

## **EXHIBIT 2**

STATE OF WISCONSIN    CIRCUIT COURT    DANE COUNTY

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In the Matter of the Rehabilitation of:

Case No. 10 CV 1576

Segregated Account of Ambac Assurance Corporation

Affidavit of Service

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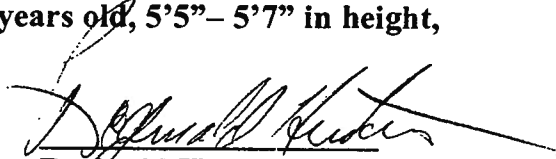
State of New York}  
County of New York}

Reginald Hunter, being duly sworn, deposes and says: I am not a party to this action, I am over 18 years of age and reside in Bronx, NY:

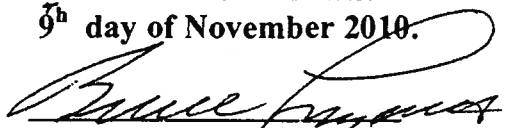
On November 9, 2010 at 11:30 a.m. at 290 Broadway, New York, NY 10007, I served the within Letter, Notice of Amendment to Plan of Operation for the Segregated Account, Motion for Temporary Supplemental Injunctive Relief, Affidavit of Sean Dilweg in Support of Motion for Temporary Supplemental Injunctive Relief and Order for Temporary Supplemental Injunctive Relief on Internal Revenue Service Financial Services Industry, therein named, by delivering a true copies of same to Jeffrey Burg, Chief Advisory Unit, and stated he was authorized to accept service.

I first went to 33 Maiden Lane, New York, NY 10038, who directed me to 290 Broadway, New York, NY 10007 to serve the above mentioned papers.

The person served is a white male, gray hair, 50-60 years old, 5'5"- 5'7" in height, 200-225 pounds.

  
Reginald Hunter  
License No. 1346142

Sworn to before me this  
9<sup>th</sup> day of November 2010.

  
Notary Public  
BRUCE LAZARUS

NOTARY PUBLIC-STATE OF NEW YORK  
No. 01LA4990593  
Qualified in Westchester County  
My Commission Expires January 13, 2014



STATE OF WISCONSIN    CIRCUIT COURT    DANE COUNTY

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In the Matter of the Rehabilitation of:

Case No. 10 CV 1576

Segregated Account of Ambac Assurance Corporation

Affidavit of Attempted  
Service

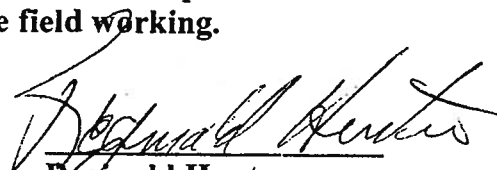
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State of New York}  
County of New York}

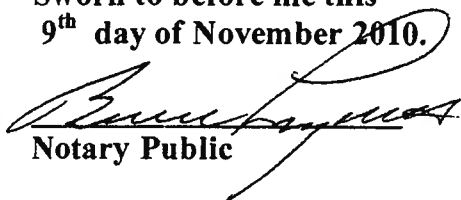
Reginald Hunter, being duly sworn, deposes and says: I am not a party to this action, I am over 18 years of age and reside in Bronx, NY:

On November 9, 2010 at 12:35 p.m. at 110 West 44<sup>th</sup> Street, New York, NY 10036, I attempted to serve the within Letter, Notice of Amendment to Plan of Operation for the Segregated Account, Motion for Temporary Supplemental Injunctive Relief, Affidavit of Sean Dilweg in Support of Motion for Temporary Supplemental Injunctive Relief and Order for Temporary Supplemental Injunctive Relief on Financial Product Examiner Internal Revenue Service.

I was told that no one was in that was authorized to accept service. They refused me entry into the building and would not send anyone down to accept service. I also asked to speak with Sandy Criscione who was in the field working.

  
Reginald Hunter  
License No. 1346142

Sworn to before me this  
9<sup>th</sup> day of November 2010.

  
Notary Public

BRUCE LAZARUS  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01LA4990593  
Qualified in Westchester County  
Commission Expires January 13, 2014



**EASE**

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

In the Matter of the Rehabilitation of:

Case No. 10 CV 1576

Segregated Account of Ambac Assurance Corporation


**AFFIDAVIT OF SERVICE**

STATE OF WISCONSIN    )  
  ) ss.  
COUNTY OF DANE        )

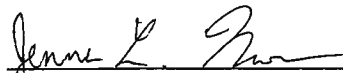
Daniel R. Hess, being first duly sworn, on oath deposes and says that he is an employee of Foley & Lardner, and on the 9<sup>th</sup> day of November, 2010, he served a copy of the Notice of Amendment to Plan of Operation for the Segregated Account, Motion for Temporary Supplemental Injunctive Relief, Affidavit of Sean Dilweg in Support of Motion for Temporary Supplemental Injunctive Relief and Order for Temporary Supplemental Injunctive Relief on:

Krista Spellum  
Internal Revenue Service  
545 Zor Shrine Place  
Madison, WI 53719-2802

Lydia Ginther  
U.S. Attorney's Office  
660 West Washington Avenue, Suite 200  
PO Box 1585  
Madison, WI 53703-4703

  
\_\_\_\_\_  
Daniel R. Hess

Subscribed and sworn to before me  
this 9<sup>th</sup> day of November, 2010.

  
\_\_\_\_\_  
Notary Public, State of Wisconsin  
My Commission: expires . 4-29-12

FOLEY & LARDNER LLP

**ATTORNEYS AT LAW**

VEREX PLAZA  
150 EAST GILMAN STREET  
MADISON, WI 53703-1481  
POST OFFICE BOX 1497  
MADISON, WI 53701-1497  
608.257.5035 TEL  
608.258.4258 FAX  
foley.com

November 8, 2010

WRITER'S DIRECT LINE  
608.258.4268  
mlynch@foley.com EMAIL

CLIENT/MATTER NUMBER  
092281-0101

**VIA HAND DELIVERY**

Internal Revenue Service  
545 Zor Shrine Place  
Madison, WI 53719-2802

**VIA HAND DELIVERY**

Internal Revenue Service  
Financial Services Industry  
Area 1 Counsel  
33 Maiden Lane, 12th Floor  
New York, NY 10038

**VIA CERTIFIED MAIL**

Eric H. Holder, Jr.  
U.S. Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

**VIA HAND DELIVERY**

John W. Vaudreuil  
U.S. Attorney's Office  
660 West Washington Avenue, Suite 200  
PO Box 1585  
Madison, WI 53703-4703

**VIA HAND DELIVERY**

Sandy Criscione,  
Financial Product Examiner Internal Revenue  
Service  
110 West 44<sup>th</sup> Street,  
New York, NY 10036-4011

Re: *In the Matter of the Rehabilitation of Segregated Account of  
Ambac Assurance Corporation, Case No. 10CV1576  
(Dane County Circuit Court)*

To Whom It May Concern:

I am writing as counsel for the Wisconsin Commissioner of Insurance, as the court-appointed Rehabilitator of the Segregated Account of Ambac Assurance Corporation (the "Segregated Account"), a Wisconsin-domiciled insurer in rehabilitation pursuant to Chapter 645 of the Wisconsin Statutes. A number of policies, contracts, and other assets and liabilities of Ambac Assurance Corporation have been allocated to the Segregated Account for disposition and treatment in accordance with Wisconsin law governing the business of insurance, including, as of today:

BOSTON  
BRUSSELS  
CHICAGO  
DETROIT

JACKSONVILLE  
LOS ANGELES  
MADISON  
MIAMI

MILWAUKEE  
NEW YORK  
ORLANDO  
SACRAMENTO

SAN DIEGO  
SAN DIEGO/DEL MAR  
SAN FRANCISCO  
SHANGHAI

SILICON VALLEY  
TALLAHASSEE  
TAMPA  
TOKYO  
WASHINGTON, D.C.



FOLEY & LARDNER LLP

November 8, 2010

Page 2

any and all liabilities (including contingent liabilities) [Ambac Assurance Corporation] has or may have, now or in the future, to the IRS and/or the U.S. Treasury in regard to, or in respect of, taxes imposed under the Internal Revenue Code of 1986, as amended (“Federal Taxes”), for taxable periods ending on or prior to December 31, 2009; and (ii) to the extent not described in clause (i), any and all liabilities (including contingent liabilities) [Ambac Assurance Corporation] has or may have, now or in the future, to the IRS and/or the U.S. Treasury in regard to, or respect of, any Federal Tax refunds that were received prior to November 7, 2010 by Ambac Assurance Corporation, Ambac Financial Group, Inc. or their affiliates.

Enclosed please find an Order for Temporary Supplemental Injunctive Relief entered on November 8, 2010 in the above-captioned insurance rehabilitation proceeding, with other documents filed in connection with the Order. Please note that the Order applies to the matters noted.

We are happy to discuss the Order and the rehabilitation proceedings to date to clear up any confusion and answer any questions you may have regarding this complex matter. Additional information regarding this rehabilitation is available on the court approved Web site for these proceedings, [www.ambacpolicyholders.com](http://www.ambacpolicyholders.com).

Sincerely,

A handwritten signature in black ink, appearing to be "Michael B. Van Sicklen".

Michael B. Van Sicklen  
Matthew R. Lynch

Enclosures

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

In the Matter of the Rehabilitation of:

Case No. 10 CV 1576

Segregated Account of Ambac Assurance Corporation

**NOTICE OF AMENDMENT TO PLAN OF OPERATION  
FOR THE SEGREGATED ACCOUNT**

2010 NOV -8 PM 7:52  
DANE CO. CIRCUIT COURT

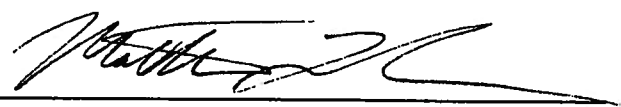
TO: All Parties-in-Interest

PLEASE TAKE NOTICE that the Commissioner of Insurance of the State of Wisconsin, as Rehabilitator (the "Rehabilitator") of the Segregated Account of Ambac Assurance Corporation, hereby submits the attached Amendment No. 1 to Plan of Operation for the Segregated Account of Ambac Assurance Corporation, which became effective on November 7, 2010 upon its approval by the Board of Directors of Ambac Assurance Corporation and the Wisconsin Office of the Commissioner of Insurance.

Dated this 8th day of November, 2010.

FOLEY & LARDNER LLP

By:



Michael B. Van Sicklen, SBN 1017827  
Matthew R. Lynch, SBN 1066370

150 East Gilman Street  
Post Office Box 1497  
Madison, Wisconsin 53701  
Telephone: (608) 257-5035  
Facsimile: (608) 258-4258

*Attorneys for Commissioner of Insurance of  
the State of Wisconsin, as Rehabilitator of the  
Segregated Account of Ambac Assurance  
Corporation*

**AMENDMENT NO. 1 TO PLAN OF OPERATION FOR THE SEGREGATED  
ACCOUNT OF AMBAC ASSURANCE CORPORATION**

The Plan of Operation for the Segregated Account of Ambac Assurance Corporation, effective March 24, 2010 (the "Plan of Operation"), is hereby amended by this Amendment No. 1 to Plan of Operation for the Segregated Account of Ambac Assurance Corporation as follows:

Effective as of November 7, 2010, the following paragraphs are added to Section IV of the Plan of Operation, "Allocations to Segregated Account":

*Liabilities to Ambac Financial Group, Inc. ("AFGI").* The Company is allocating to the Segregated Account any and all liabilities (including contingent liabilities) it has or may have, now or in the future, to its shareholder, AFGI, or any successor to AFGI, in regard to, or respecting, tax refunds and/or the July 18, 1991 Tax Sharing Agreement, as amended, provided, that such allocation shall not include any liability to AFGI pertaining to any possible misallocation of up to \$38,485,850 of tax refunds received by AAC in September 2009 and February 2010. Any such liabilities are disputed. This allocation includes, but is not limited to, any preference claim or fraudulent conveyance claim pertaining to the above-referenced subjects brought by, or on behalf of, AFGI in any bankruptcy proceeding involving AFGI by AFGI as debtor-in-possession, or a trustee or committee appointed by a bankruptcy court to pursue any such claim in regard to AFGI, or any similar state court action or claim pursued by, or on behalf of any receiver or creditor of AFGI.

*Liabilities to the Internal Revenue Service ("IRS") and/or the United States Department of the Treasury ("U.S. Treasury").* The Company is allocating to the Segregated Account: (i) any and all liabilities (including contingent liabilities) it has or may have, now or in the future, to the IRS and/or the U.S. Treasury in regard to, or in respect of, taxes imposed under the Internal Revenue Code of 1986, as amended ("Federal Taxes"), for taxable periods ending on or prior to December 31, 2009; and (ii) to the extent not described in clause (i), any and all liabilities (including contingent liabilities) the Company has or may have, now or in the future, to the IRS and/or the U.S. Treasury in regard to, or respect of, any Federal Tax refunds that were received prior to November 7, 2010 by the Company, AFGI or their affiliates. Any such liabilities are disputed.

In all other respects, the Plan of Operation effective March 24, 2010, shall continue to govern the operation of the Segregated Account of Ambac Assurance Corporation.



STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

In the Matter of the Rehabilitation of:

Case No. 10 CV 1576

Segregated Account of Ambac Assurance Corporation

**MOTION FOR TEMPORARY SUPPLEMENTAL INJUNCTIVE RELIEF**

Pursuant to the authority granted under Chapter 645 of the Wisconsin Statutes, the Office of the Commissioner of Insurance ("OCI") and the Commissioner, as Rehabilitator (the "Rehabilitator") of the Segregated Account of Ambac Assurance Corporation (the "Segregated Account"), hereby moves the Court for immediate temporary injunctive relief in order to protect the interests of policyholders and creditors of the Segregated Account, as well as the public. Wis. Stat. §§ 645.01(4) & 645.05(1). The requested injunction would supplement the existing injunction granted by this Court on March 24, 2010.

The requested relief is limited in nature to address exposures related to the newly allocated disputed contingent liabilities specified in Amendment No. 1 to the Plan of Operation for the Segregated Account. The grounds for this Motion are set forth below.

1. As detailed in the attached affidavit of the Rehabilitator, several events recently transpired that have created new threats to the financial stability of the Segregated Account and have the potential to disrupt its orderly rehabilitation. (See Affidavit of Sean Dilweg ("Dilweg Aff.") ¶ 2.) Immediate action by this Court is necessary to maintain the status quo and protect Segregated Account policyholders and other claimants from potentially significant reductions in available claims-paying resources. Absent immediate injunctive relief by this Court, these reductions may materially hinder the existing Plan of Operation and the Rehabilitator's proposed Plan of Rehabilitation for the Segregated Account. (See *id.*)

2. At risk are approximately \$700 million in federal income tax refunds that Ambac Assurance Corporation (“AAC”) received in accordance with a tax sharing agreement (“Tax Sharing Agreement”) with its parent holding company, Ambac Financial Group, Inc. (“AFGI”). Those tax refunds form a material part of the claims-paying resources available to satisfy claims of the Segregated Account pursuant to the Secured Note and Reinsurance Agreement with AAC. (*See id.* ¶ 3.)

3. Historically, AFGI filed a consolidated federal income tax return on behalf of itself and all of its subsidiaries, including AAC. (*See id.* ¶ 4.) The Tax Sharing Agreement, including subsequent amendments to it, governs the allocation of tax payments and tax refunds between AFGI and its subsidiaries. (*See id.*)

4. On September 25, 2009, AFGI paid AAC \$253,700,000, as AAC’s share under the Tax Sharing Agreement of a federal income tax refund received by AFGI. (*See id.* ¶ 5.)

5. In February 2010, AFGI paid AAC \$443,940,722, as AAC’s share under the Tax Sharing Agreement of another federal income tax refund received by AFGI. (*See id.* ¶ 6.)

6. Those two tax refunds, totaling almost \$700 million, are a significant portion of the funds supporting the subsequently established Segregated Account through the Secured Note and the Reinsurance Agreement with AAC. (*See id.* ¶ 7.)

7. On November 1, 2010, AFGI announced in a Securities and Exchange Commission disclosure that it “intends to file for bankruptcy under Chapter 11 of the United States Bankruptcy Code by the end of the year.” (*See id.* ¶ 8, Ex. A.)

8. That same day, AFGI failed to make a debt service payment to bondholders. (*See id.* ¶ 8.) It is the Rehabilitator’s understanding that if AFGI does not cure that missed payment by November 30, 2010, AFGI’s creditors can immediately force an involuntary bankruptcy

proceeding for AFGI. (*See id.*) AFGI could also file a voluntary petition for bankruptcy relief at any time. (*See id.*)

9. An ad hoc committee of AFGI's bondholder creditors have threatened that if AFGI enters bankruptcy, they will seek to have the bankruptcy court avoid the tax refund payments to AAC as a preference or fraudulent transfer and seek to impose a constructive trust over the funds in order to prevent them from being used for the rehabilitation of the Segregated Account. (*See id.* ¶ 8.)

10. On November 3, 2010, the Rehabilitator learned that AFGI had received an "Information Document Request" from the Internal Revenue Service ("IRS") asking AFGI to describe its legal basis for claiming the income tax refunds that led to the payments described in paragraphs 4 and 5. (*See id.* ¶ 9, Ex. B.) It is the Rehabilitator's understanding that, absent the entry of an injunction by this Court to the contrary, the IRS may attempt to impose a levy on the tax refund proceeds at any time during this inquiry. (*See id.* ¶ 9.) If that were to occur, it would have severe consequences for AAC and the Segregated Account. (*See id.*)

11. On the evening of Sunday, November 7, 2010, the AAC Board of Directors voted to allocate certain liabilities relating to the two tax refund payments to the Segregated Account. (*See id.* ¶ 10.) Specifically, the Board voted to amend the Plan of Operation to add the following two provisions:

*Liabilities to Ambac Financial Group, Inc. ("AFGI").* The Company is allocating to the Segregated Account any and all liabilities (including contingent liabilities) it has or may have, now or in the future, to its shareholder, AFGI, or any successor to AFGI, in regard to, or respecting, tax refunds and/or the July 18, 1991 Tax Sharing Agreement, as amended. Any such liabilities are disputed. This allocation includes, but is not limited to, any preference claim or fraudulent conveyance claim pertaining to the above-referenced subjects brought by, or on behalf of, AFGI in any bankruptcy proceeding involving AFGI by AFGI as debtor-in-possession, or a trustee or committee appointed by a bankruptcy court to pursue any such claim in regard to AFGI, or any similar

state court action or claim pursued by, or on behalf of any receiver or creditor of AFGI.

*Liabilities to the Internal Revenue Service (“IRS”) and/or the United States Department of the Treasury (“U.S. Treasury”).* The Company is allocating to the Segregated Account: (i) any and all liabilities (including contingent liabilities) it has or may have, now or in the future, to the IRS and/or the U.S. Treasury in regard to, or in respect of, taxes imposed under the Internal Revenue Code of 1986, as amended (“Federal Taxes”), for taxable periods ending on or prior to December 31, 2009; and (ii) to the extent not described in clause (i), any and all liabilities (including contingent liabilities) the Company has or may have, now or in the future, to the IRS and/or the U.S. Treasury in regard to, or respect of, any Federal Tax refunds that were received prior to November [5], 2010 by the Company, AFGI or their affiliates. Any such liabilities are disputed.

(*See id.* ¶ 10, Ex. C.) OCI has approved that amendment. (*See id.*, Ex. D.)

12. With the present motion, the Rehabilitator seeks to supplement the March 24, 2010 Injunction Order to ensure that any disputes regarding claims of AFGI or its bankruptcy creditors or the IRS pertaining to the tax refund payments to AAC will be litigated in this proceeding, and that any remedies available for such liability will be implemented in accordance with a plan of rehabilitation proposed and approved in accordance with Wisconsin law governing the business of insurance. This injunctive relief is intended to supplement, rather than replace, the injunction entered by this Court on March 24, 2010. The terms of the injunction are set forth in the proposed order filed with this motion.

13. Wis. Stat. § 645.05(1) grants this Court broad power to issue a temporary or permanent injunction to prevent, among other things, “[t]he levying of execution against the insurer or its assets,” and “[a]ny other threatened or contemplated action that might lessen the value of the insurer’s assets or prejudice the rights of policyholders . . . or the administration of the proceeding.” Wis. Stat. § 645.05(1)(h) and (k).

14. Injunctive relief under Chapter 645 is appropriate here. Immediate entry of the temporary injunction is necessary to ensure that all legal disputes affecting the Segregated Account continue to be adjudicated by this Court, avoid a significant disruption and delay of these proceedings, prevent potential claimants such as the IRS and AFGI's creditors from circumventing the priority scheme for equitable distribution established by Wisconsin insurance law, and preserve the claims-paying resources of the Segregated Account. Permitting parties such as the IRS and AFGI's creditors to pursue their claims in other forums would prejudice the administration of these proceedings.

15. Moreover, with respect to the IRS's potential levy against the refunds received by AAC, the injunction is necessary to ensure that the federal government's claims receive the appropriate priority under Wisconsin's insurance laws. Under Chapter 645, federal government claims are behind policyholder loss claims in priority. *See Wis. Stat. § 601.68(1)(3) and (3c)*. The United States Supreme Court has made it clear that, under the McCarran-Ferguson Act, state insurance law affording priority to policyholder claims ahead of claims of the federal government reverse pre-empts federal law to the contrary. *See United States Department of Treasury v. Fabe*, 508 U.S. 491 (1993) (holding that Ohio insurance law superseded contrary federal law to the extent it prioritized policyholder and administrative claims ahead of federal claims).

16. Similarly, any judgment resulting from preference, fraudulent conveyance, or similar avoidance power claims brought by AFGI or its bankruptcy successors or creditors would be a Class VI subordinate claim under Wis. Stat. § 645.68(6). Under the McCarran-Ferguson Act, the adjudication and treatment of such claims are the proper subject of state insurance delinquency proceedings. *See Baldwin-United Corp. v. Garner*, 678 S.W.2d 754, 758 (Ark. 1984) ("If any meaning is to be given to the congressional exclusion of insurance companies

from the Bankruptcy Act and the mandate of the McCarran-Ferguson Act, it must be that the determination of rights among an insurance company's creditors must be left to state proceedings." See also *In re Med. Care Mgmt. Co.*, 361 B.R. 863, 872-76 (Bankr. M.D. Tenn. 2003) (applying McCarran-Ferguson in deference to state delinquency proceedings in light of "the obvious intent of the state legislature to consolidate all liquidation proceedings in one special court"); *In re Amwest Ins. Group, Inc.*, 285 B.R. 447 (Bankr. C.D. Cal. 2002) (deferring to state-court delinquency proceedings under McCarran-Ferguson because "the Department of Insurance is in the best position to control any financial shifts that may affect an insurer, and make sure that the interests of policyholders are not jeopardized" and because interpreting a tax-sharing agreement in parallel proceedings could "impair the progress of an orderly liquidation").

17. AAC and the Segregated Account have meritorious defenses to each of the newly allocated disputed contingent liabilities. In regard to the bankruptcy preference, fraudulent conveyance, or similar avoidance power claims, the refunds were timely paid, were in strict conformance with the Tax Sharing Agreement, and resulted in AAC receiving the tax refund proceeds to which it was lawfully entitled. In regard to the IRS contingent disputed claim, it is at an early, information-gathering stage, and the Rehabilitator has been advised by AFGI and its advisors that the tax refunds were proper and the IRS inquiry ultimately will not lead to any change in AAC's entitlement to retain the refunds.

18. Given the rapidly unfolding events regarding the likely imminent AFGI bankruptcy filing and the IRS's review of the tax refunds received by AFGI and allocated to AAC, the Rehabilitator has asked that the Court issue the injunction on an emergency, *ex parte* basis. If the injunction is granted, the Commissioner will promptly serve copies of the order on AFGI, the IRS, and any other party-in-interest the Rehabilitator believes is directly affected by the order. The Rehabilitator proposes that parties-in-interest who believe any portion of the

injunction is unwarranted by the facts or the law be permitted to file written motions seeking modification or dissolution of the injunction within 45 days of its entry.

19. For all of the reasons set forth above, the Commissioner respectfully requests that this Court grant this Motion for Temporary Supplemental Injunctive Relief.

Dated this 8th day of November, 2010.

FOLEY & LARDNER LLP

150 East Gilman Street  
Post Office Box 1497  
Madison, Wisconsin 53701  
Telephone: (608) 257-5035  
Facsimile: (608) 258-4258

By:



Michael B. Van Sickle, SBN 1017827

Jeffrey A. Simmons, SBN 1031984

Matthew R. Lynch, SBN 1066370

*Attorneys for Petitioner Sean Dilweg,  
Commissioner of Insurance of the State of  
Wisconsin*





3. At risk are approximately \$700 million in federal income tax refunds that AAC received pursuant to a tax sharing agreement (“Tax Sharing Agreement”) with its parent holding company, Ambac Financial Group, Inc. (“AFGI”). Those tax refunds form a material part of the claims-paying resources available to satisfy claims of the Segregated Account pursuant to the Secured Note and Reinsurance Agreement with AAC.

4. It is my understanding that, historically, AFGI filed a consolidated federal income tax return on behalf of itself and all of its subsidiaries, including AAC, pursuant to a tax sharing agreement (the “Tax Sharing Agreement”) entered into in 1991. The Tax Sharing Agreement, including subsequent amendments to it, governs the allocation of tax payments, liabilities, and refunds between AFGI and its subsidiaries.

5. On September 25, 2009, AFGI paid AAC \$253,700,000 as AAC’s share under the Tax Sharing Agreement of a federal income tax refund received by AFGI.

6. In February 2010, AFGI paid AAC \$443,940,722, as AAC’s share under the Tax Sharing Agreement of another federal income tax refund received by AFGI.

7. Those two tax refunds, totaling almost \$700 million, are a significant portion of the funds supporting the Segregated Account through the Secured Note and the Reinsurance Agreement with AAC.

8. On November 1, 2010, AFGI announced in a Securities and Exchange Commission disclosure that it “intends to file for bankruptcy under Chapter 11 of the United States Bankruptcy Code by the end of the year.” A copy of that announcement is attached as **Exhibit A**. That same day, AFGI failed to make a debt service payment to bondholders. It is my understanding that if AFGI does not cure that missed payment by November 30, 2010, AFGI’s creditors can immediately force an involuntary bankruptcy proceeding for AFGI. AFGI could

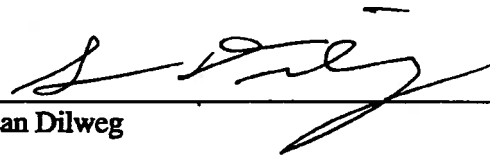
also file a voluntary petition for bankruptcy relief at any time. An ad hoc committee of AFGI's bondholder creditors have threatened that if AFGI enters bankruptcy, they will seek to have the bankruptcy court avoid the tax refund payments to AAC as a preference or fraudulent transfer and seek to impose a constructive trust over the funds in order to prevent them from being used for the rehabilitation of the Segregated Account.

9. On November 3, 2010, I learned that AFGI had received an "Information Document Request" from the U.S. Internal Revenue Service ("IRS") asking AFGI to describe its legal basis for claiming the income tax refunds that led to the payments described in paragraphs 5 and 6. A copy of that request is attached as **Exhibit B**. It is my understanding that, absent the entry of an injunction by this Court and/or a bankruptcy court having jurisdiction over AFGI to the contrary, the IRS may attempt to impose a levy on the tax refund proceeds at any time during this inquiry. If that were to occur, it would have severe adverse consequences to AAC and the Segregated Account.

10. On the evening of Sunday, November 7, 2010, the AAC Board of Directors voted to amend the Plan of Operation to allocate certain liabilities relating to the tax refund payments to the Segregated Account. A copy of that amendment is attached as **Exhibit C**. My office approved that amendment on November 7, 2010, in a letter from Deputy Commissioner Kimberly Shaul. A copy of that letter is attached as **Exhibit D**.

11. Given the rapidly unfolding events regarding a potential AFGI bankruptcy filing and the IRS's review of the tax refunds received by AAC, I believe that immediate injunctive relief is necessary to protect the claims-paying resources of the Segregated Account.

Dated this 7 day of November, 2010.

  
\_\_\_\_\_  
Sean Dilweg

Subscribed and sworn to before me  
this 7<sup>th</sup> day of November, 2010.

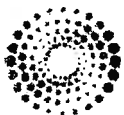
JEFFREY SIMMONS  
\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission: PERMANENT

# **Exhibit A**

**AMBAC FINANCIAL GROUP INC** (ABK)

**8-K**

Current report filing  
Filed on 11/1/2010  
Filed Period 10/29/2010



**THOMSON REUTERS**

**Westlaw** GROUP **BUSINESS**

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**SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

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**FORM 8-K**

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**CURRENT REPORT**

**PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934**

**Date of Report (Date of earliest event reported): November 1, 2010 (October 29, 2010)**

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**AMBAC FINANCIAL GROUP, INC.**  
(Exact name of Registrant as specified in its charter)

---

**Delaware**  
(State  
of incorporation)

**1-10777**  
(Commission  
file number)

**13-3621676**  
(I.R.S. employer  
identification no.)

**One State Street Plaza, New York, New York 10004**  
(Address of principal executive offices) (Zip Code)

**(212) 668-0340**  
(Registrant's telephone number, including area code)

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Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
- 
-

**Item 8.01. Other Events.**

On October 29, 2010, the Board of Directors of Ambac Financial Group, Inc. (the "Company") decided not to make a regularly scheduled interest payment on the Company's 7.50% Debentures due May 1, 2023 (the "2023 Notes"). The interest payment was scheduled to be made on November 1, 2010. If the interest is not paid within 30 days of the scheduled interest payment date, an event of default will occur under the indenture for the 2023 Notes. The occurrence of an event of default would permit the holders of the 2023 Notes to accelerate the maturity of the notes. As of June 30, 2010, the Company had total indebtedness of \$1,622 million. The next scheduled payment of interest on the Company's indebtedness is November 15, 2010.

To date, the Company has been unable to raise additional capital as an alternative to seeking bankruptcy protection. As such, the Company is currently pursuing with an ad hoc committee of senior debt holders a restructuring of its outstanding debt through a prepackaged bankruptcy proceeding. There can be no assurance that any definitive agreement will be reached. If the Company is unable to reach agreement on a prepackaged bankruptcy in the near term, it intends to file for bankruptcy under Chapter 11 of the United States Bankruptcy Code prior to the end of the year. Such filing may be with or without agreement with major creditor groups concerning a plan of reorganization. The filing for bankruptcy protection would accelerate the maturity of all of the Company's indebtedness.

A significant consideration for any restructuring or reorganization is the impact, if any, on the Company's estimated \$7.0 billion net operating loss ("NOLs") tax carry forward. The Company considers the NOLs to be a valuable asset. However, the Company's ability to use the NOLs could be substantially limited if there were an "ownership change" as defined under Section 382 of the Internal Revenue Code of 1986, as amended. In general, an ownership change would occur if shareholders owning 5% or more of the Company's stock increased their percentage ownership (by value) in the Company by 50% or more, as measured over a rolling three year period beginning with the last ownership change. These provisions can be triggered by new issuances of stock, merger and acquisition activity or normal market trading. On February 2, 2010, the Company entered into a Tax Benefit Preservation Plan to reduce the risk of an ownership change resulting from the trading of the Company's stock.

If the Company files for bankruptcy protection, stock issued to the Company's debt holders in connection with a reorganization could trigger an ownership change if a significant portion of the debt being exchanged had been held by such debt holders for less than 18 months prior to the filing for bankruptcy and certain other factual or legal exceptions were not applicable. Accordingly, extensive buying of the Company's debentures prior to a bankruptcy filing by persons who could hold 5% or more of the Company's stock following a bankruptcy reorganization could substantially limit the Company's ability to use its NOLs.

Prior to the occurrence of an event of default under the indenture for the 2023 Notes, the Company intends either (i) to pay interest on the 2023 Notes, (ii) to solicit acceptances for a prepackaged plan of reorganization and, if such solicitation is successful, then to file for bankruptcy with a related prepackaged plan or (iii) to file for bankruptcy under Chapter 11 of the United States Bankruptcy Code. Several factors may influence which of the above courses of action the Company may take, including the status of negotiations with the ad hoc committee of senior debt holders and actions required to preserve the NOLs.

**SIGNATURES**

**Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.**

Ambac Financial Group, Inc.  
(Registrant)

Dated: November 1, 2010

By: /s/ David Trick  
Name: David Trick  
Title: Senior Managing Director, Chief Financial Officer and Treasurer



# **Exhibit B**

Form 4564  (Rev. June 1988)	Department of the Treasury - Internal Revenue Service	Request Number  AFG-FP-1
<b>Information Document Request</b>		
To: (Name of Taxpayer and Company Division or Branch)  AMBAC Financial Group ("AFG") 200312-200812 EIN# 13-3621676		Subject: Credit Default Swaps ("CDS")
		SAIN Number 410
		Submitted to: Tom Staskowski
		Dates of Previous Requests

## Description of Documents Requested

Credit Default Swaps ("CDS") - Form 3115 - NOLs

1. Please provide the complete original Form 3115 dated April 14, 2008, including all exhibits and attachments, wherein you requested permission from the Office of Chief Counsel to change Ambac Assurance Corporation's ("AAC 's ") method of accounting for credit default swap ("CDS") contracts entered into in 2005 and subsequent taxable years.
2. Please provide a letter from the Office of Chief Counsel granting the Form 3115 method change request for the taxable years in question.
3. If Ambac did not receive a Form 3115 approval letter from the Office of Chief Counsel, describe in detail, citing the relevant legal authority, the basis on which Ambac made the Form 3115 CDS mark-to-market ("MTM") method and "ordinary" character treatment changes?
4. Absent the requisite Form 3115 approval letter from the Office of Chief Counsel, describe in detail, citing specific authority, (a) the legal basis upon which Ambac claimed the Form 1139 refunds for the year(s) and amounts listed below; and (b) upon receipt of such refund(s), the legal basis Ambac had for retaining such refund(s).

**FILED FORMS 1139  
CORPORATION APPLICATION FOR TENTATIVE  
REFUND**

YEAR	REFUND	LOSS YEAR
2005	11,470,930	2007
2007	34,328,473	2008
2006	218,375,710	2008

APPLICATION OF REV. PROC. 2009-52

2007	3,814,275	2008
2006	18,154,256	2008
2005	199,328,812	2008
2004	144,929,795	2008
2003	77,713,584	2008

**TOTAL REFUNDS RECEIVED TO DATE**

**708,115,835**

**AS OF THE END OF 2008 THE TP HAS IN EXCESS OF 2 BILLION LOSS CARRYFORWARD.**

**Information due by: November 29, 2010**

<b>From:</b>	<b>Name and Title of Requester</b> Sandy Criscione, Financial Product Examiner, Badge #1000261093	<b>Date</b> October 28, 2010
	<b>Office Location</b> 110 West 44 <sup>th</sup> Street, NYC	<b>Telephone Number</b> (212) 719-6024

# **Exhibit C**

**AMENDMENT NO. 1 TO PLAN OF OPERATION FOR THE SEGREGATED  
ACCOUNT OF AMBAC ASSURANCE CORPORATION**

The Plan of Operation for the Segregated Account of Ambac Assurance Corporation, effective March 24, 2010 (the "Plan of Operation"), is hereby amended by this Amendment No. 1 to Plan of Operation for the Segregated Account of Ambac Assurance Corporation as follows:

Effective as of November 7, 2010, the following paragraphs are added to Section IV of the Plan of Operation, "Allocations to Segregated Account":

*Liabilities to Ambac Financial Group, Inc. ("AFGI").* The Company is allocating to the Segregated Account any and all liabilities (including contingent liabilities) it has or may have, now or in the future, to its shareholder, AFGI, or any successor to AFGI, in regard to, or respecting, tax refunds and/or the July 18, 1991 Tax Sharing Agreement, as amended, provided, that such allocation shall not include any liability to AFGI pertaining to any possible misallocation of up to \$38,485,850 of tax refunds received by AAC in September 2009 and February 2010. Any such liabilities are disputed. This allocation includes, but is not limited to, any preference claim or fraudulent conveyance claim pertaining to the above-referenced subjects brought by, or on behalf of, AFGI in any bankruptcy proceeding involving AFGI by AFGI as debtor-in-possession, or a trustee or committee appointed by a bankruptcy court to pursue any such claim in regard to AFGI, or any similar state court action or claim pursued by, or on behalf of any receiver or creditor of AFGI.

*Liabilities to the Internal Revenue Service ("IRS") and/or the United States Department of the Treasury ("U.S. Treasury").* The Company is allocating to the Segregated Account: (i) any and all liabilities (including contingent liabilities) it has or may have, now or in the future, to the IRS and/or the U.S. Treasury in regard to, or in respect of, taxes imposed under the Internal Revenue Code of 1986, as amended ("Federal Taxes"), for taxable periods ending on or prior to December 31, 2009; and (ii) to the extent not described in clause (i), any and all liabilities (including contingent liabilities) the Company has or may have, now or in the future, to the IRS and/or the U.S. Treasury in regard to, or respect of, any Federal Tax refunds that were received prior to November 7, 2010 by the Company, AFGI or their affiliates. Any such liabilities are disputed.

In all other respects, the Plan of Operation effective March 24, 2010, shall continue to govern the operation of the Segregated Account of Ambac Assurance Corporation.

# **Exhibit D**



**State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE**

**Jim Doyle, Governor**  
**Sean Dillweg, Commissioner**

**Wisconsin.gov**

125 South Webster Street • P.O. Box 7873  
Madison, Wisconsin 53707-7873  
Phone: (608) 266-3585 • Fax: (608) 266-8935  
E-Mail: [ocinformation@wisconsin.gov](mailto:ocinformation@wisconsin.gov)  
Web Address: [oci.wi.gov](http://oci.wi.gov)

November 7, 2010

Mr. Kevin J. Doyle  
Senior Vice President and General Counsel  
Ambac Assurance Corporation  
One State Street Plaza  
New York, New York 10004

Re: Request for Approval of Amendment No. 1 to Plan of Operation for the Segregated Account of Ambac Assurance Corporation

Dear Mr. Doyle:

The Office of the Commissioner of Insurance for the State of Wisconsin ("OCI") has reviewed the request (the "Request") to amend the Plan of Operation for the Segregated Account of Ambac Assurance Corporation by way of Amendment No. 1 to the Plan of Operation ("Amendment No. 1"), effective November 7, 2010. Pursuant to Amendment No. 1, Ambac Assurance Corporation (the "Company") will allocate to the Segregated Account certain disputed, contingent liabilities, if any, to its sole shareholder, Ambac Financial Group, Inc. (the "Disputed Shareholder Liabilities") and certain disputed, contingent liabilities, if any, to the Internal Revenue Service and/or the United States Department of the Treasury (the "Disputed Tax Liabilities").

Amendment No. 1 is hereby approved. OCI makes the following findings of fact and conclusions of law related to its approval of the Request:

1. OCI finds that following the allocation of the Disputed Shareholder Liabilities and Disputed Tax Liabilities to the Segregated Account, the Segregated Account will continue to have an adequate amount of capital and surplus by way of the Secured Note and the Excess of Loss Reinsurance Agreement.
2. OCI finds that the allocation of the Disputed Shareholder Liabilities and Disputed Tax Liabilities is not contrary to the law and serves the interests of the public and policyholders.
3. OCI finds that allocation of the Disputed Shareholder Liabilities and Disputed Tax Liabilities preserves claims-paying resources for the benefit of all policyholders and provides fair and equitable treatment of policyholders and creditors

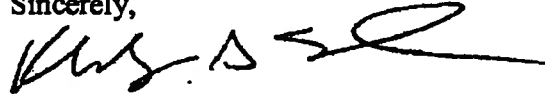
Page 2

under the Wisconsin Insurers Rehabilitation and Liquidation Act, and was not done with the intent to hinder, delay, or defraud present or future creditors of the Company.

4. OCI finds that the allocation of the Disputed Shareholder Liabilities and Disputed Tax Liabilities does not constitute a fraudulent conveyance within the meaning of Wis. Stat. § 645.52 or the Uniform Fraudulent Transfer Act and its predecessor act, the Uniform Fraudulent Conveyance Act.

If you have questions on this or any other matter in which I might be of some assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kimberly A. Shaul', with a long horizontal flourish extending to the right.

Kimberly A. Shaul  
Deputy Commissioner of Insurance



1  
BY

STATE OF WISCONSIN

CIRCUIT COURT  
CIRCUIT COURT  
10 NOV -8 PM 3:07

DANE COUNTY

In the Matter of the Rehabilitation of:

DANE COUNTY, WI

Case No. 10 CV 1576

Segregated Account of Ambac Assurance Corporation

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**ORDER FOR TEMPORARY SUPPLEMENTAL INJUNCTIVE RELIEF**

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Based on the Motion for Temporary Supplemental Injunctive Relief filed by the Commissioner of Insurance for the State of Wisconsin, as Rehabilitator (the "Rehabilitator") of the Segregated Account of Ambac Assurance Corporation (the "Segregated Account"), and the pleadings, motions, briefs and exhibits on file in this case, as well as oral argument, this Court finds that the temporary supplemental injunctive relief requested by the Rehabilitator is reasonable and necessary to promote the equitable and orderly rehabilitation of the Segregated Account, a Wisconsin-domiciled insurer under Wis. Stat. § 611.24(3)(e). The Court further finds that the requested injunctive relief relates to, and is necessary for, the regulation of the business of insurance as part of this proceeding and is authorized by Chapter 645 of the Wisconsin Statutes. The Court further finds that this Court has exclusive jurisdiction over matters relating to this rehabilitation proceeding.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Rehabilitator's Motion for Temporary Supplemental Injunctive Relief is GRANTED, and the following temporary supplemental injunctions are hereby ENTERED:

1. The relief specified in this Order is complementary and supplementary to the relief set forth in the March 24, 2010 Injunction Order entered by this Court in the Segregated Account Proceeding. All provisions of the March 24, 2010

Injunction Order remain in full force and effect as to all policies, contracts, liabilities, and disputed contingent liabilities that have been allocated to the Segregated Account on or before the date of this Order.

2. This Order is made in furtherance of the allocation of disputed contingent liabilities to the Segregated Account, as detailed in Amendment No. 1 to the Plan of Operation filed November 8, 2010 (hereinafter “Allocated Disputed Contingent Liabilities”), as approved in the resolution adopted by the Ambac Assurance Corporation Board of Directors on November 7, 2010.

3. Ambac Financial Group, Inc. (“AFGI”), any successor-in-interest, including any debtor-in-possession, trustee or committee appointed by a bankruptcy court to pursue claims on behalf of or in regard to AFGI, any state court receiver of AFGI, all persons or entities purporting to be creditors of AFGI, the United States Internal Revenue Service, and all other federal and state governmental entities (collectively, the “Enjoined Parties”), are enjoined and restrained from commencing or prosecuting any actions, claims, lawsuits or other formal legal proceedings in regard to the Allocated Disputed Contingent Liabilities in any state, federal or foreign court, administrative body or other tribunal against: (a) the Segregated Account; (b) any subsidiary of Ambac whose stock, limited liability company member interests, or other forms of ownership interests were allocated to the Segregated Account—namely, Ambac Credit Products, LLC, Ambac Conduit Funding, LLC, Juneau Investments, LLC, and Aleutian Investments, LLC (the “Allocated Subsidiaries”); (c) Ambac Assurance Corporation (“Ambac” or the “Ambac General Account”) in respect of the Segregated Account or policies

(including financial guarantee insurance policies and surety bonds), contracts, liabilities, or disputed contingent liabilities allocated to the Segregated Account; (d) any subsidiary of Ambac, including Connie Lee Holdings, Inc.; Everspan Financial Guarantee Corp.; Ambac Private Holdings, LLC; Ambac Assurance UK Limited; Ambac Japan Co., Ltd.; Contingent Capital Company, LLC; SP Note Investor I, LLC; Ambac Capital Services, LLC; SP Aircraft Holdings, LLC; SP Aircraft Owner I, LLC; SP Aircraft Owner II, LLC; SP Aircraft Owner III, LLC; Ambac Capital Corporation; Ambac Capital Funding, Inc.; AE Global Holdings, LLC; AE Global Asset Funding, LLC; AE Global Investments, LLC; Ambac Asset Funding Corporation; Ambac Investments, Inc.; Ambac AII Corp.; AME Holdings, LLC; AME Asset Funding, LLC; AME Asset Funding, LLC; and AME Investments, LLC (collectively, the “Ambac Subsidiaries”), in respect of the Segregated Account or policies (including financial guarantee insurance policies and surety bonds), contracts, liabilities, or disputed contingent liabilities allocated to the Segregated Account; or (e) the Rehabilitator. Wis. Stat. § 645.05(1)(f). This Court has exclusive jurisdiction over any such actions, claims or lawsuits.

4. The Enjoined Parties are hereby also enjoined and restrained from taking any prejudgment or other steps to transfer, foreclose, sell, assign, garnish, levy, encumber, attach, dispose of, or exercise purported rights in or against any property or assets of the Segregated Account, Ambac, the Allocated Subsidiaries, or the Ambac Subsidiaries in respect of the Allocated Disputed Contingent Liabilities. Wis. Stat. § 645.05(1)(d), (g), (h), (k).

5. This Order shall remain effective until further order of the Court. Counsel for the Rehabilitator shall promptly serve copies of this Order on AFGI, the Department of Treasury – Internal Revenue Service, and any other party-in-interest the Rehabilitator believes is directly affected by this Order, including those who have appeared in these rehabilitation proceedings. If any interested parties believe any portion of this Order is unwarranted by the facts or the law, such parties may seek modification or dissolution of part or all of this Order by filing a written motion with this Court no later than 45 days following the issuance of this Order. If one or more such timely motions are received, the Court may set a schedule for responsive briefing and a hearing regarding the modifications or dissolutions sought. The originals of any such motions shall be filed with the Dane County Circuit Court (with courtesy copies mailed to the undersigned, care of the Clerk of the Lafayette County Circuit Court) and served on counsel for the Rehabilitator.

Dated this 8<sup>th</sup> day of November, 2010.

*Signed at 8:38 CST  
William D. Johnston  
Circuit Judge*

BY THE COURT:



William D. Johnston  
Lafayette County Circuit Court Judge,  
Presiding by Judicial Assignment Order