



New Mexico Regulation and Licensing Department
SECURITIES DIVISION

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December 17, 2010

Bill Richardson
GOVERNOR

Kelly O'Donnell, Ph.D.
SUPERINTENDENT

Michael Vargon
ACTING
DIRECTOR

Mr. Terry D. Nelson
Foley & Lardner LLP
Verex Plaza
150 East Gilman Street
Madison, WI 53703-1481

Issuance of Surplus notes by the Segregated Account of Ambac Assurance Corporation; Request for Exemption Confirmation and/or No Action relief

Dear Mr. Nelson:

On behalf of your client, the Segregated Account of Ambac Assurance Corporation, by letter dated October 29, 2010 and subsequent supplemental letters dated November 9 and November 12, 2010, you requested an interpretive opinion or no-action position from the staff of the New Mexico Securities Division with respect to compliance with the securities registration and broker-dealer and/or agent licensing or registration provisions of the New Mexico Uniform Securities Act, 1978 Comp, Sections 58-13C-101 through 701 (2009) ("the New Mexico Act") in connection with the issuance of certain notes ("Surplus Notes") by the Segregated Account as described in the above-referenced letters.

We understand from your November 12, 2010 letter to this Division and enclosures that your firm also applied for confirmation from the Division of Corporation Finance of the Securities and Exchange Commission, that SEC staff would not recommend enforcement action based on issuance of the Surplus Notes on the terms set forth in your letter to SEC staff.

Your October 29, 2010 letter to this Division and your November 11, 2010 letter to the SEC advise, among other things, the following:

- a) Ambac Assurance Corporation ("Ambac Assurance") is a Wisconsin corporation and the principal operating insurance company of Ambac Financial Group;
- b) Ambac Assurance is a Wisconsin domiciled insurer authorized in Wisconsin to transact surety and financial guaranty insurance;
- c) due to the deterioration of Ambac Assurance's financial condition, the Office of the Commissioner of Insurance of the State of Wisconsin ("Wisconsin OCI") increased oversight of Ambac Assurance;

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- d) Ambac Assurance established the Segregated Account as a separate insurer pursuant to the request of the Wisconsin OCI:
- e) on March 24, 2010, the Wisconsin OCI filed a petition in the Dane County Circuit Court of the State of Wisconsin in order to permit the OCI to facilitate an orderly run-off and/or settlement of the liabilities allocated to the Segregated Account pursuant to the provisions of the Wisconsin Insurers Rehabilitation and Liquidation Act and the Court subsequently appointed the Wisconsin Commissioner of Insurance as the Rehabilitator;
- f) the Rehabilitator filed a Plan of Rehabilitation for approval by the Wisconsin Court on October 8, 2010 ("the Plan of Rehabilitation") and a Disclosure Statement that summarizes certain key components of the Plan of rehabilitation and made these documents available to the public online on a website identified in your correspondence;
- g) the Plan of Rehabilitation provides, among other things, that the holders of Claims (i.e. the prospective recipients of the Surplus Notes) shall receive a combination of (i) cash and (ii) Surplus Notes in satisfaction of such Claims
- h) under the Plan of Rehabilitation, only holders of "Policy Claims" (as that term is defined in the Plan of Rehabilitation) will be issued Surplus Notes in full or partial satisfaction of their Policy Claim;
- i) the Wisconsin Court will approve the fairness of the terms and conditions of the Plan of Rehabilitation, including the issuance of the Surplus Notes to the holders of Claims, (i.e. the prospective recipients of the Surplus Notes) before the Segregated Account issues Surplus Notes pursuant to the Plan of Rehabilitation.

We understand that the Surplus Notes contemplated by the Plan of Rehabilitation to be issued by the Segregated Account, as described in more detail in your October 29, 2010 letter to this Division and in your November 11, 2010 letter to the SEC, are the subject of your request to this Division.

Your November 11, 2010 letter to the SEC relies on Section 3(a)(10) of the Securities Act of 1933 which provides that the following securities are exempt from the registration requirements of Section 5 of the Act:

Except with respect to a security exchanged in a case under title 11 of the United States Code, any security which is issued in exchange for one or more bona fide outstanding securities, claims or property interests, or partly in such exchange and partly for cash, where the terms and conditions of such issuance and exchange are approved, after a hearing upon the fairness of such terms and conditions at which all persons to whom it is proposed to issue securities in such exchange shall have the right to appear, by any court, or by any official or agency of the United States, or by any State or Territorial banking or insurance commission or other governmental authority expressly authorized by law to grant such approval.

Your firm obtained confirmation from SEC staff by letter dated November 12, 2010 ("SEC No Action Letter") that SEC staff will not recommend enforcement action if pursuant to the Plan of Rehabilitation as approved by the Court, the Segregated Account issues to holders of certain rights to payment from the Segregated Account (each, a "Claim") surplus notes ("Surplus Notes") in partial satisfaction of such Claims, without registration of the Surplus Notes under the Securities Act of 1933.

The SEC No Action Letter relies on facts recited in your November 11, 2010 letter to the SEC and your firm's opinion as counsel for the Segregated Account that the exemption under Section 3(a)(10) of the Securities Act of 1933 is available if the Segregated Account issues Surplus Notes to holders of Claims pursuant to the Plan of Rehabilitation without registration under the Securities Act of 1933.

In connection with your request to this Division, your October 29, 2010 letter to this Division addresses Section 202V.(2) of the New Mexico Act. Section 202V.(2) includes among transactions exempt from registration under the New Mexico Act "an act incident to a judicially approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims, or property interests, or partly in such exchange and partly for cash;"

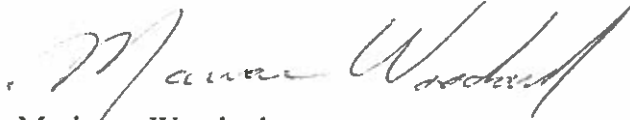
Your October 29, 2010 letter observes among other things that the Segregated Account was established with the approval of a governmental agency, the Wisconsin OCI, that the Plan of Rehabilitation must be approved by the Wisconsin Court and only after a hearing is conducted at which all persons exchanging Claims for Surplus Notes have the right to appear and that in order for the Plan of rehabilitation to become effective, the Court must find that the terms and conditions of issuance of the Surplus Notes are procedurally and substantively fair. Your October 29, 2010 letter opines that it appears that the issuance of the Surplus Notes by the Segregated Account would be "an act incident to a judicially approved reorganization. . . ."

Based upon the representations recited herein and those contained in your letters of October 29, 2010 and November 9 and 12, 2010, and enclosures including your November 11, 2010 letter to the SEC, as a matter of enforcement policy, the New Mexico Securities Division staff would not recommend enforcement action for violation of the securities or broker-dealer or agent registration provisions of the New Mexico Act if, pursuant to the Plan of Rehabilitation after approval by the Wisconsin Court, the Segregated Account issues to holders of certain rights to payment from the Segregated Account (each, a "Claim") surplus notes ("Surplus Notes") in partial satisfaction of such Claims, without registration of the Surplus Notes or registration or licensing of the Segregated Account or any of its "agents" as a broker-dealer or agents, respectively.

Because our position is based on the representations made to the Division in your letters and enclosures, different facts or conditions might require a different conclusion. Moreover, our response reflects only the staff's position on enforcement action and does not purport to express any legal conclusion on the question presented. We also direct your attention to the anti-fraud provisions of the New Mexico Uniform Securities Act and note that responsibility

for compliance with these and other applicable provisions of the New Mexico Act rests with the Segregated Account and its agents.

Sincerely,

A handwritten signature in cursive script that reads "Marianne Woodard". The signature is written in black ink and is positioned above the typed name.

Marianne Woodard
Senior Regulatory Attorney
Securities Division