

STATE OF WISCONSIN : CIRCUIT COURT : DANE COUNTY  
BRANCH 9

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In the Matter of the Rehabilitation of:

SEGREGATED ACCOUNT OF  
AMBAC ASSURANCE CORPORATION

Case No. 10 CV 1576  
Hon. Richard G. Niess

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**RESPONSE OF AD HOC GROUP OF RESA CLAIMHOLDERS TO  
COFINA BONDHOLDERS' MOTION TO ADJOURN PROCEEDINGS  
AND OBJECTION TO AMENDED PLAN**

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An ad hoc group of holders of surplus notes and beneficial interests in deferred amounts that were initial parties to the Rehabilitation Exit Support Agreement (the “RESA Claimholders”)<sup>1</sup> file this response (the “Response”) in opposition to the *Motion of General Account Stakeholders’ to Adjourn Proceedings on the Rehabilitator’s September 25, 2017 Motion To Further Amend The Plan Of Rehabilitation Confirmed On January 24, 2011 To Facilitate An Exit From Rehabilitation* (the “Motion to Adjourn”) and the same Group’s Objection to the Rehabilitator’s Motion (the “Objection”). In support of this Response, the RESA Claimholders respectfully state as follows:

### **RESPONSE**

1. On September 25, 2017, the Commissioner of Insurance of the State of Wisconsin (the “Rehabilitator”) filed its Motion to Further Amend the Plan of Rehabilitation Confirmed on January 24, 2011 to Facilitate an Exit from Rehabilitation (the “Rehabilitator’s Plan Amendment Motion”) with respect to the Segregated Account (the “Segregated Account”) of Ambac Assurance Corporation (“Ambac”). The proposed amendment to the plan provides the framework for a series of transactions necessary to affect the Segregated Account’s exit from rehabilitation, and is supported by a large portion of Ambac’s creditor constituency.

2. On November 13, 2017, three hedge funds (the “COFINA Bondholders”) that hold bonds issued by the Puerto Rico Sales Tax Financing Corporation and guaranteed by Ambac filed the Motion to Adjourn.<sup>2</sup> By the Motion to Adjourn, the COFINA Bondholders seek an open-ended adjournment of this Court’s consideration of the Rehabilitator’s Plan Amendment

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<sup>1</sup> The RESA Claimholders consist of: (i) Canyon Capital Advisors LLC; (ii) Centerbridge Partners, L.P.; (iii) Davidson Kempner Capital Management LLC; and (iv) EJP Capital LLC, each for its participating funds and managed accounts.

<sup>2</sup> The COFINA Bondholders subsequently filed the Objection to the Rehabilitator’s Plan Amendment Motion.

Motion until such time as the situation in Puerto Rico and the potential exposure of Ambac to the COFINA Bondholders becomes more clear.<sup>3</sup>

3. While styled as a Motion to Adjourn, as a practical matter, it is no different than the COFINA Bondholder's Objection in that if an adjournment is granted, we expect that the Rehabilitator's Plan Amendment Motion, the Segregated Account's proposed exit from rehabilitation, and the entire series of transactions would be derailed and abandoned. Simply stated, these are not transactions that can withstand delay.

4. The Rehabilitation Exit Support Agreement, dated as of July 19, 2017 (the "RESA") -- which was the culmination of complex and intensive negotiations over a prolonged period -- is the glue that bonds all of the many parties bound to support and ultimately consummate the various exit transactions.

5. While there were a myriad of issues, concerns and deal points that the parties discussed during the RESA negotiations, there were two issues that were particularly problematic for the RESA Claimholders. First, as the holders of accrued and overdue policy claims that have been outstanding, in some cases, for years, the RESA Claimholders vehemently objected to Ambac's request that they take any discount on what is owed to them.<sup>4</sup> Second, the RESA Claimholders objected to Ambac's request that the RESA provide for a long term lock-up on the deal terms and certain material obligations required of holders who are or become party to the RESA (e.g., restrictions on their ability to unconditionally trade their positions). Ultimately, at the conclusion of around-the-clock negotiations, the RESA Claimholders agreed (i) to a discount of 6.5%, currently valued at approximately \$230 million in the aggregate and (ii) that

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<sup>3</sup> Any suggestion that there will be clarity in the near term with respect to the COFINA bond litigation disputes or the PROMESA cases generally is nothing more than a pipe dream. Meaningful information/finality is likely to take years, certainly not weeks or months as the COFINA Bondholders appear to argue.

<sup>4</sup> The RESA Claimholders were also troubled by the fact that Ambac's proposals asked that they shoulder a discount while future policy claims (such as claims under the COFINA bond policy, if any) would be immediately satisfied in full in cash.

the lock-up and other restrictions would run for 270 days (which expires on April 15, 2018). These concessions represent the foundation of the agreement.

6. In agreeing to such a long lock-up period, the RESA Claimholders recognized the practical reality of the court process, and agreed to provide Ambac and the Rehabilitator with sufficient time to seek the necessary approvals. With that said, the prolonged lock-up period has come at a significant cost, and the RESA Claimholders will not agree to the COFINA Bondholders' request for additional (and open-ended) delay.

7. It is important to note that at the time the parties entered the RESA, there were six claimholders that executed the RESA (in addition to Ambac and Ambac Financial Corporation). With the additional claimholders that have subsequently joined the RESA, there are now nineteen claimholders that are party to the RESA.

8. If the transactions contemplated by the RESA are not consummated by April 15, 2018, each of those claimholders would be free to reevaluate the economic terms of the transactions, as well as their willingness to continue to honor the obligations imposed by the RESA (including as it relates to trading).

9. The agenda of the COFINA Bondholders is clear. They object to Ambac's satisfaction of long overdue policy claims (at a discount) and advocate for Ambac to hoard cash so that if they are not paid by COFINA at some unknown point in the future, they can look to an overcapitalized Ambac. They have no crystalized policy claims. The COFINA Bondholders have no need to be concerned with the overall health of Ambac or the fairness of the contemplated transactions to all policyholders – that is the Rehabilitator's task. Their request for delay, and their efforts to undermine this process, should be denied.

Dated: December 11, 2017.

**GODFREY & KAHN, S.C.**

By: *Electronically signed by James A. Friedman*  
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