;
 - ii. Maintain a dollar-weighted average portfolio maturity that exceeds 60 calendar days; or
 - iii. Maintain a dollar-weighted average portfolio maturity that exceeds 120 calendar days, determined without reference to the exceptions in paragraph (d) of this section regarding interest rate requirements.
3. **Portfolio Quality—**
 - i. **General.** The money market fund shall limit its portfolio investments to those United States Dollar-Denominated securities that the fund's board of directors determines present minimal credit risks (which determination must be based on factors pertaining to credit quality in addition to any rating assigned to such securities by a Designated NRSRO) and that are at the time of Acquisition Eligible Securities.
 - ii. **Second Tier Securities.** No money market fund shall acquire a Second Tier Security with a remaining maturity of greater than 45 calendar days. Immediately after the Acquisition of any Second Tier Security, a money market fund shall not have invested more than three percent of its Total Assets in Second Tier Securities
 - iii. **Securities Subject to Guarantees.** A security that is subject to a Guarantee may be determined to be an Eligible Security or a First Tier Security based solely on whether the Guarantee is an Eligible Security or First Tier Security, as the case may be.

iv. Securities Subject to Conditional Demand Features. A security that is subject to a Conditional Demand Feature ("Underlying Security") may be determined to be an Eligible Security or a First Tier Security only if:

A. The Conditional Demand Feature is an Eligible Security or First Tier Security, as the case may be;

B. At the time of the Acquisition of the Underlying Security, the money market fund's board of directors has determined that there is minimal risk that the circumstances that would result in the Conditional Demand Feature not being exercisable will occur; and

1. The conditions limiting exercise either can be monitored readily by the fund, or relate to the taxability, under federal, state or local law, of the interest payments on the security; or

2. The terms of the Conditional Demand Feature require that the fund will receive notice of the occurrence of the condition and the opportunity to exercise the Demand Feature in accordance with its terms; and

C. The Underlying Security or any Guarantee of such security (or the debt securities of the issuer of the Underlying Security or Guarantee that are comparable in priority and security with the Underlying Security or Guarantee) has received either a short-term rating or a long-term rating, as the case may be, from the Requisite NRSROs within the NRSROs' two highest short-term or long-term rating categories (within which there may be sub-categories or gradations indicating relative standing) or, if unrated, is determined to be of comparable quality by the money market fund's board of directors to a security that has received a rating from the Requisite NRSROs within the NRSROs' two highest short-term or long-term rating categories, as the case may be.

4. Portfolio Diversification--

i. Issuer Diversification. The money market fund shall be diversified with respect to issuers of securities Acquired by the fund as provided in paragraphs (c)(4)(i) and (c)(4)(ii) of this section, other than with respect to Government Securities and securities subject to a Guarantee Issued By A Non-Controlled Person.

A. Taxable and National Funds. Immediately after the Acquisition of any security, a money market fund other than a Single State Fund shall not have invested more than five percent of its Total Assets in

- securities issued by the issuer of the security; provided, however, that such a fund may invest up to twenty-five percent of its Total Assets in the First Tier Securities of a single issuer for a period of up to three Business Days after the Acquisition thereof; provided, further, that the fund may not invest in the securities of more than one issuer in accordance with the foregoing proviso in this paragraph at any time.
- B. Single State Funds. With respect to seventy-five percent of its Total Assets, immediately after the Acquisition of any security, a Single State Fund shall not have invested more than five percent of its Total Assets in securities issued by the issuer of the security.
 - C. Second Tier Securities. Immediately after the Acquisition of any Second Tier Security, a money market fund shall not have invested more than one half of one percent of its Total Assets in the Second Tier Securities of any single issuer.
- ii. Issuer Diversification Calculations. For purposes of making calculations under paragraph (c)(4)(i) of this section:
- A. Repurchase Agreements. The Acquisition of a repurchase agreement may be deemed to be an Acquisition of the underlying securities, provided the obligation of the seller to repurchase the securities from the money market fund is Collateralized Fully and the fund's board of directors has evaluated the seller's creditworthiness.
 - B. Refunded Securities. The Acquisition of a Refunded Security shall be deemed to be an Acquisition of the escrowed Government Securities.
 - C. Conduit Securities. A Conduit Security shall be deemed to be issued by the person (other than the Municipal Issuer) ultimately responsible for payments of interest and principal on the security.
 - D. Asset Backed Securities--
 - 1. General. An Asset Backed Security Acquired by a fund ("Primary ABS") shall be deemed to be issued by the Special Purpose Entity that issued the Asset Backed Security, provided, however:
 - i. Holdings of Primary ABS. Any person whose obligations constitute ten percent or more of the principal amount of the Qualifying Assets of the Primary ABS ("Ten Percent Obligor") shall be

deemed to be an issuer of the portion of the Primary ABS such obligations represent; and

- ii. Holdings of Secondary ABS. If a Ten Percent Obligor of a Primary ABS is itself a Special Purpose Entity issuing Asset Backed Securities ("Secondary ABS"), any Ten Percent Obligor of such Secondary ABS also shall be deemed to be an issuer of the portion of the Primary ABS that such Ten Percent Obligor represents.
2. Restricted Special Purpose Entities. A Ten Percent Obligor with respect to a Primary or Secondary ABS shall not be deemed to have issued any portion of the assets of a Primary ABS as provided in paragraph (c)(4)(ii)(D)(1) of this section if that Ten Percent Obligor is itself a Special Purpose Entity issuing Asset Backed Securities ("Restricted Special Purpose Entity"), and the securities that it issues (other than securities issued to a company that controls, or is controlled by or under common control with, the Restricted Special Purpose Entity and which is not itself a Special Purpose Entity issuing Asset Backed Securities) are held by only one other Special Purpose Entity.
 3. Demand Features and Guarantees. In the case of a Ten Percent Obligor deemed to be an issuer, the fund shall satisfy the diversification requirements of paragraph (c)(4)(iii) of this section with respect to any Demand Feature or Guarantee to which the Ten Percent Obligor's obligations are subject.
- E. Shares of Other Money Market Funds. A money market fund that Acquires shares issued by another money market fund in an amount that would otherwise be prohibited by paragraph (c)(4)(i) of this section shall nonetheless be deemed in compliance with this section if the board of directors of the Acquiring money market fund reasonably believes that the fund in which it has invested is in compliance with this section.
- iii. Diversification Rules for Demand Features and Guarantees. The money market fund shall be diversified with respect to Demand Features and Guarantees Acquired by the fund as provided in paragraphs (c)(4)(iii) and (c)(4)(iv) of this section, other than with respect to a Demand Feature issued by the same institution that issued the underlying security, or with respect to a Guarantee or Demand Feature that is itself a Government Security.

- A. General. Immediately after the Acquisition of any Demand Feature or Guarantee or security subject to a Demand Feature or Guarantee, a money market fund, with respect to seventy-five percent of its Total Assets, shall not have invested more than ten percent of its Total Assets in securities issued by or subject to Demand Features or Guarantees from the institution that issued the Demand Feature or Guarantee, subject to paragraphs (c)(4)(iii)(B) and (C) of this section.
 - B. Second Tier Demand Features or Guarantees. Immediately after the Acquisition of any Demand Feature or Guarantee (or a security after giving effect to the Demand Feature or Guarantee) that is a Second Tier Security, a money market fund shall not have invested more than 2.5 percent of its Total Assets in securities issued by or subject to Demand Features or Guarantees from the institution that issued the Demand Feature or Guarantee.
 - C. Demand Features or Guarantees Issued by Non-Controlled Persons. Immediately after the Acquisition of any security subject to a Demand Feature or Guarantee, a money market fund shall not have invested more than ten percent of its Total Assets in securities issued by, or subject to Demand Features or Guarantees from the institution that issued the Demand Feature or Guarantee, unless, with respect to any security subject to Demand Features or Guarantees from that institution (other than securities issued by such institution), the Demand Feature or Guarantee is a Demand Feature or Guarantee Issued By A Non- Controlled Person.
- iv. Demand Feature and Guarantee Diversification Calculations—
- A. Fractional Demand Features or Guarantees. In the case of a security subject to a Demand Feature or Guarantee from an institution by which the institution guarantees a specified portion of the value of the security, the institution shall be deemed to guarantee the specified portion thereof.
 - B. Layered Demand Features or Guarantees. In the case of a security subject to Demand Features or Guarantees from multiple institutions that have not limited the extent of their obligations as described in paragraph (c)(4)(iv)(A) of this section, each institution shall be deemed to have provided the Demand Feature or Guarantee with respect to the entire principal amount of the security.
- v. Diversification Safe Harbor. A money market fund that satisfies the applicable diversification requirements of paragraphs (c)(4) and (c)(6) of this section shall be deemed to have satisfied the diversification

requirements of [section 5\(b\)\(1\)](#) of the Act and the rules adopted there under.

5. **Portfolio Liquidity.** The money market fund shall hold securities that are sufficiently liquid to meet reasonably foreseeable shareholder redemptions in light of the fund's obligations under section 22(e) of the Act and any commitments the fund has made to shareholders; provided, however, that:
 - i. **Illiquid Securities.** The money market fund shall not Acquire any Illiquid Security if, immediately after the Acquisition, the money market fund would have invested more than five percent of its Total Assets in Illiquid Securities.
 - ii. **Minimum Daily Liquidity Requirement.** The money market fund shall not Acquire any security other than a Daily Liquid Asset if, immediately after the Acquisition, the fund would have invested less than ten percent of its Total Assets in Daily Liquid Assets. This provision shall not apply to Tax Exempt Funds.
 - iii. **Minimum Weekly Liquidity Requirement.** The money market fund shall not Acquire any security other than a Weekly Liquid Asset if, immediately after the Acquisition, the fund would have invested less than thirty percent of its Total Assets in Weekly Liquid Assets.
6. **Demand Features and Guarantees Not Relied Upon.** If the fund's board of directors has determined that the fund is not relying on a Demand Feature or Guarantee to determine the quality (pursuant to [paragraph \(c\)\(3\)](#) of this section), or maturity (pursuant to [paragraph \(d\)](#) of this section), or liquidity of a portfolio security, and maintains a record of this determination (pursuant to paragraphs [\(c\)\(10\)\(ii\)](#) and [\(c\)\(11\)\(vi\)](#) of this section), then the fund may disregard such Demand Feature or Guarantee for all purposes of this section.
7. **Downgrades, Defaults and Other Events--**
 - i. **Downgrades--**
 - A. **General.** Upon the occurrence of either of the events specified in paragraphs (c)(7)(i)(A) (1) and (2) of this section with respect to a portfolio security, the board of directors of the money market fund shall reassess promptly whether such security continues to present minimal credit risks and shall cause the fund to take such action as the board of directors determines is in the best interests of the money market fund and its shareholders:
 1. A portfolio security of a money market fund ceases to be a First Tier Security (either because it no longer has the highest rating from the Requisite NRSROs or, in the case of an Unrated Security, the board of directors of the money

market fund determines that it is no longer of comparable quality to a First Tier Security); and

2. The money market fund's investment adviser (or any person to whom the fund's board of directors has delegated portfolio management responsibilities) becomes aware that any Unrated Security or Second Tier Security held by the money market fund has, since the security was Acquired by the fund, been given a rating by a Designated NRSRO below the Designated NRSRO's second highest short-term rating category.
- B. Securities to Be Disposed Of. The reassessments required by paragraph (c)(7)(i)(A) of this section shall not be required if the fund disposes of the security (or it matures) within five Business Days of the specified event and, in the case of events specified in paragraph (c)(7)(i)(A)(2) of this section, the board is subsequently notified of the adviser's actions.
 - C. Special Rule for Certain Securities Subject to Demand Features. In the event that after giving effect to a rating downgrade, more than 2.5 percent of the fund's Total Assets are invested in securities issued by or subject to Demand Features from a single institution that are Second Tier Securities, the fund shall reduce its investment in securities issued by or subject to Demand Features from that institution to no more than 2.5 percent of its Total Assets by exercising the Demand Features at the next succeeding exercise date(s), absent a finding by the board of directors that disposal of the portfolio security would not be in the best interests of the money market fund.
- ii. Defaults and Other Events. Upon the occurrence of any of the events specified in paragraphs (c)(7)(ii)(A) through (D) of this section with respect to a portfolio security, the money market fund shall dispose of such security as soon as practicable consistent with achieving an orderly disposition of the security, by sale, exercise of any Demand Feature or otherwise, absent a finding by the board of directors that disposal of the portfolio security would not be in the best interests of the money market fund (which determination may take into account, among other factors, market conditions that could affect the orderly disposition of the portfolio security):
 - A. The default with respect to a portfolio security (other than an immaterial default unrelated to the financial condition of the issuer);
 - B. A portfolio security ceases to be an Eligible Security;

- C. A portfolio security has been determined to no longer present minimal credit risks; or
 - D. An Event of Insolvency occurs with respect to the issuer of a portfolio security or the provider of any Demand Feature or Guarantee.
 - iii. Notice to the Commission. The money market fund shall promptly notify the Commission by electronic mail directed to the Director of Investment Management or the Director's designee, of any:
 - A. Default or Event of Insolvency with respect to the issuer of one or more portfolio securities (other than an immaterial default unrelated to the financial condition of the issuer) or any issuer of a Demand Feature or Guarantee to which one or more portfolio securities is subject, and the actions the money market fund intends to take in response to such event, where immediately before default the securities (or the securities subject to the Demand Feature or Guarantee) accounted for 1/2 of 1 percent or more of the money market fund's Total Assets, or
 - B. Purchase of a security from the fund by an affiliated person, promoter, or principal underwriter of the fund, or an affiliated person of such a person, in reliance on § 270.17a-9, including identification of the security, its amortized cost, the sale price, and the reasons for such purchase.
 - iv. Defaults for Purposes of Paragraphs (c)(7) (ii) and (iii). For purposes of paragraphs (c)(7)(ii) and (iii) of this section, an instrument subject to a Demand Feature or Guarantee shall not be deemed to be in default (and an Event of Insolvency with respect to the security shall not be deemed to have occurred) if:
 - A. In the case of an instrument subject to a Demand Feature, the Demand Feature has been exercised and the fund has recovered either the principal amount or the amortized cost of the instrument, plus accrued interest; or
 - B. The provider of the Guarantee is continuing, without protest, to make payments as due on the instrument.
- 8. Required Procedures: Amortized Cost Method. In the case of a money market fund using the Amortized Cost Method:
 - i. General. In supervising the money market fund's operations and delegating special responsibilities involving portfolio management to the money market fund's investment adviser, the money market fund's board of directors, as a particular responsibility within the overall duty of care owed to its shareholders, shall establish written procedures reasonably

designed, taking into account current market conditions and the money market fund's investment objectives, to stabilize the money market fund's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at a single value.

ii. Specific Procedures. Included within the procedures adopted by the board of directors shall be the following:

A. Shadow Pricing. Written procedures shall provide:

1. That the extent of deviation, if any, of the current net asset value per share calculated using available market quotations (or an appropriate substitute that reflects current market conditions) from the money market fund's amortized cost price per share, shall be calculated at such intervals as the board of directors determines appropriate and reasonable in light of current market conditions;
2. For the periodic review by the board of directors of the amount of the deviation as well as the methods used to calculate the deviation; and
3. For the maintenance of records of the determination of deviation and the board's review thereof.

B. Prompt Consideration of Deviation. In the event such deviation from the money market fund's amortized cost price per share exceeds 1/2 of 1 percent, the board of directors shall promptly consider what action, if any, should be initiated by the board of directors.

C. Material Dilution or Unfair Results. Where the board of directors believes the extent of any deviation from the money market fund's amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall cause the fund to take such action as it deems appropriate to eliminate or reduce to the extent reasonably practicable such dilution or unfair results.

9. Required Procedures: Penny-Rounding Method. In the case of a money market fund using the Penny-Rounding Method, in supervising the money market fund's operations and delegating special responsibilities involving portfolio management to the money market fund's investment adviser, the money market fund's board of directors undertakes, as a particular responsibility within the overall duty of care owed to its shareholders, to assure to the extent reasonably practicable, taking into account current market conditions affecting the money market fund's investment objectives, that the money market fund's price per share as computed for the purpose of distribution, redemption and repurchase, rounded to the nearest one

percent, will not deviate from the single price established by the board of directors.

10. Specific Procedures: Amortized Cost and Penny-Rounding Methods. Included within the procedures adopted by the board of directors for money market funds using either the Amortized Cost or Penny-Rounding Methods shall be the following:

- i. Securities for Which Maturity is Determined by Reference to Demand Features. In the case of a security for which maturity is determined by reference to a Demand Feature, written procedures shall require ongoing review of the security's continued minimal credit risks, and that review must be based on, among other things, financial data for the most recent fiscal year of the issuer of the Demand Feature and, in the case of a security subject to a Conditional Demand Feature, the issuer of the security whose financial condition must be monitored under [paragraph \(c\)\(3\)\(iv\)](#) of this section, whether such data is publicly available or provided under the terms of the security's governing documentation.
- ii. Securities Subject to Demand Features or Guarantees. In the case of a security subject to one or more Demand Features or Guarantees that the fund's board of directors has determined that the fund is not relying on to determine the quality (pursuant to [paragraph \(c\)\(3\)](#) of this section), maturity (pursuant to [paragraph \(d\)](#) of this section) or liquidity (pursuant to paragraph (c)(5) of this section) of the security subject to the Demand Feature or Guarantee, written procedures shall require periodic evaluation of such determination.
- iii. Adjustable Rate Securities Without Demand Features. In the case of a Variable Rate or Floating Rate Security that is not subject to a Demand Feature and for which maturity is determined pursuant to paragraphs [\(d\)\(1\)](#), [\(d\)\(2\)](#) or [\(d\)\(4\)](#) of this section, written procedures shall require periodic review of whether the interest rate formula, upon readjustment of its interest rate, can reasonably be expected to cause the security to have a market value that approximates its amortized cost value.
- iv. Asset Backed Securities. In the case of an Asset Backed Security, written procedures shall require the fund to periodically determine the number of Ten Percent Obligors (as that term is used in [paragraph \(c\)\(4\)\(ii\)\(D\)](#) of this section) deemed to be the issuers of all or a portion of the Asset Backed Security for purposes of paragraph (c)(4)(ii)(D) of this section; provided, however, written procedures need not require periodic determinations with respect to any Asset Backed Security that a fund's board of directors has determined, at the time of Acquisition, will not have, or is unlikely to have, Ten Percent Obligors that are deemed to be issuers of all or a portion of that Asset Backed Security for purposes of paragraph (c)(4)(ii)(D) of this section, and maintains a record of this determination.

- v. Stress Testing. Written procedures shall provide for:
- A. The periodic testing, as such intervals as the board of directors determines appropriate and reasonable in light of current market conditions, of the money market fund's ability to maintain a stable net asset value per share based upon specified hypothetical events that include, but are not limited to, a change in short-term rates, an increase in shareholder redemptions, a downgrade of or default on portfolio securities, and the widening or narrowing of spreads between yields on an appropriate benchmark the fund has selected for overnight interest rates and commercial paper and other types of securities held by the fund.
 - B. A report on the results of such testing to be provided to the board of directors at its regularly scheduled meeting (or sooner, if appropriate in light of the results), which report shall include:
 - 1. The date(s) on which the testing was performed and the magnitude of each hypothetical event that would cause the deviation of the money market fund's net asset value calculated using available market quotations (or appropriate substitutes which reflect current market conditions) from its net asset value per share calculated using amortized cost to exceed $\frac{1}{2}$ of 1 percent; and
 - 2. An assessment by the fund's adviser of the fund's ability to withstand the events (and concurrent occurrences of those events) that are reasonably likely to occur within the following year.

11. Record Keeping and Reporting --

- i. Written Procedures. For a period of not less than six years following the replacement of such procedures with new procedures (the first two years in an easily accessible place), a written copy of the procedures (and any modifications thereto) described in paragraphs (c)(7) through (c)(10) and (e) of this section shall be maintained and preserved.
- ii. Board Considerations and Actions. For a period of not less than six years (the first two years in an easily accessible place) a written record shall be maintained and preserved of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth in this section, to be included in the minutes of the board of directors' meetings.
- iii. Credit Risk Analysis. For a period of not less than three years from the date that the credit risks of a portfolio security were most recently

reviewed, a written record of the determination that a portfolio security presents minimal credit risks and the Designated NRSRO ratings (if any) used to determine the status of the security as an Eligible Security, First Tier Security or Second Tier Security shall be maintained and preserved in an easily accessible place.

- iv. Determinations With Respect to Adjustable Rate Securities. For a period of not less than three years from the date when the determination was most recently made, a written record shall be preserved and maintained, in an easily accessible place, of the determination required by [paragraph \(c\)\(10\)\(iii\)](#) of this section (that a Variable Rate or Floating Rate Security that is not subject to a Demand Feature and for which maturity is determined pursuant to paragraphs [\(d\)\(1\)](#), [\(d\)\(2\)](#) or [\(d\)\(4\)](#) of this section can reasonably be expected, upon readjustment of its interest rate at all times during the life of the instrument, to have a market value that approximates its amortized cost).
- v. Determinations with Respect to Asset Backed Securities. For a period of not less than three years from the date when the determination was most recently made, a written record shall be preserved and maintained, in an easily accessible place, of the determinations required by [paragraph \(c\)\(10\)\(iv\)](#) of this section (the number of Ten Percent Obligor (as that term is used in [paragraph \(c\)\(4\)\(ii\)\(D\)](#) of this section) deemed to be the issuers of all or a portion of the Asset Backed Security for purposes of [paragraph \(c\)\(4\)\(ii\)\(D\)](#) of this section). The written record shall include:
 - A. The identities of the Ten Percent Obligor (as that term is used in [paragraph \(c\)\(4\)\(ii\)\(D\)](#) of this section), the percentage of the Qualifying Assets constituted by the securities of each Ten Percent Obligor and the percentage of the fund's Total Assets that are invested in securities of each Ten Percent Obligor; and
 - B. Any determination that an Asset Backed Security will not have, or is unlikely to have, Ten Percent Obligor deemed to be issuers of all or a portion of that Asset Backed Security for purposes of [paragraph \(c\)\(4\)\(ii\)\(D\)](#) of this section.
- vi. Evaluations with Respect to Securities Subject to Demand Features or Guarantees. For a period of not less than three years from the date when the evaluation was most recently made, a written record shall be preserved and maintained, in an easily accessible place, of the evaluation required by [paragraph \(c\)\(10\)\(ii\)](#) (regarding securities subject to one or more Demand Features or Guarantees) of this section.
- vii. Reports with Respect to Stress Testing. For a period of not less than six years (the first two years in an easily accessible place), a written copy of

the report required under paragraph (c)(10)(v)(B) of this section shall be maintained and preserved.

viii. Inspection of Records. The documents preserved pursuant to this [paragraph \(c\)\(11\)](#) shall be subject to inspection by the Commission in accordance with [section 31\(b\)](#) of the Act as if such documents were records required to be maintained pursuant to rules adopted under [section 31\(a\)](#) of the Act. If any action was taken under [paragraphs \(c\)\(7\)\(ii\)](#) (with respect to defaulted securities and events of insolvency) or [\(c\)\(8\)\(ii\)](#) (with respect to a deviation from the fund's share price of more than 1/2 of 1 percent) of this section, the money market fund will file an exhibit to the [Form N-SAR](#) filed for the period in which the action was taken describing with specificity the nature and circumstances of such action. The money market fund will report in an exhibit to such Form any securities it holds on the final day of the reporting period that are not Eligible Securities.

12. *Website Disclosure of Portfolio Holdings.* The money market fund shall post on its website, for a period of not less than six months, beginning no later than the fifth Business Day of the month, a schedule of its investments, as of the last Business Day of the prior month, that includes the following information:

- i. With respect to the money market fund and each class thereof:
 - A. The dollar-weighted average portfolio maturity; and
 - B. The dollar-weighted average portfolio maturity determined without reference to the exceptions in paragraph (d) of this section regarding interest rate readjustments;
- ii. With respect to each security held by the money market fund:
 - A. Name of the issuer;
 - B. Category of investment (indicate the category that most closely identifies the instrument from among the following: Treasury Debt; Government Agency Debt; Variable Rate Demand Note; Other Municipal Debt; Financial Company Commercial Paper; Asset Backed Commercial Paper; Other Commercial Paper; Certificate of Deposit; Structured Investment Vehicle Note; Other Note; Treasury Repurchase Agreement; Government Agency Repurchase Agreement; Other Repurchase Agreement; Insurance Company Funding Agreement; Investment Company; Other Instrument);
 - C. CUSIP number (if any);
 - D. Principal amount;
 - E. Maturity date as determined under this section;
 - F. Final legal maturity date (taking into account any maturity date extensions that may be effected at the option of the issuer), if different from the maturity date as determined under this section;

G. Coupon or yield; and

H. Amortized cost value; and

- iii. A link to a website of the Securities and Exchange Commission where a user may obtain the most recent 12 months of publicly available information filed by the money market fund pursuant to § 270.30b1-7.

13. Processing of Transactions. The money market fund (or its transfer agent) shall have the capacity to redeem and sell securities issued by the fund at a price based on the current net asset value per share pursuant to § 270.22c-1. Such capacity shall include the ability to redeem and sell securities at prices that do not correspond to a stable net asset value or price per share.

D. Maturity of Portfolio Securities. For purposes of this section, the maturity of a portfolio security shall be deemed to be the period remaining (calculated from the trade date or such other date on which the fund's interest in the security is subject to market action) until the date on which, in accordance with the terms of the security, the principal amount must unconditionally be paid, or in the case of a security called for redemption, the date on which the redemption payment must be made, except as provided in paragraphs (d)(1) through (d)(8) of this section:

1. Adjustable Rate Government Securities. A Government Security that is a Variable Rate Security where the variable rate of interest is readjusted no less frequently than every 397 calendar days shall be deemed to have a maturity equal to the period remaining until the next readjustment of the interest rate. A Government Security that is a Floating Rate Security shall be deemed to have a remaining maturity of one day.
2. Short-Term Variable Rate Securities. A Variable Rate Security, the principal amount of which, in accordance with the terms of the security, must unconditionally be paid in 397 calendar days or less shall be deemed to have a maturity equal to the earlier of the period remaining until the next readjustment of the interest rate or the period remaining until the principal amount can be recovered through demand.
3. Long-Term Variable Rate Securities. A Variable Rate Security, the principal amount of which is scheduled to be paid in more than 397 calendar days, that is subject to a Demand Feature, shall be deemed to have a maturity equal to the longer of the period remaining until the next readjustment of the interest rate or the period remaining until the principal amount can be recovered through demand.
4. Short-Term Floating Rate Securities. A Floating Rate Security, the principal amount of which, in accordance with the terms of the security, must unconditionally be paid in 397 calendar days or less shall be deemed to have a maturity of one day.
5. Long-Term Floating Rate Securities. A Floating Rate Security, the principal amount of which is scheduled to be paid in more than 397 calendar days, that is

- subject to a Demand Feature, shall be deemed to have a maturity equal to the period remaining until the principal amount can be recovered through demand.
6. Repurchase Agreements. A repurchase agreement shall be deemed to have a maturity equal to the period remaining until the date on which the repurchase of the underlying securities is scheduled to occur, or, where the agreement is subject to demand, the notice period applicable to a demand for the repurchase of the securities.
 7. Portfolio Lending Agreements. A portfolio lending agreement shall be treated as having a maturity equal to the period remaining until the date on which the loaned securities are scheduled to be returned, or where the agreement is subject to demand, the notice period applicable to a demand for the return of the loaned securities.
 8. Money Market Fund Securities. An investment in a money market fund shall be treated as having a maturity equal to the period of time within which the Acquired money market fund is required to make payment upon redemption, unless the Acquired money market fund has agreed in writing to provide redemption proceeds to the investing money market fund within a shorter time period, in which case the maturity of such investment shall be deemed to be the shorter period.

E. Delegation. The money market fund's board of directors may delegate to the fund's investment adviser or officers the responsibility to make any determination required to be made by the board of directors under this section (other than the determinations required by paragraphs (a)(11)(i) (designation of NRSROs); [\(c\)\(1\)](#) (board findings); [\(c\)\(7\)\(ii\)](#) (defaults and other events); [\(c\)\(8\)\(i\)](#) (general required procedures: Amortized Cost Method); (c)(8)(ii)[\(A\)](#) (shadow pricing), [\(B\)](#) (prompt consideration of deviation), and [\(C\)](#) (material dilution or unfair results); [\(c\)\(9\)](#) (required procedures: Penny Rounding Method); and (c)(10)(v)(A) (stress testing procedures) of this section; provided that:]

1. Written Guidelines. The Board establish and periodically review written guidelines (including guidelines for determining whether securities present minimal credit risks as required in [paragraph \(c\)\(3\)](#) of this section) and procedures under which the delegate makes such determinations.
2. Oversight. The Board shall take any measures reasonably necessary (through periodic reviews of fund investments and the delegate's procedures in connection with investment decisions and prompt review of the adviser's actions in the event of the default of a security or Event of Insolvency with respect to the issuer of the security or any Guarantee to which it is subject that requires notification of the Commission under [paragraph \(c\)\(7\)\(iii\)](#) of this section) to assure that the guidelines and procedures are being followed.