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**From:** Lombardi\_Michael  
**Sent:** Friday, June 15, 2007 2:50 PM  
**To:** Ivancich, Anthony  
**Subject:** RE: S&P Follow Up

Anthony,  
Unfortunately, the SEC laid out a laundry list of entities that could qualify as a QIB. (See below) Nowhere is there a state or municipal fund used for non-pension assets.

a. *Definitions.*

1. For purposes of this section, *qualified institutional buyer* shall mean:

- i. Any of the following entities, acting for its own account or the accounts of other qualified institutional buyers, that in the aggregate owns and invests on a discretionary basis at least \$100 million in securities of issuers that are not affiliated with the entity:
  - A. Any *insurance company* as defined in [section 2\(a\)\(13\)](#) of the Act ;  
  
Note: A purchase by an insurance company for one or more of its separate accounts, as defined by [section 2\(a\)\(37\)](#) of the Investment Company Act of 1940 (the "Investment Company Act"), which are neither registered under section 8 of the Investment Company Act nor required to be so registered, shall be deemed to be a purchase for the account of such insurance company.
  - B. Any *investment company* registered under the Investment Company Act or any *business development company* as defined in [section 2\(a\)\(48\)](#) of that Act;
  - C. Any *Small Business Investment Company* licensed by the U.S. Small Business Administration under section 301(c) or (d) of the Small Business Investment Act of 1958;
  - D. Any *plan* established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees;
  - E. Any *employee benefit plan* within the meaning of title I of the [Employee Retirement Income Security Act of 1974](#);
  - F. Any trust fund whose trustee is a bank or trust company and whose participants are exclusively plans of the types identified in paragraph (a)(1)(i)(D) or (E) of this section, except trust funds that include as participants individual retirement accounts or H.R. 10 plans.
  - G. Any *business development company* as defined in [section 202\(a\)\(22\)](#) of the Investment Advisers Act of 1940;
  - H. Any organization described in section 501(c) (3) of the Internal Revenue Code, corporation (other than a bank as defined in [section 3\(a\)\(2\)](#) of the Act or a savings and loan association or other institution referenced in section 3(a)(5)(A) of the Act or a foreign bank or savings and loan association or equivalent institution), partnership, or Massachusetts or similar business trust; and
  - I. Any *investment adviser* registered under the Investment Advisers Act.

The closest one is D., but that refers to employee benefit plans. We believe that LGIPs that consider themselves a QIB are reaching and don't see how a broker dealer is accepting their proclamation. It certainly would make my life easier if the SEC would address this issue, but they have refused to do so in the past.

Thanks again,  
Michael

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