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September 22, 2021

Mr. Steven J. Berkowitz  
President and Chief Executive Officer  
ACA Financial Guaranty Corporation  
555 Theodore Fremd Avenue, Suite B-302  
Rye, NY 10580

Via Email [sberkowitz@aca.com](mailto:sberkowitz@aca.com); [sleonard@aca.com](mailto:sleonard@aca.com); [rtundermann@fblaw.com](mailto:rtundermann@fblaw.com)

RE: ACA Financial Guaranty Corporation - 2021 Request for Approval to Make Surplus Note Payment

Dear Mr. Berkowitz:

This letter is in response to your letter dated July 14, 2021, requesting approval for ACA Financial Guaranty Corporation ("ACA" or the "Company") to pay \$75.3 million to its surplus note holders over a period of three years, with an initial payment of \$32.5 million in 2021. In preparing our response, we reviewed ACA's Capital Model for December 31, 2020, presented to the Maryland Insurance Administration (the "Administration") on May 11, 2021. We also reviewed ACA's Capital Model as of June 30, 2021, and ACA's Financial Model for 2021 through 2036 as of June 30, 2021. In addition, we reviewed ACA's outstanding insured credits including all debt service amounts as of June 30, 2021, along with the expiration dates of the credits.

The Administration acknowledges the credibility of ACA's Capital Model and also acknowledges that ACA has continued to work very diligently with continued success to reduce its portfolio of insured credits. We again applaud management's efforts and results, and we believe that these efforts and results are appropriate and that they indicate that the Company has been very well-managed throughout this challenging run-off phase. However, we believe that significant risk and uncertainties remain, due in part to the significant judgement involved in estimating the amount and timing of claims payments and recoveries, many of which may occur well out in the future and may not be under management's control.

Therefore, we believe that it is appropriate to authorize a payment to surplus note holders of 10% of the \$113 million policyholders' surplus reported as of June 30, 2021, which is consistent with the surplus that ACA projects for December 31, 2021. Rounded to the nearest million, this

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results in a payment to surplus note holders of \$11,000,000 (eleven million dollars). The method that we used to determine the amount of payment should not be considered as setting a precedent for our responses to future requests from the Company.

We have given this matter a great deal of consideration, and we believe that our conclusions, although more conservative than ACA's, are very reasonable. If you would like to discuss this matter further, please contact Lynn Beckner at [lynn.beckner@maryland.gov](mailto:lynn.beckner@maryland.gov) or me at [vincent.ogrady@maryland.gov](mailto:vincent.ogrady@maryland.gov).

Sincerely,

*/s/ Vincent P. O'Grady*

Vincent P. O'Grady  
Associate Commissioner  
Financial Regulation

cc: Kathleen A. Birrane, Insurance Commissioner  
Lynn Beckner, Chief Financial Analyst  
Matthew Kozak, Investment Specialist