RMBS 3.0

A Comprehensive Set of Proposed Industry Standards
to Promote Growth in the
Private Label Securities Market

Sixth Edition

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RMBS 3.0

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Introduction

RMBS 3.0 is an initiative of the Structured Finance Industry Group ("SFIG"[1]), established with the primary goal of re-invigorating the "private label" residential mortgage-backed securities ("RMBS") market.[2]

Initiated by members of SFIG, the project seeks to reduce substantive differences within current market practices through an open discussion among a broad cross-section of market participants. Where possible, participants seek to identify and agree upon best practices. RMBS 3.0 focuses on the following areas related to RMBS:

- Representations and warranties, repurchase governance and other enforcement mechanisms;
- Due diligence, disclosure and data issues; and
- Roles and responsibilities of transaction parties and their communications with investors.

As the project progresses, the scope may expand to include additional areas of market concern.

Premise and Goal

In order to improve the RMBS market as the industry moves beyond the legacy of the housing crisis, members must tackle the difficult but critical task of creating standardized representations, warranties and repurchase enforcement mechanisms, and address other integral parts of the RMBS issuance process.

Post-crisis, a very small "RMBS 2.0" market has emerged. A review of RMBS 2.0 practices indicates that post-crisis transactions have utilized varying approaches as investors and issuers continue to explore how to best design the structural elements of an RMBS transaction. In a number of cases, divergence among the various approaches has significantly influenced rating agency decisions and limited investor participation. Most industry participants seem to believe that, without a targeted effort at establishing generally accepted best practices, the RMBS market will continue to reflect disparate standards.

[1] SFIG is a member-based, trade industry advocacy group focused on improving and strengthening the broader structured finance and securitization market. SFIG provides an inclusive network for securitization professionals to collaborate and, as industry leaders, drive necessary changes, be advocates for the securitization community, share best practices and innovative ideas, and educate industry members through conferences and other programs. Members of SFIG represent all sectors of the securitization market including issuers, investors, financial intermediaries, law firms, accounting firms, technology firms, rating agencies, servicers, and trustees. Further information can be found at www.sfindustry.org.

[2] RMBS 3.0 is only applicable to new issuance of newly or relatively recently originated residential mortgage loans and does not purport to apply to other types of residential mortgage transactions such as legacy RMBS transactions, seasoned loan RMBS transactions, or re-performing/non-performing RMBS transactions.

It is important to stress that a "one size fits all" set of standards may not be appropriate for many reasons. Structural frameworks may vary to some degree, reflecting different market practices that arise from individual goals and strategies of different types of institutions.

There are a variety of basic models for RMBS issuance involving various types of sponsors. These sponsors include originators of mortgage loans seeking to sponsor their own securitizations, and sponsors that acquire and aggregate mortgage loans from third party originators pursuant to their own set of acquisition guidelines. Sponsors may include regulated financial institutions, mortgage companies or entities set up by investment banks to acquire mortgage loans, or mortgage REITs.

Issuers will have different levels of risk tolerance, and varying internal policies and procedures. Further, a given framework must adequately account for and accommodate operational differences that exist between mortgage originators and aggregators acting in the role of securitization sponsor.

On the investment side, the structural considerations must account for varying types and categories of investors (for example, "rates" vs. "credit" investors; senior, mezzanine and first loss subordinated investors, etc.). Investors with differing loan-level analysis capabilities and interests, and varying levels of risk tolerance and internal governance policies and procedures may need to consider alternatives.

Other RMBS parties, such as rating agencies, employ different approaches and standards in their analysis. RMBS 3.0 must therefore reflect the sometimes divergent views of its many participants. Accordingly, this project intends to discreetly consider each issue area and address the range of topics identified as characterizing, and in many cases impeding, the market during the RMBS 2.0 era in a lasting, substantive way.

By identifying, analyzing, explaining and creating solutions for the legal, operational and risk-related issues that concern post-crisis RMBS industry participants, and presenting the work in a centralized, user-friendly manner, RMBS 3.0 seeks to:

1. Create standardization where possible, in a manner that reflects widely agreed upon best practices and procedures.
2. Clarify differences in alternative standards in a centralized and easily comprehendible manner to improve transparency across RMBS transactions.
3. Develop new solutions to the challenges that impede the emergence of a sustainable, scalable and fluid post-crisis RMBS market.
4. Draft or endorse model contractual provisions, or alternative "benchmark" structural approaches, where appropriate to reflect the foregoing.

While SFIG cannot create legally enforceable standards, we strongly believe that the adoption of a set of common standards that are driven by industry participants will be more successful than those dictated by regulation. The project also aims for increased transparency in the practices of participating members. Accordingly, we encourage issuers to either adopt one or

more of the "alternative benchmark" RMBS 3.0 standards or utilize alternative approaches in a manner that increases transparency and promotes a better functioning marketplace.

Methodology

Participants in the RMBS 3.0 project are addressing a broad range of topics in significant and intricate detail. To fully address each issue area, the committee and working group structure employs the following methodology:

1. Evaluating key areas of concern that industry participants have identified as requiring resolution in order to create a sustainable, scalable and fluid post-crisis RMBS market;
2. Considering different approaches to these topics and, for each approach, engaging in an analysis and, where possible, developing a solution for legal, contractual and operational issues; and
3. Explaining the relative merits of each approach, particularly highlighting potential risk implications for issuers, investors and other RMBS transaction parties.

Disclaimer

The publication of this RMBS 3.0 Green Paper by SFIG: does not mean that any or all of the opinions or recommendations herein have been adopted or endorsed by any specific SFIG member; does not create any legal obligation of any specific SFIG member; does not create any legal rights of any person; does not constitute any statement as to materiality of any matter for any purpose; and is not intended to express any opinion or interpretation as to any past transaction. This Green Paper is intended solely to propose, analyze and recommend standards for future RMBS transactions. SFIG members are neither required to subscribe to nor obligated to adopt each of the standards, analyses, recommendations or practices contained herein. As stated below under "Work Product," the recommendations in this Green Paper are preliminary and are subject to revision in future SFIG publications.

Project History

On October 16, 2013, SFIG hosted an RMBS roundtable with representatives from various industry sectors to debate issues inhibiting the return of a vibrant RMBS market. Investors, issuers, servicers, trustees, broker-dealers, analytics firms, due diligence providers, rating agencies, internal counsel and outside legal counsel firms participated in two modules of 25 – 30 participants apiece that centered on representations and warranties and repurchase enforcement. A more detailed review of the discussion and debate is included in Appendix B.

Module 1: Representations and Warranties—"Prior to Issuance"	Module 2: Enforcement—"Post Issuance"
Representations & Warranties	Sunsets
Materiality	Independent Reviewer
Due Diligence	Independent Review Process
Disclosure	Bondholder Communications
	Role of Transaction Parties

Following the RMBS 3.0 Roundtable, SFIG created three distinct work-streams to address the identified areas of concern. Individual SFIG members volunteered to participate in one or more of these work-streams. The three work streams, and related preliminary issue areas, include:

Representations, Warranties and Repurchase Enforcement	Due Diligence, Data and Loan-Level Disclosure	Role of the Transaction Parties & Bondholder Communications
▪ Representations & Warranties ▪ Independent Review Process ▪ Materiality/Repurchase Thresholds ▪ Sunsets ▪ Mandatory Arbitration/Enforcement ▪ Backstops/Gap Risk ▪ 17g-7	▪ Underwriting Disclosure ▪ Loan-Level Data and Disclosure ▪ Data Standardization ▪ Rating Agency Process ▪ Pre-offering Review Due Diligence Standards ▪ Sampling ▪ Due Diligence Extracts to Investors	▪ Roles and Responsibilities of Transaction Parties ▪ Access to Data ▪ Reporting ▪ Content of Data ▪ Transaction Party Activities ▪ Bondholder Communication

Note: A comprehensive agenda is located in the Master Agenda section.

Project Governance

SFIG established a vigorous project governance framework in order to effectively work through RMBS 3.0's ambitious agenda. The overarching direction of the project is governed by a Steering Committee that includes the co-chairs of each work stream, a rating agency representative, a servicing representative, the co-chairs of SFIG's Residential Mortgage Committee, and the chair of the RMBS 3.0 Task Force. Each of the three working groups is

co-chaired by member organizations. Co-chairs include an institutional investor, an issuer, and a specialized "subject matter expert" for each working group.

The task force membership of RMBS 3.0 is extensive. Each working group consists of approximately 125 individuals, representing more than 50 SFIG member institutions. RMBS 3.0 leadership works closely with each of the three work streams and the full project task force to accomplish the goals established by its members.

Work Product

As highlighted above, RMBS 3.0 is designed to analyze and, where possible, create solutions to the "structural" impediments that various industry members have noted in the post-crisis RMBS market. Through this process, SFIG aims to create standardization where achievable, clarify differences in alternative standards in a transparent manner, and develop new solutions and model contractual provisions.

Interim "Green Papers"

RMBS 3.0 is by necessity an iterative process. Achieving consensus on the topics outlined above will be a dynamic exercise, and as new topics are considered, participants may revisit previously discussed items. All final benchmark proposals identified by the project must be discussed and receive approval from the full RMBS 3.0 Task Force.

To reach consensus among RMBS 3.0 participants to the greatest extent possible, SFIG will, prior to finalizing any RMBS 3.0 White Paper (see below – *"White Papers and Market Standards"*), release and socialize preliminary proposed benchmark standards periodically through an interim series of "Green Papers." This release constitutes the third collection of such Green Papers.

As the RMBS 3.0 project approaches its end and definitively addresses every discreet subject area, each Green Paper will become a final White Paper recommendation. While SFIG encourages early adoption of "Green Paper" standards, RMBS 3.0 may issue updates or revisions to preliminary recommendations on an incremental basis as the project works towards addressing each issue on the agenda. In this regard, SFIG anticipates that the Green Papers will evolve over time as project participants, comprised of thought leaders from each segment of the RMBS industry, continue to evaluate the substantive issues at hand. To the extent those participants present new approaches or analyses, the RMBS 3.0 project is designed to consider and incorporate this information and thereby remain a living, breathing and relevant forum for innovation and best practices in RMBS.

White Papers and Market Standards

As transparency of process and transparency of recommendation are of the utmost importance, SFIG does not consider that the mere creation of a set of standards is sufficient for the marketplace. Accordingly, in addition to a set of recommended standards, RMBS 3.0

plans to develop a detailed and comprehensive evaluation of each issue area outlined in the agenda in the form of a White Paper. The series of White Papers will, where possible, evaluate the history of the related topic, consider the nuances of each issue area, highlight alternative approaches and ultimately recommend one or a number of potential "standards." SFIG will publish the complete White Paper series, together with the consolidated set of standards, as a "best practice recommendation," with implementation of the benchmark standard(s) strongly encouraged by SFIG. We anticipate that the completed final set of standards for RMBS 3.0 will be available during 2015.

Notwithstanding the foregoing, the evolution of the RMBS 3.0 project process, which is driven by ongoing engagement with market and project participants, may, for some RMBS 3.0 modules, result in a White Paper version that differs substantially from early Green Paper releases. Similarly, even those White Papers may be subject to further revision as both mortgage products and securitization products and practices develop. This is a routine expectation for any growing market, and underscores the importance that the White Papers and market standards maintain the flexibility of being industry driven and do not become embedded into hard-coded regulation.

RMBS 3.0 Master Agenda

REPRESENTATIONS, WARRANTIES AND REPURCHASE ENFORCEMENT

I. Representation and Warranties
   a. Material Differences
   b. Develop new baseline sets of representations and identify representation used or departure from representations
      i. Current Release
         1. No Modifications
         2. Taxes, Fees and Assessments Paid
         3. No Mechanics' Liens
         4. Manufactured Home
         5. No Defenses
         6. Downpayment
         7. Data
         8. Underwriting
         9. Borrower
         10. Mortgage Insurance Repurchase
         11. Usury
         12. Early Payment Default
         13. Insurance Coverage Not Impaired
         14. Deeds of Trust
         15. Mortgage Properly Recorded
         16. Due-On-Sale
         17. Loans Current/Prior Delinquencies
         18. No Default
         19. No Rescission
         20. Enforceable Right of Foreclosure
         21. Lost Note Affidavit
         22. Leases
         23. No Bankruptcy/No Foreclosure
         24. Recordability/MERS Loans
         25. Ability to Repay/QM Loans
         26. No Prior Liens
         27. Enforceability and Priority of Lien
         28. Certificate of Occupancy
         29. Mortgage Loan Legal and Binding
         30. Hazard Insurance
         31. Mortgage Insurance
         32. Title Insurance

33. Licensing/Doing Business
34. Complete Mortgage File
35. Environmental Law
36. Property Valuation
37. Income/Employment/Assets
38. Occupancy
39. Source of Loan Payments

ii. Previously Released
1. Fraud/Misrepresentation
2. High-Cost Loans
3. Regulatory Compliance
4. Mortgage Loan Qualifies for REMIC
5. No Damage/Condemnation
6. No Encroachments/Compliance with Zoning
7. Subject Property is 1-4 Family
8. Proceeds Fully Disbursed/Recording Fees Paid

c. Uniform Issuer Representations and Warranties Appendix

II. Materiality/Repurchase Threshold:
a. Can we develop more objective materiality standards that clearly codify and define:
i. What types of risks issuers v. investors bear?
ii. When a breach gives rise to a repurchase obligation?
iii. Approaches to causality/materiality of credit risks, life events and manufacturing defects
1. Absolute liability for manufacturing defects vs. process breakdowns or other standards
2. Can we codify materiality (and if so, in some or all circumstances)?

III. Sunsets
a. What representations are appropriately covered by sunset?
b. As a general proposition, is recourse simply limited or are sunsets useful codifications that reflect the reality of performance as an indicator of proper underwriting?
c. What are reasonable time periods?
i. Different standards for different products?
ii. Should certain levels or indices of delinquencies extend or eliminate sunsets if present in a transaction?
d. Impact of statute of limitations rulings
i. Will any issuers switch to different jurisdictions? With what impact?
ii. Can issuers contract out of a statute?

IV. Independent Review Process
a. Selection and Review Standards; Scope of Review
b. Should the Independent procedures be specified up front?
i. Does this provide more clarity and certainty as to the scope of review?
ii. Is this a limitation of the potential review?

c. Identification: should Independent Reviewer be identified at the start of the transaction?
    i. Disclosure of the provider
    ii. Term of provider and ability to meet criteria; termination/resignation, limited or renewing term?
    iii. Issuer or investors: right to remove Independent Reviewer
        1. Would this hurt "independence"?
d. Triggers: Complete list of appropriate triggers to ensure all potential breaches are captured
    i. Objective Review Triggers
        1. 120 Day Delinquency
        2. Loan Liquidates Resulting in Loss
            a. Need to include Make-Whole provision as potential remedy in case of loan liquidation resulting in a loss
        3. Insolvency of Representation Provider
        4. Loan Modification
            a. Mods for purposes of loss mitigation
        5. P&I Advance Non-recoverability
        6. Credit Enhancement or Delinquency
    ii. Subjective Review Triggers
e. Disclosure of Review
    i. Identification of details of findings
    ii. Independent Review and Investor Relations
f. How do we make the details and result of the breach reviews available to investors?
    i. How can the Independent Reviewer identify, in particular, the details of a "no breach" finding?
    ii. Does the analysis differ if standards are not expressly defined, vs up to the policies and procedures of the Independent Reviewer
    iii. Should the Independent Reviewer be available for an Investor call to discuss findings?
g. Controlling Holder
    i. Affiliated vs. Unaffiliated Controlling Holder
    ii. Aggregator vs. Originator format
    iii. How should a Controlling Holder report its findings to investors so that they can evaluate the Controlling Holder's decision and take action if the Controlling Holder chooses not to pursue a breach?
    iv. Report all findings of breach
        1. Rule 15g-1 Requirements
h. Collateral Manager
    i. Can/should we build in a "Collateral Manager" or oversight party as an investor proxy, with access to files for a breach review function as well as a servicing oversight function
        1. Terms, pay structure
        2. Would rating agencies and investors give credit/better pricing to transactions with this feature?

3. Criteria, disclosure, fiduciary responsibility and other contractual terms

V. Mandatory Arbitration/Enforcement (as an alternative to litigation)
   a. Scope of mandatory enforcement
      i. Mandatory for all securitizations and underlying whole loan agreements?
      ii. Work to create minimum standards for arbitrators and an arbitration process?
      iii. Loser pay vs. cost-share structures.
      iv. Can or should a Controlling Holder or a threshold percentage of investors be able to bind the other investors in pursuing Mandatory Arbitration, or should the pursuing investors be required to fund the action?
   b. Scope of Review
      i. Whether there was a material breach vs. whether the Independent Reviewer did its job properly
      ii. What evidence should be available?
      iii. Full access to origination and servicing files, due diligence results, etc.

VI. Backstops/Gap Risk
   a. Under what circumstances should issuers be required to backstop certain or all originator representations (aggregator model)?
      i. Should backstops be mandatory in certain events such as:
         1. Insolvency
         2. Repurchase Dispute
      ii. Should backstops be mandatory with respect to certain representations:
         1. REMIC
         2. SMMEA
   b. Are there objective criteria on which investors can better base their analysis?
   c. How do we ensure all potential gaps are identified and covered by the proper party?

VII. 17g-7
   a. Differences among rating agency required representations:
      i. Are there ways to make 17g-7 reports more standardized and user friendly? Better suited for the purpose for which they're intended
      ii. Evaluate rating agency approaches to standards: similarities, differences
      iii. Representations, warranties, and enforcement provisions→including backstop requirements
      iv. FICO and Value refreshes
   b. Are rating agencies credit-enhancing for different representation packages or is it more binary
      i. Baseline approaches
      ii. Risk of "lowest common denominator"?

DUE DILIGENCE, DATA, AND DISLCOSURE

VIII. Underwriting Disclosures
   a. Originator Reviews

i. QC Process and Controls/Audits within the process
    1. Review FNM/FDM systems in addition to what goes through originator firms
    2. Review types of risk management controls that may be in place to determine review process and party receiving review
        a. Analyze how risk management reviewed to prevent recurring problems
    3. Regulatory and Legal Compliance Function
        a. Compliance Officer—role and qualifications
            i. Tools and Policies
            ii. Training
ii. Number of Reviews in a Transaction
    1. What threshold level of loans by originator in a transaction before there will be a review of the originator
        a. Is there a review conducted on every originator, and are those reviews disclosed?
        b. What are the limitations on the disclosure of the results?
iii. Differences between originators & potential for different types of reviews
    1. Do originator reviews note what types of buyers are involved, along with any other factors?
    2. Different Sourcing
iv. Rating Agency involvement/use of review: Does each agency have its own model to determine what information they look for in a review?
    1. There may be similar attributes in the basic standards of rating agencies, but there are inconsistencies coming from the quantitative analysis of how the rating agencies view certain aspects of information and review.
v. Organizational structure
vi. Operations History
vii. What are the Company's objectives?
    1. How have they changed since 2007?
viii. Company's strategy in this business
ix. What is the mix of credit metrics today and historically?
x. What are the company's competitive strengths and weaknesses?
xi. Collateral Sourcing
xii. Collateral Pricing
xiii. Collateral Types
xiv. Underwriting
xv. Exceptions
xvi. Approvals
xvii. Scoring Systems
xviii. Training
xix. Servicing

b. Aggregator Reviews
    i. What type of reviews are aggregators doing? What sort of information comes out of the review?

c. Underwriting Guideline Disclosure
    i. Underwriting guidelines used to originate mortgage loans may be different than the guidelines used and reviewed during the pre-offering review
        1. Encourage input from the legal sector:
            a. What gets disclosed in the annex (difference of opinion).
            b. What is the meaningful disclosure?
            c. What is the meaningful rep?
            d. Eligibility criteria – overlap with the representation, impact of overlays in the aggregator model
d. Development of Underwriting Disclosures Document
e. Regulation AB Underwriting Disclosure Legal Requirements

IX. Loan-level data and disclosure
a. Refer to work of existing SFIG loan-level data committee as starting point

X. Data standardization
a. Refer to work of existing SFIG loan-level data committee as starting point

XI. Rating agency process
a. What is rating agency process for reviewing diligence results

XII. Common pre-offering review due diligence standards
a. Can due diligence scopes be standardized so that each TPR firm conducts the similar tests for credit, property valuation, regulatory compliance?
b. What are the differences among providers
c. Rating agencies drive requirements for diligence reviews – should they?
d. Provide robust disclosure in offering materials
e. New qualified mortgage/ability to repay review scope
f. Regulatory Compliance—what are the origination defects that could cause a loan to be pulled out of a pool
g. Investor knowledge of what information is covered by the diligence
h. Standardization of exception reporting in disclosure

XIII. Sampling
a. Will investors be receptive to sampling current due diligence review, which is generally 100%?
b. Can the originator file review results (from aggregators and/or rating agencies) be used to allow sampling?
c. Will rating agency sampling methodologies be utilized? Not currently standardized.
d. Will sampling be statistically valid random or also include adverse?
e. Will we have standard triggers for increased sampling?

XIV. Due diligence extracts to investors
a. Selective disclosure and privacy concerns
b. What information is important to investor?

ROLE OF TRANSACTION PARTIES

XV. Transaction Parties
a. Transactions Parties Matrix – Inclusion of Deal Agent Role—Current Release
    i. Functional identification

1. Identify all functions necessary for alignment of interest in an RMBS 3.0 transaction

ii. Role Assignment
    1. Establish appropriate party or parties for performance of functions
        a. Analysis of what party is able and willing to undertake responsibility for the performance of functions includes establishment of an oversight and enforcement function

iii. Clarifying detail to ensure all parties understand the terms relating the performance of specific functions
    1. Development of Transaction Parties Glossary

iv. Development of implementation and enforcement framework to allow for assigned functions and responsibilities to operate within an RMBS 3.0 transaction

b. Transaction Parties Matrix – No Deal Agent Role
    i. Role Assignment
        1. Identify potential alternative parties to carry out functions assigned to the Deal Agent
        2. Analyze any gaps in performance of identified functions that are necessary to create alignment of interest and ensure full coverage of responsibilities within and RMBS 3.0 transaction

XVI. Access to data (especially on 144A transactions)
- a. Timing of access
- b. Regulation AB II implications (controlling access to minimize privacy law concerns)
- c. Availability of data (vs. what the Servicer has, e.g., around Loan Modifications); should trustee "own" data on behalf of the trust?
- d. Potential for standard form across trustee community
- e. Trustee responsiveness to investor inquiries

XVII. Content of data provided (Trustee Reports)
- a. Format variations from trustee to trustee
- b. What are investors looking for – need for investor input
- c. Cash reconciliation as key item
- d. Governing document?
- e. Insufficiency of trustee reporting
- f. Timeliness and Accuracy of data reported (DTCC Report Card)
- g. Concept of "Gold standard" reporting

XVIII. Trustee Activity and Standard of care
- a. Fiduciary vs functional (pending)
- b. Standard of care depending on role
- c. Dependency of trustee action on document provisions (including documentary mistakes)
- d. Non-discretionary role of trustee

COMMUNICATION

XIX. Communication:

a. Bondholder identification
    i. available tools (CMBS Investor Registry, Bloomberg, FINRA)
    ii. access to investors, thru the DTC
b. Bondholder alert/notification
    i. amendments, waivers and consents
    ii. notification of transaction issues
        1. Examples: mis-payments, servicer non-performance, restatement of reports
c. Bondholder voting and negative consent
    i. Relationship to DTC/ role of DTC
d. Facilitation of bondholder communication
    i. bondholder to Issuer
    ii. among bondholders
    iii. monitor of bondholder communication
e. Need to evaluate communications and maintain appropriate method and content of commentary

XX. Interplay with Public Sector
a. FHFA and Common Securitization Platform

SETTLEMENTS

XXI. Loan Modifications Related to Future Legal Settlements and Future Private Label RMBS Transactions

Representations, Warranties, and Repurchase Enforcement

No Modification

Issue Overview

The No Modification representation is intended to insure that no modifications have been done with respect to a mortgage loan or if one has been done that it is fully disclosed and documented.

History

Since the financial crisis, the number of different formulations of the No Modification representation in the securitization market has slowly been reduced. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained No Modification representations from the sellers of the mortgage loans because transactions backed by newly originated mortgage loans would not properly include loans that had been previously modified. Each seller would negotiate its own particular No Modification representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

Many market participants have noted that the substantial variation in No Modification representations made it difficult to assess the issues covered within a transaction and from deal to deal. This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different No Modification representations. The working group's recommended No Modification representation proposals provide a level of choice while also narrowing the scope of variation, thereby providing industry members an easier assessment of the meaning and scope of this representation.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	V5	Industry Standard
No Modification	Unless otherwise indicated on the mortgage loan schedule, neither the seller nor any prior holder of the mortgage or the related mortgage note has modified the mortgage or the related mortgage note in any material respect, satisfied, canceled or subordinated the mortgage in whole or in part, released the mortgaged property in whole or in part from the lien of the mortgage or executed any instrument of release, cancellation, modification or satisfaction, except in each case as reflected in an agreement included in the loan file.	• Unless otherwise noted on the mortgage loan schedule, none of the mortgage loans have been modified in any material respect. If a mortgage loan has been modified, the modified terms are reflected on the mortgage loan schedule. • None of the mortgage loans have been satisfied, canceled or subordinated in whole or in part. • With respect to each mortgage loan, the mortgaged property has not been released in whole or in part from the lien of the mortgage.	Unless otherwise indicated on the mortgage loan schedule, neither the seller nor any prior holder of the mortgage or the related mortgage note has modified the mortgage or the related mortgage note in any material respect, satisfied, canceled, or subordinated the mortgage in whole or in part, released the mortgaged property in whole or in part from the lien of the mortgage, or executed any instrument of release, cancellation, modification, or satisfaction, except in each case as reflected in an agreement included in the loan file. If a mortgage loan has been	The terms of the Note and the Mortgage have not been impaired, waived, altered, or modified in any material respect, except by a written instrument that, if required by Applicable Law, has been recorded or is in the process of being recorded. The terms of any waiver, alteration, or modification are reflected in the Mortgage Loan Schedule and have been approved by each Insurer as required thereby. There is no default, breach, violation, or event of acceleration existing under the Note and the Mortgage and no event that, with the passage of time or with notice and the	With respect to each Mortgage Loan, the terms of the related Mortgage Note and Mortgage have not been impaired, waived, altered, or modified in any material respect, except by a written instrument that, if required by applicable law, has been recorded or is in the process of being recorded. No Mortgage Loan has been satisfied, canceled or subordinated in whole or in part, except in each case as reflected in an agreement included in the Mortgage File. With respect to each Mortgage Loan, the Mortgaged Property has not been released in whole or in part	Unless otherwise indicated on the Mortgage Loan Schedule, neither the Seller nor any prior holder of the Mortgage or the related Mortgage Note has modified the Mortgage or the related Mortgage Note in any material respect, satisfied, canceled or subordinated the Mortgage in whole or in part, released the Mortgaged Property in whole or in part from the lien of the Mortgage, or executed any instrument of release, cancellation, modification or satisfaction, except in each case as is reflected in an agreement included in the loan file. If a Mortgage Loan has been modified, the modified terms are reflected on the Mortgage Loan Schedule.

modified, the modified terms are reflected on the mortgage loan schedule.	expiration of any grace or cure period, would constitute a default, breach, violation, or event of acceleration; the Seller has not waived any default, breach, violation, or event of acceleration; and no foreclosure action is currently being threatened or has begun with respect to the Mortgage Loan.	from the lien of the Mortgage, nor has any instrument been executed that would affect any such satisfaction, rescission, cancellation, subordination or release, and no Mortgagor has been released from its liability or obligations under any Mortgage Loan, in whole or in part, except in each case as reflected in an agreement included in the Mortgage File.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of No Modification representations to three - one for new originations, and two for seasoned loans.

Industry Positions

It was felt that a strong representation for new originations was necessary. For seasoned loans, two options were viewed as viable, one permitting specific exceptions, and another more general in its approach. These proposals were discussed at length and it was decided to include two variants for seasoned loans.

Proposed Solutions

The working group proposes that, to best account for the varying considerations presented by the newly originated versus seasoned loans, the No Modification representation reflect those considerations.

The first permutation is the most stringent, and is intended primarily for new originations. It does not permit any modifications. The second permutation relates to seasoned loans where modifications are possible or are known to be included and permits them with appropriate disclosure and documentation. The second permutation is intended to state clearly that (a) only modifications, and not alterations or impairments, are permitted, and (b) where a modification is made, the mortgage loan schedule must reflect the fact that the mortgage loan has been modified and disclose the terms of such modification. The seasoned loans representation is presented in two variants.

Transaction parties should consult with counsel to determine the most appropriate form given the specifics of each transaction and a final determination as to the language of the representation is within the sole purview of each party. In line with RMBS 3.0's fundamental methodology, SFIG will work to propose a process through which an issuer who chooses a different form of this representation can highlight or present these differences in the interest of transparency.

Representation & Warranty	Category 1
No Modification **(Newly Originated Loans)**	The terms of the Mortgage Note and Mortgage [(and the Proprietary Lease and the Pledge Instruments with respect to each Cooperative Loan)] have not been impaired, waived, altered or modified in any respect. None of the Mortgage Loans have been satisfied, canceled or subordinated in whole or in part. With respect to each Mortgage Loan, the Mortgaged Property has not been released in whole or in part from the lien of the Mortgage and no Mortgagor has been released from its liability or obligations under any Mortgage Loan, in whole or in part.
Key Features	• No exceptions.

Representation & Warranty	Category 1	Category 2
No Modification **(Seasoned Loans)**	The terms of the Mortgage Note and the Mortgage have not been impaired, waived, or altered in any respect; except that a loan may be modified if (i) such modification is made by a written instrument that, if required by applicable law, has been recorded or is in the process of being recorded and (ii) the Mortgage is identified on the Mortgage Loan Schedule as a modified loan. None of the Mortgage Loans have been satisfied, canceled or subordinated in whole or in part, except in each case as reflected in an agreement included in the Custodial Mortgage File. With respect to each Mortgage Loan, the Mortgaged Property has not been released in whole or in part from the lien of the Mortgage and no Mortgagor has been released from its liability or obligations under any Mortgage Loan, in whole or in part, except in each case as reflected in an agreement included in the Custodial Mortgage File. If a Mortgage Loan has been modified, satisfied, cancelled, subordinated or released, the information on the Mortgage Loan Schedule reflects the data about the loan after it was modified, satisfied, cancelled, subordinated, or released, and the terms of the modification, satisfaction, cancellation, subordination, or release are disclosed on the Mortgage Loan Schedule.	The terms of the Mortgage Note and the Mortgage have not been impaired, waived, altered, or modified in any material respect unless (i) such modification is made by a written instrument that, if required by applicable law, has been recorded or is in the process of being recorded and (ii) such modification is otherwise noted on the Mortgage Loan Schedule. None of the Mortgage Loans have been satisfied, canceled or subordinated in whole or in part, except in each case as reflected in an agreement included in the Mortgage File. With respect to each Mortgage Loan, the Mortgaged Property has not been released in whole or in part from the line of the Mortgage and no Mortgagor has been released from its liability or obligations under any Mortgage Loan, in whole or in part, except in each case as reflected in an agreement included in the Mortgage File.
Key Features	• Exceptions allowed if fully documented and disclosed on the mortgage loan schedule.	

Taxes, Fees & Assessments Paid

Issue Overview

The Taxes, Fees and Assessments Paid ("Taxes Paid") representation is intended to make sure that all taxes and other similar charges have been paid with respect to the related mortgage loan.

History

Since the financial crisis, the number of different formulations of the Taxes Paid representation in the securitization market has slowly been reduced. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained Taxes Paid representations from the sellers of the mortgage loans. Each seller would negotiate its own particular representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

Many market participants have noted that the substantial variation in Taxes Paid representations made it difficult to assess the issues covered within a transaction and from deal to deal. This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different Taxes Paid representations. The working group recommends a single variation of the Taxes Paid representation to allow industry members to more easily assess the meaning and scope of this representation. Participants agreed to limit this representation to one formulation.

Debate & Discussion

This representation and warranty is important in that it provides protection relating to the proper payment of taxes, which, if unpaid, can give rise to a lien against the property that is superior to the lien of the mortgage. However, certain constructions of this representation and warranty also cover the applicable payment of other amounts, including certain municipal assessments and homeowners' association ("HOA") fees, as well as the timing of the payment – i.e., whether any particular amount has become due and owing In particular, the HOA fees have, as of the date of this module, been the subject of increased scrutiny, because (i) in twenty plus states, they can also give rise to a "super lien" that can impair the senior lien status of the mortgage, and (ii) they are more difficult to track than taxes in that there is no equivalent to tax service contracts for HOA fees.

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	Industry Standard
Taxes Paid	All taxes, governmental assessments, insurance premiums and water, sewer and municipal charges that previously became due and payable have been paid or an escrow of funds has been established, to the extent permitted by law, in an amount sufficient to pay for any such item that remains unpaid.	All taxes, governmental assessments, insurance premiums, and water, sewer and municipal charges, which previously became due and owing have been paid, or an escrow of funds has been established, to the extent permitted by law, in an amount sufficient to pay for every such item which remains unpaid.	All taxes, governmental assessments, insurance premiums, and water, sewer, and municipal charges that previously became due have been paid or an escrow of funds has been established, to the extent permitted by law, in an amount sufficient to pay for any such item that remains unpaid and that has been assessed but is not yet due and payable.	All taxes; governmental assessments; insurance premiums; water, sewer, and municipal charges; leasehold payments; or ground rents that previously became due and owing have been paid by the Borrower, or an escrow of funds from the Borrower had/has been established in an amount sufficient to pay for every such item that remains unpaid and that had/has been assessed but is not yet due and payable.	All taxes; governmental assessments; insurance premiums; water, sewer and municipal charges; leasehold payments; and ground rents which previously became due and owing have been paid, or an escrow of funds has been established, to the extent permitted by law, in an amount sufficient to pay for every such item which remains unpaid and that has been assessed but is not yet due and payable.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of Taxes Paid representations to one.

Industry Positions

With respect to the Taxes Paid representation, there was general consensus, including from the investor members of the working group, to move to one representation and warranty.

Proposed Solutions

Representation & Warranty	Category 1
Taxes Paid	All applicable taxes, governmental assessments, water, sewer and municipal charges, condominium fees, homeowner's association fees, leasehold payments, and ground rents, and other similar outstanding charges affecting the related Mortgaged Property that previously became due and owing have been paid or an escrow of funds has been established, to the extent permitted by law, in an amount sufficient to pay for any such item that remains unpaid and that has been assessed but is not yet due and payable.
Key Features	• Some participants commented that this representation and warranty should be qualified to amounts that, if left unpaid, could give rise to a super lien against the property; however, opponents commented that the amounts, any penalties and any related liens should fall on the provider of the representation to remedy, and that limiting these amounts to those that could give rise to potential liens could be seen as weakening the representation.

No Mechanics' Liens

Issue Overview

The No Mechanics' Liens representation is intended to provide assurance that there are no mechanics' or similar liens on the related mortgaged property. As these liens are generally senior to the mortgage loan, their existence is a serious defect.

History

Since the financial crisis, the number of different formulations of the No Mechanics' Liens representation in the securitization market has slowly been reduced. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained representations from the sellers of the mortgage loans. While there was some consistency in the No Mechanics' Liens representation relative to other representations made in securitization, some variations of the representation existed.

Each seller could negotiate its own particular No Mechanics' Liens representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different suggested versions of the No Mechanics' Liens representation though there is less disparity in this representation than other representations. The working group's recommended No Mechanics' Liens representation proposals provide a narrowing of any remaining variation, thereby providing industry members an easier assessment of the meaning and scope of this representation.

Debate & Discussion

While some participants believe that mechanics' liens are subsumed under the "first lien" representation, in reality this may not be the case. Work that could give rise to a mechanic's lien may have been performed prior to the date of sale or securitization, but the lien may not yet have sprung or been recorded. In some jurisdictions, a mechanic's lien of this nature would be superior to that of the mortgage. Some participants have argued that the existence of a title policy covers the purchaser in the event of such a lien, but the majority of participants believe that the responsibility to pursue a claim under the title policy should fall on the provider of the representation rather than the purchaser or investor.

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	V5	Industry Standard
No Mechanics' Liens	The mortgaged property is free and clear of all mechanics' and materialmen's liens, provided that this warranty shall be deemed not to have been made at the time of the initial issuance of the certificates if a title policy affording, in substance, the same protection afforded by this warranty is furnished to the trustee by the seller.	The mortgaged property is free and clear of all mechanics' and material men's liens or liens in the nature thereof.	The mortgaged property is free and clear of all mechanics' and materialmen's liens, provided that this warranty shall be deemed not to have been made at the time of the initial issuance of the certificates if a title policy affording, in substance, the same protection afforded by this warranty is furnished to the trustee by the seller.	There are no mechanics' or similar liens or claims that have been filed for work, labor, or material (and no rights are outstanding that under the law could give rise to such liens) affecting the Mortgaged Property that are or may be liens prior to, or equal to or coordinate with, the lien of the Mortgage.	With respect to each Mortgage Loan, the Mortgaged Property is free and clear of all mechanics' and materialmen's liens that have an equal or higher priority than the lien of the Mortgage; provided, however, that this warranty shall be deemed not to have been made at the time of the initial issuance of the Certificates if a title policy affording, in substance, the same protection afforded by this warranty is furnished to the Trustee by the Seller.	The Mortgaged Property is free and clear of all mechanics' and materialmen's liens that have a higher priority than the lien of the Mortgage; provided, however, that this warranty shall be deemed not to have been made at the time of the initial issuance of the Certificates if a title policy affording, in substance, the same protection afforded by this warranty is furnished to the Trustee by the Seller.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of No Mechanics Liens representations to one.

Industry Positions

Discussion focused on the questions above and consensus was reached among market participants, including investor members of the working group, in the form of the representation suggested below.

Proposed Solutions

The working group proposes that to best account for the varying considerations, the No Mechanics' Liens representation below be used.

Representation & Warranty	Category I
No Mechanics' Liens	The Mortgaged Property is free and clear of all mechanics' and materialmen's liens or similar liens and claims that have been filed for work, labor or material (and no rights are outstanding that under the law could give rise to such liens) that are or may be liens prior to, or equal or coordinate with, the lien of the related Mortgage.

Manufactured Home

Issue Overview

The Manufactured Home representation is intended for securitizations which include manufactured homes to provide comfort with respect to this mortgaged property type.

History

Since the financial crisis, the number of different formulations of the Manufactured Home representation in the securitization market has slowly been reduced. In the current RMBS 2.0 environment, this is generally an irrelevant representation in that none of the loans in RMBS 2.0 transactions backed by new originations have, to date, contained manufactured homes. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained Manufactured Home representations from the sellers of the mortgage loans. Each seller would negotiate its own particular representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

Many market participants have noted that the substantial variation in Manufactured Home representations made it difficult to assess the issues covered within a transaction and from deal to deal. This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different Manufactured Home representations. The working group recommends a single variation of the Manufactured Home representation to allow industry members to more easily assess the meaning and scope of this representation. Participants agreed to limit this representation to one formulation.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	Industry Standard
Manufactured Home	To the extent that any Manufactured Home is included as part of the Mortgaged Property: Such Manufactured Home is (1) together with the related land, subject to the Mortgage, (2) deemed to be a part of the real property on which it is located pursuant to the Applicable Law of the jurisdiction in which it is located, and (3) treated as a single-family residence under Section 25(e) (10) of the Internal Revenue Code.	To the extent that any manufactured home is included as part of a Mortgaged Property, such manufactured home is (i) together with the related land, subject to the Mortgage, (ii) deemed to be a part of the real property on which it is located pursuant to the applicable law of the jurisdiction in which it is located and (iii) treated as a single-family residence under Section 25(e) (10) of the Internal Revenue Code.	To the extent that any manufactured home is included as part of the Mortgaged Property: Such manufactured home is (1) together with the related land, subject to the Mortgage, (2) deemed to be a part of the real property on which it is located pursuant to the applicable law of the jurisdiction in which it is located, and (3) treated as a single-family residence under Section 25(e) (10) of the Internal Revenue Code.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of manufactured home representations to one.

Industry Positions

With respect to the Manufactured Home representation, fthere was general consensus, including from the investor members of the working group, to move to one representation. There was discussion about whether or not the representation should be included at all or whether the reference to "real estate mortgage investment conduits" (REMIC) should remain in the representation, and it was concluded that the representation should remain with the REMIC reference. Note, however, that parties may agree to remove the REMIC language if the transaction is not structured as a REMIC, although the applicable standards may still apply as a "best practice," providing additional protection to the purchaser or investor that the manufactured home constitutes a single-family residence (e.g., "wheels off" and affixed to the land, etc.).

Proposed Solutions

Representation & Warranty	Category 1
Manufactured Home	To the extent that any manufactured home is included as part of the Mortgaged Property, such manufactured home is (1) together with the related land, subject to the Mortgage, [and] (2) deemed to be a part of the real property on which it is located pursuant to the applicable law of the jurisdiction in which it is located, [**FOR REMIC:** [and (3) treated as a single-family residence under Section 25(e)(10) of the Internal Revenue Code].

No Defenses

Issue Overview

The No Defenses representation is intended to provide protection against defenses that the borrower on a mortgage loan might have against enforcement of the mortgage loan.

History

Since the financial crisis, the number of different formulations of the No Defenses representation in the securitization market has slowly been reduced. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained No Defenses representations from the sellers of the mortgage loans. Each seller would negotiate its own particular representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

Many market participants have noted that the substantial variation in No Defenses representations made it difficult to assess the issues covered within a transaction and from deal to deal. This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different No Defenses representations. The working group recommends a single variation of the No Defenses representation to allow industry members to more easily assess the meaning and scope of this representation. Participants agreed to limit this representation to one formulation.

Debate & Discussion

This representation provides the purchaser and investor protection against legal defenses based on certain origination or, to the extent occurring prior to securitization, servicing defects. Some participants believe that these protections are embedded in other representations, but others believe that the presence of a defense is in itself important enough to merit its own protection.

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	V5	Industry Standard
No Defenses	No mortgage note or mortgage is subject to any right of rescission, set-off, counterclaim or defense, including the defense of usury, nor will the operation of any of the terms of the mortgage note or mortgage or the exercise of any right thereunder render the mortgage note or mortgage unenforceable in whole or in part or subject it to any right of rescission, set-off, counterclaim or defense, including the defense of usury, and, to the best of the seller's knowledge, no such right of rescission, set-off, counterclaim or defense has been asserted with respect thereto.	No mortgage note or mortgage is subject to any right of rescission, set-off, counterclaim or defense. • None of the terms will render the mortgage note or mortgage unenforceable or subject it to any right of rescission, set-off, counterclaim or defense. No such right of rescission, set-off, counterclaim or defense has been asserted.	(A) No mortgage note or mortgage is subject to any right of rescission, set-off, counterclaim, or defense, including the defense of usury, nor will the operation of any of the terms of the mortgage note or mortgage, or the exercise of any right thereunder, render the mortgage note or mortgage unenforceable, in whole or in part, or subject it to any right of rescission, set-off, counterclaim, or defense, including the defense of usury; and (B) no such right of rescission, set-off, counterclaim, or defense has been asserted with respect thereto.	The Mortgage Loan is not subject to any Defense, and no Borrower has asserted any Defense. The operation of the terms of the Mortgage Loan Documents, or the exercise of any rights thereunder, will not render the Mortgage Loan unenforceable. [Note: "Defense" is defined as "any Borrower right to rescission, set-off, counterclaim, or defense.]	With respect to each Mortgage Loan, (i) no Mortgage Note or Mortgage is subject to any right of rescission, set-off, counterclaim or defense, nor will the operation of any of the terms of the Mortgage Note or Mortgage, or the exercise of any right thereunder, render the Mortgage Note or Mortgage unenforceable, in whole or in part, or subject it to any right of rescission, set-off, counterclaim or defense, and (ii) no such right of rescission, set-off, counterclaim or defense has been asserted with respect thereto.	(1) No Mortgage Note or Mortgage is subject to any right of rescission, set-off, counterclaim or defense, including the defense of usury, nor will the operation of any of the terms of the Mortgage Note or Mortgage, or the exercise of any right thereunder, render the Mortgage Note or Mortgage unenforceable, in whole or in part, or subject it to any right of rescission, set-off, counterclaim or defense, including the defense of usury, and (2) no such right of rescission, set-off, counterclaim or defense has been asserted with respect thereto.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of No Defenses representations to one.

Industry Positions

With respect to the No Defenses representation, there was general consensus, including from investor members of the working group, to move to one representation and warranty. The majority of participants agreed that the purchaser or investor should not be allocated the types of risks protected under this representation. With respect to any versions of the representation that qualify certain matters to knowledge, it is possible to qualify the representation with a knowledge clawback that affords the same protection as if the representation were made without a knowledge qualifier.

Proposed Solutions

Representation & Warranty	Category I
No Defenses	The Mortgage Note and the Mortgage [(and the Cooperative Pledge Agreement related to each Cooperative Loan)] are not subject to any right of rescission, reformation, set-off, counterclaim or defense, including without limitation the defense of usury, nor will the operation of any of the terms of the Mortgage Note or the Mortgage, or the exercise of any right thereunder, render either the Mortgage Note or the Mortgage unenforceable, in whole or in part, or subject to any right of rescission, reformation, set-off, counterclaim or defense, including without limitation the defense of usury, and no such right of rescission, reformation, set-off, counterclaim or defense has been asserted with respect thereto, and there is no basis for the Mortgage Loan to be modified or reformed without the consent of the mortgagee under Applicable Law.

Downpayment

Issue Overview

The Downpayment representation is intended to require a minimum downpayment with respect to each mortgage loan.

History

There was generally no specific Downpayment representation before the financial crisis. Since the financial crisis, the representation was introduced as a "belt-and-suspenders" in addition to the standard underwriting guidelines representation. The Downpayment representation provides additional protection that the borrower used his or her own funds to pay at least a specified percentage of the downpayment (as opposed to using gifted funds or other sources). Since the financial crisis, the number of different formulations of the Downpayment representation in the securitization market has slowly been reduced.

The current RMBS market continues to include several different Downpayment representations. The working group recommends a single variation of the Downpayment representation to allow industry members to more easily assess the meaning and scope of this representation. Participants agreed to limit this representation to one formulation.

Debate & Discussion

The amount of borrower funds required for the Downpayment is "fact-specific" and depends on the applicable underwriting guidelines or purchase criteria. Proponents of this representation believe that requiring the borrower to apply at least a certain portion of his or her own funds to the downpayment reflects a greater amount of "skin in the game" or borrower equity, as opposed to the use of gift funds or other sources that do not come from the borrower.

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations. There was some debate regarding the specific limitations required on each mortgage loan.

Representation & Warranty	V1	V2	V3	V4	V5
Downpayment	Unless otherwise indicated on the mortgage loan schedule, with respect to each mortgage loan whose purpose is listed on the mortgage loan schedule as "purchase," the borrower paid at least 3% of the purchase price with his/her own funds.	For each mortgage loan whose proceeds were used to purchase the related mortgaged property, the borrower paid at least the lesser of (a) 100% minus the CLTV of the mortgage loan and (b) 5% of the purchase price, with his/her own funds.	Unless otherwise indicated on the mortgage loan schedule, with respect to each mortgage loan whose purpose is listed on the mortgage loan schedule as "purchase," the borrower paid at least 3% of the purchase price with his/her own funds.	With respect to any Mortgage Loan, the proceeds of which were used to purchase the related Mortgaged Property, the borrower paid at least 5% of the purchase price with his/her own funds.	Unless otherwise indicated on the Mortgage Loan Schedule, with respect to each Mortgage Loan whose purpose is listed on the Mortgage Loan Schedule as "purchase", the borrower and/or co-borrower paid at least [3]% of the purchase price with his/her own funds.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of Downpayment representations to one.

Industry Positions

With respect to the Downpayment representation, there was general consensus, including from investor members of the working group, to move to one representation and warranty. However, this representation is highly dependent on the type of product being originated or the underwriting guidelines or purchase criteria applicable to the loans being securitized. As a best practice, proponents recommend the use of a minimum downpayment amount but stress that this cannot be viewed in a vacuum without regard to product type and origination/acquisition criteria.

Proposed Solutions

Representation & Warranty	Category 1
Downpayment	Unless otherwise indicated on the Mortgage Loan Schedule, with respect to each Mortgage Loan whose purpose is listed on the Mortgage Loan Schedule as "purchase", the borrower and/or co-borrower paid at least the greater of (a) 100% minus the CLTV of the mortgage loan and] [5]% [10%] of the purchase price with his/her own funds.
Key Features	• Optional either/or feature for amount of downpayment. Issuers are encouraged to disclose this underwriting guideline/purchase criteria feature in order to complement the rep and provide the purchaser/investor with sufficient information to evaluate the requirement.

Data

Issue Overview

The Data representation is intended to ensure that the asset-level information set forth in the mortgage loan schedule accurately reflects the terms of the mortgage loans in the securitization and, where applicable, conforms to the contents of the mortgage file. The representation typically also ensures that for each mortgage loan, the credit score of the related borrower and the appraised value of the related mortgaged property are relatively current as of the securitization closing date to provide for more relevant or reliable data regarding a borrower's credit score or property valuation.

History

Since the financial crisis, the number of different formulations in the securitization market of the Data representation has been reduced. This is due in part both to industry efforts to standardize the representation and disclosure of asset level data and a focus on improving the quality of the data to allow for better credit analysis. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained Data representations from the sellers of the mortgage loans. Each seller would negotiate its own particular representation. The sponsor would either assign these representations to the related securitization trust, or make its own Data representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

Many market participants have asserted that the substantial variation in the Data representation and the data the representation covered made it difficult to assess the issues covered within a transaction and the quality of the loans from deal to deal. This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to industry efforts to standardize and improve asset level data. There has also been limited market volume and a limited number of post-crisis issuers and RMBS transactions to establish a market standard. The working group's recommended Data representation proposal narrows the scope of variation, thereby providing industry members an easier assessment of the meaning and scope of this representation and the data provided. The working group also recognizes the importance of robust asset-level data and suggests that the Data representation, at a minimum, must ensure that the asset-level data provided is accurate.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	V5	Industry Standard
Data	Newly Originated Mortgages (a) The information on the mortgage loan schedule correctly and accurately reflects the information contained in the originator's records (including, without limitation, the mortgage loan file) in all material respects. In addition, the information contained under each of the headings in the mortgage loan schedule (e.g. borrower's income, employment and occupancy, among others) is true and correct in all material respects. With respect to each mortgage loan, any seller or builder concession in excess of the allowable limits established by Fannie Mae or Freddie Mac has been subtracted from the appraised value of the mortgaged property for purposes of determining the LTV and combined LTV (CLTV). As of the closing date, the most recent FICO score listed on the mortgage loan schedule	• The information on the mortgage loan schedule relating to the terms of the mortgage loan and the mortgage note is true and correct in all material respects. • The information on the mortgage loan schedule and the information that was provided to [Rating Agency] are consistent with the contents of the originator's records and the underlying loan files. • The mortgage loan schedule contains all the fields requested by Moody's. • Any seller or builder concession has been subtracted from the appraised value of the mortgaged property for purposes of determining the LTV and CLTV. • Except for information specified to be as of the origination date of the mortgage loan, the mortgage loan schedule contains the most current information possessed by the originator. • No FICO score listed on the mortgage	The information on the mortgage loan schedule correctly and accurately reflects the information contained in the originator's records (including, without limitation, the mortgage loan file) in all material respects. In addition, the information contained under each of the headings in the mortgage loan schedule Exhibit [_] to this agreement is true and correct in all material respects. With respect to each mortgage loan, any seller or builder concession in excess of the allowable limits established by the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Association (Freddie Mac) has been subtracted from the appraised value of the mortgaged property for purposes of determining the loan-to-value (LTV) and combined loan-to-value (CLTV). With respect to each mortgage loan, as of the	The information with respect to the Mortgage Loan set forth in the Mortgage Loan Schedule and the Offering Materials is complete, true, and correct in all material respects.	The data on the Mortgage Loan Schedule is complete, true and correct in all material respects. Except for information specified to be as of the origination date of the Mortgage Loan, the Mortgage Loan Schedule contains the most current information possessed by the originator. With respect to each Mortgage Loan, any seller or builder concession in excess of the allowable limits established by Fannie Mae or Freddie Mac and applicable at the time of origination has been subtracted from the appraised value of the Mortgaged Property for purposes of determining the LTV and CLTV. No appraisal or other property valuation used to determine any data set forth in the Mortgage Loan Schedule was more than 90 days old as of the related Mortgage Loan closing date.	The data on the Mortgage Loan Schedule1 correctly and accurately reflects the data contained in the Seller's records (including, without limitation, the mortgage loan file) in all material respects. In addition, the information contained under each of the headings in the Mortgage Loan Schedule identified on Exhibit [I] to this Agreement is true and correct in all material respects. With respect to each Mortgage Loan, any seller or builder concession in excess of the allowable limits established by Fannie Mae or Freddie Mac and applicable at the time of origination has been subtracted from the appraised value of the Mortgaged Property for purposes of determining the LTV and CLTV. [With respect to each Mortgage Loan and as of the Closing Date, the most recent credit score listed on the Mortgage Loan Schedule was no more than 4 months old.] [As of the date of funding of the Mortgage Loan to the borrower, no

was no more than six months old. As of the date of funding of the mortgage loan to the borrower, no appraisal or other property valuation listed on the mortgage loan schedule was more than six months old. Seasoned and Nonperforming Mortgages (b) The information on the mortgage loan schedule correctly and accurately reflects the information contained in the originator's/seller's records (including, without limitation, the mortgage loan file) in all material respects.	loan schedule was more than 4 months old at the time of securitization. • No appraisal or other property valuation listed on the mortgage loan schedule was more than 3 months old at the time of loan closing.	closing date, the most recent Fair Isaac Corporation (FICO) score listed on the mortgage loan schedule was no more than four months old. As of the date of funding of the mortgage loan to the borrower, no appraisal or other property valuation listed on the mortgage loan schedule was more than six months old.		appraisal or other property valuation listed on the Mortgage Loan Schedule was more than 6 months old.]2

1 The Mortgage Loan Schedule should consist of the data elements set forth in the RMBS Disclosure Package.
2 The bracketed clauses should be included to the extent the dates associated with credit scores and/or property valuations are not listed on the Mortgage Loan Schedule.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of Data representations to two proposed representations.

Industry Positions

The Data representation is among the most fundamental of the representations, as it is provided to ensure the accuracy of the information, that the information conforms to the data in the mortgage file and clearly identifies what each data point is intended to represent.

Ensuring the accuracy of the asset-level data points is a critical part of the Data representation. A number of industry participants believe that the representation should attest that the

information provided conforms to the originator's records, including the mortgage file, and ensure the accuracy of the specified data points. Some industry participants expressed concern about making a representation as to the accuracy of certain information that is not in the control of the party making the representation. Other participants expressed a concern that the Data representation may be used as recourse in lieu of or in addition to asserting that there was fraud in the origination of the loan by asserting an inaccuracy in the information provided in the mortgage loan schedule or the information in the mortgage file versus the information in the mortgage loan schedule. There may be a desire on the part of some market participants to clearly delineate between what is an issue of data inaccuracy and an instance of fraud.

There are additional fundamental elements relating to the mortgage loan schedule currently under discussion by the working group. These include the following:

1. Materiality. In the event that any value included in the mortgage loan schedule is erroneous, can objective standards be developed and applied to determine materiality for put back purposes?

2. Definitions. Most sellers do not include a "Data Key" or set of definitions to accompany their mortgage loan schedule. Some merely attach a copy of the Data Key for the ASF Restart RMBS Disclosure Package, although the definitions contained in this key may not comport with the actual data provided. Others include this Data Key and identify unique changes or revisions to the key that reflect that issuer's data values. Certain working group members noted that the lack of a standardized "Data Key" concept made evaluating compliance with the Data representation problematic. Work is currently underway to develop a standardized mortgage loan schedule that reflects an analysis against the requirements of Regulation AB II and MISMO. The working group expects further standardization as a result of these efforts.

3. Disclosure. There is limited disclosure regarding the actual fields that are covered by the representation in RMBS 2.0 transactions. The tape that is delivered during the marketing process may not be the tape that is covered by the representation in the transaction (and there is different liability in marketing than there is under the governing documents). The working group recommends that disclosure is provided as to exactly which fields are, in fact, being covered by the representation (and which entity is providing the representation as to each such field).

In addition, some issuer's – particularly aggregators – may rely in part upon third-party service providers (typically, due diligence firms) to "scrub" loan files during the due diligence review process in order to generate the mortgage loan schedule the issuer will deliver into the transaction. This may lead to increased inconsistency in certain data fields depending on the aggregator, the third-party review firm and the directions attendant to this practice. More work is needed in these areas, as each involves operational policies, procedures and practices

that may differ among originators. However, purchasers and investors have been clear that they require strong protections under this representation and warranty in order to ensure that they are buying loans that actually have the characteristics disclosed to them in the related mortgage loan schedule.

Some working group members made specific suggestions that they believe eliminates ambiguity regarding the coverage of this representation:

(a) eliminate the phrase "in all material respects," as such language is vague and frequently results in protracted disagreement, and replace such language with specific tolerances for each data field (such as 5 points for credit score, 2% for LTV, and 5% for DTI) as a qualifier to this representation;

(b) eliminate the second sentence stating "[i]n addition, the information contained under each of the headings in the mortgage loan schedule relating to the terms of the mortgage loan and the mortgage note is true and correct in all material respects," as it adds nothing to the first sentence;

(c) divide the representation into separate clauses to make clear that the representations about seller concessions, updated credit scores and appraisals are independent representations and not clarifications of the representations about the mortgage loan schedule; and

(d) eliminate the final sentence stating "[a]ny property valuation contained in the mortgage loan schedule is the value set forth in the related appraisal or other valuation and is not a representation of the actual value of the related mortgaged property."

Proposed Solutions

Transaction parties should consult with counsel to determine what form is most appropriate given the specifics of each transaction and a final determination as to the language of the representation is within the sole purview of each party. In line with RMBS 3.0's fundamental methodology, the working group will work to propose a process through which an issuer who chooses a different form of this representation can highlight or present these differences in the interest of transparency.

Representation & Warranty	Category 1	Category 2
Data	The information on the Mortgage Loan Schedule correctly and accurately reflects the information contained in the [selling entity]'s records (including, without limitation, the mortgage loan file) that constituted the final information upon which the Mortgage Loan was originated, within the tolerances set forth at Exhibit [X]. Except for information specifically identified as information from the origination date of the Mortgage Loan or another date, the information in the Mortgage Loan Schedule is accurate as of the [securitization cut-off date]. With respect to each mortgage loan, any seller or builder concession in excess of the lesser of the limits in the underwriting guidelines of Fannie Mae or Freddie Mac has been subtracted from the appraised value of the mortgaged property for purposes of determining the LTV and CLTV. With respect to each Mortgage Loan and as of the [securitization cut-off date], the most recent credit score listed on the Mortgage Loan Schedule was no more than [4] months old as of the [securitization closing date] or a new credit score was obtained no more than [4] months prior to the [securitization closing date] and listed in the Mortgage Loan Schedule. Except for loans identified as loans with appraisals more than 6 months old as set forth in the Mortgage Loan Schedule, as of the date of funding of the Mortgage Loan, no appraisal or other property valuation listed on the Mortgage Loan Schedule as the ["Original Appraised Value"] was more than [90 days] old.	The information on the mortgage loan schedule correctly and accurately reflects in all material respects the information contained in the [selling entity]'s records (including, without limitation, the mortgage loan file) that constituted the final information upon which the Mortgage Loan was originated. In addition, the information contained under each of the headings in the mortgage loan schedule relating to the terms of the mortgage loan and the mortgage note is true and correct in all material respects. Except for information specified to be as of the origination date of the Mortgage Loan or another date, the mortgage loan schedule contains the most current information as of the [securitization cut-off date]. With respect to each mortgage loan, any seller or builder concession in excess of the allowable limits established by Fannie Mae or Freddie Mac has been subtracted from the appraised value of the mortgaged property for purposes of determining the LTV and CLTV. With respect to each Mortgage Loan and as of the [securitization cut-off date], the most recent credit score (representing the origination credit score) listed on the mortgage loan schedule was no more than [4] months old as of the [securitization closing date] or a new credit score was obtained no more than [4] months prior to the [securitization closing date] and listed in the mortgage loan schedule. Except as set forth in the mortgage loan schedule, as of the date of funding of the Mortgage Loan to the related borrower, no appraisal or other property valuation listed on the mortgage loan schedule as the ["Original Appraised Value"] was more than [90 days old; furthermore, no such Original Appraised Value was more than [one year old] as of the securitization closing date, or an updated valuation was obtained and disclosed on the mortgage loan schedule (including the type of product obtained) as the most recent appraised value . Any property valuation contained in the mortgage loan schedule is the value set forth in the related appraisal or other valuation and is not a representation of the actual value of the related mortgaged property.
Notes:		1. Work is underway to determine "materiality" for different data points. Hard-coded variances do not necessarily address risk in all cases. 2. The decision to exclude the accuracy of the data in the offering documents was made because the rep covers governing agreements, not disclosure documents, which are covered by liability under the securities laws. Additionally, if loan level information is inaccurate such that it adversely impacts the offering documents, it will be subject to repurchase based on the governing document rep breach. 3. Credit score seasoning as of the securitization closing date is subject to different rating agency interpretation. Suggestions have been made to replace 4 months with 6 months. The task force recommends the adoption of a

standardized practice. This recommendation also applies to refreshed valuations in the event any Original Appraised Value is greater than one year old as of the securitization closing date.

Underwriting

Issue Overview

The Underwriting representation is intended to ensure that the mortgage loans were underwritten in accordance with the originator's or seller's underwriting guidelines, as applicable, except in respect of specifically identified exceptions or compensating factors, and that the methodology used was sufficient to determine the credit quality of the borrower and the suitability of the mortgage loan for that borrower. Underwriting methodology and the accompanying representation has been a critical issue for RMBS pre- and post-crisis as many asserted that underwriting guidelines were not strictly adhered to and underwriting exceptions and/or compensating factors were not clearly identified.

History

Since the financial crisis, the number of different formulations of the Underwriting representation in the securitization market has slowly been reduced. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained an Underwriting representation from the sellers of the mortgage loans. Each seller would negotiate its own particular representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

Many market participants have noted that the substantial variation in the Underwriting representations made it difficult to assess the issues covered within a transaction and from deal to deal. Additionally, in some securitizations, underwriting exceptions and compensating factors were not disclosed. This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to enhanced underwriting disclosures, limited market volume and a limited number of post-crisis issuers and RMBS transactions. Market practices have evolved since the crisis. The Dodd-Frank Act requires ABS issuers to perform a review of the related loan pool and the SEC amended Regulation AB to require ABS issuers to disclose the due diligence review conducted to determine conformity with the applicable underwriting guidelines, the findings and conclusions of that review and any deviations from the underwriting criteria. In many cases, disclosures in more recent deals will include loan-level disclosures and more detailed information regarding the applicable underwriting criteria, due diligence of the loan pool and compliance, credit and other exceptions to such criteria. The relevant governing agreements may require mortgage loan sellers to re-underwrite the related loans and set forth the terms of any exceptions to the underwriting criteria. There may be issues with determining the correct criteria for a specific loan given that underwriting criteria may change over time and some difficulty with

pinpointing the applicable criteria used in underwriting a loan.[3] The current RMBS market continues to include several different Underwriting representations. The working group's recommended Underwriting representation proposals provide a level of choice while also narrowing the scope of variation, thereby providing industry members an easier assessment of the meaning and scope of this representation.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	V5	Industry Standard
Underwriting	Each mortgage loan was either underwritten in substantial conformance to the originator's underwriting guidelines in effect at the time of origination without regard to any underwriter discretion or, if not underwritten in substantial conformance to the originator's guidelines, has reasonable and documented compensating factors.	• Each mortgage loan was either (i) underwritten in substantial conformance to the originator's underwriting guidelines in effect at the time of origination without regard to any underwriter discretion or (ii) if not underwritten in substantial conformance to the originator's underwriting guidelines, has reasonable and documented compensating factors.	Each mortgage loan was either (A) underwritten in substantial conformance to the originator's underwriting guidelines in effect at the time of origination without regard to any underwriter discretion, or (B) if not underwritten in substantial conformance to the originator's guidelines, has reasonable and documented compensating factors which are documented in the mortgage loan file.	Each Mortgage Loan either (i) was underwritten in substantial conformance to the originator's underwriting guidelines in effect at the time of origination without regard to any underwriter discretion or, (ii) if not underwritten in substantial conformance to the originator's guidelines, has reasonable and documented compensating factors. The methodology used in underwriting the extension of credit for the Mortgage Loan includes objective mathematical principles that relate to the relationship between the	Each Mortgage Loan either (i) was underwritten in conformance with the originator's underwriting guidelines in effect at the time of origination without regard to any underwriter discretion or (2) if not underwritten in conformance with the originator's guidelines, has reasonable and documented compensating factors.	Each Mortgage Loan was either (1) underwritten in conformance to the originator's underwriting guidelines in effect at the time of origination without regard to any underwriter discretion or (2) if not underwritten in conformance to the originator's guidelines, has compensating factors which are documented in the mortgage loan file. or Alternative 2 Each Mortgage Loan was either (1) underwritten in conformance to the summary of underwriting guidelines attached as Exhibit [__] hereto or (2) if

[3] It is important to note that the provider of the representation is responsible for identifying the applicable underwriting guidelines or purchase criteria. Purchasers, investors and rating agencies are encouraged to inquire about underwriting guideline versioning control practices in effect at originators or aggregators. Also as a best practice, many working group participants feel that securitization custodians should hold not only the credit files at commencement of an RMBS transaction but also the applicable underwriting guidelines or purchase criteria, as the case may be, as well as a table that reflects which guidelines/criteria apply to which loans.

Borrower's income, assets, and liabilities and the proposed payment.	not underwritten in conformance with such guidelines, has compensating factors which are documented in the mortgage loan file.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of Underwriting representations to two proposed representations.

Industry Positions

The underwriting representations should provide for a representation as to the guidelines used to underwrite the mortgage loans, as well as a means to identify exceptions to those guidelines and compensating factors taken into consideration in the underwriting process.

There was some discussion about including the phrase "without regard to any underwriter discretion" at the end of clause (i). Proponents of this phrase believe that it provides protection against undisclosed underwriting guideline exceptions, while opponents believe that it is impossible to comply with in the event that underwriting guidelines provide any discretion at all (and if they do not, then the clause is unnecessary). While post-crisis law and best practices require disclosure regarding guideline/criteria exceptions[4], if underwriting guidelines or purchase criteria allow for discretion, then any action undertaken pursuant to such discretion will not constitute an exception. A suggested variation that reflects the intended protection and the realities of differences in guidelines and criteria is included in the proposed representation. However, purchasers, investors and rating agencies are encouraged to inquire as to the extent of any discretion afforded under an originator's underwriting guidelines or an aggregator's purchase criteria.

Additionally, some members of the working group stress that the difficulty in identifying the specific underwriting guidelines used with respect to each mortgage loan often complicates meaningful enforcement of the repurchase provisions in a transaction. Some working group members suggested adopting, as an industry standard, a practice already in use by some issuers: a schedule (that would be separate from the mortgage loan schedule but still part of the governing transaction documents) that specifies, for each mortgage loan, the exact set of underwriting guidelines used at origination, along with delivery of all applicable underwriting guidelines to a third-party (for example, the custodian, the trustee or, if present in the transaction, the Deal Agent) at the commencement of the transaction.

Several members also suggest eliminating the "substantial conformance" standard for compliance with underwriting guidelines. Underwriting guidelines often permit exceptions,

[4] There is a large degree of disparity in the extent and quality of these disclosures, which RMBS 3.0 will address in future Green Papers.

provided there are sufficient compensating factors offsetting the risks of making the exception. Following this reasoning, so long as the loan in question was properly made as an exception under the underwriting guidelines, then it did, in fact, comply with such guideline and the "substantial conformance" language is not appropriate or necessary. As a corollary to that, these members suggest the representation make clear that, in cases where a loan was originated as an exception to the underwriting guidelines, it was done so on the basis of compensating factors that objectively compensate for deviations from the guidelines.

Post-crisis disclosure laws require the disclosure in the offering documents (which are also typically incorporated and memorialized in transaction documents) of these exceptions to guidelines as well as the compensating factors for these disclosures. There are currently different interpretations, practices and methodologies surrounding such disclosure – for example (and not exhaustively):

1. The level of detail provided with respect to the exception;

2. The level of detail and applicability to the exception with respect to the compensating factors; and

3. Whether an error in underwriting that yields a result that still comports with underwriting guidelines constitutes an exception that should be disclosed.

The RMBS 3.0 Loan Data, Diligence and Disclosure work stream intends to address these issues in 2016.

Proposed Solutions

Transaction parties should consult with counsel to determine what form is most appropriate given the specifics of each transaction and a final determination as to the language of the representation is within the sole purview of each party. In line with RMBS 3.0's fundamental methodology, the working group will work to propose a process through which an issuer who chooses a different form of this representation can highlight or present these differences in the interest of transparency.

Representation & Warranty	Category 1	Category 2
Underwriting	Each Mortgage Loan either (i) was underwritten to the underwriting guidelines (including any applicable underwriting procedures) specified as applying to such Mortgage Loans and was not an exception to those guidelines, or (ii) was written as an exception to the underwriting guidelines specified as applying to such Mortgage Loans and has compensating factors that compensate for the exceptions to the criteria of the underwriting guidelines. The exceptions to the underwriting guidelines and the compensating factors are documented in the mortgage loan file and specified as applying to such Mortgage Loans. The methodology used in underwriting the extension of credit for the Mortgage Loan includes determinations with respect	Each Mortgage Loan either (i) was underwritten in substantial conformance to the originator's underwriting guidelines (including any applicable underwriting procedures) in effect at the applicable time during the origination process, without regard to any underwriter discretion except as specifically allowed under such underwriting guidelines or, (ii) if not underwritten in substantial conformance to such guidelines, has compensating factors which the [originator] [seller] determined to be reasonable exceptions to such criteria and which are documented in the mortgage loan file [and identified on [Schedule [____]]. For the avoidance of doubt, the exceptions and compensating factors identified on [Schedule

to the relationship between the borrower's income, assets, and liabilities and the proposed payment.	[___] shall not constitute a breach of this representation and warranty. The methodology used in underwriting the extension of credit for the Mortgage Loan includes objective mathematical principles that relate to the relationship between the borrower's income, assets, and liabilities and the proposed payment.

Borrower

Issue Overview

The Borrower representation is intended to inform market participants as to the type of borrower, the U.S. resident status of the borrower and the borrower's past and current solvency (which is an indicator of the financial capacity and credit quality of the borrower).

History

Since the financial crisis, the number of different formulations of the Borrower representation in the securitization market has slowly been reduced. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained a Borrower representation from the sellers of the mortgage loans. Each seller would negotiate its own particular representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

Many market participants have noted that the substantial variation in the Borrower representations made it difficult to assess the issues covered within a transaction and from deal to deal. This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Additionally, certain other elements of this rep create difficulties in interpretation and in risk coverage, all of which are addressed in more detail below, Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different Borrower representations. The working group's recommended Borrower representation proposals provide a level of choice while also narrowing the scope of variation, thereby providing industry members an easier assessment of the meaning and scope of this representation.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	Industry Standard
Borrower	Newly Originated and Seasoned Mortgages (a) With respect to each mortgage loan, unless otherwise indicated on the mortgage loan schedule, each borrower is a natural person or other acceptable forms (e.g. land trust), and to the best of the originator's knowledge, at the time of origination, the borrower was legally entitled to reside in the U.S.	To the best of the sponsor's knowledge: • Each borrower is a natural person. • As of origination, each borrower was legally permitted to reside in the United States. • No borrower is a debtor in any state or federal bankruptcy or insolvency proceeding. No borrower had a prior bankruptcy in the last ten years. • No borrower previously owned a property in the last ten years that was the subject of a foreclosure during the time the borrower was the owner of record.	(A) Each borrower is a natural person, unless otherwise indicated on the mortgage loan schedule. (B) At the time of origination, each borrower was legally permitted to reside in the United States. (C) Unless otherwise indicated on the mortgage loan schedule, no borrower is a debtor in any state or federal bankruptcy or insolvency proceeding in the last [_] years. (D) Unless otherwise indicated on the mortgage loan schedule, no borrower previously owned a property with respect to which a foreclosure sale was completed or with respect to which title was conveyed to the originator or a deed in lieu of foreclosure was given in the [_] years prior to the origination of the mortgage loan. No mortgagor is a debtor in any state or federal bankruptcy or insolvency proceeding.	With respect to each Mortgage Loan, the borrower is a natural person that is legally entitled to reside in the United States. Unless otherwise indicated on the Mortgage Loan Schedule, such borrower (i) has not been the subject of a bankruptcy or insolvency proceeding in the four years prior to the origination of the Mortgage Loan and (ii) does not and did not previously own a property with respect to which (x) a foreclosure sale was completed, (y) title was conveyed to the originator or (z) a deed in lieu of foreclosure was given, in each case of clauses (x), (y) and (z), in the seven years prior to the origination of the Mortgage Loan.	With respect to each Mortgage Loan, (1) unless otherwise indicated on the Mortgage Loan Schedule, each borrower is a natural person, (2) at the time of origination, the borrower was legally entitled to reside in the United States, (3) unless otherwise indicated on the Mortgage Loan Schedule, no borrower was the subject of a bankruptcy proceeding that was dismissed or discharged in the [4] years prior to the origination of the Mortgage Loan, (4) unless otherwise indicated on the Mortgage Loan Schedule, no borrower previously owned a property with respect to which a foreclosure sale was completed or with respect to which title was conveyed to the originator or a deed in lieu of foreclosure was given in the [5] years prior to the origination of the Mortgage Loan.

The working group analyzed these representations, evaluated the key concepts embedded in the variations, addressed pertinent issues, and narrowed the larger set of Borrower Representations to two variants.

Industry Positions

The representations set forth above provide a means to make a representation as to the type and solvency status of the borrower. However, debate arose around certain key elements of the variations, including the following:

1. Prior derogatory credit events. Some variations capture some but not all such events (e.g., the variation may capture foreclosures and deeds-in-lieu, but not short sales or prior significant credit events). Even if not mentioned in this representation, underwriting guidelines typically include restrictions relating to prior derogatory credit events. However, without clear disclosure of these restrictions or access to the guidelines, investors may not have complete information on which to base their analysis.

2. Seasoning since the prior derogatory credit event. A number of aggregators in the RMBS 2.0 environment include a representation that the borrower has never suffered a prior foreclosure or bankruptcy (let alone other types of events). However, those who oppose a limitless seasoning period argue that it is impossible to diligence this information beyond the period of time covered by a credit report.
3. Certain guidelines allow for corporate borrowers and others do not. This is a fact-based question.

4. Certain language implemented in certain variations relating to previous prior derogatory credit events creates ambiguity. The Proposed Solutions below address this ambiguity.

Some members of the working group made the following two additional proposals with respect to this representation:

(1) limit borrowers to only natural persons or entities acceptable to Fannie Mae and Freddie Mac; and

(2) require that documentation of residency status be included in the origination mortgage loan file.

The formulation set forth below as Category 1 reflects these two additional proposals. However, certain members have noted the following issues with these two proposals:

1. Limiting borrowers to natural persons or entities acceptable to Fannie Mae or Freddie Mac constitutes the selection of an underwriting practice as a structural standard. Additionally, such criteria would typically be spelled out in underwriting guidelines.

2. Residency status should already be documented during the origination process, and therefore falls within the scope of other representations and warranties (e.g., the underwriting rep).

Nevertheless, by incorporating these specific standards within this representation and warranty, any divergence from these standards would generally be highlighted for investors to consider in making their investment decisions. Originators and aggregators, however, are

cautioned to pay particular attention to this rep construction to ensure that their origination or purchase criteria matches the hard-coded wording of Category 1.

Proposed Solutions

Transaction parties should consult with counsel to determine what form is most appropriate given the specifics of each transaction and a final determination as to the language of the representation is within the sole purview of each party. In line with RMBS 3.0's fundamental methodology, the working group will work to propose a process through which an issuer who chooses a different form of this representation can highlight or present these differences in the interest of transparency.

Representation & Warranty	Category 1	Category 2
Borrower	With respect to each Mortgage Loan, (1) unless otherwise indicated on the Mortgage Loan Schedule, each borrower is a natural person, any other form of entity acceptable to Fannie Mae and Freddie Mac (if a borrower is not a natural person, then its form is identified on the Mortgage Loan Schedule), (2) at the time of origination, the borrower was either a United States citizen or a permanent resident alien who has the right legally to live and work permanently in the United States, and evidence of residency status for a permanent resident alien, as applicable, has been validated by documentation that would be acceptable to each of Fannie Mae and Freddie Mac, and that documentation is included in the mortgage loan origination file, (3) no borrower is a debtor in any state or federal bankruptcy or insolvency proceeding, nor was such borrower at the time of origination of the Mortgage Loan a debtor in any such proceeding, (4) unless otherwise indicated on the mortgage loan schedule, no borrower was the subject of a state or federal bankruptcy or insolvency proceeding in the [4][7][10] years prior to the origination of the Mortgage Loan, and (5) unless otherwise indicated on the mortgage loan schedule, no borrower was a mortgagor (whether as primary or co-borrower) with respect to a mortgaged property with respect to which (x) a foreclosure sale was completed, or (y) title was conveyed to the [originator] [related mortgagee], through deed-in-lieu of foreclosure, short sale or otherwise, in each case in the [5] [7] [10] years prior to the origination of the Mortgage Loan.	With respect to each Mortgage Loan, (1) [Unless otherwise indicated on the mortgage loan schedule,] each borrower is a natural person, any other form of entity acceptable to Fannie Mae and Freddie Mac or any other form of entity permitted under the underwriting guidelines and identified on the mortgage loan schedule, (2) at the time of origination, the borrower was and is either a United States citizen or a permanent resident alien who has the right legally to live and work permanently in the United States, and evidence of residency status for a permanent resident alien, as applicable, has been validated by documentation that would be acceptable to each of Fannie Mae and Freddie Mac, (3) no borrower is a debtor in any state or federal bankruptcy or insolvency proceeding, nor was such borrower at the time of origination of the Mortgage Loan a debtor in any such proceeding, (4) unless otherwise indicated on the mortgage loan schedule, no borrower was the subject of a state or federal bankruptcy or insolvency proceeding in the [4][7][10] years prior to the origination of the Mortgage Loan, and (5) unless otherwise indicated on the mortgage loan schedule, no borrower was a mortgagor (whether as primary or co-borrower) with respect to a mortgaged property with respect to which (x) a foreclosure sale was completed, or (y) title was conveyed to the [originator] [related mortgagee], through deed-in-lieu of foreclosure, short sale or otherwise, in each case in the [5] [7] [10] years prior to the origination of the Mortgage Loan.
Option		• The number of years of seasoning with respect to a prior derogatory credit event should be clearly spelled out and tie to the specific underwriting guidelines.

Mortgage Insurance

Issue Overview

The Mortgage Insurance representation is intended to ensure that any mortgage loan for which a primary insurance claim is rejected, denied or rescinded is repurchased out of the securitized loan pool.

History

Prior to the financial crisis, certain securitization sponsors who aggregated mortgage loans obtained a Mortgage Insurance representation from the sellers of the mortgage loans. Each seller would negotiate its own particular Mortgage Insurance representation. Then the sponsor would either assign these Mortgage Insurance representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

Mortgage insurance has been a hotly debated topic in the post-crisis non-agency mortgage industry. Because of issues surrounding the failure of certain mortgage insurance companies and legal challenges relating to whether mortgage insurance companies complied with their insurance obligations (as well as challenges from mortgage insurance companies against originators for failure of the originators to honor their repurchase obligations), mortgage insurance has generally been absent from the RMBS 2.0 market. Part of this is because newly originated loans backing RMBS 2.0 through the latter part of 2015 have mostly been capped at 80% LTV (typically the line of demarcation for mortgage insurance policies), with loans up to 85% being included on a more limited basis but without any mortgage insurance. Nevertheless, the working group has evaluated the different variations in previous and existing versions of the Mortgage Insurance representation in order to narrow the scope of variation in anticipation of the return, at some point, of a market-accepted non-agency mortgage insurance product.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on rating agency recommendations.

Representation & Warranty	V1	V2	Industry Standard
Mortgage Insurance	With respect to any mortgage loan listed on the mortgage loan schedule as having mortgage insurance, to the extent such mortgage insurance is borrower paid (or, if lender paid, was obtained by the originator/seller or the servicer), in the event the mortgage insurer rejects, denies or rescinds a claim on the basis of any defect in connection with the origination of the mortgage loan or the servicing of the mortgage loan prior to the closing date (other than as a result of the mortgage insurer's breach of its obligations or insolvency), the originator/seller shall either repurchase the mortgage loan at the repurchase price or pay the trust the amount of such claim within 30 days from such mortgage insurer rejection.	• With respect to any mortgage loan having mortgage insurance, in the event the mortgage insurer rejects, denies, or rescinds a claim on the basis of any defect in connection with the origination of the mortgage loan or the servicing of the mortgage loan prior to the securitization closing date (a ""mortgage insurer rejection""), other than as a result of the mortgage insurer's breach of its obligations or insolvency, the originator shall either repurchase such mortgage loan or pay the trust the amount of such claim within 30 days from such mortgage insurer rejection. • If the originator has a good-faith dispute of such mortgage insurer rejection, it shall notify the trustee of the basis of such dispute and shall have an additional period of up to 30 days to resolve such dispute. • If at the end of such additional 30 day period, the claim still remains unpaid, the originator shall immediately repurchase such mortgage loan or pay the trust the amount of such claim.	With respect to any Mortgage Loan having a Primary Mortgage Insurance Policy, in the event the Insurer rejects, denies, or rescinds a claim on the basis of any defect in connection with the origination of the Mortgage Loan or the servicing of the Mortgage Loan prior to the Closing Date (a "mortgage insurer rejection"), the Seller shall either repurchase such Mortgage Loan or pay the Purchaser the amount of such claim within thirty (30) days after such mortgage insurer rejection.

The working group analyzed the Mortgage Insurance representation, evaluated the key concepts embedded in the variants presented above, addressed pertinent issues, and narrowed the larger set of Mortgage Insurance representations to two variants.

Industry Positions

The Mortgage Insurance representation presented limited controversy. Specific items of note include ensuring coverage of the mortgage insurance policy for well-disclosed and comprehensive defects in existence prior to the securitization closing date, and whether any such dispute, if unresolved, would give rise to an automatic repurchase or arbitration, and at the very least constitute a trigger event if the ultimate resolution causes a loss to the trust.

In addition, certain members of the working group proposed that this representation include all mortgage loans with mortgage insurance, without distinction as to borrower-paid or lender-paid mortgage insurance.

Proposed Solutions

Transaction parties should consult with counsel to determine what form is most appropriate given the specifics of each transaction and a final determination as to the language of the covenant is within the sole purview of each party. In line with RMBS 3.0's fundamental methodology, the working group will work to propose a process through which an issuer who

chooses a different form of this representation can highlight or present these differences in the interest of transparency.

Representation & Warranty	Category 1	Category 2
Mortgage Insurance	With respect to any mortgage loan listed on the mortgage loan schedule as having mortgage insurance, in the event the mortgage insurer rejects, denies or rescinds a claim (in whole or in part) on the basis of any defect in connection with the origination of the mortgage loan or the servicing of the mortgage loan prior to the securitization closing date (other than as a result of the mortgage insurer's breach of its obligations or insolvency), the originator/seller shall either repurchase the mortgage loan at the repurchase price or pay the trust the amount of such claim within [30] days from such mortgage insurer rejection. If the originator/seller has a good-faith dispute of such mortgage insurer rejection, it shall notify the trustee of the basis of such dispute and shall have an additional period of up to [30] days to resolve such dispute. If at the end of such additional [30] day period, the claim still remains unpaid, the originator/seller shall immediately repurchase such mortgage loan or pay the trust the amount of such claim.	With respect to any mortgage loan listed on the mortgage loan schedule as having mortgage insurance, to the extent such mortgage insurance is borrower paid (or, if lender paid, was obtained by the originator/seller or the servicer), in the event the mortgage insurer rejects, denies or rescinds a claim (in whole or in part) on the basis of any defect in connection with the origination of the mortgage loan or the servicing of the mortgage loan prior to the securitization closing date (other than as a result of the mortgage insurer's breach of its obligations or insolvency), the originator/seller shall either repurchase the mortgage loan at the repurchase price or pay the trust the amount of such claim within [30] days from such mortgage insurer rejection. If the originator/seller has a good-faith dispute of such mortgage insurer rejection, it shall notify the trustee of the basis of such dispute and shall have an additional period of up to [30] days to resolve such dispute. If at the end of such additional [30] day period, the claim still remains unpaid, the originator/seller shall immediately repurchase such mortgage loan or pay the trust the amount of such claim.
NOTES:		Participants have discussed the following alternatives for a Category 2 rep: 1. Allowing a carve-out for borrower fraud with respect to a Mortgage Insurance Repurchase Covenant; however, as this shifts a risk of fraud onto the purchaser/investor, many participants believed that this risk should fall to the rep provider. 2. In the event of an unresolved dispute, a number of participants suggested that binding arbitration was an appropriate dispute resolution mechanism rather than a strict liability repurchase standard. 3. Participants also discussed adding a rejected mortgage insurance claim as a breach review trigger in the event of any carve out to the Mortgage Insurance Repurchase Covenant, including the ones discussed above.

Usury

Issue Overview

The Usury representation is intended to ensure that the interest rate and other terms of the relevant mortgage loans do not violate any federal, state or local usury laws. Arguably, this point is covered under the Applicable Law representation, but sometimes there is a separate Usury representation.

History

There has generally been little debate regarding the inclusion of a Usury representation, although many working group participants believe it is already included in other representations (e.g. "Compliance with Applicable Laws"). There has been some debate with respect to federal pre-emption and its impact on usury laws, but typical language relating to the Usury representation solves for this by covering "applicable" laws.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on rating agency recommendations.

Representation & Warranty	V1	V2
Usury	The mortgage loan meets or is exempt from applicable state, federal or local laws, regulations and other requirements pertaining to usury.	The mortgage loan is not usurious.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations and narrowed the larger set of Usury representations to one representation that was viewed as comprehensive.

Industry Positions

The Usury representation presented limited controversy and one formulation was agreed to by the working group, including the investor members. Furthermore, other representations, such as the "Applicable Law" representation, may overlap or provide additional protections that cover usury laws.

Proposed Solutions

Transaction parties should consult with counsel to determine what form is most appropriate given the specifics of each transaction and a final determination as to the language of the representation is within the sole purview of each party. In line with RMBS 3.0's fundamental

methodology, the working group will work to propose a process through which an issuer who chooses a different form of this representation can highlight or present these differences in the interest of transparency.

Representation & Warranty	Category I
Usury	The mortgage loan meets or is exempt from applicable state, federal or local laws, regulations and other requirements pertaining to usury.

Early Payment Default

Issue Overview

The Early Payment Default ("EPD") representation is intended to provide protection for fraud and underwriting errors by requiring the automatic repurchase of a newly-originated mortgage loan if the mortgage loan becomes delinquent soon – usually 90 days – after origination.

As described in more detail below, it was the general feeling of the working group that EPD is more properly a covenant than it is a representation and warranty, due to its forward-looking aspect. However, since it has historically been listed as among the representations and warranties, the working group decided to include a discussion of EPD as part of RMBS 3.0's representations and warranties work stream, although we recommend, as a drafting matter, that it be included as a separate covenant in transaction documents.

History

Since the financial crisis, the number of different formulations of the EPD representation in the securitization market has slowly been reduced as consensus has formed on several – but by no means all – aspects of this complex representation. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained EPD representations from the sellers of the mortgage loans. Each seller would negotiate its own particular EPD representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

Many market participants have noted that the substantial variation in EPD representations made it difficult to assess the issues covered within a transaction and from deal to deal. This system created a lack of standardization in the market which continues today. Even with the limited post-crisis RMBS activity, the current RMBS market continues to include a variety of EPD representations. The working group's recommended EPD proposals provide a level of choice while also narrowing the scope of variation, thereby providing industry members an easier assessment of the meaning and scope of this representation.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	Industry Standard
Early Payment Default	With respect to any mortgage loan originated not more than 90 days prior to the closing date, the originator shall promptly repurchase any such mortgage loan that becomes 30 days or more delinquent within the first three months following the origination date, unless, based on information provided by the servicer, the default was the result of a servicing issue that has subsequently been or will be corrected, provided that, if the originator is a bank, such repurchase would not, in the reasonable judgment of the originator, be considered recourse for purpose of Appendix A to Part 325 of Chapter III of Title 12 of the Code of Federal Regulations. Additionally, certain credit events caused by death, serious illness that resulted in full disability and termination of employment of the borrower or co-borrower, whichever is the primary wage earner, could also cause a borrower to become delinquent in the first three months. Where these credit events have been found to have occurred, a	With respect to any mortgage loan originated not more than 90 days prior to the securitization closing date, the originator shall promptly repurchase such mortgage loan if, by the third mortgage loan due date following the securitization closing date, the borrower has made neither of the two preceding monthly payments.	With respect to any mortgage loan originated not more than 90 days prior to the closing date, the originator shall promptly repurchase any such mortgage loan that becomes 30 days or more delinquent within the first three months following the origination date unless the originator reasonably concludes, based on information provided by the servicer, that the default was the result of a servicing issue that has subsequently been or will be corrected or is likely to be corrected and such default has been cured within 60 days following the missed payment date, provided that, if the originator is a bank, such repurchase would not, in the reasonable judgment of the originator, be considered recourse for purpose of Appendix A to Part 325 of Chapter III of Title 12 of the Code of Federal Regulations.	If the related Borrower fails to make any of the first three Monthly Payments due after the related Mortgage Loan origination date, the R&W Provider shall repurchase such Mortgage Loan at the Purchase Price unless the R&W Provider concludes that the default was the result of a servicing issue that has subsequently been corrected.	With respect to any Mortgage Loan originated not more than 90 days prior to the Closing Date, the originator shall promptly repurchase any such Mortgage Loan that becomes and remains 30 days or more Delinquent within the first three months following the first due date (other than as a result of documented (to the extent commercially reasonable) material financial or personal adversity since the date of the origination of the Mortgage Loan affecting the Mortgagor or the co-Mortgagor, such as unemployment, materially reduced pay, a material decline in self-employed business income, divorce, death, serious or chronic illness, permanent or short term disability, or materially increased medical and health care costs) unless the originator reasonably concludes, based on information provided by the servicer, that the default was the result of a servicing issue which has subsequently been corrected or is likely to be corrected and such default has been cured within 60 days following the

repurchase of the loan would not be required.	missed payment date.

Industry Positions and Investor Concerns

The EPD representation is somewhat unique in several aspects. Unlike other representations and warranties, where remedies for breach are usually qualified by a phrase such as "and such breach materially and adversely affects the interests of the trust in the mortgage loan," the repurchase remedy is usually embedded in the EPD representation itself – the repurchase remedy is triggered automatically. Also unusual is the forward-looking nature of the EPD representation, since it is triggered by events occurring after the securitization closing date. The EPD representation can be thought of as its own, separate contractual provision of the pooling and servicing agreement, rather than just one of a list of loan-level representations and warranties.

Prior to the financial crisis there were numerous variants of the EPD representation. More recently, the number of variants has been reduced, but even today the EPD representation probably has more variants than most other representations. Some of the variations are material.

In all of its variants, the breach is triggered when a borrower becomes delinquent soon after the related loan has been originated. The most common timeframe is 90 days – covering the first three payments due on the mortgage loan. The EPD representation is drafted to accommodate that one or more of those first three payments may be due following the closing date of the securitization trust.

It is generally understood that the historical basis for the EPD representation relates to its being a proxy for fraud in the origination process and/or a flawed origination process: the borrower managed to obtain the mortgage loan under false pretenses and had no intention and/or ability to pay it back.

There is a general consensus that the "early" qualifier to "payment default" in the EPD representation refers to a time period commencing at the origination of a loan. Put another way, the EPD representation generally only applies to newly-originated, rather than to "seasoned" loans, and the representation is usually worded around an assumption that a loan becomes "seasoned" for purposes of the representation after the first 90 days following origination.

This focus on newly-originated loans usually manifests itself in the following manner. The EPD representation will start out with some variant of "with respect to any mortgage loan originated not more than 90 days prior to the securitization closing date," thus excluding from the scope of the representation mortgage loans originated more than 90 days prior to the closing date (loans more than three months seasoned at the closing date). Next, with respect to these newly-originated loans, the EPD representation will be triggered if such a loan "becomes 30 or more days delinquent within the first three months of the loan's origination date."

As a result of these formulations, it is worth noting that the EPD representation, in addition to not covering "seasoned" loans, also is not ipso facto triggered by a failure to pay the first three payments due to the securitization trust. It is only triggered if one of the first three payments due under the loan is not made (one or more of which may be due to the securitization trust).

Prior to the financial crisis, there was often ambiguity about the starting date for the payments that the EPD representation covered, as, for example, when the representation was drafted so as to cover "the next three payments." The various controversies concerning EPD put-backs have led to more precision is focusing on the first three payments due under the loan.

Another complication surrounding the EPD representation is that it is sometimes given a broader time period in the whole-loan market than in the securitization context. It is not uncommon to see EPD defined as covering the first six payments in whole-loan trades. This difference may be attributable simply to economic incentives or pricing differences in the two markets. The difference may also be attributed to the need to deliver "true sale" opinions in securitization transactions, as legal counsel may be troubled by a six-month forward-looking period of risk allocation back to the originator. A whole-loan buyer may be more willing to accept true sale re-characterization risk. The working group recommends deleting the "bank recourse" exception, principally based on a view that a securitizing bank should reach its own conclusion with respect to this issue.

The legal issue of "recourse" under the EPD representation, whether it covers three, or six, or more payments, is of particular concern to bank originators due to the FDIC's risk-based capital rules. Under these rules, set forth in Appendix A to Part 325 of Title 12 of the Code of Federal Regulations, sales of loans with recourse may affect the bank's ability to exclude such loans from its risk-weighted assets. As a result of these rules, the EPD representation will sometimes contain a qualification that the repurchase remedy is only triggered for a bank originator if the repurchase "would not, in the reasonable judgment of the [bank] originator, be considered recourse" for the purposes of the rule.

In addition to the bank originator recourse exception just described, there are two other exceptions that serve to limit the EPD representation: servicing issues and "life events".

Most formulations of the EPD representation contain a servicing issues exception. A common formulation would be that the representation is not breached if the delinquency "was the result of a servicing issue that has subsequently been or will be corrected" (although it should be noted that ensuring any corrections that "will be" made are actually completed is an important requirement in this context).

Although the text of the servicing issues exception usually does not provide examples of such issues, it would seem to apply to situations in which payments are misapplied by a servicer, an ACH is not initiated timely, or other types of occurrences in which the payment is not received for a reason not generally considered to be based on a borrower's failure to pay. Such events would not properly be noted in the borrower's payment history as delinquencies, nor would they be reported as delinquencies to credit reporting agencies.

Variants of the servicing issues exception include establishing a time period for correcting the issue (often 60 days) and whether the originator, the aggregator or the servicer makes the call as to whether a servicing issue has occurred.

The servicing issues exception does not distinguish between third-party servicers and seller/servicers. In other words, the exception will apply even if the originator and the servicer are the same entity.

Even though the servicing issues exception undercuts to some degree the "bright line" nature of the EPD representation, it has become generally accepted. Particularly in the case of newly-originated loans, one can imagine and be sympathetic to servicing glitches arising in the on-boarding and account establishment process. If the purpose of the EPD representation is to serve as a proxy for fraud and/or poor underwriting, it is difficult to see how the purpose of the representation is furthered by having it triggered by servicing errors. In addition, servicing errors of the type most likely to be involved (misapplied payments, failure to ACH, etc.,) should be easy to recognize and rectify promptly.

The second exception that is sometimes found in the EPD representation is "life events." One such formulation defines this exception as a delinquency "as a result of documented (to the extent commercially reasonable) material financial or personal adversity since the date of the origination of the mortgage loan affecting the mortgagor or the co-mortgagor, such as unemployment, materially reduced pay, a material decline in self-employed business income, divorce, death, serious or chronic illness, permanent or short-term disability, or materially increased medical and health care costs."

The life events exception is relatively new, and its emergence may result from an increased awareness of the potential impact of life events on a borrower's ability to repay the mortgage loan.

It could also be argued that the suggestion to include the life events exception springs from the recent financial crisis in particular and not from a more general emphasis on ability to repay. According to this line of thinking, the life events exception may be seen as a provision that may make sense, if at all, only in certain economic environments.

The life events exception is not as broadly accepted as is the servicing issues exception:

On one hand, it certainly must be the case that unforeseen life events can occur during the first three months following the origination of a loan. There are two principal rejoinders to this observation. First, since the purpose of the EPD representation is to serve as a bright line proxy for fraud and/or a poor underwriting process, the argument for including a life events exception presumably rests on the non-disclosed and/or "unforeseen" aspects of the event, and whether a commercially reasonable underwriting process should have uncovered a substantial likelihood, or at least a substantial risk, that the event would occur. Second, if the event was, in fact, truly unforeseen, would a commercially reasonable underwriting process have considered the borrower's reserves and/or insurance coverage?

Both of these rejoinders suggest that, were an EPD representation to contain a life event exception, the representation may lose a fair bit of its "bright line" character in cases where the originator claims that the life event exception applies. Even if one concedes that unforeseen life events can occur, one must also concede that, in the legal context of a put-back claim, difficult issues of proof and due diligence will likely occur in the context of this exception.

Agency Formulations: Freddie Mac and Fannie Mae both define early payment default in a substantially different manner than the private label market. The GSE formulation is "a loan that experiences a 90-day delinquency during the first 12 months after the delivery date and the delinquency results in the initiation of foreclosure action." Thus, the period of delinquency (90 days, or three payments down) is longer, as is the relevant period (12 months), and the starting date of the period is the "delivery date" rather than the "origination date."

The Fair Housing Act ("FHA") formulation is closer to the private label approach, but still is materially different. FHA defines an EPD as a loan that becomes 60 days past due (two payments down) within the first six payments.

Unlike the private label formulation of EPD, the agency formulations do not trigger an automatic repurchase. Rather, an EPD loan is subject to a quality control review, and repurchase may be demanded if underwriting defects are uncovered.

Given the nature of the originator-agency relationship, it is not obvious that an agency approach to EPD should carry much weight as precedent in the private label space. But it may be worth noting that, in general, the agency approach requires a more serious delinquency status, the covered period is longer, and, although there are no stated exceptions such as servicing issues or life events, the breach in the first instance leads to a quality control review rather than an automatic repurchase.

Investor Considerations: Presumably, the most "investor friendly" formulation of the EPD representation would:

- not be limited to newly-originated loans, but would look at whether the first several payments due under the note, as well as the first several payments to be made to the securitization trusts are made;
- have as long of a forward-looking timeframe as is consistent with the bank capital adequacy rules regarding "recourse," or with "true sale" analysis for non-banks; and
- not contain any exceptions, such as for servicing issues or life events.

Any formulation of the EPD representation that hinged on the first several payments to be made to the securitization trust, rather than or in addition to the first several payments to be made following loan origination, would be decidedly off-market today. Put another way, the term "early" refers to "early in the loan's life," not "early in the securitization trust's

ownership" of the loan. Today, there is consensus that the EPD representation does not apply to "seasoned loans."

Investors also benefit from other representations made by the originators that address some of the same concerns as the EPD representation and that do apply to seasoned loans. There are typically representations made as to current delinquency status and past (usually during the prior 12 months) delinquency history as well as representations as to the absence of fraud and material compliance with the underwriting guidelines. There is also a representation frequently made that "there is no fact known to the originator" that would make an investment in the loan unsound. Although none of these representations provides the bright line clarity of the EPD representation, collectively these representations address in the context of seasoned loans many of the same concerns as does the EPD representation.

The next issue of concern to investors relates to the number of early payments covered by the representation. The current private label consensus is that the EPD representation covers the first three payments due under the note. As indicated above, the agencies cover longer periods (six or twelve months) but require a more severe delinquency status to trigger the representation. Longer periods are also found in some whole-loan trades.

Other things being equal, investors would prefer a longer timeframe over a shorter one.

One of the countervailing considerations about which investors would presumably care is legal isolation. In rated transactions at least, the credit rating agencies require that a formal opinion of legal counsel be issued and in non-rated transactions the investor's and/or the arranger may itself require such an opinion. The longer the timeframe, the more pressure is put upon the validity of the legal isolation conclusion.

In light of these countervailing considerations, the working group expects to convene a meeting/conference call of the legal counsel involved in the representations and warranties project to attempt to reach a consensus as to the point at which longer timeframes – both in terms of seasoned loans as well as the number of future payments covered – puts too much pressure on the legal isolation conclusion.

The next point for consideration is the servicing issues exception. It would appear that this exception is generally accepted in private label transactions. Given the agencies' focus on compliance with underwriting guidelines and processes, one can infer that the agencies would also be sympathetic to a servicing issues exception.

Further, to the extent that a servicing issue were to cause a securitization not to receive a payment, other provisions of the pooling and servicing agreement would presumably require the servicer to indemnify the trust.

Finally, given that the trust's late receipt of a loan payment due to a servicing issue is not indicative of either fraud or poor underwriting, it would seem not to be the type of issue that the EPD representation is designed to address.

Two smaller considerations regarding the servicing issue representation should be noted. First is a "burden of proof" point that takes into account that the exception is in the nature of the defense by the originator to a put-back claim. This would suggest that the exception should be framed along the lines of "except to the extent that the originator can demonstrate to [the representation and warranty reviewer] that, based on information provided by the servicer, the default was the result of a servicing issue…"

The second small point concerns the correction of the servicing issue and whether a specified cure period should apply. The representation usually requires that the servicing issue has been or will be corrected or cured, and sometimes requires that the issue be resolved within 60 days. The working group also is recommending that there be a requirement for the exception to apply that the servicer has not reported the loan as delinquent to any credit bureau.

Since a servicing issue that results in the securitization trust not receiving a payment could be cured by the trust's receiving the payment from either the borrower or from the servicer as an "advance" or as an indemnity payment (for the breach of a servicing obligation), it would seem that a timeframe to cure would be appropriate, with the timeframe perhaps geared to the cure period that applies generally to the servicer for breaches of its servicing obligation.

The final point for discussion is the inclusion of a life events exception in the EPD representation. There does not appear yet to be consensus in the private label market on this exception.

Such an exception, if included, would excuse delinquencies of "documented (to the extent commercially reasonable) material financial or personal adversity since the date of the origination of the Mortgage Loan affecting the Mortgagor or the co-Mortgagor, such as unemployment, materially reduced pay, a material decline in self-employed business income, divorce, death, serious or chronic illness, permanent or short term disability, or materially increased medical and health care costs."

From the investor perspective, the inclusion of a life events exception would be a negative. Obviously, it would narrow the scope of the representation in those cases where it legitimately would apply.

But, more broadly, the inclusion of a life events exception arguably would erode the bright line clarity that the representation was designed to bring to bear an early payment default. The representation, in its pure form, does not require proof – or even allegations – of origination fraud or poor underwriting. Rather, an early payment default is used as a proxy for fraud or poor underwriting, and the repurchase is automatic.

Introducing a life events exception has the potential to re-open many EPDs to the type of diligence process that the representation has been constructed to avoid. This is probably the biggest concern the private label market faces in considering whether to make this exception standard in the EPD representation.

Working group members also raised the point that the adoption of a longer forward-looking timeframe with respect to the number of future payments covered by the EPD representation may argue in favor of including a life events exception. Obviously, the longer the forward-looking period, the more potential there is for actual life events to influence the loan's behavior.

That is not to say that there are not strong arguments in favor of such an exception – life events can and surely do occur, and sometimes soon after loan origination. But even in cases where a commercially reasonable underwriting process would not have uncovered any fact suggesting that an imminent life event was foreseeable, there may still be the question of whether that underwriting process properly addressed the borrower's reserves and/or insurance coverage in the event that the unforeseen event were to occur. Consequently, we are not recommending the inclusion of a life event exception.

Further Thoughts Regarding Concerns Raised by the Working Group

The Time Frames: There was a good deal of discussion at the working group's meeting regarding the two different timeframes relevant to the EPD representation; the "backward looking timeframe" and the "forward looking timeframe".

As noted above; the backward looking timeframe is most commonly formulated as limiting the EPD representation only to those loans "originated not more than 90 days prior to the securitization's cut-off date" -- i.e., excluding seasoned loans. The underlying rationale is that fraud and/or bad underwriting would show up early in the life of a loan.

Some investor members of the working group questioned the "seasoned loan" rationale, primarily because they thought that another possible fact pattern may involve a seller or servicer "propping up" a seasoned loan to make it appear current, then depositing it in the securitization trust and eliminating the support, with the result that the loan promptly defaults.

One observation about this argument may be that it suggests improper conduct by the seller or servicer that perhaps should or could be captured by a different representation, or, in the case of the servicer, a covenant. Thus, "propping up" a loan while holding it out as current could breach a representation that all payments received were made by the obligor or a guarantor, or by a covenant requiring "accepted servicing practices."

There was also discussion regarding the forward looking timeframe, which is most commonly formulated as "the first three months following the loan's first due date." Not only was the length of the period discussed, as noted above in the discussion of life events, but the issue also arose as to whether this period should begin at the beginning of the loan's life, or rather at the beginning of the securitization's life.

Investors would prefer that the period, however long it is, commence with the securitization's closing date.

In its most investor-friendly formulation, these timeframes would disregard the "seasoned loan" issue entirely and just refer to the securitization's closing date as the commencement date:

> The Originator shall promptly repurchase a mortgage loan that becomes 30 days or more Delinquent within the first ____ months following the securitization's closing date.

Adopting a Hybrid PLS/Agency Formulation: One possible area of compromise between issuers and investors may be to leave the EPD representation in its current buy-back form and with the standard timeframes (both the backwards and forwards) as it is, but also to add to the pooling agreement a new provision that is modeled on the Agency approach to EPD. This new provision would not be limited to seasoned loans, and could also have a relatively long period of coverage (6-12 months) commencing on the securitization's closing date. However, if (1) a loan goes 30+ delinquent within the specified time frame and (2) is not captured by the EDP buy-back representation, then the result would be a review of the loan (whether or not a pool-level asset review trigger has been hit), but not an ipso facto buy-back.

Two Drafting Notes: The EPD representation, along with several other representations, could benefit from a standard definition of "delinquency" set forth in the pooling and servicing agreement.

Here is one such definition:

> Delinquent: With respect to any Mortgage Loan, if the Monthly Payment due on a Due Date is not received, based on the Mortgage Bankers Association method of calculating delinquency. Under this method, a Mortgage Loan is considered "30 days or more Delinquent" if the Mortgagor fails to make a scheduled payment prior to the Mortgage Loan's first succeeding Due Date. For example, if a Mortgage Loan with a payment due on July 1 that remained unpaid as of the close of business on July 31 would be described as "30 days or more Delinquent" as of the close of business on July 31. A mortgage loan would be considered "60 days or more Delinquent" with respect to such scheduled payment if such scheduled payment were not made prior to the close of business on the day prior to the Mortgage Loan's second succeeding Due Date (or, in the preceding example, if the Mortgage Loan with a payment due on June 1 remained unpaid as of the close of business on July 31). Similarly for "90 days or more Delinquent," and so on.

As a second point, consideration should be given as to whether the EPD "representation" should be characterized as a "representation" at all, rather than as a separate provision of the pooling and servicing agreement. Given its (usually) automatic remedy, its interaction with potential servicing breaches (in the case of the servicing exception) and the fact that it is the only forward-looking representation, it may make more sense as a separate provision, rather

than have it as a representation and warranty. The working group generally supported framing EPD as a separate provision.

Proposed Solutions

Working group participants propose two variants of the EPD representation for consideration. One formulation is favored by investors and the other by sellers. Neither variant contains the life events exception, discussed in the text. The bank originator "recourse" qualifier has been removed under the theory that perhaps the bank should conclusively determine the legal effect of making the representation before making it.

The investors' formulation has no exceptions.

In the issuers' variant, the determination of the servicing issue by the originator or seller has been eliminated given the conflict of interest; alternatively, parties can use an objective standard or can include the determination of a third party (e.g., a trustee, a deal agent or an independent reviewer) in evaluating any applicable servicing issue. Finally, in the interest of protecting the purchaser or investor, the representation construction also requires the completion of any applicable cure with respect to such loan and any applicable servicing issue within a prescribed period of time.

The investors' preferred formulation is set forth below as Category 1, and the sellers' preferred formulation as Category 2, as follows:

Representation & Warranty	Category 1	Category 2
Early Payment Default	With respect to any Mortgage Loan originated not more than 90 days prior to the Closing Date, the originator shall repurchase within 30 days any such Mortgage Loan that becomes 30 days or more Delinquent within the first three months following the first due date.	With respect to any Mortgage Loan originated not more than [90 days prior to the Closing Date], the originator shall promptly repurchase any such Mortgage Loan that becomes 30 days or more Delinquent within [the first three months following the first due date] unless, based on information provided by the servicer, the default was the result of a (i) servicing issue which has subsequently been corrected or, if applicable, is likely to be corrected and is actually corrected within 60 days of the determination of the likelihood of correction; (ii) such default has been cured within 60 days following the missed payment date and (iii) the servicer has not reported the default as a delinquency to any credit bureau (or has reversed any previously reported delinquency).

Transaction parties should consult with counsel to determine what form is most appropriate given the specifics of each transaction and a final determination as to the language of the representation is within the sole purview of each party. In line with RMBS 3.0's fundamental methodology, the working group will work to propose a process through which an issuer who chooses a different form of this representation can highlight or present these differences in the interest of transparency.

Insurance Coverage Not Impaired

Issue Overview

The Insurance Coverage Not Impaired ("ICNI") representation is intended to provide protection against insurance coverage on or relating to the mortgaged property being impaired due to prohibited acts in connection with the procurement of such insurance as well as acts by the originator/seller that would impair coverage after procurement that would adversely affect the securitization trust.

History

Since the financial crisis, the number of different formulations of the ICNI representation in the securitization market has slowly been reduced. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained ICNI representations from the sellers of the mortgage loans. Each seller would negotiate its own particular representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

The principal variants in the ICNI representation are similar to the variants that are found in various formulations of the "fraud" representation, and for similar reasons, since both the fraud representation and the ICNI representation focus on the absence of "bad acts" on the part of various parties to the underlying loan transaction. These variants have made it difficult for market participants to assess the issues covered within a transaction and from deal to deal. This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different ICNI representations. Following the current thinking on the development of the fraud representation, the working group is setting forth two recommended variations of the ICNI representation. One variant is a "blanket" representation as to the absence of insurance coverage impairments, the other variant covers only certain transaction participants and embeds a knowledge qualifier.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	V5	Industry Standard
Insurance Coverage Not Impaired	With respect to any insurance policy, including, but not limited to, hazard, title or mortgage insurance covering a mortgage loan and the related mortgaged property, the originator/seller has not engaged in and has no knowledge of the borrower's having engaged in any act or omission that would impair the coverage of any such policy, the benefits of the endorsement or the validity and binding effect of either, including without limitation, no unlawful fee, commission, kickback or other unlawful compensation or value of any kind as has been or will be received, retained or realized by any attorney, firm, or other person or entity, and no such unlawful items have been received, retained or realized by the originator/seller.	No prior holder of the related mortgage has done, by act or omission, anything which would impair the coverage of such mortgagee title insurance policy. [Note: there is also a separate "No Defense of Insurance Coverage" Rep that states, No action has been taken or failed to be taken, no event has occurred and no state or facts exists which has resulted or will result in an exclusion from, denial of, or defense to coverage under any applicable special hazard insurance policy or bankruptcy bond irrespective of the cause of such failure of coverage except the failure of the insurer to pay by reason of such insurer's breach of the insurance policy or the insurer's financial inability to pay.]	With respect to any insurance policy including, but not limited to, hazard, title, or mortgage insurance covering a mortgage loan and the related mortgaged property, neither (i) the originator nor (ii) any prior holder has not engaged in, and has no knowledge of the borrower's having engaged in, any act or omission that would impair the coverage of any such policy, the benefits of the endorsement, or the validity and binding effect of either, including without limitation, no unlawful fee, commission, kickback, or other unlawful compensation or value of any kind as has been or will be received, retained, or realized by any attorney, firm, or other person or entity, and no such unlawful items have been received, retained, or realized by the originator.	See Hazard Insurance.	No claims have been made under any such mortgagee title insurance policy, and no prior holder of the related Mortgage, including the Seller, has done, by act or omission, anything which would impair the coverage of any such mortgagee title insurance policy, the benefits of the endorsement provided for therein or the validity and binding effect of either. No action, inaction or event has occurred and no state of facts exists or has existed that has resulted or will result in the exclusion from, denial of, or defense to coverage under any such hazard insurance policies, regardless of the cause of such failure of coverage.	With respect to any insurance policy including, but not limited to, hazard, title, or mortgage insurance, covering a Mortgage Loan and the related Mortgaged Property, neither (i) the originator nor (ii) any prior holder has engaged in any act or omission which would impair the coverage of any such policy, the benefits of the endorsement, or the validity and binding effect of either, including without limitation, no unlawful fee, commission, kickback or other unlawful compensation or value of any kind has been or will be received, retained or realized by any attorney, firm or other person or entity, and no such unlawful items have been received, retained or realized by the originator.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of ICNI representations to two.

Industry Positions and Investor Concerns

As noted above, the fundamental decision to be made in formulating the ICNI representation is whether it provides a "blanket" representation pursuant to which the originator assumes responsibility for bad acts on the part of transaction parties in addition to itself, or whether the representation is limited to acts by the originator and other specified transaction parties and, with respect to any bad acts by the borrower, includes a knowledge qualifier.

The investor preference would be for the clean, blanket representation.

The considerations for one or the other approach mirror the extensively discussed considerations that the industry has had on the fraud representation:

- on one hand, since the originator is closer to the process, it is in the best position to diligence other parties' bad acts, and should assume the responsibility to do so;

- on the other hand, since other parties' bad acts often cannot be diligenced sufficiently even with commercially reasonable underwriting and quality control processes, the risks are properly allocated to the owners from time to time of the loan (the investors).

Proposed Solutions

Representation & Warranty	Category 1	Category 2
Insurance Coverage Not Impaired	With respect to any insurance policy including, but not limited to, hazard, title, or mortgage insurance, covering a Mortgage Loan and the related Mortgaged Property, no action has been taken or failed to be taken (constituting an omission or otherwise), no event has occurred and no state of facts exists that has resulted or will result in the impairment of the coverage of any such policy, the benefits of the endorsement, or the validity and binding effect of either, including without limitation, no unlawful fee, commission, kickback or other unlawful compensation or value of any kind has been or will be received, retained or realized by any attorney, firm or other person or entity, and no such unlawful items have been received, retained or realized by any person or entity. No claims have been made under any such insurance policy.	With respect to any insurance policy including, but not limited to, hazard, [consider deleting if overlap with a specific hazard insurance representation] title, or mortgage insurance, covering a Mortgage Loan and the related Mortgaged Property, [(i) the originator has no knowledge of the borrower having engaged in any act or omission, and (ii)] neither (x) the originator nor (y) any prior holder has engaged in any act or omission which would impair the coverage of any such policy, the benefits of the endorsement, or the validity and binding effect of either, including without limitation, no unlawful fee, commission, kickback or other unlawful compensation or value of any kind has been or will be received, retained or realized by any attorney, firm or other person or entity, and no such unlawful items have been received, retained or realized by the originator.

Transaction parties should consult with counsel to determine what form is most appropriate given the specifics of each transaction and a final determination as to the language of the representation is within the sole purview of each party. In line with RMBS 3.0's fundamental methodology, the working group will work to propose a process through which an issuer who chooses a different form of this representation can highlight or present any differences in the interest of transparency.

Deeds of Trust

Issue Overview

The Deeds of Trust representation is intended to provide protection that any mortgage loan documented as a deed of trust arrangement has been properly established, and that there are no unusual fees due to the trustee under the deed of trust. Certain states require deeds of trust rather than mortgages as a means of encumbering real property. Although the term "mortgage" is defined as including mortgages and deeds of trust, a separate deed of trust is necessary to ensure, at a minimum, that the applicable trustee with respect to the deed of trust is duly qualified under applicable law, has been properly designated and is named in the mortgage.

History

Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained Deeds of Trust representations from the sellers of the mortgage loans. Each seller would negotiate its own particular Deed of Trust representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

The Deeds of Trust representation is fairly straightforward and has not exhibited many material variations either preceding or following the financial crisis. Since this representation is not controversial, the working group recommends a single variation of the Deeds of Trust representation to allow industry members to more easily assess the meaning and scope of this representation. Participants agreed to limit this representation to one formulation.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	Industry Standard
Deeds of Trust	In the event the mortgage constitutes a deed of trust, a trustee, duly qualified under applicable law to serve as such, has been properly designated and currently serves and is named in the mortgage, and no fees or expenses	In the event the mortgage constitutes a deed of trust, a trustee, duly qualified under applicable law to serve as such, has been properly designated and currently so serves and is named in the mortgage, and no fees or expenses	See Enforceability and Priority of Lien above.	With respect to any Mortgage that is a deed of trust, a trustee, authorized and duly qualified under applicable law to serve as such, has been properly designated, is named in such Mortgage and currently so serves, and no fees or	In the event the Mortgage constitutes a deed of trust, a trustee, duly qualified under applicable law to serve as such, has been properly designated and currently so serves and is named in the Mortgage, and no fees or expenses

are or will become payable by the seller to the trustee under the deed of trust, except in connection with a trustee's sale after default by the mortgage.	are or will become payable by the seller to the trustee under the deed of trust, except in connection with a trustee's sale after default by the mortgage.	expenses are or will become payable by the Custodian or the Purchaser to the trustee under the deed of trust, except in connection with a trustee's sale after default by the borrower.	are or will become payable by the Seller or the Trust to the trustee under the deed of trust, except in connection with a trustee's sale after default under the Mortgage.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of the Deeds of Trust representations to one. As noted above, the current variations are generally not material.

Industry Positions

With respect to the Deeds of Trust representation, there was general consensus, including among the investor members of the working group, to move to one representation and warranty.

Proposed Solution

Representation & Warranty	Category I
Deeds of Trust	In the event the Mortgage constitutes a deed of trust, a trustee, duly qualified under applicable law to serve as such, has been properly designated and currently so serves and is named in the Mortgage, and no fees or expenses are or will become payable by any third party (including the Seller, the Custodian, the Servicer or the Trust) to the trustee under the deed of trust, except in connection with a trustee's sale after default under the Mortgage.

Transaction parties should consult with counsel to determine what form is most appropriate given the specifics of each transaction and a final determination as to the language of the representation is within the sole purview of each party. In line with RMBS 3.0's fundamental methodology, the working group will work to propose a process through which an issuer who chooses a different form of this representation can highlight or present any differences in the interest of transparency.

Mortgage Properly Recorded

Issue Overview

The Mortgage Properly Recorded representation is intended to provide assurance that the original mortgage, along with any subsequent assignments of the mortgage, has been properly recorded so as to perfect the securitization trust's ownership of the mortgage.

History

Since the financial crisis, the number of different formulations of the Mortgage Properly Recorded representation in the securitization market has slowly been reduced. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained representations from the sellers of the mortgage loans. While there was general consistency in the Mortgage Properly Recorded representation relative to other representations made in securitization, some variations of the representation existed.

Each seller could negotiate its own particular Mortgage Properly Recorded representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different suggested versions of the Mortgage Properly Recorded representation though there is less disparity in this representation than other representations. The working group recommends a single variation of the Mortgage Properly Recorded representation to allow industry members to more easily assess the meaning and scope of this representation. Participants agreed to limit this representation to one formulation.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	Industry Standard
Mortgage Properly Recorded	Each original mortgage was recorded, and all subsequent assignments of the original mortgage have been recorded in the appropriate jurisdictions in which such recordation is necessary to perfect the liens against creditors of the seller or are being recorded.	Each original mortgage was recorded or submitted for recordation in the jurisdiction in which the mortgaged property is located and all subsequent assignments of the original mortgage have been delivered in the appropriate form for recording in all jurisdictions in which such recordation is necessary to perfect the ownership of the mortgage by the trust.	Each original Mortgage was recorded or submitted for recordation in the jurisdiction in which the Mortgaged Property is located and all subsequent assignments of the original Mortgage have been delivered in the appropriate form for recording in all jurisdictions in which such recordation is necessary to perfect the ownership of the Mortgage by the Trust.	Each original Mortgage was recorded or submitted for recordation in the jurisdiction in which the Mortgaged Property is located and all subsequent assignments of the original Mortgage have been delivered in the appropriate form for recording in all jurisdictions in which such recordation is necessary to perfect the ownership of the Mortgage by the Trust.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of Mortgage Properly Recorded representations to one.

One suggestion for the working group's further consideration may be to examine the Mortgage Properly Recorded representation in light of any specific representation made with respect to mortgages recorded using MERS. At the outset of the financial crisis, there were numerous alleged incidents of mortgages not being properly recorded, and in many cases the processes and procedures relating to the MERS system were identified as a possible source of problems. Although the Mortgage Properly Recorded representation appears to be sufficiently straightforward as to leave little room for doubt as to when it has been breached, it would be useful for this representation and any MERS-specific representation to be coordinated such that ambiguity not be allowed to obscure what should be a clear representation. In particular, the working group recommends that procedures for making all proper transfers and designations in MERS be clearly defined and monitored or confirmed within a timely manner.[5]

Industry Position

Subject to the suggestion regarding MERS above, there was general consensus, including among the investor members of the working group, to move to one Mortgage Properly Recorded representation.

[5] Careful distinction must be made between issuers who do not adhere to the requirements of this representation and warranty and servicers – or their vendors, such as foreclosure attorneys – who do not follow applicable law, court procedures or MERS rules when conducting foreclosures.

Proposed Solution

Representation & Warranty	Category 1
Mortgage Properly Recorded	Each original Mortgage was recorded (or if submitted for recordation, will be recorded) in accordance with [Section [x.x] of the [reference the applicable document delivery section of the governing trust document]] in the jurisdiction in which the Mortgaged Property is located, and all applicable assignments of the original Mortgage (i) have been recorded (or if submitted for recordation, will be recorded) in accordance with [Section [x.x] of the [reference the applicable document delivery section of the governing trust document]], or (ii) if not required to be recorded as of the Closing Date, delivered in the appropriate form for recording, in all jurisdictions in which such recordation is necessary to perfect the ownership of the Mortgage by the Trust.

Due-On-Sale

Issue Overview

The Due-On-Sale representation is intended to provide assurance that the related mortgaged property cannot be sold to a new owner without the prior written consent of the mortgagee (i.e., the securitization trust). This prevents the substitution of obligors, and/or the original obligor no longer owning the property.

History

Since the financial crisis, the number of different formulations of the Due-On-Sale representation in the securitization market has slowly been reduced. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained representations from the sellers of the mortgage loans. While there was general consistency in the Due-On-Sale representation relative to other representations made in securitization, some variations of the representation existed.

Each seller could negotiate its own particular Due-On-Sale representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different suggested versions of the Due-On-Sale representation though there is less disparity in this representation than other representations. The working group recommends a single variation of the Due-On-Sale representation to allow industry members to more easily assess the meaning and scope of this representation. Participants agreed to limit this no representation to one formulation.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	V5
Due-On-Sale	The mortgage contains an enforceable provision for the acceleration of the payment of the unpaid principal balance of the mortgage loan in the event that the mortgaged property is sold or transferred without the prior written consent of the mortgagee.	The mortgage contains an enforceable provision, to the extent not prohibited by applicable law as of the date of such mortgage, for the acceleration of the payment of the unpaid principal balance of the mortgage loan in the event that the mortgaged property is sold or transferred without the prior written consent of the mortgagee.	The Mortgage contains an enforceable provision for the acceleration of the payment of the unpaid principal balance of the Mortgage Loan in the event that the Mortgaged Property is sold or transferred without the prior written consent of the mortgagee thereunder.	Each Mortgage contains an enforceable provision, to the extent not prohibited by applicable law as of the date of such Mortgage, for the acceleration of the payment of the unpaid principal balance of the related Mortgage Loan in the event that the related Mortgaged Property is sold or transferred without the prior written consent of the mortgagee thereunder.	The Mortgage contains an enforceable provision, to the extent not prohibited by applicable law as of the date of such Mortgage, for the acceleration of the payment of the unpaid principal balance of the Mortgage Loan in the event that the Mortgaged Property is sold or transferred without the prior written consent of the mortgagee thereunder.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of Due-On-Sale representations to one.

Industry Position

There was general consensus, including among the investor members of the working group, to move to one Due-On-Sale representation.

Proposed Solution

Initiative participants propose that to best account for the varying considerations, the Due-On-Sale representation below be used.

Representation & Warranty	Category I
Due-On-Sale	The Mortgage contains an enforceable provision, to the extent not prohibited by applicable law as of the date of such Mortgage, for the acceleration of the payment of the unpaid principal balance of the Mortgage Loan [may need an exception for assumable ARMs, if included in the transaction] in the event that the Mortgaged Property is sold or transferred without the prior written consent of the mortgagee thereunder [or of the [servicer] on behalf of the mortgagee].
NOTES:	1. If there is to be a party representing the mortgagee who can consent to the sale or transfer of a loan, the provisions and process must clearly be spelled out in the applicable trust documents so that investors are aware of the terms and conditions relating to the consent process. Proponents of a "Deal Agent" maintain that this would be a standard function for the Deal Agent to perform if such action is in the best interest of the trust; otherwise, it could be a challenge to determine which other party could – or would – exercise the discretion necessary to make this determination. 2. Transactions often contain a "no assumption" representation and warranty – that is, that a loan may not be assumed from the borrower by a third party. This is because the Due on Sale clause – which relates to the sale or transfer of the underlying mortgaged property – is different than an Assumability clause – which relates to the assumption by a third party of all rights and obligations of the mortgagor under the existing mortgage loan. While underwriting guidelines often include a provision prohibiting

the assumability of a mortgage loan, such prohibition is sometimes not consistent with the actual loan documents used, which may provide that the loan is, in fact, assumable under certain conditions. Additionally, it is more common to see assumability carve-outs (i.e., allowance for assumability) under ARM underwriting guidelines and loan documents. However, Legacy and even RMBS 2.0 transactions are not always clear as to the manner in which a proposed assumption is to be evaluated. In many cases, the servicer is the party that undertakes this evaluation. Some participants have noted that this practice should be revisited, in that an evaluation of a proposed assumption is more in the order of an underwriting analysis of a new borrower and less similar to a modification analysis with respect to an existing borrower. In the event a loan is assumable, RMBS 3.0 recommends the inclusion in transaction documents of (i) a clearly defined methodology pursuant to which a qualified party (which may be a party other than the servicer, although this is subject to further discussion) evaluates a potential third party obligor under a proposed assumption, and (ii) transparency to the investors into the findings and conclusions of this evaluation.

Transaction parties should consult with counsel to determine what form is most appropriate given the specifics of each transaction and a final determination as to the language of the representation is within the sole purview of each party. In line with RMBS 3.0's fundamental methodology, the working group will work to propose a process through which an issuer who chooses a different form of this representation can highlight or present any differences in the interest of transparency.

Loans Current/Prior Delinquencies

Issue Overview

The Loans Current/Prior Delinquencies representation is intended to provide assurance that the current and past 12 months' delinquency status of the mortgage loans has been accurately represented. This very straightforward representation is among the most important of the representations made.

History

Since the financial crisis, the number of different formulations of the Loans Current/Prior Delinquencies representation in the securitization market has slowly been reduced. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained Loans Current/Prior Delinquencies representations from the sellers of the mortgage loans. Each seller would negotiate its own particular Loans Current/Prior Delinquencies representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

Among the pre-crisis variants in this representation was the number of times a mortgage loan could be delinquent in a specified period preceding the securitization cut-off date (e.g., 1x30, 2x30, etc., over the preceding 12 or 24 months).

This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. The current RMBS market practice has been to converge on a not more than 1x30 delinquency during the past 12 months (with an emphasis on, if not an expectation or condition of) zero delinquencies since origination, thus in large measure settling the issue that was the primary variable in the representation. The working group recommends a single variation of the Loans Current/Prior Delinquencies representation to allow industry members to more easily assess the meaning and scope of this representation. Participants agreed to limit this representation to one formulation.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	Industry Standard
Loans Current/Prior Delinquencies	Unless otherwise indicated on the mortgage loan schedule, all payments required to be made up to the due date immediately preceding the cutoff date for such mortgage loan under the terms of the related mortgage note have been made, and no mortgage loan had more than one delinquency in the 12 months preceding the cutoff date.	Unless noted on the mortgage loan schedule, all payments required to be made up to the due date immediately preceding the cut-off date for such mortgage loan under the terms of the related mortgage note have been made and no mortgage loan had more than one delinquency in the 12 months preceding the cut-off date.	Unless otherwise indicated on the mortgage loan schedule, all payments required to be made up to the due date immediately preceding the cutoff date for such mortgage loan under the terms of the related mortgage note have been made, and no mortgage loan had been more than 30 days delinquent more than once in the 12 months preceding the cut-off date.	Unless otherwise indicated on the Mortgage Loan Schedule, all payments on each Mortgage Loan required to be made under the terms of the related Mortgage Note on or prior to the related due date immediately preceding the cut-off date for the securitization have been made, and no Mortgage Loan was delinquent in the 12 months preceding such cut-off date.	Unless otherwise indicated on the Mortgage Loan Schedule, all payments required to be made up to the Due Date immediately preceding the Cut-Off Date for such Mortgage Loan under the terms of the related Mortgage Note have been made and no Mortgage Loan was 30 days Delinquent more than once in the 12 months preceding the Cut-Off Date.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of Loans Current/Prior Delinquencies representations to one.

Industry Positions

There was a general consensus to move to one representation for Loans Current/Prior Delinquencies. Under the proposed representation, mortgage loans should be reflected as never having been delinquent in the prior 12-month period, except as set forth on the mortgage loan schedule. Proponents of this approach believe this version is clear and transparent, setting a baseline of no delinquencies except as disclosed to investors on the mortgage loan schedule. Depending on product type, parties could also include a provision for more seasoned collateral (as occasionally in the current market, seasoned loans are sprinkled into transactions) that the loan has never been delinquent since origination.

Note that, from a practical perspective, especially in the event that servicing on a loan has been transferred from the originator to an aggregator, issuers should work with their servicers to identify payment delays due to servicing or servicing transfer-related errors, as opposed to such delays that reflect potential or actual borrower distress.

Additionally, some working group members noted the importance of including the payment history of each mortgage loan for the relevant period (usually one year) on the mortgage loan schedule in order to clarify which loans have missed payments or become delinquent. This is a standard part of the current PLS mortgage loan schedule currently in use in RMBS 2.0 transactions, and focusing on the importance of the inclusion of payment histories in mortgage loan schedules should also serve to highlight any mortgage loan schedule in which payment histories are absent.

Drafting Note

The Loans Current/Prior Delinquencies representation, along with several other representations, could benefit from a standard definition of "delinquency" set forth in the pooling and servicing agreement.
Here is one such definition:

> Delinquent: With respect to any Mortgage Loan, if the Monthly Payment due on a Due Date is not received, based on the Mortgage Bankers Association method of calculating delinquency. Under this method, a Mortgage Loan is considered "30 days or more Delinquent" if the Mortgagor fails to make a scheduled payment prior to the Mortgage Loan's first succeeding Due Date. For example, if a Mortgage Loan with a payment due on July 1 that remained unpaid as of the close of business on July 31 would be described as "30 days or more Delinquent" as of the close of business on July 31. A mortgage loan would be considered "60 days or more Delinquent" with respect to such scheduled payment if such scheduled payment were not made prior to the close of business on the day prior to the Mortgage Loan's second succeeding Due Date (or, in the preceding example, if the Mortgage Loan with a payment due on June 1 remained unpaid as of the close of business on July 31). Similarly for "90 days or more Delinquent" and so on.

Proposed Solutions

Representation & Warranty	Category 1
Loans Current/Prior Delinquencies	Unless otherwise indicated on the Mortgage Loan Schedule, all payments required to be made up to the Due Date immediately preceding the Cut-Off Date for such Mortgage Loan under the terms of the related Mortgage Note have been made. Except as set forth on the Mortgage Loan Schedule, no Mortgage Loan was 30 days Delinquent in the 12 months preceding the Cut-Off Date.

Transaction parties should consult with counsel to determine what form is most appropriate given the specifics of each transaction and a final determination as to the language of the representation is within the sole purview of each party. In line with RMBS 3.0's fundamental methodology, the working group will work to propose a process through which an issuer who chooses a different form of this representation can highlight or present any differences in the interest of transparency.

No Default

Issue Overview

The No Default representation is intended to assure market participants that no default has occurred with respect to the related mortgage loan.

History

No specific relevant history to include.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations. Note that representations specific to mortgage loans that are not newly originated were not included in the chart below.

Representation & Warranty	V1	V2	V3	V4	V5	Industry Standard
No Default	To the best of the originator's/seller's knowledge, there is no monetary default, monetary breach, monetary violation or event of acceleration existing under the mortgage or the related mortgage note and no event that, with the passage of time or with notice and the expiration of any grace or cure period, would constitute a monetary default, monetary breach, monetary violation or event of acceleration. Additionally,	There is no default, breach, violation or event of acceleration existing under the mortgage or the related mortgage note and no event which, with the passage of time or with notice and the expiration of any grace or cure period would constitute a default, breach, violation or event of acceleration. No default breach, violation or event of acceleration has been waived. Unless noted on the mortgage loan schedule, no foreclosure action is	There is no (A) monetary default, monetary breach, monetary violation, or event of acceleration existing under the mortgage or the related mortgage note and no event that, with the passage of time or with notice and the expiration of any grace or cure period, would constitute a monetary default, monetary breach, monetary violation, or event of acceleration, and (B) there is no nonmonetary default, nonmonetary breach,	See No Modifications.	With respect to each Mortgage Loan, there is no default, breach, violation or event of acceleration existing under the Mortgage or the related Mortgage Note and no event which, with the passage of time or with notice and the expiration of any grace or cure period, would constitute a default, breach, violation or event of acceleration. The Seller has not waived any such default, breach, violation or event of acceleration, and no foreclosure action is	(1) There is no monetary default, monetary breach, monetary violation or event of acceleration existing under the Mortgage or the related Mortgage Note and no event which, with the passage of time or with notice and the expiration of any grace or cure period, would constitute a monetary default, monetary breach, monetary violation or event of acceleration and (2) there is no nonmonetary default, nonmonetary breach,

the seller has not waived any such default, breach, violation or event of acceleration, and no foreclosure action is currently threatened or has been commenced with respect to the mortgage loan.	currently threatened or has been commenced with respect to the mortgage loan.	nonmonetary violation or event of acceleration existing under the mortgage or the related mortgage note and no event which, with the passage of time or with notice and the expiration of any grace or cure period, would constitute a nonmonetary default, nonmonetary breach, nonmonetary violation or event of acceleration. The seller has not waived any such default, breach, violation, or event of acceleration, and no foreclosure action is currently threatened or has been commenced with respect to the mortgage loan.	currently threatened or has been commenced with respect to any Mortgage Loan or Mortgaged Property.	nonmonetary violation or event of acceleration existing under the Mortgage or the related Mortgage Note and no event which, with the passage of time or with notice and the expiration of any grace or cure period, would constitute a nonmonetary default, nonmonetary breach, nonmonetary violation or event of acceleration; the Seller has not, with respect to either (1) or (2), waived any such default, breach, violation or event of acceleration; and no foreclosure action is currently threatened or has been commenced with respect to the Mortgage Loan.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of No Default representations to two formulations.

Industry Positions

One issue regarding the No Default representation relates to whether it should cover any default or breach under the mortgage note or related mortgage, or whether it should only cover monetary defaults or breaches. Non-monetary defaults could include failure to maintain the mortgaged property, transferring the mortgaged property or permitting liens on the mortgaged property.

Sellers objected to making a representation regarding non-monetary defaults under the mortgage note and related mortgage, as the seller would not necessarily know if a non-

monetary default had occurred, and the actions and expense necessary to determine whether certain non-monetary defaults had occurred would not be commercially reasonable to undertake. In addition, certain non-monetary defaults that might be of particular concern for an investor are addressed by other representations and warranties.

On the other hand, investors preferred a representation that no default of any kind had occurred under the mortgage note and the related mortgage.

Sellers also raised concerns regarding the No Default representation overlapping with respect to issues covered by other representations, including the delinquency, occupancy and insurance representations, and potentially having inconsistent standards with respect to such other provisions.

Finally, certain prior formulations of the No Default representations included representations that the seller had not waived any defaults by the seller and that no foreclosure action is currently threatened or commenced.

Proposed Solutions

The working group proposes two formulations, delineated below.

It was determined that both formulations would cover all monetary and non-monetary events of default, but would exclude coverage of certain defaults that are covered by other representations. However, with respect to monetary defaults, the working group concedes that the two resulting formulations do appear to overlap with the Loans Current/Prior Delinquencies representation.

The "no waiver" representation is covered in the No Modification representation, and is not addressed in this representation.

The language stating that "no foreclosure action is currently threatened or has been commenced" has been deleted as superfluous.

Representation & Warranty	Category 1	Category 2
No Default	There is no default, breach, violation or event of acceleration, whether monetary or non-monetary, existing under the Mortgage Note or the related Mortgage and no event which, with the passage of time or with notice and the expiration of any grace or cure period, would constitute a default, breach, violation or event of acceleration (excluding in each case any requirement to make payments after the Due Date immediately preceding the Cut Off Date and any breach of any occupancy requirements or requirements to maintain insurance).	There is no default, breach, violation or event of acceleration existing under the Mortgage Note or the related Mortgage and no event which, with the passage of time or with notice and the expiration of any grace or cure period, would constitute a default, breach, violation or event of acceleration (excluding in each case any requirement to make payments after the Due Date immediately preceding the Cut Off Date, any breach of any occupancy requirements or requirements to maintain insurance and any default based on the provision of false, misleading or inaccurate information in connection with the application or origination process).

No Rescission

Issue Overview

The No Rescission representation is intended to assure market participants that the mortgagor does not have any right to rescind the mortgage loan or have any right of set off or a defense to payment under the mortgage loan.

History

No specific relevant history to include.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	V5	Industry Standard
No Rescission	No mortgage note or mortgage is subject to any right of rescission, set-off, counterclaim or defense, including the defense of usury, nor will the operation of any of the terms of the mortgage note or mortgage or the exercise of any right thereunder render the mortgage note or mortgage unenforceable in whole or in part or subject it to any right of rescission, set-off, counterclaim or defense, including the defense of usury, and, to the best of the seller's knowledge, no such right of	No mortgage note or mortgage is subject to any right of rescission, set-off, counterclaim or defense. None of the terms will render the mortgage note or mortgage unenforceable or subject it to any right of rescission, set-off, counterclaim or defense. No such right of rescission, set-off, counterclaim or defense has been asserted.	(A) No mortgage note or mortgage is subject to any right of rescission, set-off, counterclaim, or defense, including the defense of usury, nor will the operation of any of the terms of the mortgage note or mortgage, or the exercise of any right thereunder, render the mortgage note or mortgage unenforceable, in whole or in part, or subject it to any right of rescission, set-off, counterclaim, or defense, including the defense of usury; and (B) no such right of rescission, set-off, counterclaim,	The Mortgage Loan is not subject to any Defense, and no Borrower has asserted any Defense. The operation of the terms of the Mortgage Loan Documents, or the exercise of any rights thereunder, will not render the Mortgage Loan unenforceable. No Borrower was at the time of the origination of the Mortgage Loan, or is currently, subject to any federal or state bankruptcy or insolvency proceeding. [Note: "Defense" is defined as "any Borrower right to rescission,	With respect to each Mortgage Loan, (i) no Mortgage Note or Mortgage is subject to any right of rescission, set-off, counterclaim or defense, nor will the operation of any of the terms of the Mortgage Note or Mortgage, or the exercise of any right thereunder, render the Mortgage Note or Mortgage unenforceable, in whole or in part, or subject it to any right of rescission, set-off, counterclaim or defense, and (ii) no such right of rescission, set-off, counterclaim or defense has been asserted	(1) No Mortgage Note or Mortgage is subject to any right of rescission, set-off, counterclaim or defense, including the defense of usury, nor will the operation of any of the terms of the Mortgage Note or Mortgage, or the exercise of any right thereunder, render the Mortgage Note or Mortgage unenforceable, in whole or in part, or subject it to any right of rescission, set-off, counterclaim or defense, including the defense of usury, and (2) no such right of rescission, set-off, counterclaim or

rescission, set-off, counterclaim or defense has been asserted with respect thereto.	or defense has been asserted with respect thereto.	set-off, counterclaim, or defense.]	with respect thereto.	defense has been asserted with respect thereto.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, and determined that the No Rescission representation was duplicative of the No Defenses representation.

Industry Position

The various forms of the No Rescission representation have been generally consistent in substance, although certain formulations limited the representation regarding whether the mortgagor has asserted any defenses to the knowledge of the seller.

Proposed Solutions

A separate No Rescission representation was determined by the working group, including the investor members, to be unnecessary, as the topic is addressed in the No Defense representation. The No Defense representation does not contain a knowledge qualifier.

In addition, one of the sample representations included a representation that the mortgagor was not, at the time of origination or currently, subject to a bankruptcy or other insolvency proceeding. That topic is already addressed in the Borrower representation.

Enforceable Right of Foreclosure

Issue Overview

The Enforceable Right of Foreclosure representation is intended to ensure that the mortgage or deed of trust securing the mortgage loan contains the terms and provisions necessary to permit a foreclosure on the related mortgaged property.

History

No specific relevant history to include.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	V5	Industry Standard
Enforceable Right of Foreclosure	Each mortgage contains customary and enforceable provisions such as to render the rights and remedies of the holder thereof adequate for the realization against the mortgaged property of the benefits of the security, including realization by judicial foreclosure (subject to any limitation arising from any bankruptcy, insolvency or other law for the relief of debtors), and to the best of the originator's/seller's knowledge, there is no homestead or other exemption available to the mortgagor that	• Each mortgage contains customary and enforceable provisions such as to render the rights and remedies of the holder thereof adequate for the realization against the mortgaged property of the benefits of the security. • There is no homestead or other exemption available to the mortgagor which would interfere with such right of foreclosure.	(A) Each mortgage contains customary and enforceable provisions such as to render the rights and remedies of the holder thereof adequate for the realization against the mortgaged property of the benefits of the security, including realization by judicial foreclosure (subject to any limitation arising from any bankruptcy, insolvency, or other law for the relief of debtors); and (B) except with respect to mortgaged properties located in [____], there is no homestead or other exemption	The Mortgage contains customary and enforceable provisions such as to render the rights and remedies of the holder thereof adequate for the enforcement of the lien against the Mortgaged Property. Upon default by a Borrower on a Mortgage Loan and foreclosure on, or trustee's sale of, the Mortgaged Property pursuant to the proper procedures, the holder of the Mortgage Loan will be able to deliver good and marketable title to the Mortgaged Property. There is no homestead or other exemption	With respect to each Mortgage Loan, each Mortgage contains customary and enforceable provisions such as to render the rights and remedies of the holder thereof adequate for the realization against the Mortgaged Property of the benefits of the security. There is no homestead or other exemption available to a borrower that would interfere with the right to sell the related Mortgaged Property at a trustee's sale or the right to foreclose on the related Mortgage.	(1) Each Mortgage contains customary and enforceable provisions such as to render the rights and remedies of the holder thereof adequate for the realization against the Mortgaged Property of the benefits of the security, including realization by judicial foreclosure (subject to any limitation arising from any bankruptcy, insolvency or other law for the relief of debtors), and (2) except with respect to Mortgaged Properties located in [____], there is no homestead or other exemption

would interfere with such right of foreclosure.	available to the mortgagor that would interfere with such right of foreclosure.	available to a Borrower that would interfere with the right to sell the Mortgaged Property at a trustee's sale or the right to foreclose on the Mortgage.	available to the Mortgagor which would interfere with the right to sell the Mortgaged Property at a trustee's sale or the right of foreclosure.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of Enforceable Right of Foreclosure representations to two variants.

Industry Positions

The primary debate with respect to the Enforceable Right of Foreclosure representation relates to whether the representation should include language that was included in one version of the industry representations (Version IV above), which provided that "upon default by a Borrower on a Mortgage Loan and foreclosure on, or trustee's sale of, the Mortgaged Property pursuant to the proper procedures, the holder of the Mortgage Loan will be able to deliver good and marketable title to the Mortgaged Property."

Sellers objected to making such a representation because it was prospective in nature, and thus was not a representation as to the current facts, but rather an assurance or guaranty as to a result that could be achieved in the future, and which could be effected by intervening acts or a change of facts or law occurring subsequent to the date the representation was made. On the other hand, investors preferred a representation that a foreclosure or trustee's sale would result in good and marketable title to the Mortgaged Property.

In addition, there was also discussion as to whether the descriptor "customary" (as in "customary and enforceable provisions") was appropriate and added value, and in particular whether it was amenable to diligence by an asset representation reviewer. The working group has recommended the deletion of "customary".

Proposed Solutions

The working group, including the investor members, agreed on the representation delineated below. However, as a drafting matter, the working group will continue to consider whether the Enforceable Right of Foreclosure representation should be combined with the Enforceability and Priority of Lien representation so as to eliminate confusion over the coverage of each representation.

It was determined to exclude the prospective representations regarding the results of foreclosure, as it was generally not appropriate to include prospective representations, and the

related risks were addressed by representations with respect to defenses and the prior servicing of the loan and requirements imposed on the servicer to service the mortgage loan appropriately after the securitization of the mortgage loan. The descriptor "customary" was retained, and a reference to rights of redemption was added. Finally, to account for the fact that an originator may obtain waivers of the homestead exception on some, but not all, mortgage loans with mortgaged property located in an applicable state, the representation was revised to provide that the mortgage loan schedule would identify those mortgage loans which may be subject to a homestead exemption.

Representation & Warranty	Category 1
Enforceable Right of Foreclosure	(1) Each Mortgage contains enforceable provisions such as to render the rights and remedies of the holder thereof adequate for the realization against the Mortgaged Property of the benefits of the security provided thereby including without limitation (i) in the case of a Mortgage designated as a deed of trust, by trustee's sale and (ii) otherwise by judicial foreclosure, and (2) [except with respect to Mortgaged Properties located in [_____],][6] there is no homestead or other exemption available to the Mortgagor which would interfere with, restrict or delay, the right to sell the Mortgaged Property at a trustee's sale or the right of foreclosure.

[6] The seller should determine if any mortgaged properties are located in a jurisdiction that provides a homestead exemption. If none are so located, the bracketed text should be removed. Participants have discussed whether this would require a legal survey that would require constant updating, and whether this would be practical to undertake; nevertheless, most participants agree that this is either a risk that investors should not bear or that should be disclosed clearly to them if, in fact, they are asked to take it given that lending and enforcement is always subject to applicable law. (Additionally, homestead exemption laws can change over time.)

Lost Note Affidavit

Issue Overview

The Lost Note Affidavit representation is intended to assure market participants that if a mortgage note is missing it will not be found later and potentially create competing claims of interest on a mortgage loan. In addition, because certain jurisdictions may require that a holder have the original note in order to foreclose on the property, this representation also is intended to ensure that proper protections are afforded if only a copy of the note can be presented.

History

No specific relevant history to include.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	Industry Standard
Lost Note Affidavit	With respect to each mortgage where a lost note affidavit has been delivered to the trustee in place of the related mortgage note, the related mortgage note is no longer in existence.	With respect to each mortgage where a lost note affidavit has been delivered to the custodian in place of the related mortgage note, the related mortgage note is no longer in existence.	With respect to each mortgage where a lost note affidavit has been delivered to the trustee in place of the related mortgage note, the related mortgage note is no longer in existence.	With respect to each Mortgage where a lost note affidavit has been delivered to the Trustee in place of the related Mortgage Note, the related Mortgage Note is no longer in existence.	With respect to each Mortgage where a lost note affidavit has been delivered to the Trustee in place of the related Mortgage Note, the related Mortgage Note is no longer in existence.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the set of Lost Note Affidavit representations to one that was viewed as comprehensive.

Industry Positions

With respect to loans for which lost note affidavits are delivered in lieu of originals, the available rating agency guidance and industry standard present a uniform model for the related representation.

However, originators and issuers raised concerns about what it means for a note to no longer be in existence. The concern was that the original note may still exist but cannot be found upon a reasonably diligent search, which would track language that is commonly used in lost

note affidavits themselves. In addition, if the lost note affidavit itself contained customary representations and indemnifications, the Lost Note Affidavit representation could be viewed as unnecessary.

Investors raised concerns with respect to the general enforceability of lost note affidavits, as well as about the content of the lost note affidavits and creditworthiness of the entity that provided the lost note affidavit. Originators and issuers, on the other hand, objected to making a prospective representation regarding the enforceability of a lost note which speaks to an unknowable set of circumstances at a future date.

Certain members of the working group propose eliminating the phrase "materially and adversely," and believe that if a lost note affects the enforcement of a loan after default, the loan should be repurchased. The working group agreed.

Proposed Solutions

There was a general consensus, including among investor members of the working group, to move to one representation pursuant to which the seller would cover the risk that the original mortgage note would resurface in the hands of another holder or that the lost note affidavit would be insufficient to enforce the rights and remedies of the mortgage loan.

Note that this representation contemplates that the document delivery provisions for the securitization will provide that either a mortgage note or a lost note affidavit with a copy of the original mortgage note, is delivered to the trustee (or the custodian on its behalf).

Representation & Warranty	Category 1
Lost Note Affidavit	With respect to each Mortgage where a lost note affidavit has been delivered to the Trustee (or the Custodian on its behalf) in place of the related Mortgage Note, the related original Mortgage Note is no longer in existence and the absence of such original Mortgage Note will not affect the enforcement of the Mortgage Loan after a default.

Leases

Issue Overview

The Leases representation is intended to inform investors whether a mortgage property could be secured by a long-term residential lease and, if so, that certain material terms are contained in such lease.

History

No specific relevant history to include.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	Industry Standard
Leases	The mortgaged property is either a fee-simple estate or a long-term residential lease. If the mortgage loan is secured by a long-term residential lease, the following must occur: • The terms of such lease expressly permit the mortgaging of the leasehold estate, the assignment of the lease without the lessor's consent (or the lessor's consent has been obtained and such consent is in the mortgage file) and the acquisition by the holder of the mortgage of the rights of the lessee upon foreclosure or assignment in lieu of foreclosure or provide the holder of the mortgage with substantially similar protection.	• The mortgaged property consists of a fee simple estate in real property. • All of the improvements which are included for the purpose of determining the appraised value of the mortgaged property lie wholly within the boundaries and building restriction lines of such property.	The mortgaged property is either a fee simple estate or a long-term residential lease. If the mortgage loan is secured by a long-term residential lease: (A) the terms of such lease expressly permit the mortgaging of the leasehold estate, the assignment of the lease without the lessor's consent (or the lessor's consent has been obtained and such consent is in the mortgage file), and the acquisition by the holder of the mortgage of the rights of the lessee upon foreclosure or assignment in lieu of foreclosure or provide the holder of the mortgage with substantially similar protection; (B) the terms of such lease do not allow the termination thereof	To the extent the Mortgage Loan is secured by a leasehold interest: (1) The Borrower is the owner of a valid and subsisting interest as tenant under the lease and is not in default thereunder. (2) The lease is in full force and effect, and is unmodified. (3) All rents and other charges have been paid when due. (4) The lessor under the lease is not in default. (5) The execution, delivery, and performance of the Mortgage do not require the consent (other than the consents that have been obtained and are in full force and effect) under, and will not violate or cause a default under, the terms of the lease. (6) The lease is assignable or transferable. (7) The lease will not be terminated	The Mortgaged Property is either a fee simple estate or a long-term residential lease. If the Mortgage Loan is secured by a long-term residential lease and (1) the terms of such lease expressly permit the mortgaging of the leasehold estate, the assignment of the lease without the lessor's consent (or the lessor's consent has been obtained and such consent is in the Mortgage File) and the acquisition by the holder of the Mortgage of the rights of the lessee upon foreclosure or assignment in lieu of foreclosure or provide the holder of the Mortgage with substantially similar protection; (2) the terms of such lease do not (x) allow the termination

• The terms of such lease do not allow the termination thereof upon the lessee's default without the holder of the mortgage being entitled to receive written notice of, and opportunity to cure, such default or prohibit the holder of the mortgage from being insured under the hazard insurance policy related to the mortgaged property. • The original term of such lease is not less than 15 years. • The term of such lease does not terminate earlier than five years after the maturity date of the mortgage note. • The mortgaged property is located in a jurisdiction in which the use of leasehold estates for residential properties is an accepted practice.	upon the lessee's default without the holder of the mortgage being entitled to receive written notice of, and opportunity to cure, such default or prohibit the holder of the mortgage from being insured under the hazard insurance policy related to the mortgaged property; (C) the original term of such lease is not less than 15 years; (D) the term of such lease does not terminate earlier than five years after the maturity date of the mortgage note; and (5) the mortgaged property is located in a jurisdiction in which the use of leasehold estates for residential properties is an accepted practice.	before the maturity date of the Mortgage Loan. (8) The lease does not provide for termination of the lease in the event of the Borrower's default without written notice to the mortgagee and a reasonable opportunity to cure the default. (9) The lease permits the mortgaging of the related Mortgaged Property. (10) The lease protects the mortgagee's interests in the event of a property condemnation.	thereof upon the lessee's default without the holder of the Mortgage being entitled to receive written notice of, and opportunity to cure, such default or (y) prohibit the holder of the Mortgage from being insured under the hazard insurance policy related to the Mortgaged Property; (3) the original term of such lease is not less than 15 years; (4) the term of such lease does not terminate earlier than five years after the maturity date of the Mortgage Note; and (5) the Mortgaged Property is located in a jurisdiction in which the use of leasehold estates for residential properties is an accepted practice.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of Leases representations to three variants.

Industry Positions

If residential long-term leases are permitted, the concern with property type arises over the terms of the underlying lease and its enforceability, as well as concerns relating to the underlying lessor.

The most protective and simplest formulation for investors would be to exclude any mortgaged properties secured by leases, as this eliminates any concerns related to the terms of the lease or the lessor. This formulation is proposed by Category 1 below.

However, as industry practices suggest, if the appropriate level of representations are provided by the seller, the risk presented by the terms of the lease and lessor can be mitigated. Investors preferred that the representation addressed the status of the underlying lessor and additional

provisions encompassing the requirements of each rating agency as indicated by Category 2 below.

Proposed Solutions

The Category 1 representation does not permit the mortgage property to be a leasehold, while the Category 2 representation does, subject to such leaseholds meeting specified requirements. The investor members of the working group are in agreement as to both of the proposed versions of the Leases representation.

Representation & Warranty	Category 1	Category 2
Leases	• The mortgaged property consists of a fee simple estate in real property. • All of the improvements which are included for the purpose of determining the appraised value of the mortgaged property lie wholly within the boundaries and building restriction lines of such fee simple estate.	The mortgaged property is either a fee-simple estate or a long-term residential lease. If the mortgage loan is secured by a long-term residential lease, then: (i) the lessor under the lease holds a fee simple interest in the land, (ii) the borrower is the owner of a valid and subsisting interest as tenant under the lease and is not in default thereunder, (iii) the lease is in full force and effect, (iv) all rents and other charges have been paid when due, (v) the lessor under the lease is not in default, (vi) the execution, delivery and performance of the mortgage do not require consent (other than any consents that have been obtained and are in full force and effect and are in the mortgage file) under, and will not violate or cause a default under, the terms of the lease, (vii) the original term of such lease is not less than [15] years and the term of such lease does not terminate earlier than five years after the maturity date of the mortgage note, (viii) the terms of such lease do not allow the termination thereof upon the lessee's default without the holder of the mortgage being entitled to receive written notice of, and opportunity to cure, such default or prohibit the holder of the mortgage from being insured under the hazard insurance policy related to the mortgaged property, (ix) the lease permits the acquisition by the holder of the Mortgage of the rights of the lessee upon foreclosure or assignment in lieu of foreclosure or provide the holder of the Mortgage with substantially similar protection; and (x) the lease protects the mortgagee's interests in the event of a property condemnation. All of the improvements which are included for the purpose of determining the appraised value of the mortgaged property lie wholly within the boundaries and building restriction lines of such fee simple estate or leasehold.

No Bankruptcy/No Foreclosure

Issue Overview

The No Bankruptcy/No Foreclosure representation is intended to ensure that the mortgagor is not, and has not been for a specified period of time prior to the origination of the mortgage loan, subject to a bankruptcy, and that the mortgagor has not owned any property that has been subject to a foreclosure for a specified period of time prior to the origination of the mortgage loan. A prior bankruptcy or foreclosure can be an indicia of creditworthiness.

History

No specific relevant history to include.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	Industry Standard
No Bankruptcy/ No Foreclosure	The originator has not received notice that the mortgagor is a debtor in any state or federal bankruptcy or insolvency proceeding. Additionally, unless otherwise indicated on the mortgage loan schedule, no borrower was the subject of a bankruptcy proceeding in the four years prior to the origination of the mortgage loan. Unless otherwise indicated on the mortgage loan schedule, no borrower previously owned a property in the seven years prior to the origination of the mortgage loan that was the subject of a foreclosure, deed-in-lieu or short sale during the time the borrower was the owner of record.	No borrower was at the time of the origination of the related Mortgage Loan, or is currently, subject to any federal or state bankruptcy or insolvency proceeding.	No Mortgagor is a debtor in any state or federal bankruptcy or insolvency proceeding.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and determined that the No Bankruptcy/No Foreclosure representation was duplicative of the Borrower representation.

Industry Positions

Sellers have generally preferred a representation regarding a mortgagor bankruptcy as of the date of representation that is limited to the seller's not having receiving notice of such bankruptcy or not having knowledge of such bankruptcy.

On the other hand, investors have preferred a representation that the mortgagor is not subject to a bankruptcy on the date of such representation, without any qualifications.

Proposed Solutions

The working group concluded that a separate No Bankruptcy/No Foreclosure representation was unnecessary, as the topic is addressed in the Borrower representation. The Borrower representation provisions with respect to bankruptcy and foreclosure are not qualified by knowledge and are made as of origination with respect to foreclosure and as of origination and the cut-off date with respect to bankruptcy of the borrower.

Recordability/MERS Loans

Issue Overview

The Recordability/MERS Loans representation is intended to ensure that a full chain of assignments of mortgages has been properly recorded, if required to enforce on the mortgage, so as to minimize foreclosure delays and costs.

History

Borrowers that become subject to a foreclosure action may assert a defense requiring a showing of standing, meaning that the servicer (or other entity) bringing the action must demonstrate that it has the right to enforce on the mortgage and foreclose on the related mortgaged property. Incomplete files can delay the foreclosure process and increase liquidation costs, which could result in increased losses to the securitization trust, particularly when the servicer has determined that it no longer has to make monthly principal and interest ("P&I") advances because such advances would be non-recoverable advances. In particular, a servicer may be required to provide evidence of a complete chain of assignments to the current owner of the mortgage loan, or record each assignment of mortgage in the related local jurisdiction to cure an incomplete assignment chain.

Mortgage loans registered on the MERS system present additional unique issues with respect to assignments because once the mortgage loan is assigned to MERS, subsequent assignments are not required to be physically recorded in the relevant jurisdictions. Instead, assignments are "electronically recorded" on the MERS system through a process of designating the new owner by reflecting a transfer on the system of the related mortgage loan by referencing the related mortgage identification number, which is typically a data field on the mortgage loan schedule.

The recording of mortgages in the name of MERS has been challenged in a number of states as an appropriate and/or valid way of recording and transferring ownership of the related mortgage loans. In particular, some courts have held that MERS is not a proper party to conduct a foreclosure and have required that the mortgage be reassigned to the entity that is the economic owner of the mortgage loan before a foreclosure can be conducted. In those jurisdictions, there have been delays in completing the foreclosure process pending deregistration from MERS and physical recording of each leg of the related assignment chain.

As a result, servicers that were required to provide evidence of a complete chain of physical assignments of mortgages encountered difficulties with mortgage loans registered on the MERS system when trying to enforce against the borrower in foreclosure suits. In some cases, a servicer may have been required to record each assignment of mortgage in the related local jurisdiction to cure an incomplete assignment chain. As stated, delays in the foreclosure process increase liquidation costs, which could result in increased losses to a securitization trust, particularly when the servicer has determined that it no longer has to make monthly P&I advances because such advances would be non-recoverable advances.

Rating agencies have indicated that they would view favorably provisions in the securitization documents requiring MERS-designated mortgage loans to be deregistered from MERS and recorded in certain cases.[7] Fitch, for example, has issued guidance that for securitizations of re-performing mortgage loans, it would consider provisions that require such deregistration and recordation of the mortgage assignment for any mortgage upon 90 days delinquency as supporting of a higher credit rating, even for loans that may qualify for or receive a modification.[8] The MERS assignment concerns have carried over into securitizations of newly originated mortgage loans, and the Fitch guidance noted that recent RMBS transactions backed by prime, jumbo mortgage loans have in some cases required that all of the mortgage loans be deregistered from MERS, or required deregistration and recordation based on similar triggers as those described above.

Rating agencies have long required that mortgage loan sale agreements contain a representation to the effect that the related original mortgage has been recorded or is in the process of being recorded in the appropriate jurisdiction where such recordation is required to perfect the lien of the mortgage. There generally has not been the same requirement by rating agencies for a representation regarding the assignments of mortgages, particularly for one that is designed to provide certain protections with respect to MERS mortgage loans. However, a practice has evolved to include the Recordability/MERS Loans representation in many mortgage loan sale agreements.

Debate & Discussion

The working group analyzed the rating agency guidance with respect to assignments of MERS loans and the representations increasingly found in mortgage loan sale agreements, evaluated the key concepts embedded in the representations, addressed pertinent issues, and agreed as to a single Recordability/MERS Loans representation that was viewed as comprehensive.

Industry Positions

Some working group members agree that, despite not being published as a required rating agency representation, there is support for the inclusion of a Recordability/MERS Loans representation in the securitization context. However, others questioned the necessity for any loan-level representation, given that the customary definition of assignments of mortgage in mortgage loan sale agreements that the assignment of mortgage is in recordable form, and the documents require that the contents of the mortgage collateral files include assignments of mortgage for non-MERS loans in recordable form.

In addition, working group members argued that the document review process is expected to include a review of the mortgage files and a determination of whether there are any incomplete chains of assignment and whether the assignments are properly recorded (for

[7] *See* Request for Comment: Moody's Approach to Assessing Incremental Risk Posed by the Ability to Repay Rules in US RMBS, Residential MBS (Moody's Investors Service New York, N.Y.), March 25, 2015.

[8] *See* Special Report: U.S. RMBS: Ability-to-Repay and Qualified Mortgage Rule Approaches, Structured Finance, Residential Mortgage / U.S.A., (Fitch Ratings New York, N.Y.), November 12, 2013.

mortgage loans not registered on the MERS system. Prior to securitization, the mortgage files are generally reviewed for exceptions and on the related closing date, the custodian will have produced a certification and exception report with respect to the collateral documents. Therefore, the document review process should ensure the integrity of the collateral file by identifying pre-securitization issues with documents, including missing assignments of mortgages, any deficiencies in the forms of assignments of mortgages and/or an incomplete chain of title and a separate representation may be unnecessary if proper remedies exist in connection with the document review process. With regard to MERS loans and the related foreclosure issues, some working group members further argued that securitizers could require deregistration of all MERS loans prior to securitization and, indeed, some RMBS programs follow this approach.

Proposed Solutions

Mortgage loan sale agreements already provide cure and repurchase remedies with respect to document deliverables, and including a Recordability/MERS Loan loan-level representation in the securitization transactions may not appear to give the trust any additional remedies beyond what the securitization documents currently provide. Moreover, portions of the currently-used forms of the representation overlap with other loan-level representation, such as the Data and No Litigation representations. Therefore, the working group concluded that a Recordability/MERS Loans representation may not be necessary if the issuer and investors feel they are adequately covered by the repurchase provisions for defective or missing documents. However, if a representation was desired, there was a general consensus, including among the investor members of the working group, of one form of representation, if the Recordability/MERS Loans representation were to be included.

Representation & Warranty	Category I
Recordability/MERS Loans	With respect to each Mortgage Loan that is not a MERS Mortgage Loan, the Assignment of Mortgage, upon the insertion of the name of the assignee and recording information, is in recordable form and is acceptable for recording under the laws of the jurisdiction in which the Mortgaged Property is located. With respect to each MERS Mortgage Loan other than a MOM Loan,[9] the related Assignment of Mortgage to MERS has been, or is in the process of being, duly and properly recorded.

[9] Loans that are referred to as MERS as Original Mortgagee ("MOM") loans designate MERS as the mortgagee (solely as a nominee for the lender). In other cases, the loan may be assigned to MERS (solely as a nominee for the lender) at some point later in its life cycle after the loan closes and this representation is intended to ensure that the loan was properly assigned to MERS.

Ability to Repay/Qualified Mortgage Loans

Issue Overview

In 2013, the Consumer Financial Protection Bureau (the "CFPB") adopted the "ability to repay" ("ATR") and "qualified mortgage" ("QM") rules, which implement the requirements of the Dodd-Frank Act for residential mortgage lenders to consider borrowers' ability to repay before extending credit for mortgage loans whose applications are taken on or after January 10, 2014. Mortgage loans in an RMBS transaction that do not meet the standards of the ATR rules potentially expose a securitization trust to certain liabilities and rating agencies have indicated that they will assign higher loss severity levels to those mortgage loans to account for the potential risks. The risks involve both potential claims by borrowers that their mortgage loans failed to comply with the ATR rules, subjecting the securitization trust to damages in the instance of noncompliance (generally equal to three years of finance charges and fees paid, as well as actual damages, statutory damages and costs and fees), and that the rule entitles borrowers to use ATR claims as a defense to foreclosure (and the resulting costs and expenses that may be borne by the trust). Therefore, compliance with ATR has become an important issue for securitizations trusts.

Under the QM rules, "qualified mortgages" ("QM Loans") are entitled to presumption of compliance with the ATR rules, either in the form of a safe harbor for QM Loans that pose the least risk or a rebuttable presumption for so-called "higher priced" QM Loans. In addition, a securitization trust made up entirely of QM Loans is also exempt from the credit risk retention requirements for securitizations. As a result, compliance with the QM rules also has significant implications for securitization trusts.

The ATR rules include a standard requiring residential mortgage originators to "make a reasonable and good faith determination based on verified and documented information" that the borrower has a reasonable ability to repay his or her loan according to its terms. In evaluating a pool of loans targeted for a securitization, rating agencies will evaluate the loans for compliance with the ATR/QM rules to determine the appropriate risk characterization with respect to projected losses. Although it is expected that rating agencies will assign a higher credit quality to loans that comply with the ATR/QM rules, there is no historical performance data on these types of mortgage loans. Securitizations that contain mortgage loans that do not comply with ATR rules are likely to create more potential risks for a securitization and consequently will likely be assigned higher credit enhancement levels by the rating agencies. The ATR/QM representations and warranties are designed to satisfy issuers and rating agencies that the requirements of ATR and, in some cases, QM in the alternative, have been complied with.

History

The ATR/QM representation is new to the RMBS industry post-financial crisis. The rules affected mortgage loans originated only after January 2014, and proposed forms of the representation began to surface and gain focus mainly towards the latter half of 2013.

ATM/QM is one of, if not the only, brand new, stand-alone, loan-level representations that loan purchasers and aggregators are requiring to be made in whole loan purchase agreements in connection with their acquisition of mortgage loans with a view to securitization. Regardless of whether a mortgage loan package is QM or non-QM, compliance with the ATR rules apply to all closed-end residential mortgages originated on or after January 10, 2014, and, therefore, at a minimum, a representation as to ATR compliance is commonly required.

The dearth of private-label RMBS since 2008 is due in part to the inability of securitizers to receive credit ratings on new issue RMBS at all, or the credit enhancement levels that would be required to receive credit ratings have not been attractive enough to make many proposed transactions practical to pursue. Rating agencies have indicated that they expect new RMBS transactions intended to be backed by QM loans to include representation and warranty provisions that covers compliance with the ATR rules, identifies the QM category of the loan and assurances that the related mortgage file contains the materials to demonstrate compliance with the ATR rules. Although the precise formulation of the required representation has not yet been published by the rating agencies, market participants have generally agreed that the representation would require an affirmative statement as to compliance with the ATR rules and whether or not the related mortgage loan is a "qualified mortgage" (under the safe harbor for QM loans or based on a rebuttable presumption that the loan complied with ATR requirements).

Transaction parties are generally addressing the compliance prongs with direct references to the applicable statutes. However, industry participants remain divided on whether, when purchasing mortgage loans that are identified in the mortgage loan package to be "qualified mortgages," the representation needs to satisfy both compliance with ATR and with QM or, alternatively, if a QM representation by itself is sufficient based on the safe harbor for QM loans. Furthermore, there is no consensus as to whether the representation ought to include a statement that the mortgage files contain all of the necessary documentation to demonstrate such compliance. Also at issue is whether the ATR?QM representation ought to specify that the originator applied the eight underwriting factors set forth in the ATR rules in determining that the borrower had a reasonable ability to repay the related mortgage loan.

The eight underwriting factors identified in the ATR rules that must be considered when originators underwrite a mortgage loan and determine the borrower's ability to repay are:

- Current or reasonably expected income or assets;
- Current employment status;
- Monthly payment on the loan;
- Monthly payment on any simultaneous loan;
- Monthly payment for mortgage-related obligations;
- Current debt obligations, alimony and child support;
- Monthly debt-to-income ratio or residual income; and
- Credit history.

The ATR rules do not require a lender to use any particular model to take these factors into account, so long as the underwriting standards lead to determinations made reasonably and in good faith.

Because the ATR/QM representation is relatively new, there is a lack of standardization in the market and much uncertainty as to what the rating agencies will exactly require. The working group's recommended ATR/QM representation proposals provide a level of choice while also narrowing the scope of the variation, thereby providing industry members an easier assessment of the meaning and scope of this representation.

Debate & Discussion

The RMBS 2.0 representations and warranties did not include any form of the ATR/QM representation. As previously stated, the rating agencies have yet to publish any precise form of the representation that would expect to be made in a securitization transaction, and no single established form has been generally accepted by market participants. Instead, the group reviewed the various rating agency criteria, requests for comment, special reports and other published materials for guidance on what the rating agencies will expect in the ATR/QM representation. The working group also reviewed forms of the ATR/QM representation that have been included in recent whole loan transactions (or unrated RMBS) for market color on what is being requested of originators and loan sellers.

The working group evaluated the key concepts embedded in the various reference materials, addressed pertinent issues and narrowed on four forms of ATR/QM representations. Three of the forms include some representation as to the mortgage files containing documented evidence of compliance with the ATR rules, one of which includes specific reference to the eight underwriting criteria. One form covers compliance with both prongs and another form covers compliance only with QM (with documented evidence of compliance in the mortgage file) or if not QM, then ATR. It could be argued that a statement that the determination of ATR was based on the eight underwriting factors is already required by the statute, so possibly unnecessary. Of these four, the first is probably the weakest given that the rating agency commentary suggests that they would require documented evidence of compliance.

Fitch, for example, has indicated that "it expects that representations and warranties provided to RMBS transactions may include satisfactory language regarding the accurate identification of each loan's designation under the rule, compliance with the rule and enforcement mechanisms, if they are subsequently determined to be out of compliance"[10] and emphasizes documentation of compliance, including life-of-loan record retention.

Moody's will assign a "Level 1" to originators that "require the credit file to include a litigation-ready document that clearly articulates and supports the ATR analysis" and "expects that new transactions will include R&W provisions that cover (1) compliance with the ATR rules, (2) accuracy of the ATR category of the loan (such as QM Safe Harbor, QM

[10] Special Report: U.S. RMBS: Ability-to-Repay and Qualified Mortgage Rule Approaches, Structured Finance, Residential Mortgage / U.S.A., (FitchRatings New York, N.Y.), November 12, 2013, at 1.

Rebuttable Presumption, or Non-QM), and (3) retention of all materials to demonstrate compliance with ATR or QM, as applicable. "[11]

DBRS has indicated that it "expects the representations and warranties to state the proper characterization of QM Safe Harbor, QM Rebuttable Presumption and Non-QM loans included in the securitization, and that the loan was originated in compliance with the ATR standards and has a mortgage file that contains all necessary records, evidence and documentation to demonstrate such compliance."[12]

Similarly, Kroll has indicated that it "would expect an additional representation and warranty that the originator complied with all ATR requirements and fully documented the information as part of its process."[13]

In addition to what content and form the ATR/QM representation should take, there is strong disagreement and variation concerning what the appropriate remedies with respect to breaches of the representation should be. The remedies debate surrounds two points: first, whether breaches should be treated any differently than breaches of any other loan-level representations (including the general compliance and origination representations and warranties) so as to require immediate repurchase without allowing any ability to cure; and second, whether remedies specifically related to the ATR/QM representation ought to apply to "alleged" breaches. Early permutations of the remedies provisions in the private whole loan market provided for an automatic repurchase of mortgage loans as a result of breaches or alleged breaches of the ATR/QM representation. This was requested due to the risk that a QM securitization would be exempt from the credit risk retention requirements and any non-QM loans needed to be removed expeditiously. However, working group participants expressed concern that by applying the repurchase requirements to alleged breaches, originators may be subject to unsubstantiated repurchase requests and, moreover, that, applying the remedy provisions to alleged breaches unfairly circumvents the process of having to determine whether a breach has even occurred.

As the ATR/QM representation has evolved in the whole loan market, parties have shown some flexibility in negotiating in rebuttal and/or cure periods. Group participants agree that certain breaches of compliance with the QM rules may be curable (e.g., the statute allows the possibility of curing points and fees limits overages within 210 days after consummation of the mortgage loan if certain steps are taken and certain policies and procedures followed).

Industry Positions

An industry standard has not been developed with respect to the ATR/QM representation. In the early formulations of the ATR/QM representation, there was fairly unanimous

[11] Request for Comment: Moody's Approach to Assessing Incremental Risk Posed by the Ability to Repay Rules in US RMBS, Residential MBS (Moody's Investors Service New York, N.Y.), March 25, 2015, at 1-2.

[12] Qualified Mortgage and Ability-To-Repay Rules, U.S. Structured Finance Newsletter (DBRS New York, N.Y.), December 9, 2013, at 1-2.

[13] Request for Comment: Assessing Non-QM Risk in U.S. RMBS, U.S. Structured Finance (Kroll Bond Ratings New York, N.Y.), December 5, 2013, at 9.

agreement that the representation must cover compliance with the ability to repay rules and the qualified mortgage rules (if the loan is designed to be a QM loan); however, more recently, some participants believe that the representation ought to cover compliance with one or the other. Beyond that, it is generally agreed that evidence of compliance needs to be documented and verifiable through the due diligence process. Again, here, it is recently acknowledged that diligence firms are generally reviewing the underwriting files for compliance with either QM or ATR (and more often, for QM compliance only), and do not go so far as to review the eight underwriting criteria of the ATR requirements. However, there has not been consensus of whether or not the form of ATR/QM representation itself needs to cover that the loan file contains all of the supporting documentation. Some in the working group took the position that documented evidence of compliance will be included in the related credit file and, therefore, additional statements in the form of the ATR/QM representation with respect to underwriting documentation is not required or they questioned the incremental value of that additional prong to the representation. Others took a more literal reading and concluded that the agencies would expect that the originator actually make a representation that all such documentation is included in the related files, some referencing even a "documentation capsule." Still others were of the view that the originator is only making a representation as to whether the loan is QM or is not QM, and/or whether or not the loan was originated in compliance with the ATR rules.

Proposed Solutions

The working group proposes that to best account for the varying considerations presented by the use of each version of the ATR/QM representation, all four representations may be recommended forms for use in an RMBS transaction. Given the infancy of the ATR/QM standards and so much uncertainty, members desire to allow for negotiation between the transaction parties. There are no published forms of the representation that will be required by each rating agency and we do not know whether there will be substantive differences among the agencies once the required criteria are published. More significantly, there is no data on how the ATR and QM rules will affect loan performance, foreclosure timing or experience, securitization costs or actual trust liabilities and expenses.

Transaction parties should consult with counsel to determine what form is most appropriate given the specifics of each transaction. A final determination as to the language of the representation is within the sole purview of each party. In line with RMBS 3.0's fundamental methodology, the working group will work to propose a process through which an issuer who chooses a different form of this representation can highlight or present these differences in the interest of transparency.

The investor members of the working group agreed with this approach.

Representation & Warranty	Category 1	Category 2	Category 3	Category 4
Ability to Repay/Qualified Mortgage Loans	With respect to each Mortgage Loan where the Mortgagor's loan application for the Mortgage Loan was taken on or after January 10, 2014, such Mortgage Loan (i) is a "Qualified Mortgage" as defined in Regulation Z, 12 C.F.R. Part 1026.43(e) and (ii) complies with the ability to repay standards set forth in standards set forth in Regulation Z, 12 C.F.R Part 1026.43(c).	With respect to each Mortgage Loan where the Mortgagor's loan application for the Mortgage Loan was taken on or after January 10, 2014, such Mortgage Loan (i) is a "Qualified Mortgage" as defined in Regulation Z, 12 C.F.R. Part 1026.43(e) and (ii) complies with the ability to repay standards set forth in standards set forth in Regulation Z, 12 C.F.R Part 1026.43(c), and all necessary evidence to demonstrate such compliance with 12 C.F.R. Part 1026.43(e) and 12 C.F.R. Part 1026.43(c) is included in the credit file [, including documentation to support that the Mortgage Loan meets the eight underwriting factors as set forth in 12 C.F.R. 1026.43(c)(2)].	With respect to each Mortgage Loan where the Mortgagor's loan application for the Mortgage Loan was taken on or after January 10, 2014, such Mortgage Loan (i) is a "Qualified Mortgage" as defined in Regulation Z, 12 C.F.R. Part 1026.43(e) and (ii) complies with the ability to repay standards set forth in standards set forth in Regulation Z, 12 C.F.R Part 1026.43(c), and all necessary evidence to demonstrate such compliance with 12 C.F.R. Part 1026.43(e) and 12 C.F.R. Part 1026.43(c) is included in the credit file. With respect to each such Mortgage Loan, the Seller has made a reasonable and good faith determination at or before consummation that the borrower will have a reasonable ability to repay the loan according to its terms in accordance with, at a minimum, the eight underwriting factors as set forth in 12 C.F.R. 1026.43(c)(2).	With respect to any Mortgage Loan for which the loan application from the related Mortgagor was taken on or after January 10, 2014, (1) (i) such Mortgage Loan is a "Qualified Mortgage" as defined in 12 C.F.R. § 1026.43(e), (ii) such Mortgage Loan is truly and accurately identified as a "Safe Harbor Qualified Mortgage" or "Rebuttable Presumption Qualified Mortgage" in the related Mortgage Loan Schedule, and (iii) the Mortgage File for such Mortgage Loan contains documentation that evidences compliance with 12 C.F.R. § 1026.43(e) or, (2) if such Mortgage Loan is determined not to be in compliance with 12 C.F.R. § 1026.43(e), such Mortgage Loan complies with 12 C.F.R. § 1026.43(c) and the Mortgage File for such Mortgage Loan contains documentation that evidences compliance with 12 C.F.R. § 1026.43(c).
Key Features	• No representation as to the origination files containing evidence of compliance.	• Includes the documentation prong. Bracketed language goes further to specify cover evidence of underwriting to the eight underwriting factors. • With respect to the contents of the origination/credit file, the representation may include specific reference to each element of the checklist (including, but not limited to borrower income and debt worksheet and a points and fees worksheet.)	• Additional approach that is more specific as to the lender's underwriting of the loan. • With respect to the contents of the origination/credit file, the representation may include specific reference to each element of the checklist (including, but not limited to borrower income and debt worksheet and a points and fees worksheet.)	• Example of an either or formulation, relying on the safe harbor or rebuttable presumption of ATR compliance for QM loans. • Requires that the mortgage file contains evidence of compliance.

No Prior Liens

Issue Overview

The No Prior Liens representation is intended to verify that the mortgage loans are owned by the seller and may be sold by the seller free and clear of any lien, encumbrance or other interest of any kind.

History

Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained No Prior Liens representations from the sellers of the mortgage loans. Each seller would negotiate its own particular representation. The sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

Many market participants have asserted that the substantial variation in the various representations made it difficult to assess the issues covered within a transaction and from deal to deal. This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different No Prior Liens representations. The working group recommends a single variation of the No Prior Liens representation to allow industry members to more easily assess the meaning and scope of this representation. The working group agreed to limit this representation to one formulation.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	V5	Industry Standard
No Prior Liens	Immediately prior to the transfer and assignment contemplated herein, the seller was the sole owner and holder of the mortgage loan free and clear of any and all liens (other than any senior lien indicated on the mortgage loan schedule), pledges, charges or security interests of any nature, and the seller has good and marketable title and full right and authority to sell and assign the same.	• Immediately prior to the transfer and assignment contemplated herein, the seller was the sole owner and holder of the mortgage loan or property (if REO) free and clear of any and all liens, pledges, charges or security interests of any nature. • The seller has good and marketable title and has full right and authority to sell and assign the mortgage loan or property.	Immediately prior to the transfer and assignment contemplated under this [sale/ transfer] agreement, the seller was the sole owner and holder of the mortgage loan free and clear of any and all liens (other than any senior lien indicated on the mortgage loan schedule), pledges, charges, or security interests of any nature and the seller has good and marketable title and has full right and authority to sell and assign the same.	The Seller is the sole owner and holder of the Mortgage Loan, and the Mortgage Loan is not assigned or pledged to any other Person. Seller has good, indefeasible, and marketable title to the Mortgage Loan and has full right to transfer, sell, and assign the Mortgage Loan to the Buyer. Each sale of the Mortgage Loan from any Prior Owner or the Seller was in exchange for fair equivalent value, and the Prior Owner or Seller, as applicable, was solvent both prior to and after the transfer and had sufficient capital to pay and was able to pay its debts as they would generally mature. Following the sale of the Mortgage Loan to the Buyer, the Buyer will hold such Mortgage Loan free and clear of any encumbrance, equity, participation interest, lien, pledge, charge, claim (including, but not limited to, any preference or fraudulent transfer claim), or security interest except any such interest created pursuant to or in accordance with the terms of the Purchase Agreement.	The Seller is the sole owner and holder of each Mortgage Loan free and clear of any and all liens, pledges, charges or security interests of any nature, and the Seller has good and marketable title and full right and authority to transfer, sell and assign the same. With respect to each Mortgage Loan, each prior sale of such Mortgage Loan from any prior owner or the Seller was in exchange for fair equivalent value, and the prior owner or Seller, as applicable, was solvent both prior to and after the transfer and had sufficient capital to pay, and was able to pay, its debts as they would generally mature. Following the sale of the Mortgage Loans to the Purchaser, the Purchaser will hold each Mortgage Loan free and clear of any encumbrance, equity, participation interest, lien, pledge, charge, claim (including, but not limited to, any preference or fraudulent transfer claim) or security interest, except any such interest created pursuant to or in accordance with the terms of the mortgage loan purchase agreement.	Immediately prior to the transfer and assignment contemplated herein, the Seller was the sole owner and holder of the Mortgage Loan free and clear of any and all liens (other than any senior lien indicated on the Mortgage Loan Schedule), pledges, charges or security interests of any nature and the Seller has good and marketable title and has full right and authority to sell and assign the same.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of No Prior Liens representations to one representation that was viewed as comprehensive.

Industry Positions

One difference among the various formulations of the No Prior Liens representation involves the inclusion of a representation regarding the risk that the transfer from the seller or any prior

owner involved a fraudulent conveyance. The working group determined to include that representation as to the sale by the seller only.

Some formulations of the No Prior Lien representation include a representation that upon the sale of the mortgage loan to the purchaser, the purchaser will own the mortgage loan free and clear of any liens or other interests. The working group determined that this representation was not necessary in light of the representation by the seller that, immediately prior to its transfer, it owned the mortgage loan free and clear of any liens or other interests. If such representation were to be included, the working group recommends an exception for any liens put in place by the purchaser.

Proposed Solutions

Working group members, including investor members, agreed on the formulation delineated below.

Representation & Warranty	Category 1
No Prior Liens	Immediately prior to the transfer and assignment contemplated herein, the Seller was the sole owner and holder of the Mortgage Loan free and clear of any and all liens, claims, interests, pledges, charges or security interests of any nature[14]; the Seller has good and marketable title to the Mortgage Loan, and has full right, power and authority to sell and assign the same.

[14] Members of the working group noted that securitization sponsors should consider adding a reference to the non-existence of subordinate liens.

Enforceability and Priority of Lien

Issue Overview

The Enforceability and Priority of Lien representation is intended to address the enforceability of the security for the mortgage loan, the priority of the lien and any exceptions to priority.

History

Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained Enforceability and Priority of Lien representations from the sellers of the mortgage loans. Each seller would negotiate its own particular representation. The sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

Many market participants have asserted that the substantial variation in the Enforceability and Priority of Lien representations made it difficult for them to assess the issues covered within a transaction and from deal to deal. This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different Enforceability and Priority of Lien representations. The working group recommends a single variation of the Enforceability and Priority of Lien representation to allow industry members to more easily assess the meaning and scope of this representation. Participants agreed to limit this representation to one formulation.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	V5	Industry Standard
Enforceability and Priority of Lien	The mortgage is a valid, subsisting and enforceable first or second lien on the property therein described, and, except as noted in the mortgage loan schedule, the mortgaged property is free and clear of all encumbrances and liens having priority over the lien of the mortgage, except for: the lien of current real property taxes and assessments not yet due and payable; covenants, conditions and restrictions, rights of way, easements and other matters of public record as of the date of recording of such mortgage acceptable to mortgage lending institutions in the area in which the mortgaged property is located or specifically referred to in the appraisal performed in connection with the origination of the related mortgage loan; liens created pursuant to any federal, state or local law, regulation or ordinance affording liens for the costs of cleanup of hazardous substances or hazardous wastes or for other environmental protection purposes; and such other matters to which like properties are commonly subject that do not individually or in aggregate materially interfere with the benefits of the security intended to be provided by the mortgage; and any security agreement, chattel mortgage or equivalent document related to and delivered to the	• The mortgage is a valid, subsisting and enforceable [first] [second] lien on the property therein described • The mortgage establishes in the seller a valid and subsisting [first] [second] lien on the property described therein and the seller has full right to sell and assign the same to the securitization trust.	(A) The mortgage is a valid, subsisting, and enforceable first or second lien on the property therein described and, except as noted in the mortgage loan schedule, the mortgaged property is free and clear of all encumbrances and liens having priority over the lien of the mortgage except for, (i) the lien of current real property taxes and assessments not yet due and payable, (ii) covenants, conditions, and restrictions, rights of way, easements, and other matters of public record as of the date of recording of such mortgage acceptable to mortgage lending institutions in the area in which the mortgaged property is located, (iii) liens created pursuant to any federal, state, or local law, regulation, or ordinance affording liens for the costs of clean-up of hazardous substances or hazardous wastes or for other environmental protection purposes, and (iv) such other matters to which like properties are commonly subject that do not individually or in aggregate materially interfere with the benefits of the security intended to be provided by the mortgage; and (B) any security agreement, chattel mortgage, or equivalent document	(1) The related Mortgage is a valid, subsisting, enforceable, and perfected [first or second] lien on all of the Mortgaged Property, subject only to Permitted Encumbrances. (2) The related original Mortgage has been recorded or is in the process of being recorded in the appropriate jurisdictions wherein such recordation is required to perfect the lien thereof for the benefit of the Buyer. (3) The related Mortgaged Property was not, at the time of origination of the Mortgage Loan, subject to a mortgage, deed of trust, deed to secure debt, or other security instrument creating a lien senior to the lien of the Mortgage, and there are no mechanics' or similar liens or claims that have been filed for work, labor, or material (and no rights are outstanding that under the law could give rise to such liens) affecting the Mortgaged Property that are or may be liens prior to, or equal to or coordinate with, the lien of the Mortgage.	With respect to each Mortgage Loan, the related Mortgage is a valid, subsisting, enforceable and perfected first lien on the related Mortgaged Property and any other property described therein. Each Mortgaged Property is free and clear of all encumbrances and liens having priority over the lien of the Mortgage except for (i) the lien of current real property taxes and assessments not yet due and payable, (ii) covenants, conditions and restrictions, rights of way, easements and other matters of public record as of the date of recording of such Mortgage acceptable to prudent mortgage lending institutions in the area in which the Mortgaged Property is located and either (x) are referred to or otherwise considered in the appraisal made in connection with the origination of the Mortgage Loan or (y) do not adversely affect the appraised value of the Mortgaged Property, (iii) liens created pursuant to any federal, state or local law, regulation or ordinance affording liens for the costs of clean-up of hazardous substances or hazardous wastes or for other environmental protection purposes and (iv) such other matters to which like properties are commonly subject which do not individually, or in the aggregate, materially interfere with (x) the benefits of the security intended to	The Mortgage is a valid, subsisting and enforceable first lien on the property therein described and, except as noted in the Mortgage Loan Schedule, the Mortgaged Property is free and clear of all encumbrances and liens having priority over the lien of the Mortgage except for (1) the lien of current real property taxes and assessments not yet due and payable, (2) covenants, conditions and restrictions, rights of way, easements and other matters of public record as of the date of recording of such Mortgage acceptable to prudent mortgage lending institutions in the area in which the Mortgaged Property is located, (3) liens created pursuant to any federal, state or local law, regulation or ordinance affording liens for the costs of clean-up of hazardous substances or hazardous wastes or for other environmental protection purposes and (4) such other matters to which like properties are commonly subject which do not individually, or in the aggregate, materially interfere with the benefits of the security intended to be provided by the Mortgage; and any security agreement, chattel mortgage or equivalent document related to, and delivered to the Trustee or to the Custodian with, any Mortgage establishes in the Seller a valid and subsisting lien on the property described therein,

trustee or to the custodian with any mortgage establishes in the seller a valid and subsisting first or second lien on the property described therein, and the seller has full right to sell and assign the same to the trustee.		be provided by the Mortgage, (y) the use, enjoyment, value or marketability of the related Mortgaged Property or (z) the full right and authority to assign and transfer such Mortgage Loan, including the servicing rights relating thereto. Any security agreement, chattel mortgage or equivalent document related to and delivered in connection with the Mortgage Loan establishes and creates a valid, subsisting, enforceable and perfected first lien on the property described therein, and the Seller has the full right to sell and assign the same to the Purchaser.	such lien is a first lien and the Seller has full right to sell and assign the same to the Trustee.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of Enforceability and Priority of Lien representations to one representation that was viewed as comprehensive.

Industry Positions

According to some working group members, this representation is one that has "quietly" evolved over time into several variations, a few of which sellers find compliance with to be operationally difficult, if not impossible. The working group therefore carefully considered these variations effectively to "reset" the representation language to provide the protections intended to be conferred, but eliminate several of the clauses at issue, as described below.

Notwithstanding that the term "subsisting" is used in the rating agency formulations, the working group determined that "valid and binding" is the appropriate formulation, and that the term subsisting is not additive.

The representation relating to security agreements and other personal property was revised from formulations used by some market participants in RMBS 2.0 to conform to the "valid and binding" formulation used in respect of the representations regarding the mortgage noted above.

An enforceability exception for bankruptcy and other creditors' rights laws and for the application of equitable principles was included in the representation regarding the mortgage

and security agreements and other personal property for consistency and clarity, as the working group believed those exceptions are implied.

In addition, the term "perfected" is used in several versions of the representation. Parties who object to the use of this term point to the fact that mortgage liens may not be "perfected" for purposes of state law except by certain action that may not be undertaken at a later date (e.g., completion of an assignment to blank in the name of the trust and subsequent recordation), but that this representation, along with several other representations, make it clear that the lien of the mortgage is and shall be superior to any and all other claims against the property (except as specifically carved out in this representation). It was therefore suggested that the term "perfected" be removed from the model representation as a potentially untrue statement that was nevertheless inserted into documentation by buyers looking for "belt-and-suspenders" protection (without regard to the actual validity of the statement).

One of the more controversial variations of this representation involves changes to clause (2) of the permitted lien carve-outs. Traditionally, this carve-out was intended to cover "covenants, conditions and restrictions, rights of way, easements and other matters of public record as of the date of recording of such Mortgage acceptable to prudent mortgage lending institutions in the area in which the Mortgaged Property is located." Over time, variations addressed two issues in this construction:

1. Some buyers added that any of these matters of public record were also required to be included – and in some cases, specifically referred to – in the related appraisal and/or title policy. This is not always the case, and where reference is in fact made, it is often a general reference to matters of public record. Some working group members feel that this added language essentially constitutes a "put" option – that is, it is not part of the origination process and therefore cannot always be met. On the other hand, proponents of the language included the language to avoid these types of exceptions that had a material adverse impact on the property. To solve for this, the working group adopted the following qualifying language with respect to conditions in clause (2):
    a. Either items are specifically referred to in (i) the appraisal, so long as such item has been and considered in determining the appraised value, or (ii) the title policy, provided that such condition must not materially interfere with the benefits of the security of the mortgage or the customary use, enjoyment, value or marketability of the mortgaged property.
        i. Some proponents believe that the last clause should be qualified with respect to any item specifically referred to in the appraisal and taken into consideration in the appraised value, as such value would therefore reflect any impairment, in the appraiser's view, of such condition (e.g., a power line that runs through the property).

Proposed Solutions

With respect to the Enforceability and Priority of Lien representation, there was a general consensus, including among the investor members of the working group, to move to one representation. It may be important in some transactions to note that, with respect to the third exception to the "free and clear" representation due to hazardous waste, substances, etc., the absence of hazardous substances and related liens, or disclosure of the presence of any such substances or liens, would likely be covered in other representations and warranties, thus obviating this exception altogether.

As noted above, the working group will continue to consider whether, as a drafting matter, the Enforceability and Priority of Lien representation should be combined with the Enforceable Right of Foreclosure representation, so as to eliminate possible confusion over the coverage of such representations.

Representation & Warranty	Category I
Enforceability and Priority of Lien	The Mortgage is a valid and enforceable first [or second] lien on the Mortgaged Property (subject, as to enforceability, to bankruptcy and other creditors' rights laws, and general equitable principles). Except as noted in the Mortgage Loan Schedule, the Mortgaged Property is free and clear of all claims, encumbrances and liens having priority over the lien of the Mortgage except for (1) the lien of current real property taxes and assessments not yet due and payable, (2) covenants, conditions and restrictions, rights of way, easements and other matters of public record as of the date of recording of such Mortgage acceptable to prudent mortgage lending institutions in the area in which the Mortgaged Property is located, or specifically referred to in (i) the appraisal performed in connection with the origination of the related Mortgage Loan, provided that the appraiser has considered such condition in determining the appraised value of the Mortgaged Property as reflected in such appraisal, or (ii) the title policy issued in connection with the origination of the related Mortgage Loan, provided that, in any case, such covenants, conditions and restrictions, rights of way, easements and other matters of public do not materially interfere with the benefits of the security intended to be provided by the Mortgage or the customary use, enjoyment, value or marketability of the related Mortgaged Property [(except as may be specifically referred to in the appraisal and taken into account in the appraised value)], (3) [liens created pursuant to any federal, state or local law, regulation or ordinance affording liens for the costs of clean-up of hazardous substances or hazardous wastes or for other environmental protection purposes] ,and (4) such other matters to which like properties are commonly subject which do not individually, or in the aggregate, materially interfere with the benefits of the security intended to be provided by the Mortgage or the use, enjoyment, value or marketability of the related Mortgaged Property. Any security agreement or equivalent document related to any Mortgage and required to be delivered [to the Trustee or to the Custodian][to the Purchaser] grants to the Seller a valid, enforceable and perfected first security interest or lien on the property described therein (subject, as to enforceability, to bankruptcy and other creditors rights laws, and general equitable principles).

Certificate of Occupancy

Issue Overview

The Certificate of Occupancy representation is intended to ensure that the mortgaged property can be legally occupied as a residence and qualify as a residential mortgage loan so as to qualify as a residential mortgage loan that is not a construction loan.

History

Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained Certificate of Occupancy representations from the sellers of the mortgage loans. Each seller would negotiate its own particular representation. The sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

Many market participants have asserted that the substantial variation in the Certificate of Occupancy representations made it difficult to assess the issues covered within a transaction and from deal to deal. This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different Certificate of Occupancy representations. The working group recommends a single variation of the Certificate of Occupancy representation to allow industry members to more easily assess the meaning and scope of this representation. The working group agreed to limit this representation to one formulation.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	V5
Certificate of Occupancy	To the best of the originator's/seller's knowledge, all inspections, licenses and certificates required to be made or issued with respect to all occupied portions of the mortgaged property and the use and occupancy of the same, including but not limited to certificates of occupancy and fire underwriting certificates, have been made or obtained from the appropriate authorities.	All inspections, licenses and certificates required to be made or issued with respect to all occupied portions of the mortgaged property and, with respect to the use and occupancy of the same, including, but not limited to, certificates of occupancy and fire underwriting have been made or obtained from the appropriate authorities.	All inspections, licenses, and certificates required to be made or issued with respect to all occupied portions of the mortgaged property and the use and occupancy of the same, including but not limited to certificates of occupancy and fire underwriting certificates, have been made or obtained from the appropriate authorities.	Each Mortgaged Property is lawfully occupied under applicable law, and all inspections, licenses and certificates required to be made or issued with respect to all occupied portions of each Mortgaged Property and, with respect to the use and occupancy of the same, including, but not limited to, certificates of occupancy and fire underwriting certificates, have been made or obtained from the appropriate governmental authorities.	All inspections, licenses and certificates required to be made or issued with respect to all occupied portions of the Mortgaged Property and, with respect to the use and occupancy of the same, including, but not limited to, certificates of occupancy and fire underwriting certificates, have been made or obtained from the appropriate authorities.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of Certificate of Occupancy representations to one representation that was viewed as comprehensive.

Industry Positions

Generally, an industry standard has developed with respect to this representation, and the working group adopted that formulation.

Proposed Solutions

With respect to the Certificate of Occupancy representation, there was a general consensus, including among investor members of the working group, to move to one representation and warranty.

Representation & Warranty	Category 1
Certificate of Occupancy	As of the related Closing Date, all inspections, licenses and certificates required to be made or issued with respect to all occupied portions of the Mortgaged Property and, with respect to the use and occupancy of the same, including, but not limited to, certificates of occupancy and fire underwriting certificates, have been made or obtained from the appropriate authorities.

Mortgage Loan Legal and Binding

Issue Overview

The Mortgage Loan Legal and Binding representation is intended to ensure that the mortgage loan documents are binding and can be enforced against the borrower and the collateral for the mortgage loan.

History

Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained Mortgage Loan Legal and Binding representations from the sellers of the mortgage loans. Each seller would negotiate its own particular representation. The sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

Many market participants have asserted that the substantial variation in the Mortgage Loan Legal and Binding representations made it difficult to assess the issues covered within a transaction and from deal to deal. This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different Mortgage Loan Legal and Binding representations. The working group recommends a single variation of the Mortgage Loan Legal and Binding representation to allow industry members to more easily assess the meaning and scope of this representation. The members of the working group agreed to limit this representation to one formulation.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	V5	Industry Standard
Mortgage Loan Legal and Binding	The mortgage note, the related mortgage and other agreements executed in connection therewith are genuine, and each is the legal, valid and binding obligation of the maker thereof, enforceable in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally and by general equity principles (regardless of whether such enforcement is considered in a proceeding in equity or at law). Additionally, to the best of the seller's knowledge, all parties to the mortgage note and the mortgage had legal capacity to execute the mortgage note and the mortgage, and each mortgage note and mortgage has been duly and properly executed by the mortgagor.	• The mortgage note, the related mortgage and other agreements executed in connection therewith are genuine, and each is the legal, valid and binding obligation of the maker thereof, enforceable in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally and by general equity principles (regardless of whether such enforcement is considered in a proceeding in equity or at law). • All parties had legal capacity to execute the documents. • Such documents have been duly and properly executed.	(A) The mortgage note, the related mortgage, and other agreements executed in connection therewith are genuine, and each is the legal, valid, and binding obligation of the maker thereof, enforceable in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, or other similar laws affecting the enforcement of creditors' rights generally and by general equity principles (regardless of whether such enforcement is considered in a proceeding in equity or at law); and (B) all parties to the mortgage note and the mortgage had legal capacity to execute the mortgage note and the mortgage, and each mortgage note and mortgage has been duly and properly executed by the mortgagor and delivered by the parties.	Each Mortgage Loan Document and any other agreement executed by a Borrower or Obligated Party in connection with the Mortgage Loan is genuine, has been duly and properly executed, and is the legal, valid, and binding obligation of the executor thereof and is enforceable in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, or other similar laws affecting the enforcement of creditors' rights generally and by general equity principles (regardless of whether such enforcement is considered in a proceeding in equity or at law). All parties to each Mortgage Loan Document and any other such agreement had legal capacity to enter into the Mortgage Loan and to execute and deliver the Mortgage Loan Document and any such agreement.	With respect to each Mortgage Loan, (i) the related Mortgage Note, Mortgage and other mortgage loan documents executed in connection therewith are original and genuine, and each is the legal, valid and binding obligation of the maker thereof, enforceable in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally and by general equity principles (regardless of whether such enforcement is considered in a proceeding in equity or at law), and (ii) all parties to such Mortgage Note, Mortgage and other mortgage loan documents had legal capacity to execute such documents and have duly and properly executed and delivered such documents.	(1) The Mortgage Note, the related Mortgage and other agreements executed in connection therewith are genuine, and each is the legal, valid and binding obligation of the maker thereof, enforceable in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally and by general equity principles (regardless of whether such enforcement is considered in a proceeding in equity or at law); and (2) all parties to the Mortgage Note, the related Mortgage and other agreements executed in connection therewith had legal capacity to execute such documents and such documents have been duly and properly executed and delivered by such parties.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of Mortgage Loan Legal and Binding representations to one representation that was viewed as comprehensive.

Industry Positions

An industry standard has developed with respect to this representation and the working group adopted that formulation.

Proposed Solutions

With respect to the Mortgage Loan Legal and Binding representation, there was a general consensus, including among the investor members of the working group, to move to one representation and warranty.

Representation & Warranty	Category I
Mortgage Loan Legal and Binding	(1) The Mortgage Note, the related Mortgage and other agreements executed in connection therewith are genuine, and each is the legal, valid and binding obligation of the maker thereof, enforceable in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights generally and by general equity principles (regardless of whether such enforcement is considered in a proceeding in equity or at law); and (2) All parties to the Mortgage Note, the related Mortgage and other agreements executed in connection therewith had legal capacity to execute such documents and such documents have been duly and properly executed and delivered by such parties.

Hazard Insurance

Issue Overview

The Hazard Insurance representation is intended to address the presence of hazard and, where appropriate, flood insurance, in the amounts required by applicable underwriting standards.

History

Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained Hazard Insurance representations from the sellers of the mortgage loans. Each seller would negotiate its own particular representation. The sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

Many market participants have asserted that the substantial variation in the Hazard Insurance representations made it difficult to assess the issues covered within a transaction and from deal to deal. This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. The working group recommends a single variation of the Hazard Insurance representation to allow industry members to more easily assess the meaning and scope of this representation. Participants agreed to limit this representation to one formulation.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	V5	Industry Standard
Hazard Insurance	The mortgaged property securing each mortgage loan is insured by an insurer acceptable to Fannie Mae or Freddie Mac against loss by fire and such hazards as covered under a standard extended coverage endorsement in an amount not less than the lesser of 100% of the insurable value of the mortgaged property or the outstanding principal balance of the mortgage loan. If the mortgaged property is a condominium unit, it is included under the coverage afforded by a blanket policy for the project. If, upon origination of the mortgage loan, the improvements on the mortgaged property were in an area identified in the Federal Register by the Federal Emergency Management Agency as having special flood hazards, a flood insurance policy meeting the requirements of the current guidelines of the Federal Insurance Administration is in effect with a generally acceptable insurance carrier in an amount representing coverage not less than the least of the outstanding principal balance of the mortgage loan, the full insurable value of the mortgaged property, or the maximum amount of insurance that was available under the National Flood Insurance Act of 1968, as amended.	• The mortgaged property is insured by an insurer acceptable to Fannie Mae or Freddie Mac against loss by fire and such hazards as are covered under a standard extended coverage endorsement. • The amount of coverage is not less than the lesser of 100% of the insurable value of the mortgaged property and the outstanding principal balance of the mortgage loan, but in no event less than the minimum amount necessary to fully compensate for any damage or loss on a replacement cost basis. • If the mortgaged property is a condominium unit, it is included under the coverage afforded by a blanket policy for the project. • If upon origination of the mortgage loan, the mortgaged property was in an area identified in the Federal Register by the Federal Emergency Management Agency as having special flood hazards, a flood insurance policy meeting the requirements of the current guidelines of the Federal Insurance Administration is in effect with a generally acceptable insurance carrier. • If applicable, the amount of flood hazard coverage is not less than the least of (A) the outstanding principal balance of	The mortgaged property securing each mortgage loan is insured by an insurer acceptable to Fannie Mae or Freddie Mac against loss by fire and such hazards as are covered under a standard extended coverage endorsement in an amount that is not less than [the lesser of 100% of the insurable value of the mortgaged property and the outstanding principal balance of the mortgage loan[, but in no event less than the minimum amount necessary to fully compensate for any damage or loss on a replacement cost basis]][the lesser of (a) the full insurable value of the mortgaged property or (b) the greater of (i) the outstanding principal balance owing on the mortgage loan and (ii) an amount such that the proceeds of such insurance shall be sufficient to avoid the application to the mortgagor or loss payee of any coinsurance clause under the policy]. If the mortgaged property is a condominium unit, it is included under the coverage afforded by a blanket policy for the project. If upon origination of the mortgage loan, the improvements on the mortgaged property were in an area identified in the Federal Register by the Federal Emergency	(1) The related Mortgaged Property is insured by a fire and extended perils insurance policy, and is insured against such other hazards as are customary in the area where the Mortgaged Property is located, in an amount not less than the Hazard Insurance Coverage. (2) If any portion of the related Mortgaged Property is in an area identified by any Governmental Authority as having special flood hazards, the Mortgaged Property is insured by a flood insurance policy that meets the current guidelines of the Federal Insurance Administration and is not less than the Flood Insurance Coverage. (3) Each such insurance policy (a) is issued by a Qualified Insurer, (b) is a valid and binding obligation of the Insurer and is in full force and effect, (c) contains a standard mortgagee clause naming the Seller, its successors, and its assigns as mortgagee, and (d) may not be reduced, terminated, or canceled without 30 days' prior written notice to the mortgagee. No such notice has been received by any Obligated Party. (4) All premiums due and owing on such insurance policies have been paid. (5) The related Mortgage	The Mortgaged Property securing each Mortgage Loan is insured by an insurer acceptable to Fannie Mae or Freddie Mac against loss by fire, against such hazards as are covered under a standard extended coverage endorsement and against such other hazards as are customary in the area where the Mortgaged Property is located, in an amount which is not less than the lesser of (i) the full insurable value of the Mortgaged Property or (ii) the greater of (x) the outstanding principal balance owing on the Mortgage Loan and (y) an amount such that the proceeds of such insurance shall be sufficient to avoid the application to the borrower or loss payee of any coinsurance clause under the policy. If upon origination of any Mortgage Loan, the improvements on the Mortgaged Property were in an area identified in the Federal Register by the Federal Emergency Management Agency as having special flood hazards, a flood insurance policy meeting the requirements of the current guidelines of the Federal Insurance Administration is in effect with a generally acceptable insurance carrier, in an amount representing coverage not less than the least of (A) the outstanding	The Mortgaged Property securing each Mortgage Loan is insured by an insurer acceptable to Fannie Mae or Freddie Mac against loss by fire and such hazards as are covered under a standard extended coverage endorsement, in an amount which is not less than [the lesser of 100% of the insurable value of the Mortgaged Property and the outstanding principal balance of the Mortgage Loan[, but in no event less than the minimum amount necessary to fully compensate for any damage or loss on a replacement cost basis]][the lesser of (a) the full insurable value of the Mortgaged Property or (b) the greater of (i) the outstanding principal balance owing on the Mortgage Loan and (ii) an amount such that the proceeds of such insurance shall be sufficient to avoid the application to the Mortgagor or loss payee of any coinsurance clause under the policy]; if the Mortgaged Property is a condominium unit, it is included under the coverage afforded by a blanket policy for the project. [which coverage protects the lesser of 100% of the insurable value of the condominium and the outstanding principal balance of the Mortgage Loan]; if upon origination of the Mortgage Loan, the improvements on the Mortgaged Property were in an area identified in the

Additionally, each mortgage obligates the mortgagor thereunder to maintain all such insurance at the mortgagor's cost and expense.		principal balance of the Mortgage Loan, (B) the full insurable value of the Mortgaged Property and (C) the maximum amount of insurance which was available under the National Flood Insurance Act of 1968, as amended. All premiums on such insurance policies have been paid. Each Mortgage obligates the borrower thereunder to maintain all such insurance at the borrower's cost and expense, and upon the borrower's failure to do so, authorizes the holder of the Mortgage to obtain and maintain such insurance at the borrower's cost and expense and to seek reimbursement therefor from the borrower. Each such insurance policy (a) is a valid binding obligation of an insurer acceptable under the Fannie Mae Guides or the Freddie Mac Guides, (b) is in full force and effect, (c) contains a standard mortgagee clause naming the Seller, its successors and its assigns as mortgagee and (d) may not be reduced, terminated, or canceled without prior written notice to the mortgagee and no such notice to reduce, terminate, or cancel has been received by the borrower or the originator. No action, inaction or event has occurred and no state of facts exists or has existed that has resulted or will result in the exclusion from,	Federal Register by the Federal Emergency Management Agency as having special flood hazards, a flood insurance policy meeting the requirements of the current guidelines of the Federal Insurance Administration is in effect with a generally acceptable insurance carrier, in an amount representing coverage not less than the least of (1) the outstanding principal balance of the Mortgage Loan, (2) the full insurable value of the Mortgaged Property and (3) the maximum amount of insurance which was available under the National Flood Insurance Act of 1968, as amended; and each Mortgage obligates the Mortgagor thereunder to maintain all such insurance at the Mortgagor's cost and expense.

denial of, or defense to coverage under any such insurance policies, regardless of the cause of such failure of coverage.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of Hazard Insurance representations to one representation that was viewed as comprehensive.

Industry Positions

Differences among market participants primarily focused on two aspects of this representation. First, some industry participants do not feel that they are able to diligence whether each mortgage contains a provision permitting the mortgagee to obtain insurance that the borrower is obligated to maintain but does not, and therefore do not believe it is appropriate to make that representation. Other market participants are of the opinion that such a provision is important to the value of the mortgage loan and that the risk that such a provision is not included in the mortgage should be borne by the seller.

Second, current practice includes several variations of the representation as to the absence of any acts or omissions or conditions that would impair the insurance coverage. Some variations do not include any version of that representation, unless it is included in the fraud representation. The working group agreed that this risk is appropriately placed on the seller and adopted a comprehensive version of that representation.

Proposed Solutions

With respect to the Hazard Insurance representation, there was a general consensus, including among the investor members of the working group, to move to one representation and warranty.

Representation & Warranty	Category 1
Hazard Insurance	The Mortgaged Property, other than a condominium unit, securing each Mortgage Loan is insured by an insurer acceptable to Fannie Mae or Freddie Mac against loss by fire and such hazards as are covered under a standard extended coverage endorsement, in an amount which is not less than the lesser of (a) the maximum insurable value of the Mortgaged Property or (b) the greater of (i) the outstanding principal balance owing on the Mortgage Loan and (ii) an amount such that the proceeds of such insurance shall be sufficient to avoid the application to the Mortgagor or loss payee of any coinsurance clause under the policy; if the Mortgaged Property is a condominium unit, it is included under the coverage afforded by a blanket policy for the project which coverage protects the lesser of 100% of the insurable value of the condominium and the outstanding principal balance of the Mortgage Loan. If upon origination of the Mortgage Loan, any portion of the related Mortgaged Property is in an area identified in the Federal Register by the Federal Emergency Management Agency as having special flood hazards, a flood insurance policy meeting the requirements of the current guidelines of the Federal Insurance Administration is in effect with a generally acceptable insurance carrier, in an amount representing coverage not less than the least of (1) the outstanding principal balance of the Mortgage Loan, (2) the full insurable value of the Mortgaged Property and (3) the maximum amount of insurance which was available under the National Flood Insurance Act of 1968, as amended. Each Mortgage obligates the Mortgagor thereunder to maintain all such insurance at the Mortgagor's cost and expense, and upon the Mortgagor's failure to do so, authorizes the holder of the Mortgage to maintain such insurance at the Mortgagor's cost and expense and to seek reimbursement therefor from the Mortgagor to the extent permitted by applicable law. Each such standard hazard and flood policy is a valid and binding obligation of the insurer and is in full force and effect, and contains a standard mortgagee clause naming the Seller, its successors and assigns as mortgagee, and may not be reduced, terminated, or canceled without thirty (30) days' prior written notice to the mortgagee. All premiums due and owing on such insurance policies have been paid. None of the Originator, the Seller, any prior owner of the Mortgage Loan, Mortgagor, or any other Person, has engaged in any act or omission, and no state of facts exists or has existed, that has resulted or will result in the exclusion from, denial of, or defense to coverage, under any such insurance policies, or that would impair the coverage of any such insurance policy, the benefits of the endorsement provided for therein, or the validity and binding effect of either including, without limitation, the provision or receipt of any unlawful fee, commission, kickback, or other compensation or value of any kind.

Mortgage Insurance

Issue Overview

The Mortgage Insurance representation is intended to provide that a valid and enforceable primary mortgage insurance policy be in effect for each mortgage loan listed in the mortgage loan schedule as having mortgage insurance.

History

Since the financial crisis, the number of different formulations of the Mortgage Insurance representation in the securitization market has slowly been reduced. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained Mortgage Insurance representations from the sellers of the mortgage loans. Each seller would negotiate its own particular Mortgage Insurance representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different Mortgage Insurance representations. The working group recommends a single formulation of the Mortgage Insurance representation to provide for uniformity in the market. Participants agreed to limit this representation to one formulation.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	V5	Industry Standard
Mortgage Insurance	With respect to each mortgage loan listed as having mortgage insurance on the mortgage	• For mortgage loans with mortgage insurance, such mortgage loan has the benefit of a valid,	• For mortgage loans with mortgage insurance, such mortgage loan has the benefit of a valid,	Any PMI Policy required with respect to the Mortgage Loan was issued by a Qualified Insurer[15] and	With respect to each Mortgage Loan covered by a primary mortgage insurance policy (as indicated on	With respect to each Mortgage Loan listed as having mortgage insurance on the Mortgage

[15] "Qualified Insurer: An insurance company duly qualified as such under the laws of the state in which the related Mortgaged Property is located, duly authorized and licensed in such state to transact the applicable insurance business and to write the insurance provided by the insurance policy issued by it, and approved as an insurer by Fannie Mae and Freddie Mac."

loan schedule, such mortgage loan has the benefit of a valid, binding and enforceable primary mortgage insurance policy issued by a primary mortgage insurer acceptable to Fannie Mae and Freddie Mac. The form and substance of such mortgage insurance policy are in substantial conformance with primary mortgage insurance policies acceptable to Fannie Mae and Freddie Mac.	binding and enforceable primary mortgage insurance policy issued by a primary mortgage insurer acceptable to Fannie Mae and Freddie Mac. • The form and substance of such mortgage insurance policy is in substantial conformance with primary mortgage insurance policies acceptable to Fannie Mae and Freddie Mac.	binding and enforceable primary mortgage insurance policy issued by a primary mortgage insurer acceptable to Fannie Mae and Freddie Mac. • The form and substance of such mortgage insurance policy is in substantial conformance with primary mortgage insurance policies acceptable to Fannie Mae and Freddie Mac.	covers the related Mortgage Loan for as long as the Mortgage Loan is owned by the trust. All provisions of such PMI Policy have been and are being complied with, such policy is in full force and effect, and all premiums due thereunder have been paid. No action, inaction, or event has occurred and no state of facts exists that has, or will, result in the exclusion from, denial of, or defense to coverage. Any Mortgage Loan subject to a borrower-paid PMI Policy obligates the Borrower thereunder to maintain the PMI Policy and to pay all premiums and charges in connection with the PMI Policy up to the time it may be discontinued according to federal law or, in the case of a lender-paid PMI Policy, the premiums and charges are included in the interest rate for the Mortgage Loan.	the Mortgage Loan Schedule), the related policy is (i) in full force and effect, (ii) issued by a primary mortgage insurer acceptable to Fannie Mae and Freddie Mac and (iii) in substantial conformance, in both form and substance, with primary mortgage insurance policies acceptable to Fannie Mae and Freddie Mac at the time of origination.	Loan Schedule, such Mortgage Loan has the benefit of a valid, binding and enforceable primary mortgage insurance policy issued by a Qualified Insurer. The form and substance of such mortgage insurance policy is in substantial conformance with primary mortgage insurance policies acceptable to Fannie Mae and Freddie Mac at the time of origination.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in these variations, addressed pertinent issues, and narrowed the larger set of Mortgage Insurance representations to one representation that was viewed as comprehensive.

Industry Position

Except for one provision of the representation, there was general consensus to adopt a single formulation for the Mortgage Insurance representation and warranty.

Certain members of the working group proposed to remove the concept of "substantial conformance" with Fannie Mae and Freddie Mac requirements and simply state that the mortgage insurance policy complies with Fannie Mae and Freddie Mac requirements. Other members of the working group were resistant to imposing Agency requirements on non-Agency product.

Proposed Solution

The first two sentences of the Mortgage Insurance representation conform to the Industry Standard representation and warranty set forth above. The working group proposes adding the third sentence to address the attempt of certain mortgage insurers, in the aftermath of the financial crisis, to deny coverage under their mortgage insurance policies. That sentence makes clear that "[n]o action, inaction, or event has occurred and no state of facts exists that has, or will result in the exclusion from, denial of, or defense to coverage, except for such exclusion, denial, or defense as may be wrongfully made," subject, as to enforceability, to customary exceptions for bankruptcy and general principles of equity.

Transaction parties should consult with counsel to determine whether the proposed representation and warranty is appropriate given the specifics of each transaction and a final determination as to the language of the representation is within the sole purview of each party. In line with RMBS 3.0's fundamental methodology, the working group will work to propose a process through which an issuer who chooses a different form of this representation can highlight or present any differences in the interest of transparency.

Representation & Warranty	Category 1	Category 2
Mortgage Insurance	With respect to each Mortgage Loan listed as having mortgage insurance on the Mortgage Loan Schedule, such Mortgage Loan has the benefit of a valid, binding and enforceable primary mortgage insurance policy issued by a Qualified Insurer. The mortgage insurance policy complies, in form and substance, to the requirements of Fannie Mae and Freddie Mac at the time of origination. No action, inaction, or event has occurred and no state of facts exists that has, or will result in the exclusion from, denial of, or defense to coverage, except for such exclusion, denial, or defense as may be wrongfully made, and except as	With respect to each Mortgage Loan listed as having mortgage insurance on the Mortgage Loan Schedule, such Mortgage Loan has the benefit of a valid, binding and enforceable primary mortgage insurance policy issued by a Qualified Insurer. The form and substance of such mortgage insurance policy is in substantial conformance with primary mortgage insurance policies acceptable to Fannie Mae and Freddie Mac at the time of origination. No action, inaction, or event has occurred and no state of facts exists that has, or will result in the exclusion from, denial of, or defense to coverage, except for such exclusion, denial, or defense as may be wrongfully made, and except as enforceability may be

	enforceability may be limited by (i) applicable bankruptcy, insolvency, liquidation, receivership, moratorium, reorganization or other similar laws relating to or affecting the enforcement of insurance policies and (ii) general principles of equity	limited by (i) applicable bankruptcy, insolvency, liquidation, receivership, moratorium, reorganization or other similar laws relating to or affecting the enforcement of insurance policies and (ii) general principles of equity.

Title Insurance

Issue Overview

The Title Insurance representation is intended to provide that (1) each mortgage loan (other than a mortgage loan secured by co-op shares) has the benefit of an acceptable title insurance policy or, in certain jurisdictions, an opinion of counsel of the type customarily rendered in lieu of title insurance, and (2) no claims have been made under the title insurance policy.

History

Since the financial crisis, the number of different formulations of the Title Insurance representation in the securitization market has slowly been reduced. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained Title Insurance representations from the sellers of the mortgage loans. Each seller would negotiate its own particular Title Insurance representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different Title Insurance representations. The working group recommends a single formulation of the Title Insurance representation to provide for uniformity in the market. Participants agreed to limit this representation to one formulation.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	V5	Industry Standard
Title Insurance	The mortgage loan (except any mortgage loan secured by	• The mortgage loan is covered by an American Land Title	The mortgage loan (except (A) any mortgage loan	A customary lender's title policy was issued at	Each Mortgage Loan is covered by an American Land Title	The Mortgage Loan (except (1) any Mortgage Loan

a mortgaged property located in any jurisdiction for which an opinion of counsel of the type customarily rendered in such jurisdiction in lieu of title insurance is instead received and any mortgage loan secured by co-op shares) is covered by an American Land Title Association mortgagee title insurance policy or other generally acceptable form of policy or insurance acceptable to Fannie Mae or Freddie Mac, issued by a title insurer acceptable to Fannie Mae or Freddie Mac insuring the originator or its successors and assigns as to the first-priority lien of the mortgage in the original principal amount of the mortgage loan and subject only to the following: • The lien of current real property taxes and assessments not yet due and payable. • Covenants, conditions and restrictions, rights of way, easements and other matters of public record as of the date of recording of	Association mortgagee title insurance policy or other generally acceptable form of policy or insurance acceptable to Fannie Mae or Freddie Mac, issued by a title insurer acceptable to Fannie Mae or Freddie Mac insuring the originator, its successors and assigns, as to the [first] [second] priority lien of the mortgage in the original principal amount of the mortgage loan. • The assignment to the securitization trust of such mortgagee title insurance policy does not require any consent of or notification to the insurer which has not been obtained. • Such mortgagee title insurance policy is in full force and effect. • No claims have been made under such mortgagee title insurance policy. • No prior holder of the related mortgage has done, by act or omission, anything which would impair the coverage of such mortgagee title insurance policy.	secured by a mortgaged property located in any jurisdiction for which an opinion of counsel of the type customarily rendered in such jurisdiction in lieu of title insurance is instead received, and (B) any mortgage loan secured by co-op shares) is covered by an American Land Title Association mortgagee title insurance policy or other generally acceptable form of policy or insurance acceptable to Fannie Mae or Freddie Mac, issued by a title insurer acceptable to Fannie Mae or Freddie Mac insuring the originator and its successors, and assigns, as to the first priority lien of the mortgage in the original principal amount of the mortgage loan and subject only to (a) the lien of current real property taxes and assessments not yet due and payable, (b) covenants, conditions, and restrictions, rights of way, easements, and other matters of public record as of the date of recording of	origination, and each policy is valid and remains in full force and effect. No claims have been made under such title insurance policy, and no Obligated Party or Servicer has done, by act or omission, anything that would impair its coverage. No Obligated Party or other Person has provided or received any unlawful fee, commission, kickback, or other compensation or value of any kind in connection with the title insurance policy.	Association mortgagee title insurance policy or other generally acceptable form of policy or insurance acceptable to Fannie Mae or Freddie Mac, issued by a title insurer acceptable to Fannie Mae or Freddie Mac and qualified to do business in the jurisdiction where the Mortgaged Property is located, insuring the originator, its successors and assigns, as to the first priority lien of the Mortgage in the original principal amount of the Mortgage Loan and subject only to the exceptions contained in clauses (i) through (iv) of "Enforceability and Priority of Lien" above. Additionally, such policy affirmatively insures ingress and egress to and from the related Mortgaged Property. The Seller (and its successors and assigns) is the sole insured of each such mortgagee title insurance policy. The assignment to the Trustee of the Seller's interest in each such mortgagee title insurance policy does not require any	secured by a Mortgaged Property located in any jurisdiction as to which an opinion of counsel of the type customarily rendered in such jurisdiction in lieu of title insurance is instead received and (2) any Mortgage Loan secured by Co-op Shares) is covered by an American Land Title Association mortgagee title insurance policy or other generally acceptable form of policy or insurance acceptable to Fannie Mae or Freddie Mac, issued by a title insurer acceptable to Fannie Mae or Freddie Mac insuring the originator, its successors and assigns, as to the first priority lien of the Mortgage in the original principal amount of the Mortgage Loan and subject only to (A) the lien of current real property taxes and assessments not yet due and payable, (B) covenants, conditions and restrictions, rights of way, easements and other matters of public record as of the date of recording of such Mortgage

such mortgage acceptable to mortgage lending institutions in the area in which the mortgaged property is located or specifically referred to in the appraisal performed in connection with the origination of the related mortgage loan. • Liens created pursuant to any federal, state or local law, regulation or ordinance affording liens for the costs of cleanup of hazardous substances or hazardous wastes or for other environmental protection purposes. • Such other matters to which like properties are commonly subject that do not individually, or in the aggregate, materially interfere with the benefits of the security intended to be provided by the mortgage. The seller is the sole insured of such mortgagee title insurance policy, the assignment to the trustee of the seller's interest in such mortgagee title insurance policy does not require any consent of or notification to the insurer that has not been	such mortgage acceptable to mortgage lending institutions in the area in which the mortgaged property is located or specifically referred to in the appraisal performed in connection with the origination of the related mortgage loan, (c) liens created pursuant to any federal, state, or local law, regulation, or ordinance affording liens for the costs of clean-up of hazardous substances or hazardous wastes or for other environmental protection purposes, and (d) such other matters to which like properties are commonly subject which do not individually, or in the aggregate, materially interfere with the benefits of the security intended to be provided by the mortgage. The seller is the sole insured of such mortgagee title insurance policy, the assignment to the trustee of the seller's interest in such mortgagee title insurance policy does not require any consent of or notification to the insurer that	consent of or notification to the insurer which has not been obtained or made. Each such mortgagee title insurance policy is in full force and effect and, upon assignment to the Trustee, will be in full force and effect and inure to the benefit of the Trustee. No claims have been made under any such mortgagee title insurance policy, and no prior holder of the related Mortgage, including the Seller, has done, by act or omission, anything which would impair the coverage of any such mortgagee title insurance policy, the benefits of the endorsement provided for therein or the validity and binding effect of either.	acceptable to mortgage lending institutions in the area in which the Mortgaged Property is located or specifically referred to in the appraisal performed in connection with the origination of the related Mortgage Loan, (C) liens created pursuant to any federal, state or local law, regulation or ordinance affording liens for the costs of clean-up of hazardous substances or hazardous wastes or for other environmental protection purposes and (D) such other matters to which like properties are commonly subject which do not individually, or in the aggregate, materially interfere with the benefits of the security intended to be provided by the Mortgage; the Seller is the sole insured of such mortgagee title insurance policy, the assignment to the Trustee of the Seller's interest in such mortgagee title insurance policy does not require any consent of or notification to the insurer

obtained or made, such mortgagee title insurance policy is in full force and effect and will be in full force and effect and inure to the benefit of the trustee, no claims have been made under such mortgagee title insurance policy and no prior holder of the related mortgage, including the seller, has done, by act or omission, anything that would impair the coverage of such mortgagee title insurance policy.	has not been obtained or made, such mortgagee title insurance policy is in full force and effect and will be in full force and effect and inure to the benefit of the trustee, no claims have been made under such mortgagee title insurance policy.	which has not been obtained or made, such mortgagee title insurance policy is in full force and effect and will be in full force and effect and inure to the benefit of the Trustee, and no claims have been made under such mortgagee title insurance policy.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in these variations, addressed pertinent issues, and narrowed the larger set of Title Insurance representations to one representation that was viewed as comprehensive.

Industry Position

The Title Insurance representation was not controversial and the general consensus, including among the investor members of the working group, was to adopt a single formulation for the Title Insurance representation based on the Industry Standard formulation.

Proposed Solution

The Title Insurance representation is not controversial. Coverage may be provided by either an American Land Title Association mortgage title insurance policy or other generally acceptable form of policy or insurance acceptable to Fannie Mae or Freddie Mac. The exceptions to coverage are customary in the industry. Note that the somewhat open-ended exception for "such other matters to which like properties are commonly subject" is subject to the important qualification that the exception does "not individually, or in the aggregate, materially interfere with the benefits of the security intended to be provided by the [m]ortgage". The representation also provides the following important protections: (1) the seller is the sole insured under the policy; (2) the assignment to the trustee of the seller's

interest does not require consent of or notification to the insurer unless obtained or made; (3) the policy is and will be in full force and effect and inure to the benefit of the trustee; and (4) no claims have been made under the policy.

Representation & Warranty	Category 1
Title Insurance	With respect to each Mortgage Loan: (i) (except (1) any Mortgage Loan secured by a Mortgaged Property located in any jurisdiction as to which an opinion of counsel of the type customarily rendered in such jurisdiction in lieu of title insurance is instead received and (2) any Mortgage Loan secured by Co-op shares) such Mortgage Loan is covered by an American Land Title Association mortgagee title insurance policy or other generally acceptable form of policy or insurance acceptable to Fannie Mae or Freddie Mac, issued by a title insurer acceptable to Fannie Mae or Freddie Mac insuring the originator, its successors and assigns, as to the first priority lien of the Mortgage in the original principal amount of the Mortgage Loan and subject only to (A) the lien of current real property taxes and assessments not yet due and payable, (B) covenants, conditions and restrictions, rights of way, easements and other matters of public record as of the date of recording of such Mortgage acceptable to mortgage lending institutions in the area in which the Mortgaged Property is located or specifically referred to in the appraisal performed in connection with the origination of the related Mortgage Loan, (C) liens created pursuant to any federal, state or local law, regulation or ordinance affording liens for the costs of clean-up of hazardous substances or hazardous wastes or for other environmental protection purposes and (D) such other matters to which like properties are commonly subject which do not individually, or in the aggregate, materially interfere with the benefits of the security intended to be provided by the Mortgage; (ii) the Seller is the sole insured of such mortgagee title insurance policy; (iii) the assignment to the Trustee of the Seller's interest in such mortgagee title insurance policy does not require any consent of or notification to the insurer which has not been obtained or made; (iv) such mortgagee title insurance policy is in full force and effect and will be in full force and effect and inure to the benefit of the Trustee; and (v) no claims have been made under such mortgagee title insurance policy.

Licensing/Doing Business

Issue Overview

The Licensing/Doing Business representation (the "Licensing representation") is intended to provide that the originator and certain other parties be in compliance with all applicable licensing requirements of the state where the related mortgaged property is located, except to the extent that failure to be so licensed would not give rise to any claim against the trust or otherwise affect the enforceability of the mortgage loan.

History

Since the financial crisis, the number of different formulations of the Licensing representation in the securitization market has slowly been reduced. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained Licensing representations from the sellers of the mortgage loans. Each seller would negotiate its own particular Licensing representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different Licensing representations. The working group recommends a single formulation of the Licensing representation to provide for uniformity in the market. Participants agreed to limit this representation to one formulation.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	V5	Industry Standard
Licensing/Doing Business	With respect to each mortgage loan, all parties that have had any interest in such mortgage loan, whether as mortgagee, assignee, pledgee or otherwise, are	To the best of the Seller's knowledge: • All parties that have had any interest in such mortgage loan, whether as mortgagee, assignee, pledgee or otherwise, are	With respect to each mortgage loan, (A) the originator is (or, during the period in which it held and disposed of its interest in such mortgage loan	Each Obligated Party and Servicer is (or, during the period in which it held and disposed of an interest in the Mortgage Loan or engaged in any activity	All parties which have had any interest in any Mortgage, whether as Mortgagee, assignee, pledgee or otherwise, are (or, during the period in which they	With respect to each Mortgage Loan, (i) the originator is (or, during the period in which it held and disposed of its interest in such Mortgage Loan

(or, during the period in which they held and disposed of such interest, were) in compliance with any and all applicable licensing requirements of the laws of the state wherein the related mortgaged property is located, except to the extent that failure to be so licensed would not give rise to any claim against the trust.	(or, during the period in which they held and disposed of such interest, were) in compliance with any and all applicable licensing requirements of the laws of the state wherein the related mortgaged property is located.	was), in compliance with any and all applicable licensing requirements of the laws of the state wherein the related mortgaged property is located and (B) all parties that have had any interest in such mortgage loan, whether as mortgagee, assignee, pledgee, or otherwise, are (or, during the period in which they held and disposed of such interest, were) in compliance with any and all applicable licensing requirements of the laws of the state wherein the related mortgaged property is located, except to the extent that failure to be so licensed would not give rise to any claim against the trust.	with respect to the Mortgage Loan, was) duly licensed or approved and validly authorized under Applicable Law to originate, own, service, hold its interest in, or engage in activities with respect to such Mortgage Loan, or was exempt from such licensing or approval requirements.	held and disposed of such interest, were) in compliance with any and all applicable licensing requirements of the laws of the state wherein the Mortgaged Property is located.	was), in compliance with any and all applicable licensing requirements of the laws of the state wherein the related Mortgaged Property is located and (ii) all other parties that have had any interest in such Mortgage Loan, whether as mortgagee, assignee, pledgee or otherwise, are (or, during the period in which they held and disposed of such interest, were) in compliance with any and all applicable licensing requirements of the laws of the state wherein the related Mortgaged Property is located, except, in the case of both clauses (i) and (ii), to the extent that failure to be so licensed would not give rise to any claim against the Trust or otherwise adversely affect the enforceability of the Mortgage Loan.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in these variations, addressed pertinent issues, and narrowed the larger set of Licensing representations to one representation that was viewed as comprehensive.

Industry Position

The general consensus, including among the investor members of the working group, was to adopt a single formulation for the Licensing representation based on the Industry Standard formulation.

Proposed Solution

In general, the requirement that the originator and other parties with an interest in the mortgage loan be properly licensed is not controversial. The failure to be properly licensed could subject the originator and such other parties to revocation or suspension of the right to do business in the affected state or to fines or other administrative penalties. In certain circumstances, the failure to be properly licensed could result in a determination that the related mortgage loan is void. The failure to be properly licensed could also result in non-bank lenders being unable to take advantage of the federal preemption of state restrictions on alternative mortgage features, such as adjustable rate provisions.

One point of controversy is whether the Licensing representation should be qualified in any respect. With one exception, RMBS 3.0 believes that the representation should not be qualified. However, RMBS 3.0 does believe that it is appropriate to allow for a qualification to the representation to the extent that the failure to be properly licensed would not give rise to any claim against the trust or otherwise adversely affect the enforceability of the mortgage loan.

Representation & Warranty	Category I
Licensing/Doing Business	With respect to each Mortgage Loan, (i) the originator is (or, during the period in which it held and disposed of its interest in such Mortgage Loan was), in compliance with any and all applicable licensing requirements of the laws of the state wherein the related Mortgaged Property is located and (ii) all other parties that have had any interest in such Mortgage Loan, whether as mortgagee, assignee, pledgee or otherwise, are (or, during the period in which they held and disposed of such interest, were) in compliance with any and all applicable licensing requirements of the laws of the state wherein the related Mortgaged Property is located, except, in the case of both clauses (i) and (ii), to the extent that failure to be so licensed would not give rise to any claim against the Trust or otherwise adversely affect the enforceability of the Mortgage Loan.

Complete Mortgage File

Issue Overview

The Complete Mortgage File representation is intended to provide that mortgage loan documents that are required to be delivered to the custodian on or prior to the closing date, as specified in the related operative document for the securitization, have been so delivered.

History

Since the financial crisis, the number of different formulations of the Complete Mortgage File representation in the securitization market has slowly been reduced. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained Complete Mortgage File representations from the sellers of the mortgage loans. Each seller would negotiate its own particular Complete Mortgage File representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different Complete Mortgage File representations. The working group recommends a single formulation of the Complete Mortgage File representation to provide for uniformity. Participants agreed to limit this representation to one formulation.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	V5	Industry Standard
Complete Mortgage File	The instruments and documents with respect to each mortgage loan required to be delivered to the trustee or custodian (in trust for the trustee) on or prior to the closing date	• All of the required loan documents have been delivered to the custodian in accordance with the requirements of the governing document. • For each mortgage loan, all loan	The instruments and documents with respect to each mortgage loan required to be delivered to the trustee or custodian (in trust for the trustee) on or prior to the closing date	The related Mortgage File contains each of the documents and instruments specified in the Purchase Agreement. The Note, the Mortgage, the Assignment of Mortgage, and any other	With respect to each mortgage loan, the complete mortgage file, including all documents and instruments used in the qualification of the related borrower and each of the other	The instruments and documents with respect to each Mortgage Loan required to be delivered to the Custodian on or prior to the closing date in accordance with Section [

have been delivered to the trustee or custodian (in trust for the trustee).	documents necessary to foreclose on the mortgaged property are included in the mortgage files delivered to the custodian. For each REO property, all documents needed to transfer title to the property have been delivered to the custodian.	have been delivered to the trustee or custodian (in trust for the trustee).	Mortgage Loan Documents required to be delivered under the Custodial Agreement have been delivered to the Custodian. In the event the Mortgage is a deed of trust, a trustee, authorized and duly qualified under Applicable Law to serve as such, has been properly designated, is named in the Mortgage and currently so serves, and no fees or expenses are or will become payable by the Custodian or the Buyer to the trustee under the deed of trust, except in connection with a trustee's sale after default by the Borrower.	documents and instruments specified in this Agreement, has been delivered to the custodian.	] have been delivered to the Custodian.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in these variations, addressed pertinent issues, and narrowed the larger set of Complete Mortgage Files representations to one representation that was viewed as comprehensive.

Industry Position

The Complete Mortgage File representation was not controversial, and the working group, including the investor members, proposes the adoption of the Industry Standard formulation.

Although the representation itself was not controversial, certain members of the working group have proposed a document retention covenant to supplement this representation. Specifically, these members propose that the seller be held responsible for maintaining (either in its own possession or through a custodian or other agent) the complete mortgage loan origination file for at least ten years. These members further proposed to require that all

documentation used to underwrite the loan be included in such file, in an effort to obviate the difficulties posed by missing critical information in the context of enforcement of representations and warranties.

These members' point that data -- including mortgage files, copies of underwriting guidelines, payment histories and the like -- must be both maintained and accessible in order for enforcement mechanisms to work, is well-taken. The most recent "best practices" trend is for transactions not only to include a document retention covenant, but also to provide to the "independent reviewer" access to such documentation.

Proposed Solution

The Complete Mortgage File representation places the burden on the parties to the transaction to ensure that the list of documents required to be delivered to the custodian is specific and comprehensive, and that the documents required to be delivered are in fact delivered in proper form and on a timely basis. The parties should also ensure that the operative agreement clearly specifies the documents that must be delivered on or before the closing date and those documents (so called "trailing documents") that may be delivered after the closing date. Failure to deliver the appropriate documents at the appropriate time could compromise the securitization trustee's ownership interest in the mortgage loans.

The Industry Standard representation and warranty is clear and unambiguous and provides for no exceptions or qualifications. The working group recommends its adoption.

Representation & Warranty	Category I
Complete Mortgage File	The instruments and documents with respect to each Mortgage Loan required to be delivered to the Custodian on or prior to the closing date in accordance with Section [ ] have been delivered to the Custodian.

Environmental Laws

Issue Overview

The Environmental Laws representation is intended to provide that at the time of origination, each mortgaged property complied with all applicable environmental laws.

History

Since the financial crisis, the number of different formulations of the Environmental Laws representation in the securitization market has slowly been reduced. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained Environmental Laws representations from the sellers of the mortgage loans. Each seller would negotiate its own particular Environmental Laws representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different Environmental Laws representations. The working group recommends a single formulation of the Environmental Laws representation to provide for uniformity in the market. Participants agreed to limit this representation to one formulation.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	Industry Standard
Environmental Laws	The property is in material compliance with all applicable environmental laws pertaining to environmental hazards including, without limitation, asbestos.	As of origination of the mortgage loan, the mortgaged property was in material compliance with all applicable environmental laws pertaining to environmental hazards including, without limitation, asbestos.	See Regulatory Compliance above. [Covered in another representation]	At the time of origination, each Mortgaged Property was in material compliance with all then-applicable environmental laws pertaining to environmental hazards including, without limitation, asbestos.	At the time of origination, each Mortgaged Property was in material compliance with all then-applicable environmental laws pertaining to environmental hazards including, without limitation, asbestos.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in these variations, addressed pertinent issues, and narrowed the larger set of Environmental Laws representations to one representation that was viewed as comprehensive.

Industry Position

The general consensus, including among the investor members of the working group, was to adopt a single formulation for the Environmental Laws representation and warranty.

Proposed Solution

In contrast to commercial mortgage-backed securitization, where compliance with environmental laws can be a matter of significant concern, that concern is much less pronounced in a typical securitization of single-family residential properties. Such properties are generally not located in areas, or operated in a manner, that give rise to environmental law issues.

Because environmental issues are generally not a matter of significant concern in RMBS, there has been little in the way of disagreement over the Environmental Law representation. Accordingly, the working group recommends adopting the Industry Standard representation and warranty, but without the materiality qualifier. Some originators have tried to add materiality and/or knowledge qualifiers to the Environmental Law representation. Consistent with the approach taken in RMBS 3.0, the proposed representation does not include materiality or knowledge qualifiers.

Representation & Warranty	Category I
Environmental Laws	At the time of origination, each Mortgaged Property was in compliance with all then-applicable environmental laws pertaining to environmental hazards including, without limitation, asbestos.

Property Valuation

Issue Overview

The Property Valuation representation is intended to ensure standards regarding the appraiser conducting the appraisal and the appraisal itself, each major issues of contention in legacy RMBS disputes. In particular, a number of commentators have asserted that factors such as inadequate or even falsified appraisals, and a lack of appraiser independence or other conflicts of interest may have contributed significantly to improper originations and increased loss severities with respect to certain mortgage loans.

History

Since the financial crisis, the number of different formulations in the securitization market of the Property Valuation representation has slowly been reduced. This is due in part both to an increased focus on appraisal and appraiser regulation in general and as reflected in rating agency criteria. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained Property Valuation representations from the sellers of the mortgage loans. Each seller would negotiate its own particular representation. The sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

Many market participants have asserted that the substantial variation in the Property Valuation representations made it difficult to assess the issues covered within a transaction and from deal to deal. This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different Property Valuation representations. The working group's recommended Property Valuation representation proposals provide a level of choice while also narrowing the scope of variation, thereby providing industry members an easier assessment of the meaning and scope of this representation. However, the working group also recognizes the importance of appraiser and appraisal related regulations and suggests that the Property Valuation representation, at a minimum, must ensure adherence to these standards, and that investors should investigate the reasons behind a less robust representation.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	V5	Industry Standard
Property Valuation	Each mortgage loan with a written appraisal, as indicated on the mortgage loan schedule, contains a written appraisal prepared by an appraiser licensed or certified by the applicable governmental body in which the mortgaged property is located and in accordance with the requirements of Title XI of the Financial Institutions Reform Recovery and Enforcement Act of 1989 (FIRREA). The appraisal was written in form and substance to customary Fannie Mae or Freddie Mac standards for mortgage loans of the same type as the mortgage loans and Uniform Standards of Professional Appraisal Practice (USPAP) standards and satisfies applicable legal and regulatory requirements. The appraisal was made and signed prior to the final approval of the mortgage loan application. If the property valuation consisted of a broker price opinion, the	• Each mortgage loan with a written appraisal, as indicated on the mortgage loan schedule, contains a written appraisal prepared by an appraiser licensed or certified by the applicable governmental body in which the mortgaged property is located and in accordance with the requirements of Title XI of the Financial Institutions Reform Recovery and Enforcement Act of 1989 (FIRREA). • The appraisal was written, in form and substance, to (i) customary Fannie Mae or Freddie Mac standards for mortgage loans of the same type as such mortgage loans and (ii) USPAP standards, and satisfies applicable legal and regulatory requirements. • The appraisal was made and signed prior to the final approval of the mortgage loan application. • The person performing any property valuation (including an appraiser) received no	(A) Each mortgage loan with a written appraisal as indicated on the mortgage loan schedule contains a written appraisal prepared by an appraiser licensed or certified by the applicable governmental body in which the mortgaged property is located and in accordance with the requirements of Title XI of the Financial Institutions Reform Recovery and Enforcement Act of 1989 (FIRREA). The appraisal was written in form and substance: to customary Fannie Mae or Freddie Mac standards for mortgage loans of the same type as the mortgage loans and Uniform Standards of Professional Appraisal Practice (USPAP) standards; and satisfies applicable legal and regulatory requirements. The appraisal was made and signed prior to the final approval of the mortgage loan application. (B) For each mortgage loan where the property valuation	The Appraised Value of the property has been produced with respect to the related Mortgaged Property by an Appraiser who had no interest, direct or indirect, in the Mortgaged Property or in any loan made on the security thereof, and whose compensation is not affected by the approval or disapproval of the Mortgage Loan. The appraisal was determined and written in accordance with current industry practices and satisfies all applicable legal and regulatory requirements. The appraisal was made and signed prior to the final approval of the Mortgage Loan application.	For each Mortgage Loan with a written appraisal (as indicated on the Mortgage Loan Schedule), such appraisal (i) was prepared by an appraiser licensed or certified by the applicable governmental body in which the Mortgaged Property is located, (ii) was prepared in accordance with the requirements of Title XI of the Financial Institutions Reform Recovery and Enforcement Act of 1989 (FIRREA), (iii) was written, in form and substance, in accordance with customary Fannie Mae or Freddie Mac standards for mortgage loans of the same type as the Mortgage Loans and with USPAP standards, in each case, as applicable at the time of origination, (iv) satisfies applicable legal and regulatory requirements and (v) was made and signed prior to the final approval of the Mortgage Loan application. For each mortgage file with a property valuation	(1) Each Mortgage Loan with a written appraisal as indicated on the Mortgage Loan Schedule contains a written appraisal prepared by an appraiser licensed, certified or recognized by the applicable governmental body in which the Mortgaged Property is located and in accordance with the requirements of Title XI of the Financial Institutions Reform Recovery and Enforcement Act of 1989 (FIRREA). The appraisal was written, in form and substance, to (A) customary Fannie Mae or Freddie Mac standards applicable at the time of origination for mortgage loans of the same type as the Mortgage Loans and (B) USPAP standards, and satisfies applicable legal and regulatory requirements. The appraisal was made and signed prior to the final approval of the mortgage loan. (2) For each Mortgage Loan where the property valuation consisted of a

opinion was provided by a licensed real estate broker. To the best of the originator's knowledge, the person performing any property valuation (including an appraiser) received no benefit from, and such person's compensation or flow of business from the loan originator was not affected by, the approval or disapproval of the mortgage loan.	benefit from, and such person's compensation or flow of business from the loan originator was not affected by, the approval or disapproval of the mortgage loan. • The selection of the person performing the property valuation was made independently of the broker (where applicable) and the originator's loan sales and loan production [[Insert Language]]	consisted of a broker price opinion, the opinion was provided by a licensed real estate broker or realtor in the jurisdiction where the property is located. (C) The person performing any property valuation (including an appraiser) received no benefit from, and such person's compensation or flow of business from the loan originator was not affected by, the approval or disapproval of the mortgage loan. The selection of the appraiser meets Fannie Mae or Freddie Mac criteria for selecting an independent appraiser.	consisting of a broker price opinion (as indicated on the Mortgage Loan Schedule), the opinion was provided by a real estate broker or realtor licensed or certified in the jurisdiction in which the Mortgaged Property is located. The person performing any property valuation (including an appraiser) had no ownership interest, direct or indirect, in the Mortgaged Property or in any loan made on the security thereof and received no benefit from, and such person's compensation or flow of business from the originator was not affected by, the approval or disapproval of the Mortgage Loan. The selection of the person performing the property valuation met the criteria of Fannie Mae and Freddie Mac for selecting an independent appraiser.	broker price opinion, as indicated on the mortgage loan schedule, the opinion was provided by a real estate broker or realtor licensed, certified or recognized in the jurisdiction in which the subject property is located. (3) The person performing any property valuation (including an appraiser) had no ownership interest, direct or indirect, in the Mortgaged Property or in any loan made on the security thereof and received no benefit from, and such person's compensation or referral of further business from the loan originator was not affected by, the approval or disapproval of the Mortgage Loan. The selection of the appraiser met Fannie Mae's or Freddie Mac's criteria for selecting an independent appraiser.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of Property Valuation representations to two variants.

Industry Positions

Ensuring the adherence of the appraiser and the appraisal with regulation is a critical part of the Property Valuation representation. A number of industry participants have also raised questions as to whether the representation could cover the quality of the appraisal. Specifically, their concern is that the representation, in any form, does not in itself guarantee the appraiser or the appraisal to be of quality or accurate. In response, several market participants have pointed out that an appraisal can never truly be "accurate," in that an appraisal represents an opinion and not a fact. There is therefore no way to judge objectively the validity of an appraisal. However, requiring adherence to appraiser and appraisal regulations should alleviate a number of the issues, as should an understanding of factors such as originator underwriting practices (e.g., can an underwriter override the appraisal and actually increase the appraised value?). Furthermore, other representations, such as the "No Fraud" and "Underwriting" representations, may provide "overlap" or additional protections that extend to the appraiser and appraisal in the origination process.

Furthermore, some members of the working group proposed to remove the concept of "customary standards" and to instead expressly state that the appraisal of the property conformed to Fannie Mae and Freddie Mac standards. It was noted by other working group members that it was potentially unworkable to require adherence to Agency appraisal guidelines for non-Agency products. Generally, appraisals and completed on Fannie Mae or Freddie Mac forms, the GSE "Appraisal Independence Requirements" are adhered to, FIRREA and USPAP are complied with, and the representation covers these items. These are all elements of Fannie Mae and Freddie Mac standards. Of particular note and issue is the use of the Uniform Appraisal Dataset (the "UAD") and use of the Uniform Collateral Data Portal (the "UCDP"), both of which are required for Agency originations. Some originators adhere to these practices even with respect to their Non-Agency originations; however, some do not. The working group will consider the potential benefits of these practices in evaluating them as proposed market standards and continue to work to find a satisfactory solution to this issue.

Proposed Solutions

Transaction parties should consult with counsel to determine what form is most appropriate given the specifics of each transaction and a final determination as to the language of the representation is within the sole purview of each party. In line with RMBS 3.0's fundamental methodology, the working group will work to propose a process through which an issuer who chooses a different form of this representation can highlight or present these differences in the interest of transparency.

Representation & Warranty	Category 1	Category 2
Property Valuation	(A) Each mortgage loan with a written appraisal as indicated on the mortgage loan schedule contains a written appraisal prepared by an appraiser licensed or certified by the applicable governmental body in which the mortgaged property is located and in accordance with the requirements of Title XI of the Financial Institutions Reform Recovery and Enforcement Act of 1989 (FIRREA). The appraisal complies, in both form and substance, to the Fannie Mae or Freddie Mac standards for mortgage loans of the same type as the mortgage loans and Uniform Standards of Professional Appraisal Practice (USPAP) standards, and satisfies applicable legal and regulatory requirements. The appraisal was made and signed prior to the final approval of the mortgage loan application. (B) For each mortgage loan where the property valuation consisted of a broker price opinion as indicated on the mortgage loan schedule, the opinion was provided by a licensed real estate broker or realtor in the jurisdiction where the property is located. (C) The person performing any property valuation (including an appraiser, broker or realtor) (i) had no interest, direct or indirect, in the mortgaged property or in any loan made on security thereof, and (ii) received no benefit from, and such person's compensation, referral of further business from the loan originator, or flow of business from the loan originator was not affected by, the approval or disapproval of the mortgage loan. The selection of the appraiser (i) was made independently of the broker and the loan originator's loan sales and loan production personnel and (ii) meets Fannie Mae or Freddie Mac criteria for selecting an independent appraiser, including but not limited to the Appraiser Independence Requirements and Title XI of FIRREA and the regulations promulgated thereunder, as in effect on the date the mortgage loan was originated.	(A) Each mortgage loan with a written appraisal as indicated on the mortgage loan schedule contains a written appraisal prepared by an appraiser licensed or certified by the applicable governmental body in which the mortgaged property is located and in accordance with the requirements of Title XI of the Financial Institutions Reform Recovery and Enforcement Act of 1989 (FIRREA). The appraisal was written in form and substance to customary Fannie Mae or Freddie Mac standards for mortgage loans of the same type as the mortgage loans and Uniform Standards of Professional Appraisal Practice (USPAP) standards, and satisfies applicable legal and regulatory requirements. The appraisal was made and signed prior to the final approval of the mortgage loan application. (B) For each mortgage loan where the property valuation consisted of a broker price opinion as indicated on the mortgage loan schedule, the opinion was provided by a licensed real estate broker or realtor in the jurisdiction where the property is located. (C) The person performing any property valuation (including an appraiser, broker or realtor) (i) had no interest, direct or indirect, in the mortgaged property or in any loan made on security thereof, and (ii) received no benefit from, and such person's compensation, referral of further business from the loan originator, or flow of business from the loan originator was not affected by, the approval or disapproval of the mortgage loan. The selection of the appraiser (i) was made independently of the broker and the loan originator's loan sales and loan production personnel and (ii) meets Fannie Mae or Freddie Mac criteria for selecting an independent appraiser, including but not limited to the Appraiser Independence Requirements and Title XI of FIRREA and the regulations promulgated thereunder, as in effect on the date the mortgage loan was originated.

Income/Employment/Assets

Issue Overview

The Income/Employment/Assets ("Verification") representation is intended to inform market participants about the evaluation and verification conducted with respect to the borrower's income, employment status, and assets. Documentation and verification practices and standards were clearly a major issue in pre- Credit Crisis origination.

History

Since the financial crisis, the number of different formulations of the Verification representation in the securitization market has slowly been reduced. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained Verification representation from the sellers of the mortgage loans. Each seller would negotiate its own particular representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

Many market participants have noted that the substantial variation in the Verification Representations made it difficult to assess the issues covered within a transaction and from deal to deal. This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different Verification representations. The working group's recommended Verification representation proposals provide a level of choice while also narrowing the scope of variation, thereby providing industry members an easier assessment of the meaning and scope of this representation.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	V5	Industry Standard
Income/Employment/Assets	With respect to each mortgage loan whose document type on the mortgage loan schedule indicates documented income, employment and/or assets, the originator verified the borrower's income, employment and/or assets in accordance with its written underwriting guidelines. With respect to each mortgage loan other than a mortgage loan for which the borrower documented his or her income by providing Form W-2 or tax returns, the originator employed a process designed to test	• The originator verified the borrower's income, employment and/or assets in accordance with its written underwriting guidelines. • The originator employed procedures designed to reasonably authenticate the documentation supporting such income, employment and/or assets. • Where commercially reasonable, the originator utilized public and/or commercially available information in order to test the reasonableness of the income. • The originator	With respect to each mortgage loan whose document type on the mortgage loan schedule indicates documented income, employment, and/or assets, the originator verified the borrower's income, employment, and/or assets in accordance with its written underwriting guidelines and employed procedures reasonably designed to authenticate the documentation supporting such income, employment and/or assets. With respect to each mortgage loan, other than a mortgage loan	With respect to each Mortgage Loan whose document type on the Mortgage Loan Schedule indicates documented income, employment, and/or assets, the Originator verified the Borrower's income, employment, and/or assets in accordance with its written Underwriting Guidelines and employed procedures reasonably designed to authenticate the documentation supporting such income, employment, and/or assets. Such verification includes the transcripts received from	With respect to each Mortgage Loan whose document type on the Mortgage Loan Schedule indicates documented income, employment and/or assets, the originator verified the borrower's income, employment and/or assets in accordance with its written underwriting guidelines and employed procedures reasonably designed to authenticate the documentation supporting such income, employment and/or assets. Such verification included a review of the transcripts	With respect to each Mortgage Loan whose document type on the Mortgage Loan Schedule indicates documented income, employment and/or assets, the originator verified the borrower's income, employment and/or assets in accordance with its written underwriting guidelines and employed procedures reasonably designed to authenticate the documentation supporting such income, employment and/or assets. With respect to each Mortgage Loan other than a Mortgage Loan

the reasonableness of the income used to approve the loan; this process may need but not include obtaining IRS Form 4506 or 4506T or reviewing public and/or commercially available information.	reviewed other attributes of the borrower, which may include but are not limited to, assets, disposable income, reserves and credit history, and reasonably determined that such attributes supported the income used to approve the loan.	for which the borrower documented his or her income by providing Form W-2 or tax returns, the originator employed a process designed to test the reasonableness of the income used to approve the loan; this process may, but need not include (A) obtaining IRS Form 4506 or 4506T or (B) reviewing public and/or commercially available information.	the IRS pursuant to using IRS Form 4506-T. With respect to each Mortgage Loan, other than documented mortgage loans, in order to test the reasonableness of the income, the Originator used (i) transcripts received from the IRS pursuant to using IRS Form 4506-T (to the extent specified in the Mortgage Loan Schedule) or (ii) public and/or commercially available information acceptable to [[Rating Agency]].	received from the IRS pursuant to IRS Form 4506-T. With respect to each other Mortgage Loan, the originator employed a commercially reasonable process designed to test the reasonableness of the income used to approve the loan, which process may include, for example, (i) obtaining IRS Form 4506 or 4506-T or (ii) reviewing public and/or commercially available information.	for which the borrower documented his or her income by providing Form W-2 or tax returns, the originator employed a commercially reasonable process designed to test the reasonableness of the income used to approve the loan, which process may include, for example, (1) obtaining IRS Form 4506 or 4506-T or (2) reviewing public and/or commercially available information (such as salary.com).

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of Verification representations to two variants.

Industry Positions

With respect to fully documented loans, the representations set forth above provide meaningful guidance and appear to create minimum standards. However, some working group members believe that supplemental proof of underwriting procedures should be required, and that supporting document retention covenants be included, such as:

(1) specifying that the underwriting guidelines require certain procedures to be followed for verification of income, employment and assets, and that such procedures were followed for every loan, and

(2) supplementing the representation with a covenant that documentation of income, employment, and assets be retained by a specified transaction party in the mortgage loan origination file.

The working group concluded after considerable discussion, in light of QM/ATR and the concerns noted above discussion, to propose two representations, one for securitizations containing QM loans, and one for securitizations containing ATR loans. It was also decided

that it would be best to explain what was meant by full documentation in a QM deal and what exceptions to that would be in an ATR deal. This formulation would provide a clear idea of what full documentation meant for QM loans and what was being omitted for other transactions.

Furthermore, as a proposed industry practice currently in use by a number of issuers, several members believe that issuers should deliver complete origination files (or electronic copies thereof) to a third party (for example, a custodian, trustee or, if present in the transaction, a Deal Agent) to hold for the life of the transaction. Although there is a cost to this practice, this ensures that a transaction party has possession of origination files should the need arise to access them following the legally required time frame for record retention by the originator or the dissolution of the originator. While a separate question from the contents of the origination files, this practice would ensure the availability of the files for the life of the transaction.

Proposed Solutions

The Category 1 representation applies to both QM and ATR loans. The Category 2 representation is for ATR loans only, the rationale being that for QM loans, the separate QM representation suffices.

Transaction parties should consult with counsel to determine what form is most appropriate given the specifics of each transaction and a final determination as to the language of the representation is within the sole purview of each party. In line with RMBS 3.0's fundamental methodology, the working group will work to propose a process through which an issuer who chooses a different form of this representation can highlight or present these differences in the interest of transparency.

Representation & Warranty	Category 1	Category 2
Income/Employment/Assets	For both QM and ATR Deals The underwriting guidelines that apply to each loan, which are identified on the Mortgage Loan Schedule, require that the originator verify the borrower's income, employment and assets. The procedures used to verify the borrower's income, employment and assets were designed to ensure that the borrower's income, employment and assets were accurate and appropriately verified at the time the loan was underwritten. Those procedures include [[for QM loans, adherence to the	For ATR Deals only With respect to each Mortgage Loan, the Originator verified the Borrower's income, employment, and/or assets in accordance with its written Underwriting Guidelines and employed procedures reasonably designed to authenticate the documentation supporting such income, employment, and/or assets. Such verification includes [_____].

requirements of [Appendix Q]]. For each loan, these procedures were followed and documentation of the borrower's income, employment and assets, as required by those procedures, is included in the mortgage loan origination file.

Occupancy

Issue Overview

The Occupancy representation is intended to inform market participants about the factors considered in determining the occupancy status of the property secured by a mortgage, deed of trust, or similar instrument. A major issue during the credit crisis was the potential for borrowers to misrepresent the occupancy of a particular property.

History

Since the financial crisis, the number of different formulations of the Occupancy representation in the securitization market has slowly been reduced. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained an Occupancy representation from the sellers of the mortgage loans. Each seller would negotiate its own particular representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

Many market participants have noted that the substantial variation in the Occupation Representations made it difficult to assess the issues covered within a transaction and from deal to deal. This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different Occupancy representations. The working group's recommended Occupation representation proposals provide a level of choice while also narrowing the scope of variation, thereby providing industry members an easier assessment of the meaning and scope of this representation.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	V5	Industry Standard
Occupancy	With respect to each mortgage loan, the originator gave due consideration at the time of origination to factors, including but not limited to other real estate owned by the borrower, commuting distance to work and appraiser comments and notes, to evaluate whether the occupancy status of the property as represented by the borrower was reasonable.	• The originator has given due consideration to factors, including but not limited to, other real estate owned by the borrower, commuting distance to work, appraiser comments and notes, the location of the property and any difference between the mailing address active in the servicing system and the subject property address to evaluate whether the occupancy status of the property as represented by the borrower is reasonable.	With respect to each mortgage loan, the originator gave due consideration at the time of origination to factors, including but not limited to other real estate owned by the borrower, commuting distance to work, and appraiser comments and notes, and any difference between the mailing address in the servicing system and the mortgage property address, to evaluate whether the occupancy status of the property as represented by the borrower was reasonable.	With respect to each Mortgage Loan, the Originator gave due consideration at the time of origination to factors, including, but not limited to, other real estate owned by the Borrower, the commuting distance to work, and Appraiser comments and notes, to evaluate whether the occupancy status of the Mortgaged Property as represented by the Borrower was reasonable.	With respect to each Mortgage Loan, the originator gave due consideration at the time of origination to factors (including, without limitation, other real estate owned by the borrower, commuting distance to work, appraiser comments and notes and any difference between the mailing address in the servicing system and the Mortgaged Property address) to evaluate whether the intended occupancy status of the property as represented by the borrower was reasonable.	With respect to each Mortgage Loan, the originator gave due consideration, which need not be documented, at the time of origination to factors, such as other real estate owned by the borrower, commuting distance to work, appraiser comments and notes, and any difference between the mailing address in the servicing system and the Mortgage Property address, to evaluate whether the intended occupancy status of the property as represented by the borrower was reasonable.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of Occupancy representations to two that were viewed as comprehensive.

Industry Positions

The concern arises over loans where the borrower may intentionally misrepresent the occupancy status of the property.

A borrower may, as an example, indicate in their loan documentation that they would occupy the property as their primary residence when in fact they were obtaining the property as an investment property. A borrower could have been incentivized to do so because rates on investor-owned properties tend to be higher than loans on owner-occupied properties.

While this could reflect fraudulent behavior on the part of the borrower, fraud may be difficult to prove in the context of, for example, true "changed circumstances." Nevertheless, if a loan

is originated, evaluated for credit enhancement and disclosed as an owner-occupied loan, and what is sold into the trust is an investment property loan, then there is a material adverse discrepancy that must be addressed. A primary question to address, therefore, is the allocation of risk under the Occupancy representation between sellers/issuers and investors.

Different versions of this representation address this question with different results. Essentially, this representation applies to, given all the facts and circumstances, whether the occupancy status represented to the mortgage originator is "reasonable." However, another formulation of the representation also has the issuer representing that the property is owner-occupied (or will be within 60 days)—an approach investors would be in favor of to allow for maximum protection.

Some issuers and originators object to this latter protection as unknowable at the time of origination and a "prospective" representation (i.e., a rep that speaks to a potential circumstance that may not exist as of the origination date of the mortgage loan), and therefore is not an appropriate allocation of risk for them to assume. Such parties also believe that the most appropriate action for which they should make a representation is the diligent, responsible evaluation of the owner occupancy claim. Conversely, the construction of the representation that guarantees owner occupancy within 60 days tracks a Fannie Mae-required representation.

Furthermore, most, if not all, lenders obtain an occupancy affidavit signed by the borrower in connection with the closing of the mortgage loan. Proponents of this construction believe that making this representation merely mirrors the same protection the originator gets through the occupancy affidavit, and that, as between parties, it is more appropriate for the originator or issuer to take this risk rather than transfer it to the investor, who has no ability to do any due diligence or take other protection against the risk of non-owner occupancy.

It is possible that a middle ground exists that distinguishes between borrower fraud (which should be covered under the fraud representation anyway) and changed circumstances – e.g., the borrower is transferred to a new job after buying the house and is unable to take true occupancy.

The most protective formulation for investors would be to have an issuer simply represent that the property is "owner occupied" as of a certain point in time. However, many issuers cannot necessarily make the representation, particularly if they are aggregating loans from several whole loan sellers. Accordingly, the traditional formulation that the occupancy status was "reasonable" based on all the facts and circumstances presented.

During the RMBS 3.0 discussion, some of the working group members discussed adding qualifications about an occupancy affidavit or changed circumstances.

Conversely, some members of the working group noted their preference for an Occupancy representation that does not contain language such as "gave due consideration" to an

underwriting decision. These members further proposed a version of this representation to achieve the following goals:

(1) to specify that analysis of occupancy was a requirement of the underwriting guidelines, and that documentation of compliance with those guidelines is included in the mortgage loan origination file;

(2) to reflect the fact that properties are usually identified as "primary residences" rather than "owner occupied;" and

(3) to clarify that the property must be occupied by the borrower.

Proposed Solutions

Since consensus was not achieved, three formulations of the Occupancy representation are presented. Market participants will need to negotiate which particular representation formulation is most appropriate in a particular transaction. Factors that will need to be considered include whether a market participant is in a position to verify the occupancy status of the property (e.g. aggregators). This should be counterbalanced by offering the greatest level of protection to investors. In line with RMBS 3.0's fundamental methodology, the working group will work to propose a process through which an issuer who chooses a different form of this representation can highlight or present these differences in the interest of transparency.

Representation & Warranty	Category 1	Category 2	Category 3
Occupancy	The underwriting guidelines that apply to each Mortgage Loan, which are identified on the Mortgage Loan Schedule, require that the Originator evaluate whether the intended occupancy status of the property, as represented by the Mortgagor, was reasonable. The procedures used to evaluate the intended occupancy of the property include, but are not limited to other real estate owned by the Mortgagor, commuting distance to work, and appraiser comments and notes. For each loan, these procedures were followed, and documentation that these procedures were followed is included in the mortgage loan origination file. Each Mortgage Loan identified as "owner occupied" on the Mortgage Loan Schedule was owner occupied no later than sixty (60) days following the related origination date.	With respect to each Mortgage Loan, the Originator gave due consideration at the time of origination to factors, which could include, but not be limited to, other real estate owned by the Mortgagor, commuting distance to work, and appraiser comments and notes, to evaluate whether the intended occupancy status of the property as represented by the Mortgagor was reasonable.	With respect to each Mortgage Loan, the originator gave due consideration at the time of origination to factors (including, without limitation, other real estate owned by the borrower, commuting distance to work, appraiser comments and notes and any difference between the mailing address in the servicing system and the Mortgaged Property address) to evaluate whether the intended occupancy status of the property as represented by the borrower was reasonable.

Source of Loan Payments

Issue Overview

The Source of Loan Payments representation is intended to inform market participants as to the source of the funds used to pay a mortgage. The Source of Loan Payments representation gives assurance to market participants that the borrower has the financial capacity to make the payments on a mortgage loan and is therefore an appropriate credit risk.

History

Since the financial crisis, the number of different formulations of the Source of Loan Payments representation in the securitization market has slowly been reduced. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained Source of Loan Payments representations from the sellers of the mortgage loans. Each seller would negotiate its own particular representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

Many market participants have noted that the substantial variation in the Source of Loan Payments representations made it difficult to assess the issues covered within a transaction and from deal to deal. This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different Source of Loan Payments representations. The working group's recommended Source of Loan Payments representation proposals provide a level of choice while also narrowing the scope of variation, thereby providing industry members an easier assessment of the meaning and scope of this representation.

Debate & Discussion

The working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	V5
Source of Loan Payments	With respect to each mortgage loan, no portion of the loan proceeds has been escrowed for the purpose of making monthly payments on behalf of the borrower and no payments due and payable under the terms of the note and mortgage or deed of trust, except for seller or builder concessions or amounts paid or escrowed for payment by the borrower's employer, have been paid by any person (other than a guarantor) who was involved in or benefited from the sale of the mortgaged property or the origination, refinancing, sale or servicing of the mortgage loan.	To the best of the sponsor's knowledge: • No loan payment has been escrowed as part of the loan proceeds on behalf of the borrower. • No payments due and payable under the terms of the note and mortgage or deed of trust, except for seller or builder concessions or temporary buydown funds, have been paid by any person who was involved in, or benefited from, the sale or purchase of the mortgaged property or the origination, refinancing, sale, purchase or servicing of the mortgage loan other than the borrower.	With respect to each mortgage loan, (A) no portion of the loan proceeds has been escrowed for the purpose of making monthly payments on behalf of the borrower and (B) no payments due and payable under the terms of the note and mortgage or deed of trust, except for seller or builder concessions or amounts paid or escrowed for payment by the borrower's employer, have been paid by any person (other than the borrower or a guarantor) who was involved in or benefited from the sale of the mortgaged property or the origination, refinancing, sale, or servicing of the mortgage loan.	With respect to each mortgage loan, (i) no portion of the loan proceeds has been escrowed for the purpose of making monthly payments on behalf of the borrower, and (ii) no payments due and payable under the terms of the note and mortgage or deed of trust, except for seller or builder concessions, have been paid by any other person (other than a guarantor) who was involved in, or benefited from, the sale of the Mortgaged Property or the origination, refinancing, sale, or servicing of the Mortgage Loan.	With respect to each Mortgage Loan (i) no portion of the loan proceeds has been escrowed for the purpose of making monthly payments on behalf of the borrower and (ii) no payments due and payable under the terms of the Mortgage Note and Mortgage, except for seller or builder concessions or amounts paid or escrowed for payment by the borrower's employer, have been paid by any person (other than any guarantor) who was involved in, or benefited from, the sale or purchase of the Mortgaged Property or the origination, refinancing, sale, purchase or servicing of the Mortgage Loan.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of Source of Loan Payments representations to one representation that was viewed as comprehensive.

Industry Positions

The Source of Loan Payments representation presented limited controversy and one formulation was agreed to by the working group, including the investor members.

Proposed Solutions

Consensus on one particular Source of Loan Payments representation can be achieved so long as the selected representation is comprehensive. One agreed upon formulation was the model suggested below.

Representation & Warranty	Category I
Source of Loan Payments	With respect to each mortgage loan, (A) no portion of the loan proceeds has been escrowed for the purpose of making monthly payments on behalf of the borrower and (B) no payments due and payable under the terms of the note and mortgage or deed of trust, except for seller or builder concessions or temporary buydown funds or amounts paid or escrowed for payment by the borrower's employer, have been paid by any person (other than the borrower or a guarantor) who was involved in or benefited from the sale or purchase of the mortgaged property or the origination, refinancing, sale, or servicing of the mortgage loan.

Fraud

Issue Overview

The fraud representation is intended to provide protection against specified types of fraud or misrepresentation in connection with the mortgage loans underlying RMBS transactions. As noted by RMBS 3.0 participants, the fraud representation varies widely in RMBS contractual frameworks under current market practices.

History

Since the financial crisis, the number of different formulations of the fraud representation in the securitization market has slowly been reduced. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained fraud representations from the sellers of the mortgage loans. Each seller would negotiate its own particular fraud representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own fraud representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

Many market participants have noted their position that the substantial variation in fraud representations made it difficult for them to assess the issues covered within a transaction and from deal to deal. Additionally, in some securitizations, no fraud representation was made by certain parties. This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different fraud representations. RMBS 3.0's recommended fraud representation proposals provide a level of choice while also narrowing the scope of variation, thereby providing industry members an easier assessment of the meaning and scope of this representation.

Debate & Discussion

Many RMBS 3.0 project participants worked to develop new standardized alternative forms of the fraud representation. Each form includes relevant considerations to help guide market participants when evaluating the potential impact on affected transactions.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of fraud representations to three.

In arriving at this position, participants considered the following factors:

- Aspects of the fraud representation that were important to investors;
- What originators, representing parties and issuers could likely provide in a representation that would be consistent with their business models (e.g., would it vary if they are an aggregator or an originator?); and
- What permutations would the rating agencies likely accept as satisfactory under their respective criteria?

Discussion also highlighted the three benchmark model fraud representations to show key features for each alternative proposed approach. As noted, RMBS 3.0 believes that it is critical for investors to be able to efficiently compare differences in representations, warranties and repurchase enforcement mechanics—including topics such as materiality, independent review dynamics—across transactions. Participants will be working to develop solutions to infuse RMBS transactions with such transparency as one of the key project goals.

Some participants have suggested the use of an appendix that sets forth these provisions in a standardized format that incorporates a means to highlight differences from a baseline or model set of RMBS 3.0 standards. This model set could still allow for differences within a particular topic; for example, an issuer could indicate which one of three suggested forms of the fraud representation it is using in a transaction, or it could choose to use a different provision entirely and provide a description or redline showing how its fraud representation differs from one of the three RMBS model fraud representations.[16] RMBS 3.0 has therefore been evaluating, and will continue to evaluate, transparency as it relates to individual topics and across the project as a whole.

In light of the foregoing SFIG selected these three representations with the hope that RMBS transaction parties could coalesce around one of them.

Industry Positions

In addition to the three alternative iterations for the model fraud representation, the greatest level of debate within the working group centered on whether and how to incorporate the concept of materiality within the context of the fraud representation.

Participants developed a robust footnote to the fraud representation to provide guidance to transaction parties about possible variations in the interpretation of "material" in order to limit potential disputes regarding the implementation of this particular representation and warranty. Specifically, the group provided illustrative examples of the types of thresholds or pre-determined variances that might be utilized in determining whether a particular misrepresentation, origination related errors or omissions, or the calculation of borrower debt-

[16] This is one of a number of suggestions that participants will be reviewing.

to-income ratios or secured property loan-to-value ratios would be "material" and trigger a breach of the representation.

That footnote also indicates the requirement for a separate analysis under the remedy section of the PSA or other operative agreement to determine whether a breach above a pre-determined threshold or variance "materially or adversely" affects the value of a pooled mortgage loan or the interests of RMBS holders.

RMBS 3.0 participants continue to discuss the concept of materiality as it relates to this and other discreet representations and warranties and will likely provide similar optional guidance for one or more of those specific representations and warranties. It is worthwhile noting that both investors and issuers have highlighted materiality – both as it relates to particular representations, where applicable, and with regard to contractual remedy provisions and related guidance– as an important topic for the project to address, including transparency in the differences among different materiality definitions and standards.

Recommendations

Project participants propose that to best account for the varying considerations presented by the use of each version of the fraud representations, all three representations may be recommended forms for use in an RMBS transaction. Parties to a transaction should consult with counsel to determine what form is most appropriate given the specifics of each transaction and a final determination as to the language of the representation is within the sole purview of each party. In line with the project's fundamental methodology, SFIG will work to propose a process through which an issuer who chooses a different form of this representation can highlight or present these differences in the interest of transparency.

Representation & Warranty	Category 1	Category 2	Category 3
Fraud*	No fraud, [[material[(1)]]] misrepresentation, [[material[(1)]]] error or omission or negligence has taken place on the part of the originator or any other party in connection with the origination of the mortgage loan, the determination of the value of the mortgaged property or in the application of any insurance in relation to such mortgage loan, in each case as of the date of origination [[or the sale or servicing of the mortgage loan prior to the securitization closing date. [(3)]]]	No fraud, [[material[(1)]]] misrepresentation or gross negligence has taken place on the part of the originator or any other party in connection with the origination of the mortgage loan, the determination of the value of the mortgaged property or in the application of any insurance in relation to such mortgage loan.	No fraud, material misrepresentation or gross negligence has taken place in connection with the origination of the mortgage loan on the part of (1) the originator, (2) the borrower, (3) any broker or correspondent, or (4) any appraiser, escrow agent, closing attorney or title company involved in the origination of the mortgage loan.
Key Features	● Covers all types of issues (fraud, misrepresentation, error or omission) ● If applicable, materiality qualifier ● Covers all parties in connection with the origination, valuation, insurance, sale and servicing ● Negligence standard	● Covers parties in connection with the origination, valuation and insurance ● If applicable, materiality qualifier ● Gross negligence standard ● No errors or omissions ● Does not cover sale or servicing of mortgage loan	● Materiality qualifier ● Gross negligence standard ● No errors or omissions ● Limited number of parties named ● Limited to origination of mortgage loan

(1) To reduce potential issues in determining what may constitute a breach, transaction parties are encouraged, to the extent practicable, to utilize thresholds or pre-determined variances to provide guidance on how to interpret "material" for purposes of this Representation and Warranty. Note that the use of thresholds or variances in this context is intended to determine whether or not a particular misrepresentation, error or omission would be "material" and thus trigger a breach of the Representation and Warranty. Thresholds could be linked to origination procedures, numerically determined based on characteristics considered material or as the parties may otherwise determine to be indicative of a "material" breach given the nature of the assets in, and the structure of, a given transaction. No determination with respect to materiality with respect to any particular representation or warranty shall be construed or interpreted in any way to imply, limit or restrict the
evaluation of materiality with respect to any other representation or warranty. If a condition is determined to be "material" and therefore a breach of the Representation and Warranty is considered to have occurred, a separate analysis will be required under the remedy section of the pooling and servicing agreement, purchase agreement or other related operative agreement to determine whether or not the breach "materially and adversely affects the value of the Mortgage Loan or the interest of the Certificate holders therein" (referred to herein as the "Remedy Analysis").(2) Below are some examples for illustrative purposes only.

A. Origination Procedures: The transaction parties could agree that a misrepresentation, error or omission which, after receiving the results of a forensic review, results in the loan not being in compliance with certain thresholds of key aspects of the origination procedures or underwriting guidelines under which the loan was disclosed to investors to be originated to be considered "material", a breach of the Representation and Warranty and require the Remedy Analysis. Similarly, the transaction parties could agree that variances below certain thresholds of particular aspects of the origination procedures or underwriting guidelines will not be material and therefore not a breach of the Representation and Warranty.

B. Debt to Income Ratio: Transaction parties could agree that a certain percentage variation which is discovered during a forensic review as a result of comparing the debt-to-income ratio calculated at origination to the debt-to-income ratio re-calculated by the reviewer (based on information existing as of the origination date) which does not exceed a certain threshold percentage would not be material and therefore not be considered a breach of the Representation and Warranty. Similarly, a variation which exceeds the threshold of debt-to-income ratio would be considered to be "material", a breach of the Representation and Warranty and require the Remedy Analysis.

C. Loan to Value Ratio: Transaction parties could agree that a certain percentage variation which is discovered during a forensic review as a result of a re-calculation of LTV by the reviewer (based on information existing as of the origination date) which does not exceed a certain threshold percentage would not be material and therefore not be considered a breach of the Representation and Warranty. Similarly, a variation which exceeds a certain threshold percentage or would make the loan not in compliance with its underwriting guidelines would be considered to be "material", a breach of the Representation and Warranty and require the Remedy Analysis.

(2) The language included relating to the remedy section of the operative agreement has been included for illustrative purposes only since SFIG members have not yet discussed the language that might be included in such section or the remedies that would be available thereunder.

(3) Parties may agree to remove this language if it is determined to be adequately covered in other representations and warranties.

Regulatory Compliance

Issue Overview

Several representations and warranties focus on compliance with applicable consumer laws and regulations at origination, such as a representation about compliance with specific high cost or similar anti-predatory lending laws, a representation that there is no usury, and a general representation as to "compliance with all applicable federal, state and local" laws, rules and regulations.

With respect to collateral realization and foreclosures, consumer regulatory compliance at origination has generally not been a source of contention for securitization trusts. Regulatory compliance defects in origination have not given rise to large numbers of breach claims, as compared to the more wide-scale credit and underwriting issues.

The "compliance with all laws" representation, however, leaves a great deal of room for interpretation in designing asset level pre-offering due diligence and for determining the scope of review for possible breaches. A number of participants believe that this variability created or fostered inconsistencies and inefficiencies in how due diligence is performed, and resulted in confusion related to risk-severity analysis.

As new laws are enacted or existing laws change, the industry may, in certain cases, add new representations that are redundant or in conflict with the existing comprehensive language.

History

The industry has generally been satisfied with the historic consumer compliance representations, as trusts have not commonly incurred damages related to consumer compliance issues at origination. However, many industry participants that are currently securitizing or attempting to securitize have expressed frustration with the inconsistent scope of due diligence compliance reviews, as well as the resulting sets of material and immaterial findings. The "compliance with all laws" representation and lack of specificity about which laws and regulations can materially impact the assets or create liabilities for the trust taken together result in inconsistent due diligence scopes.

Within the industry, many RMBS participants believe there is a presumption of review and enforcement for "any and all laws and regulations." In fact, a far more narrow number of statutes and regulations, adopted informally as a pattern of practice by various industry participants, sets the parameters for review. This narrow scope of review focuses on those laws where violations can create risk for the investor or impair the asset.

Until now, there has been no wide-scale agreement about the parameters for selecting the specific laws included in the diligence testing framework, leading to potential inconsistency in application among diligence providers (and in turn with respect to the loans they diligence).

While the actual scope of diligence reviews are disclosed to investors, it should be understood that even though a "compliance with all laws" representation is commonly given, "all" laws are not reviewed as part of the diligence. Rather, the diligence is focused on that narrower set of laws that are most likely to present risk to the assets and create clear liabilities to the trust.

In that regulatory compliance at origination was not an overriding source of contention for securitization trusts with regard to material asset impairment or breaches prior to (or found during) the credit crisis, and given the level of consumer legal/regulatory expertise required, the secondary market has not collectively invested substantial time in discussing the topic and agreeing on a more consistent risk framework. Industry practices in both pre-offering review and in breach enforcement have not been aligned to the more general contractual language, which creates additional risk.

Debate & Discussion

While many participants maintain that industry norms and practices have sufficiently protected investors from risk, project participants worked to better align contractual language with industry practices and create a consistent set of potential compliance breaches that can be fully defined, delineated and reviewed pre-sale.

Participants proposed the parameters below to guide asset-level due diligence and breach reviews, while maintaining the representation that the assets comply with all applicable laws and regulations. In an attempt to remedy this past uncertainty and provide more clarification, the proposed footnote to the "compliance with all laws" representation offers guidance on the application of the representation throughout the transaction.

Specifically, the proposed definition of breach included in the footnote to the "compliance with all laws" representation was carefully drafted to:

- Be based upon statutes and regulations (and case law which has established common accepted precedent where applicable);
- Address risks that are likely to cause damages;
- Align consistently with industry participant practices; and
- Recognize that new precedents may be added over time and that not all breach attributes can be anticipated or reviewed pre-sale (breach may be a more open-ended definition that includes new case law and/or facts and circumstances such as actual loss).

Industry Positions

Risk severity assumptions and resulting due diligence testing parameters utilized by some participants have been based on "perception of risk" rather than on statutes and regulations, case law, and foreclosure defenses.

Participants agree that 'patterns and practices' of non-compliance may cause reputational risk for all parties. Therefore, in discussions, some industry participants said that they are reluctant to forego review of certain compliance attributes even when such factors do not pose statutory risk. For example, some common violations of key consumer compliance laws do not create statutory risk (i.e., no civil or statutory penalties, no clear foreclosure defenses, no right of rescission, etc.) to an assignee in the secondary market, such as a securitization trust. However, when there is insufficient diligence an originator who persistently engages in unfair or bad practices could create reputational/headline risk for themselves and *potentially* for those purchasing that originator's loans (even though there is no explicit mechanism under applicable consumer compliance statutes and regulations to enforce such violations against an assignee, such as a securitization trust).

Originators are subject to comprehensive regulation, and as such are required to consistently demonstrate consumer compliance controls to their federal and state regulators. With regard to certain inherent abusive/anti-consumer practices, the primary market originators (as opposed to secondary market purchasers or aggregators) more commonly bear the risks and consequences for such consumer regulations and exceptions, which are often identified by their regulators. This reduces the likelihood for a course of conduct to exist that could affect a security.

It may be helpful for market participants to validate that issuers with whom they transact have compliance and quality control programs in place or, alternatively, that they have conducted diligence and validated their respective sellers.

Some industry members believe that asset-level due diligence is the best way to confirm the compliance and quality control capabilities of the originators; however, that approach is unrealistic given the fact that it is both impossible and impractical to test for compliance with every single applicable law. However, secondary market participants may not understand that not all laws and regulations are actually reviewed, and that in practice, the due diligence focus is on a far more narrow number of laws where violations are likely to create risk for the investor or impair the asset (even where a broader representation and warranty as to compliance with all applicable federal, state and local laws is made to the trust).

Contractual indemnification can protect a trust from damages due to litigation based on alleged abusive lending practices, and may be the best safety net for any unexpected damages arising out of irresponsible lending. The utility of indemnifications may, of course, be limited if a trust is subject to extraordinary expenses. Also, not all transactions include contractual indemnifications in favor of the securitization trust. Finally, and as is the case with representations generally, the value of any contractual indemnity is limited by the ability to collect from the obligated party.

Proposed Solutions

In an attempt to clarify and simplify the above issues, the RMBS 3.0 project developed compliance breach language to focus on a set of the most important consumer laws and regulations[17] identified by participants – which is still tied to a single "compliance with all laws" representation. The proposed language includes a footnoted definition of breach, which describes likely impacts to the trust or any asset thereof.

The suggested Representation comprehensively describes the attributes that should be included in issuance due diligence, and describes the legal parameters for factors that constitute breach. The comprehensive accounting of characteristics provides sufficient detail to guide the industry, but is not an exhaustive list of test features.

SFIG encourages industry participants to adopt the clarified breach definition, to improve consistency in the industry, create specificity for due diligence reviews, and align contractual language with public and private industry norms.

Proponents of this approach believe it is more focused and should result in the same ultimate conclusions as the current standard representation and warranty language that is coupled with materiality in the remedy, but that the new approach should be more efficient and consistent in application.

Recommendations

Representation & Warranty	Single Set Recommended
High-Cost Loans	[[Without regard to any exemption due to federal preemption which is available to the originator or its assignees,(4)]] no mortgage loan is a "high-cost" loan, a "covered" loan, a HOEPA loan or any other similarly designated loan as defined under any state, local, or federal law, or subject to any other anti-predatory or abusive lending laws. (5)
Regulatory Compliance	At the time of origination and, if subsequently modified, the effective date of the modification, each mortgage loan complied with all then-applicable law including federal, state and local laws, rules and regulations including, without limitation, usury, truth-in-lending, real estate settlement procedures, consumer credit protection, equal credit opportunity, high-cost, ability-to-repay, anti-predatory or abusive lending laws, or such noncompliance was cured subsequent to origination, as permitted by and in compliance with applicable law. The servicing of each mortgage loan prior to the closing date complied with all then-applicable law including federal, state and local laws, rules and regulations.(6)

[17] The language for this Representation does not cover REMIC, which falls under the purview of the Internal Revenue Service.

Mortgage Loan Qualifies for REMIC	For federal tax purposes, each mortgage loan is a "qualified mortgage" within the meaning of Section 860G(a)(3) of the Internal Revenue Code of 1986, as amended.

(4) If the institution making this representation is exempt from high-cost loan or anti-predatory laws due to federal preemption, the parties may agree to add this language to clarify that the high-cost loan or anti-predatory laws are being complied with regardless of any federal preemption.

(5) This representation is only required when a transaction specifically excludes loans subject to high cost loan or anti-predatory laws. Compliance with high cost loan or anti-predatory laws is covered separately under "Regulatory Compliance."

(6) To reduce potential issues in determining what may constitute a breach, transaction parties are encouraged to provide specific guidance, to the extent practicable, on what type of regulatory issues would rise to the level of a breach as well as any examples that may help the parties when analyzing future potential breaches. For example, the following guidance could be given:

A breach of this representation and warranty occurs when a loan fails to comply with any particular federal, state or local law or regulation which could:

A. result in assignee liability for monetary damages or penalties for the purchaser of such mortgage loan, and in turn, in the case of a securitization, the investors who purchased the securities issued by such trust whose cash-flow would be negatively impacted by the payment of such monetary damages or penalties; or

B. make the debt unenforceable; or

C. operate to invalidate the lien securing the mortgage loan; or

D. cause a loss or increase the severity of loss on the mortgage loan.

Examples of some of the circumstances where a breach has occurred under the above guidance are the following:

HOEPA or state or local high cost or similar loan: Points and fees or APR or other applicable test exceeds thresholds and the loan violates any of the applicable HOEPA or state or local high cost or similar law requirements.

Texas 50(a)(6) violations, including but not limited to:

i. Fees in excess of the 3% of the original principal loan amount fee cap;
ii. Violations of the twelve-day cooling-off period requirement; or
iii. Violations of the single debt secured by the homestead provision.

Missing the final HUD-1 Settlement Statement, including circumstances where:

i. The HUD-1 in the file is missing evidence of a true/certified stamp or signed copy.

Missing the final Truth-in-Lending Disclosure.

Violation of TILA's Ability to Repay Rule.

Violation of TILA's Loan Originator Compensation Rule with regard to:

i. Prohibition on anti-steering;
ii. Prohibition on dual-compensation; or
iii. Prohibition on compensation based upon loan terms and conditions.

Issues with the Right of Rescission, including but not limited to:

i. Failure to provide the right of rescission notice;
ii. Failure to provide the right of rescission notice in a timely manner;
iii. Errors in the right of rescission notice; or
iv. The loan has an extended right of rescission for any reason.

Other violations of TILA, including but not limited to:

i. Understated Finance Charge on the Truth-in-Lending Disclosure outside of applicable tolerance;
ii. Any material disclosure violation on a rescindable loan that gives rise to the right of rescission under TILA, which means the required disclosures of the annual percentage rate, the finance charge, the amount financed, the total of payments, the payment schedule, the HOEPA disclosures, or those related to prepayment penalties on covered transactions;
iii. Inaccurate APR outside of tolerance; or
iv. Inaccurate Payment Tables or Amount Financed.

Loan is a "Higher Priced Mortgage" and violates requirements for such loans including:

i. Mandatory escrow of property taxes and insurance; or
ii. Additional appraisal requirements.

Some breaches may not be discoverable prior to sale through due diligence or otherwise. An example of a defect that results in a breach of but likely cannot be diligenced prior to sale would include a UDAAP violation for abusive practices, as determined by a court of law.

In addition, parties may also include that any noncompliance that can be cured subsequent to origination shall not be deemed in breach if such noncompliance is cured. Finally, parties may also include that any noncompliance that is no longer enforceable by the

borrower due to an expiration of the applicable statute of limitations period shall not be deemed a breach.

No Damage/No Condemnation

Issue Overview

The No Damage/No Condemnation representation is intended to provide protection against specified types of damage that may occur to a mortgaged property prior to the securitization of a mortgage loan that could adversely affect the value of the mortgaged property.

History

Since the financial crisis, the number of different formulations of the "no damage" representation in the securitization market has slowly been reduced. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained no damage representations from the sellers of the mortgage loans. Each seller would negotiate its own particular no damage representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

Many market participants have noted their position that the substantial variation in no damage representations made it difficult for them to assess the issues covered within a transaction and from deal to deal. This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different no damage representations. RMBS 3.0's recommended no damage representation proposals provide a level of choice while also narrowing the scope of variation, thereby providing industry members an easier assessment of the meaning and scope of this representation.

Debate & Discussion

In the spirit of transparency, the working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	V5	Industry Standard
No Damage / Condemnation	The mortgaged property is undamaged by water, fire, earthquake, earth movement other than earthquake, windstorm, flood, tornado or similar casualty (excluding casualty from the presence of hazardous wastes or hazardous substances) to affect adversely the value of the mortgaged property as security for the mortgage loan or the use for which the premises was intended or would render the property uninhabitable. Additionally, to the best of the originator's/seller's knowledge, there is no proceeding (pending or threatened) for the total or partial condemnation of the mortgaged property.	The mortgaged property is undamaged so as to affect adversely the value of the mortgaged property as security for the mortgage loan or the use for which the premises were intended. There is no proceeding pending or threatened for the total or partial condemnation of the mortgaged property.	(A) The mortgaged property is undamaged by water, fire, earthquake, earth movement other than earthquake, windstorm, flood, tornado, or similar casualty (excluding casualty from the presence of hazardous wastes or hazardous substances) to affect adversely the value of the mortgaged property as security for the mortgage loan or the use for which the premises was intended or would render the property uninhabitable; and (B) there is no proceeding (pending or threatened) for the total or partial condemnation of the mortgaged property.	(1) Each Mortgaged Property is undamaged by waste, fire, hurricane, earthquake or earth movement, windstorm, flood, tornado, or other casualty adversely affecting the value of each Mortgaged Property or the use for which the premises were intended, and each Mortgaged Property is in substantially the same condition it was at the time the most recent Appraised Value was obtained. (2) There is no proceeding pending or threatened for the total or partial condemnation of each Mortgaged Property.	With respect to each Mortgage Loan, (i) the related Mortgaged Property is not materially damaged by water, fire, earthquake or earth movement, windstorm, flood, tornado or other casualty adversely affecting the value of the Mortgaged Property as security for the Mortgage Loan or the use for which the premises were intended, (ii) the Mortgaged Property is in substantially the same condition it was at the time the most recent appraisal was obtained and (iii) there is no proceeding pending or threatened for the total or partial condemnation of the Mortgaged Property.	(1) The Mortgaged Property is not materially damaged by water, fire, earthquake, earth movement other than earthquake, windstorm, flood, tornado or other casualty (excluding casualty from the presence of hazardous wastes or hazardous substances, as to which no representation is made), so as to affect adversely the value of the Mortgaged Property as security for the Mortgage Loan or the use for which the premises were intended or would render the property uninhabitable and, (2) there is no proceeding pending or threatened for the total or partial condemnation of the Mortgaged Property.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of no damage representations to three.

In a robust discussion, the working group highlighted some concerns with no damage representations:

- Many members were concerned about the ability to diligence this representation and whether a knowledge qualifier was needed;

- Important timing issues were raised—who should bear the risk of damage between issuers and investors between time of the appraisal and securitization;
- Is a specific dollar amount of damage needed for the representation to be breached?

Industry Positions

In addition to the three alternative iterations for the model representation, the greatest level of debate within the working group centered on whether and how to incorporate the concept of materiality within the context of the no damage representation. A suggested approach was to use a percentage impact and this was manifested in an adoptive footnote. Other footnotes addressed the lack of ability to diligence the representation.

RMBS 3.0 participants continue to discuss the concept of materiality as it relates to this and other discreet representations and warranties and will likely provide similar optional guidance for one or more of those specific representations and warranties. It is worthwhile noting that both investors and issuers have highlighted materiality – both as it relates to particular representations, where applicable, and with regard to contractual remedy provisions and related guidance– as an important topic for the project to address, including transparency as to the differences among different materiality definitions and standards.

Proposed Solutions

Project participants propose that to best account for the varying considerations presented by the use of each version of the no damage representations, all three representations may be recommended forms for use in an RMBS transaction. Of note, the third permutation of the no damage representation allows for transaction parties to provide a broader representation. Furthermore, each of the first two permutations allows for parties to negotiate materiality qualifiers—this was done in direct response to members' desire to allow for negotiation between transaction parties. Finally, each permutation allows for a "knowledge qualifier" if participants so negotiate.

Transaction parties should consult with counsel to determine what form is most appropriate given the specifics of each transaction and a final determination as to the language of the representation is within the sole purview of each party. In line with the project's fundamental methodology, SFIG will work to propose a process through which an issuer who chooses a different form of this representation can highlight or present these differences in the interest of transparency.

Representation & Warranty	Category 1	Category 2	Category 3
No Damage / No Condemnation	(i) The mortgaged property is not [[materially [1]]] damaged by water, fire, earthquake, earth movement other than earthquake, windstorm, flood, tornado, or similar casualty [[(excluding casualty from the presence of hazardous wastes or hazardous substances)[2]]] adversely affecting the value of the mortgaged property as security for the mortgage loan or the use for which the premises was intended or would render the property uninhabitable, and (ii) there is no proceeding (pending or [[, to[the best of] the Seller's knowledge [3]]] threatened) for the total or partial condemnation of the mortgaged property.	(i) The mortgaged property is not [[materially [1]]] damaged by water, fire, earthquake or earth movement, windstorm, flood, tornado or other casualty adversely affecting the value of the mortgaged property as security for the mortgage loan or the use for which the premises were intended, (ii) the mortgaged property is in substantially the same condition it was at the time the most recent appraisal was obtained and (iii) there is no proceeding pending or [[, to [the best of] the Seller's knowledge [3]]] threatened for the total or partial condemnation of the mortgaged property.	The mortgaged property has no damage that adversely affects the value of the mortgaged property as security for the mortgage loan or the use for which the premises were intended. There is no proceeding pending or [[, to [the best of] the Seller's knowledge [3]]] threatened for the total or partial condemnation of the mortgaged property.
Key Features	• Materiality qualifier as to damage • Excludes hazardous wastes or hazardous substances	• Materiality qualifier as to damage • Represents mortgaged property is in substantially same condition as most recent appraisal	• General statement that there is no damage

[1] To reduce potential issues in determining what may constitute a breach, transaction parties are encouraged, to the extent practicable, to utilize thresholds to provide guidance on how to interpret "material" for purposes of this representation and warranty. Note that the use of thresholds in this context is intended to determine whether or not the amount or type of damage of a mortgaged property would be "material" and thus trigger a breach of the representation and warranty. Thresholds could be numerically determined based on set threshold amounts (determined based on set amounts or percentages of value) or on set characteristics that the parties consider to be material or as the parties may otherwise determine to be indicative of a "material" breach given the nature of the assets in, and the structure of, a given transaction. No determination with respect to materiality with respect to any particular representation or warranty shall be construed or interpreted in any way to imply, limit or restrict the evaluation of materiality with respect to any other representation and warranty. If a condition is determined to be "material" and therefore a breach of the representation and warranty is considered to have occurred, a separate analysis will be required under the remedy section of the pooling and servicing agreement, purchase agreement or other related operative agreement to determine whether or not the breach "materially and adversely affects the value of the mortgage loan or the interest of the Certificate holders therein." The language included in the preceding sentence relating to the remedy section of the operative agreement has been included for illustrative purposes

only since SFIG members have not yet discussed the language that might be included in such section or the remedies that would be available thereunder. Below are some examples for illustrative purposes only:

- Damages determined to equal or exceed $10,000 and/or 3 percent of the original appraised value of the property are deemed to be material for purposes of the representation and warranty.
- Damages determined to be less than $10,000 and/or 3 percent of the original appraised value of the property are deemed not to be material for purposes of the representation and warranty.
- Damages which result in the loss of a valuable or significant right related to the property such as loss of access or use to an adjacent golf course or waterfront.

(2) With the use of any knowledge qualifier with respect to any third party, as a best practice there should be a "clawback" feature in the remedy provision which provides for a remedy regardless of lack of knowledge.

(3) Parties may agree to remove this language if it is determined to be adequately covered in other representations and warranties.

No Encroachments/Compliance with Zoning

Issue Overview

The No Encroachments/Compliance with Zoning representation is intended to provide protection against zoning or encroachment issues which could adversely affect the value of the mortgaged property.

History

Since the financial crisis, the number of different formulations of the "no encroachments" representation in the securitization market has slowly been reduced. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained no encroachments representations from the sellers of the mortgage loans. Each seller would negotiate its own particular representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

Many market participants have noted their position that the substantial variation in no encroachment representations made it difficult for them to assess the issues covered within a transaction and from deal to deal. This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different no encroachment representations. RMBS 3.0 recommends a single variation of the no encroachment representation to allow industry members to more easily assess the meaning and scope of this representation. Participants agreed to limit this representation to one formulation.

Debate & Discussion

In the spirit of transparency, the working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	V5	Industry Standard
No Encroachments / Compliance with Zoning	Except for mortgage loans secured by co-op shares and mortgage loans secured by residential long-term leases, the mortgaged property consists of a fee-simple estate in real property; to the best of the originator's/seller's knowledge, all the improvements included for the purpose of determining the appraised value of the mortgaged property lie wholly within the boundaries and building restriction lines of such property and no improvements on adjoining properties encroach on the mortgaged property (unless insured against under the related title insurance policy); and to the best of the originator's/seller's knowledge, the mortgaged property and all improvements thereon comply with all requirements of	No improvements on adjoining properties encroach upon the mortgaged property (unless insured against under the related title insurance policy). The mortgaged property and all improvements thereon comply with all requirements of any applicable zoning and subdivision laws and ordinances	Except for mortgage loans secured by co-op shares and mortgage loans secured by residential long-term leases, (A) the mortgaged property consists of a fee simple estate in real property; (B) all of the improvements that are included for the purpose of determining the appraised value of the mortgaged property lie wholly within the boundaries and building restriction lines of such property and no improvements on adjoining properties encroach on the mortgaged property (unless insured against under the related title insurance policy); and (C) the mortgaged property and all improvements thereon comply with all requirements of any applicable	All improvements that were considered in determining the Appraised Value of the Mortgaged Property lie wholly within the boundaries and building restriction lines of the Mortgaged Property. As of the date the Mortgage Loan was originated, no improvements on adjoining properties encroached upon the Mortgaged Property, and no improvement located on or being part of the Mortgaged Property was in violation of any applicable zoning and building law, ordinance, or regulation, and such representations are currently true and correct. All inspections, licenses, and certificates required to be made or issued with respect to all occupied portions of the Mortgaged Property and	With respect to each Mortgage Loan (other than a Mortgage Loan secured by residential long-term leases), (i) the Mortgaged Property consists of a fee simple estate in real property, (ii) all of the improvements which are included for the purpose of determining the appraised value of the Mortgaged Property lie wholly within the boundaries and building restriction lines of such property and no improvements on adjoining properties encroach upon the Mortgaged Property (unless insured against under the related title insurance policy) and (iii) the Mortgaged Property and all improvements thereon comply with all requirements of any applicable	Except for Mortgage Loans secured by Co-op Shares and Mortgage Loans secured by residential long-term leases (1) the Mortgaged Property consists of a fee simple estate in real property; (2) all of the improvements which are included for the purpose of determining the appraised value of the Mortgaged Property lie wholly within the boundaries and building restriction lines of such property and no improvements on adjoining properties encroach upon the Mortgaged Property (unless insured against under the related title insurance policy); and (3) the Mortgaged Property and all improvements thereon comply with all requirements of any

any applicable zoning and subdivision laws and ordinances.	zoning and subdivision laws and ordinances.	with respect to the use and occupancy of the same have been made or obtained from the appropriate Governmental Authorities. No Obligated Party has received notice from the Borrower, any Governmental Authority, or any other Person of any noncompliance with any use or occupancy law, ordinance, regulation, standard, license, or certificate with respect to the Mortgaged Property.	zoning and subdivision laws and ordinances.	applicable zoning and subdivision laws and ordinances.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of no encroachments representations to one.

Industry Positions

With respect to the no encroachments representation, there was general consensus to move to one representation and warranty.

Proposed Solutions

Representation & Warranty	Category I
No Encroachments / Compliance with Zoning	With respect to each mortgage loan (other than a mortgage loan secured by residential long-term leases), (i) the mortgaged property consists of a fee simple estate in real property, * (ii) all of the improvements which are included for the purpose of determining the appraised value of the mortgaged property lie wholly within the boundaries and building restriction lines of such property and no improvements on adjoining properties encroach upon the mortgaged property (unless insured against under the related title insurance policy) and (iii) the mortgaged property and all improvements thereon comply with all requirements of any applicable zoning and subdivision laws and ordinances.

Parties may agree to remove this language if it is determined to be adequately covered in other Representations and Warranties.

Transaction parties should consult with counsel to determine what form is most appropriate given the specifics of each transaction and a final determination as to the language of the representation is within the sole purview of each party. In line with the project's fundamental methodology, SFIG will work to propose a process through which an issuer who chooses a different form of this representation can highlight or present any differences in the interest of transparency.

Subject Property is 1-4 Units

Issue Overview

The "Subject Property is One to Four Units" ("Single Family") representation is intended to provide assurance that the property underlying a mortgage loan is a single family property, consisting of one to four units and having certain characteristics, but excluding others. It is designed to exclude certain kinds of collateral such as multifamily buildings that are not generally included in a residential mortgage.

History

Since the financial crisis, the number of different formulations of the Single Family representation in the securitization market has slowly been reduced. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained representations from the sellers of the mortgage loans. While there was some consistency in the Single Family representation relative to other representations made in securitization, some variations of the representation existed.

Each seller could negotiate its own particular Single Family representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different suggested versions of the Single Family representation though there is less disparity in this representation than other representations. RMBS 3.0's recommended Single Family representation proposals provide a narrowing of any remaining variation, thereby providing industry members an easier assessment of the meaning and scope of this representation.

Debate & Discussion

In the spirit of transparency, the working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	Industry Standard
Subject Property Is one to four Family	Each mortgaged property is located in the U.S. or a territory of the U.S. and consists of a one- to four-unit residential property, which may include, but is not limited to, a single-family dwelling, townhouse, condominium unit or unit in a planned unit development or, in the case of mortgage loans secured by co-op shares, leases or occupancy agreements.	Unless noted on the mortgage loan schedule, each property is located in the United States and consists of a one- to four-unit residential property, which may include a detached home, townhouse, condominium unit or a unit in a planned unit development or, in the case of by co-op shares, leases or occupancy agreements.	Each mortgaged property is located in the U.S. or a territory of the U.S. and consists of a one- to four-unit residential property, which may include, but is not limited to, a single-family dwelling, townhouse, condominium unit, or unit in a planned unit development or, in the case of mortgage loans secured by co-op shares, leases or occupancy agreements.	Each Mortgaged Property is located in the United States or a territory of the United States and consists of a one- to four-unit residential property, which may include, but is not limited to, a single family dwelling, townhouse, condominium unit or a unit in a planned unit development.	Each Mortgaged Property is located in the United States or a territory of the United States and consists of a one- to four-unit residential property, which may include, but is not limited to, a single family dwelling, townhouse, condominium unit or a unit in a planned unit development or, in the case of Mortgage Loans secured by Co-op Shares, leases or occupancy agreements.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of Single Family representations to one.

In discussion, the working group highlighted key concerns with the Single Family representations:

- Does the number of units need to be specified in the representation?
- Should there be a list of collateral that are included as "single family"?
- Should this list be exhaustive or indicative?
- Should there be a list of collateral that is excluded as "single family"?
- Should this list also be exhaustive or indicative?

How to deal with manufactured housing was another point raised by our members. Should manufactured housing be excluded from being deemed single family? Members decided that while manufactured housing would not specifically be excluded per se in the language of the representation, it did need to be treated slightly differently due to the nature of the collateral. If manufactured housing is included in a transaction, specific representations would be needed, the working group concluded. A footnote would be provided explaining the conclusion. However, the footnote also would provide, that if market participants wanted to include manufactured housing as a specified exclusion that also could be a best practice.

Members also discussed whether the number of units (one to four) needs to be specified in the representation. Members agreed that since the representation has historically included this formulation, it would be prudent to continue the practice.

Industry Positions

Discussion focused on the questions above and consensus was reached among market participants in the form of the representation suggested below. The best practice suggested below was an attempt to account for providing a list of collateral that was indicative of single family and a list of collateral that would clearly be excluded from the definition of single family.

In the discussions, members discussed whether it was appropriate to have language that stated "which may include, but is not limited to," and whether such a formulation actually generated more confusion by attempting to create a list which may or may not be exhaustive. This was counterbalanced by the fact that nearly all members indicated that historically this was the most consistent formulation of the Single Family representation.

To balance these competing interests, members decided that the most prudent course was to take a balanced approach with respect to the Single Family representation. As a result, members were able to coalesce around a single representation. Members concluded that an indicative list of exclusions would be included (e.g., undeveloped land, multifamily consisting of five or more units, and commercial property), but a "catch all" should also be included. Accordingly, the suggested representation includes language to this effect.

Proposed Solutions

Project participants propose that to best account for the varying considerations the Single Family representation below be used.

Transaction parties should consult with counsel to determine what form is most appropriate given the specifics of each transaction and a final determination as to the language of the representation is within the sole purview of each party. In line with the project's fundamental methodology, SFIG will work to propose a process through which an issuer who chooses a

different form of this representation can highlight or present any differences in the interest of transparency.

Representation & Warranty	Category 1
Subject Property is a residential one to four unit property	Each mortgaged property is located in the U.S. or a territory of the U.S. and consists of a residential structure. Such structure constitutes a 1-4 unit property which may include, but is not limited to, a single-family or two- to four-family dwelling, townhouse, condominium unit or unit in a planned unit development or, in the case of mortgage loans secured by co-op shares, leases or occupancy agreements [[, but will not consist of any undeveloped land, multifamily property of five or more family residential dwelling units or commercial property [[or any other property type not permitted under the Seller's Underwriting Guidelines[18]]].

[18] As a best practice, parties should consider adding specific guidance or references to limit the representation and warranty to the property types intended to be included in the transaction to limit the difficulty associated with determining whether or not a breach has occurred. In addition to references to the sellers underwriting guidelines (which should be specifically defined and therefore is capitalized in the proposed representation and warranty), parties could make reference to specific property types to be excluded (such as manufactured housing which shall also be specifically defined) or to other criteria used in pooling the mortgage loans for a transaction such as credit overlays or purchasing criteria. With regard to manufactured housing, members intend to address in future guidance a specific representation and warranty covering inclusion of manufactured housing in a transaction as well as providing recommended definitions of manufactured housing to encourage industrywide conformity.

Proceeds Fully Disbursed/Recording Fees Paid

Issue Overview

The proceeds fully disbursed/recording fees paid representation is intended to provide assurance that the proceeds of the mortgage loan have been fully disbursed by the lending institution and that any terms related to funds held in escrow for any improvements have been complied with. This is an important representation which could impact paying off a previous loan on a property.

History

Since the financial crisis, the number of different formulations of the "proceeds fully disbursed" representation in the securitization market has slowly been reduced. Prior to the financial crisis, securitization sponsors who aggregated mortgage loans obtained "proceeds fully disbursed" representations from the sellers of the mortgage loans. Each seller would negotiate its own particular proceeds representation. Then the sponsor would either assign these representations to the related securitization trust, or make its own representation in the securitization mortgage loan purchase agreement between the sponsor and the depositor in a "back-to-back" arrangement where the sponsor would put the loan back to the seller if it was required to repurchase the mortgage loan from the trust.

This system created a lack of standardization in the market which continues today, albeit to a lesser extent, largely due to limited market volume and a limited number of post-crisis issuers and RMBS transactions. Nevertheless, even with this limited post-crisis RMBS activity, the current RMBS market continues to include several different proceeds fully disbursed representations. RMBS 3.0's recommended representation proposals provide a level of choice while also narrowing the scope of variation, thereby providing industry members an easier assessment of the meaning and scope of this representation.

Debate & Discussion

In the spirit of transparency, the working group began with the RMBS 2.0 representations and warranties in use by market participants. These were based on industry standards and rating agency recommendations.

Representation & Warranty	V1	V2	V3	V4	V5	Industry Standard

Proceeds Fully Disbursed / Recording Fees Paid	The proceeds of the mortgage loan have been fully disbursed, there is no requirement for future advances thereunder, and any and all requirements as to completion of any on-site or off-site improvements and as to disbursements of any escrow funds have been complied with (except for escrow funds for exterior items, which could not be completed due to weather, and escrow funds for the completion of swimming pools). Additionally, all costs, fees and expenses incurred in making, closing or recording the mortgage loan have been paid, except recording fees with respect to mortgages not recorded as of the closing date.	The proceeds of the Mortgage Loan have been fully disbursed. There is no requirement for future advances. All requirements as to completion of improvements and as to disbursements of any escrow funds therefore have been complied with. All costs, fees and expenses incurred in making, closing or recording the mortgage loan have been paid.	(A) The proceeds of the mortgage loan have been fully disbursed, there is no requirement for future advances thereunder, and any and all requirements as to completion of any on-site or off-site improvements and as to disbursements of any escrow funds have been complied with (except for escrow funds for exterior items, which could not be completed due to weather, and escrow funds for the completion of swimming pools scheduled to be completed 12 months following the closing date); and (B) all costs, fees, and expenses incurred in making, closing, or recording the mortgage loan have been paid, except recording fees with respect to mortgages not recorded as	The proceeds of the Mortgage Loan have been fully disbursed, there is no requirement for future advances thereunder, and any and all requirements as to the completion of any on-site or off-site improvements and as to disbursements of any escrow funds therefore have been complied with; and all costs, fees, and expenses incurred in the making, closing, or recording of the Mortgage Loan have been paid.	The proceeds of each Mortgage Loan have been fully disbursed, there is no requirement for future advances thereunder and any and all requirements as to completion of any on-site or off-site improvements and as to disbursements of any escrow funds therefor have been complied with. All costs, fees and expenses incurred in making, closing or recording each Mortgage Loan have been paid.	The proceeds of the Mortgage Loan have been fully disbursed, there is no requirement for future advances thereunder and any and all requirements as to completion of any on-site or off-site improvements and as to disbursements of any escrow funds therefor have been complied with (except for escrow funds for exterior items which could not be completed due to weather and escrow funds for the completion of swimming pools scheduled to be completed within 12 months following the Closing Date); and all costs, fees and expenses incurred in making, closing or recording the Mortgage Loan have been paid, except recording fees with respect to Mortgages not recorded as of the closing date.

of the
closing date.

The working group analyzed the representations mentioned above, evaluated the key concepts embedded in those variations, addressed pertinent issues, and narrowed the larger set of proceeds representations to one.

In a robust discussion, the working group focused on specific areas within the proceeds representations. The primary focus was how to handle disbursements of any escrow funds, particularly as related to exterior items such as swimming pools. Second, members raised the issue of possible indemnification if the proceeds are not fully disbursed from escrows. Some members raised the point that if an escrow is not properly disbursed, it is a servicer responsibility and not necessarily an issuer responsibility. Others pointed out that if the issue was temporally proximate to the issuance of the securitizations, it may be an issuer obligation.

Industry Positions

RMBS 3.0 participants will continue to discuss the role of indemnifications with respect to escrow disbursements and update in subsequent modules.

Proposed Solutions

At this juncture, members did agree on a possible suggested representation as delineated below.

Transaction parties should consult with counsel to determine what form is most appropriate given the specifics of each transaction and a final determination as to the language of the representation is within the sole purview of each party. In line with the project's fundamental methodology, SFIG will work to propose a process through which an issuer who chooses a different form of this representation can highlight or present any differences in the interest of transparency.

Representation & Warranty	Category 1
Proceeds Fully Disbursed/Recording Fees Paid	The proceeds of the mortgage loan have been fully disbursed, there is no requirement for future advances thereunder and any and all requirements as to completion of any on-site or off-site improvements and as to disbursements of any escrow funds therefor have been complied with (except for escrow funds (i) for exterior items which could not be completed due to weather, (ii) for de minimis cosmetic or other repairs that (a) do not affect the safety, soundness or structural integrity of the property or adversely affect the appraised value of the property, (b) could not be completed prior to the mortgage loan closing date, and (c) must be completed within the timeframe specified in the applicable Underwriting Guidelines (it being understood that an indeterminate completion date shall not be acceptable for purposes of this representation and warranty, and (iii) for the completion of swimming pools scheduled to be completed within 12 months following the Closing Date, in each case in accordance with the Seller's Underwriting Guidelines[5]); and all costs, fees and expenses incurred in making, closing or recording the mortgage

loan have been paid, except recording fees with respect to Mortgages not recorded as of the closing date.

Key Features

- Provides carve outs for exterior items which could not be completed due to weather.
- Provides carve out for recording fees for mortgages not recorded as of the closing date.

Objective Independent Review Triggers

Issue Overview

RMBS 3.0 reviewed potential objective independent review triggers to try to design a means to discover all potential breaches, and subsequently deliver them for review by the third party charged with the independent review function in any given securitization (whether an independent reviewer, controlling holder or some other designated party). The participants believe that it is critically important to provide a format for taking affirmative action to cause timely breach review, mitigate any potential losses, and appropriately allocate any losses between issuers (or originating sellers, as the case may be) and investors.

History

Many participants have posited that, in the past, breach identification often occurred on an ad hoc basis despite contractual discovery and notice provisions that were generally standard throughout transaction documents. In some cases, for example, breaches were not always discovered in a timely manner (if discovered at all), and, if discovered, may not have been properly communicated or noticed (and, in turn, not pursued). Many market participants often relied on internal processes for discovering or identifying potential breaches. The absence of consistent breach detection and communication mechanisms is a gap that RMBS 3.0 seeks to address.

SFIG believes that creating an effective and efficient means of ***breach identification, communication, evaluation, pursuit and enforcement*** is crucial to improving the level of trust between investors and issuers and clarifying the manner in which all transaction parties can operate to protect the integrity and proper functioning of new RMBS trusts. These factors are vital to the re-emergence of a sustainable, scalable private label RMBS.

Industry Positions

RMBS transactions in the current environment all contain the elements of breach review by a designated party based on prescribed triggers. In some cases, transactions contain a "controlling holder," generally defined as the holder of a certain portion of a designated class (e.g., the most subordinate class of outstanding bonds). Certain transactions allow for this party to be affiliated with the issuer, while others do not. Often, the controlling holder is responsible for reviewing a loan that trips a review trigger to determine whether to submit the loan for "independent review." Under the independent review process, an "independent reviewer," or a third-party firm having residential mortgage due diligence or forensic review capabilities, is – depending on the particular approach used by the issuer – either embedded in the transaction as a named party or retained by a designated party – e.g. the trustee or the controlling holder – according to a prescribed methodology. Note that where there is no controlling holder in a transaction, a loan that trips a review trigger is generally automatically

submitted for independent review. In any event, generally under most of the approaches, if a breach is found, the trustee is to be notified and is required to notify the party responsible for repurchase of the loan and to pursue such repurchase. In the event the party responsible for the repurchase disputes the breach claim, RMBS 2.0 transactions generally provide that a certain percentage of bondholders can direct the trustee to take action to pursue either mandatory arbitration (which is generally binding) or litigation to resolve the breach.

Another notable feature of the independent review process in RMBS 2.0 transactions is the "one bite at the apple" approach – that is, a loan can be submitted for breach review after tripping a review trigger only once. Many participants believe that this provision provides protection against "double jeopardy" and inconsistent conclusions under multiple reviews, and supports a comprehensive breach review that provides more certainty at the time a trigger is first hit. Other participants believe that certain exceptions should be made for breaches that may be unknown and unknowable at the time of review.

There are clearly differences in each of these elements, but they are nevertheless a mainstay of the post-crisis market. As such, RMBS 3.0 will explore each of the elements involved in the breach review process in the various work-streams. Topics will include the independent review process itself, the controlling holder, the independent reviewer, transaction parties roles and responsibilities as they relate to the breach notification and repurchase enforcement process, bondholder communication (particularly in the event of a disputed breach), and other enforcement-related issues such as mandatory arbitration vs. litigation as an enforcement mechanism and related elements of both.

It is notable that the Securities and Exchange Commission's ("SEC") proposed Regulation AB II also mandates the inclusion of an independent reviewer, or "credit risk manager," in RMBS transactions covered by the proposed rule. The market and regulators accordingly appear to be of like mind in viewing the concept of independent review as an improvement in standards as compared to pre-crisis RMBS transactions. SFIG believes the complexity of the issues surrounding the implementation of such an important element of current and future transactions requires the intensive treatment that RMBS 3.0 is currently applying and will continue to apply to these issues in order to determine best practices, illuminate benefits and risks of different approaches, and solve for attendant operational and legal issues. In line with RMBS 3.0's core methodology, SFIG believes that different approaches may be feasible in RMBS transactions and looks forward to continued comment on Regulation AB II and dialogue with the SEC with respect to this important standard.

Debate & Discussion

Project participants determined that while the objective triggers currently in use in RMBS 2.0 transactions might succeed in capturing a majority of potential breaches, gaps may still exist that could result in undetected breaches, delays in processing breaches, misallocation of losses between issuers/originating sellers and investors, and breach-related litigation. For this reason, RMBS 3.0 strongly suggests consideration of more expansive and consistent objective triggers that could – and many participants believe would – operate to close these gaps.

Project participants conducted a review of potential recommended objective review triggers, optional objective review triggers, and a related "make-whole" provision, discussed in further detail in the following section. Members recognize the importance of developing a framework that will effectively identify any possible breach, provide effective channels to communicate the breach, and provide the appropriate enforcement mechanisms. RMBS 3.0 does not intend for the recommended objective independent review triggers covered to replace breach discovery and identification obligations contained in some RMBS and whole loan transaction documentation; rather, the objective review triggers should supplement the existing framework.[19]

RMBS 3.0 identified the following objective events as suggested triggers for independent review.

- 120 Day Loan Delinquency
- Loan Liquidates Resulting in Loss
- P&I Advance Non-Recoverability
- Loan Modification
- Insolvency Event of Representation Provider[20]
- Credit Enhancement or Delinquency Trigger Hit[21]

Membership discussed other potential objective triggers but were generally uniform in evaluating these suggested approaches as superfluous or inadequate. Of note, one of these additional suggestions was a rolling delinquency trigger (e.g. a 60-day delinquent loan that rolls, or remains 60 days delinquent, for some period of time), which participants rejected as unnecessary because a loan will either re-perform or ultimately default and trip another objective trigger.

In determining whether a particular objective trigger falls in the recommended category, participants evaluated the nature of the trigger and the potential need, costs, and results of such review. Categorizing an objective trigger as recommended indicates that most Project participants believe this trigger for independent review should be included in all RMBS transactions; these triggers are, in fact, generally a feature of post-crisis RMBS offerings. In contrast, optional objective review triggers signal that there is less consensus that these objective triggers should be included in all RMBS transactions. Some issuers participating in the Project, even if they

[19] Project participants note that not all breach frameworks (both pre- and post-crisis) require the party making representations and warranties to "self-report" breaches upon discovery. Many project participants believe that this provision should be adopted in all private label securitizations and in the underlying whole loan documentation. The Representation, Warranty and Repurchase Enforcement work-stream will discuss this topic as a separate agenda item.

[20,7] A designated party would be authorized to select a sample for review, in its discretion and based on certain criteria (e.g., a sample of all loans in a particular delinquency bucket), as this is more of a protective trigger for the pool and not tied to any particular loan level event.

agree that certain optional objective triggers constitute "best practices," have indicated that rating agency and investor feedback and evaluation could weigh heavily on their decision to include certain optional objective triggers. This essentially means that if the market does not react favorably, through better credit enhancement and/or investor appetite and pricing, to transactions that include these optional triggers vis-à-vis transactions that do not, then an issuer may be less inclined to include these optional triggers. The following sections provide additional analysis on these triggers.

Participants recognized that the trigger covering loans that liquidate in a loss required further evaluation based on an analysis of pre-crisis RMBS transactions, specifically with respect to breach claims on loans that had already liquidated by the time the breach claim was submitted.

An example of this is a loan that liquidates through a short sale or deed-in-lieu without hitting another objective trigger. The project accordingly developed a proposed "make whole" provision designed to benefit the trust, transaction parties and borrowers alike and treat such entities equitably. Additional detail on the make-whole provision is located in the related section of this discussion.

Proposed Solutions

The proposed objective triggers—both recommended and optional—and the "make whole" provision address important areas of dispute in repurchase enforcement. Assuring that the proper objective triggers are in place is fundamental to the value of the independent review process in RMBS transactions.

Identifying objective triggers is an important first step to protecting the trust, trust parties and investors and allocating losses equitably and properly. RMBS 3.0's inclusion of this mechanism to try to achieve the goal of discovering or identifying **all** potential breaches encourages market participants to include these triggers in future RMBS transactions.

Recommendations

RMBS 3.0 identified the following triggers and process for implementing the "make-whole" provision. Most participants were supportive and recommend including language incorporating these triggers in RMBS transactions.

RECOMMENDED OBJECTIVE TRIGGERS

These triggers should be included in all RMBS transactions to ensure a breach review in all cases by the appropriate party.

Recommended Objective Review Trigger Event		Additional Considerations
Loan is 120 days Delinquent	Breach review occurs when a loan becomes 120 days delinquent, whether or not foreclosure proceedings commence.	This is in line with the commencement date for foreclosure proceedings.
Loan Liquidates Resulting in a Loss	Breach review occurs upon the occurrence of any REO sale, short sale, deed-in-lieu, or charge off.	RMBS 3.0 has determined that this provision works as a best practice when coupled with a make whole provision; therefore, the project recommends this trigger with mandatory inclusion of the make whole provision.

OPTIONAL OBJECTIVE TRIGGERS

These triggers may be included in RMBS transactions to provide for a breach review by the appropriate party (although suggestions for actual inclusion are as provided below).

Optional Objective Review Trigger Event		Additional Considerations
Insolvency Event of Representation Provider	Breach review may occur on any loan that is 30 days or more delinquent. Designated party (e.g., sub investor) could select a sample to review, in its discretion, based on certain criteria, as this would operate more as a protective measure for the pool, and is not based on a loan level event.	This trigger would provide a mechanism for the trust to file a bankruptcy claim on breach loans identified in the review that might otherwise hit a trigger after the claim period has expired. The presence of an active backstop may mitigate the need to submit a bankruptcy claim. Need to clarify party responsible for paying for the review, as the cost involved may influence decision to conduct review. Designated party has the option to engage in a breach review and may conduct no review, a targeted or sample review, or a full review in its discretion. Participants suggest inclusion of this trigger as a best practice.
Loan Modification		Some industry participants (especially investors but also a number of issuers, among other parties) feel loan

	Modifications for the purposes of loss mitigation may trigger a breach review.	modifications should trigger a breach review as they generally constitute a "loss" to the trust either through reduced principal or interest. Additionally, many loans could be modified prior to hitting another objective trigger (e.g., a loan that never becomes 120 days delinquent, etc.), such that the modification could "short circuit" the effectiveness of other objective triggers. A greater focus on loss mitigation in the post-crisis mortgage market and regulatory environment increases the importance of loan modification in performance and loss projections. Additional exposure for issuers raises the following questions: • Will rating agencies give credit for the inclusion of a review trigger based on modifications? • Would investors factor inclusion of a modification trigger into pricing? • Increased exposure through the inclusion of a modification trigger without some benefit may lead to an un-level playing field between issuers that provide this protection and those that do not. This trigger should attach to **permanent modifications only**. Temporary forbearance plans or stipulated modifications (until they become permanent) should not trigger a breach review.
P&I Advance Non-recoverability	Breach review occurs when a servicer ceases to advance on the mortgage loan based on determination that such advance is non-recoverable.	Some industry participants feel that principal and interest advance non-recoverability should trigger a breach review as non-recoverability is usually a sign of a very problematic loan.
Credit Enhancement or Pool Delinquency Trigger	Review may occur on a sample of loans upon a depletion of a threshold level of credit enhancement, or a threshold level of pool delinquency but failing to hit upon any additional triggers. Designated party (e.g., subordinate investor) could select a sample to review, in its discretion, based on certain criteria, as these would operate more as protective measures for the pool, and are not based on a loan level event.	Would inclusion of such a trigger lead to incentives in investor pricing or receptivity? Similar to an insolvency event, the designated party has discretion to decide upon sampling methodology. There is a need to evaluate the cost structure of the review in the language addressing this trigger to determine which party is responsible for paying for the review. While the other objective triggers would ensure that all losses to this point are effectively evaluated for breach, this measure could help to identify and mitigate potential losses by identifying breaches or potential breaches pre-emptively (i.e., before the loan hits another trigger).

Make-Whole Provision

In the past, some representation providers, or "responsible parties" ("RPs") challenged whether repurchase or indemnification obligations cover "make wholes." A "make-whole" occurs where a loan liquidates (or has liquidated) in a loss, and there is no longer an active loan to repurchase. It is important to note that the make whole provision would apply only after liquidation and not as a function of estimated liquidation proceeds prior to liquidation. The make whole would generally be calculated as the applicable repurchase price for the loan (based on the outstanding principal balance of the loan as of the last paid-through date) minus net liquidation proceeds. RP arguments have generally included:

- Breach claim was stale (*doctrine of laches*): RP could have mitigated the loss had they claimed earlier and had the opportunity to take more timely action.
- Failure to maximize proceeds, exacerbating the loss to the RP.
- Contractual arguments: for example, where the purchase agreement only references loan repurchases, not make-wholes, and there are no liquidated damages provided for under the contract.

The following chart outlines additional arguments in favor of and opposition to the make-whole provision. Some project members view the make whole provision as a "win/win/win" provision, in that it protects borrowers, RP's and investors alike and furthers the goal of allowing for timely breach identification and enforcement and proper allocation of related losses, if any. Such members therefore suggest that this provision – to the extent it can be crafted to meet applicable operational and legal issues – be included in all RMBS transactions and, accordingly, in any underlying whole loan agreements.

Arguments in Support of "Make-Whole" Provision	Arguments in Opposition to "Make-Whole" Provision
▪ Allows for "make whole" protections to the trust. ▪ Does not adversely affect loss mitigation proceedings, which protects both the borrower and the investor. ▪ Affords the RP an opportunity to protect its own interests by taking early action and assuming control or direction of loss mitigation proceedings should the RP find a breach and therefore be the party at risk of any loss. This can be done without any cost to the trust.	▪ In the event a Servicer or other party fails to notify the RP, such party could be held liable under certain contemplated indemnification constructs. o Difficulty of calculating costs of exacerbation due to failure to notice. o Failure to discover and/or to provide notice of identified breaches were arguably major weaknesses in legacy transactions.

- Captures potential breaches for review that may not hit another objective review trigger without causing undue cost to the trust.

- If the RP does not find a breach or report a breach that it finds (in violation of contractual provisions), there is still a mechanism for automatic and independent review to protect the trust should a valid breach actually exist.

- There is no extra cost to the trust, except perhaps the cost of an independent review where there is an affiliated controlling holder charged with initially reviewing loans for breach that have hit the liquidation loss trigger; there may be ways to further control this cost.

To aid in the proper implementation of the "make-whole" provision, servicers should provide additional input to determine the appropriate time to notify the RP. Initial borrower contact regarding loss mitigation options may be too early, but notification could occur when the borrower submits the required paperwork in connection with an inquiry into or pursuit of loss mitigation options.

Ensuring that the RP has sufficient time to review the loan for breach is important. However, the length of such review period cannot exceed the time necessary for the servicer to respond to borrowers under applicable servicing standards and law.

While it is better to err on the side of earlier notification, avoiding any interference with the servicer's loss mitigation efforts to the detriment of the borrower is of paramount importance. This includes any delay caused by waiting for the resolution of a breach, especially where the resolution could include a review, challenge and arbitration period.

Avoiding delays in the loss mitigation process helps not only the borrower but also the investor. In the event no breach is found, it is in the best interest of the investor for proper loss mitigation (or foreclosure) to proceed according to the applicable servicing standard and law. The suggested "make whole" provision solves for the challenge of providing investors protection that the RP will make the trust whole for losses relating to liquidation that arise from or relate to a breach. At the same time, the recommendation affords the RP the opportunity to take timely action to protect its own interests without adversely affecting the borrower, the trust or investors.

In terms of notification, the Trust, through the trustee, will have privity of contract with the RP through assignment of the mortgage loan purchase agreement to which the RP is a party. The servicer may or may not have privity. Therefore, the trustee will be in the best position to know who the RP is with respect to a particular loan. Notice could also be sent from the servicer to the trustee, and the trustee could in turn notify the RP with a "cc" to the servicer

so that the servicer and the trustee both communicate with the RP. Note that in terms of the form of notice, there is a split among certain participants; some hold that formal notice is better suited for tracking and legal purposes, while others support the use of emails to and from authorized parties to reflect actual day-to-day business practice and in light of the durability of email records. SFIG would support any notification provisions that meet the feasibility and legal requirements of RMBS transaction parties.

With respect to the RP, the proposed approach creates proper mechanisms and incentives for RP cooperation and adherence to its repurchase obligations. Under the approach, RPs have an opportunity to identify a breach, and therefore act to protect their own interests, much earlier than what has traditionally been the case. Furthermore, if an RP (i) chooses not to review a loan for breach upon early notification, (ii) finds but fails or refuses to acknowledge a breach, or (iii) finds no breach, and in each case a breach is subsequently determined through independent review or the findings of an arbitrator, the RP will be required to repurchase the loan from the trust. A number of participants also feel that the RP should be required under such circumstances to indemnify the trust for all related losses (including legal fees and arbitration costs). Such participants believe that this "bolt-on" would serve to protect the integrity of the trust and its investors, and allocate losses to the proper party, by acting as a disincentive to disingenuous breach disputes by the RP. Other participants believe that a decision of this nature should be left to the findings of a mandatory arbitrator or judge, as the case may be, or otherwise do not subscribe to what some have termed the "loser pays" approach to such costs, fees and other damages. RMBS 3.0 will be addressing these topics in future green papers. Note that, as with a number of other proposed provisions, some issuer participants may look to rating agency and investor reception and feedback in evaluating whether to include this provision in RMBS transactions.

A further area of discussion of the proposed make whole provisions involved transactions that contain an affiliated controlling holder. Most participants came to a general consensus that a controlling holder who is affiliated with the RP should not be allowed to review a loan that liquidates for a loss after going through this process in lieu of independent review (or possess discretionary authority to send such a loan to independent review), as there could be a conflict of interest arising from the affiliation.[22] Several participants suggested that an independent reviewer should review the loan to avoid this conflict of interest or, at the very least, an independent review should be required in the event an affiliated controlling holder reviews the loan and makes a "no breach" determination. Members acknowledge that if no breach were found, there would be a cost to the trust, in contrast to review by a controlling holder, which would not cost the trust anything.

Alternatives include allowing certain bondholders, such as the majority holder of the next highest class, or the second majority holder of the lowest class (if the majority holder is an affiliated controlling holder), to conduct a breach review. It will be important to determine if

[22] As noted previously, the Representation, Warranty and Repurchase Enforcement work-stream will address issues relating to parties and responsibilities involved in repurchase enforcement, including the concept of a controlling holder, as separate agenda items.

such other holder or party would be willing to provide confidentiality or Gramm-Leach Bliley Act protections, and indemnification, to the extent necessary.

If the RP finds a breach and repurchases the loan, the parties need to ensure that if a servicing transfer accompanies the repurchase, the borrower is not adversely impacted; the borrower's loss mitigation process or options must not be short-circuited or delayed due to the servicing transfer. Again, the borrower's right to loss mitigation is of paramount importance and the conduct of the trust parties should not interfere with the borrower's rights.

In the event a servicer or other party fails to notify the RP (or causes a notification delay), it should be clearly established whether or not the RP can seek contribution from such party for additional damages caused by the notification failure or delay and how such damages would be calculated. If so, the following questions should be addressed:

- Would the RP need to meet an evidentiary standard to prove its claim?
- Would a third party, the court, or some other entity determine or calculate the amount of additional damages?

Finally, RMBS 3.0 identified certain legal issues participants need to solve for in implementing the make-whole trigger. Specifically, the transaction must provide the reviewing party adequate access to the related files. Market participants should consult with their legal counsel regarding specific clarification on the following items:

1. Gramm-Leach-Bliley protections and indemnities from the reviewing party, and
2. Possible trading restrictions that may attach if a party has access to files and is an investor.

In consideration of the above, RMBS 3.0 proposes the following approach to implementation of the "make whole" provision.

1. Loan reaches a designated stage in loss mitigation: servicer notifies the RP (or notifies the trustee to contact the RP) so that the RP can review the loan for breach at that time.
    a. RP is afforded an opportunity to evaluate, within a reasonably prompt, prescribed period of time, to run in parallel with the normal loss mitigation process so as to not to delay the process, whether a loan is in breach before any loss mitigation has taken place. Note that RP is not required to evaluate for breach; it is optional.
        i. RP may decide the risk of breach is small and not worthwhile to review.
        ii. RP might not want to be in a position of discovering the breach, and therefore under an obligation to repurchase the loan, up front, and that the risk of additional damages due to extension is minimal.
2. If the RP finds a breach, they are required to notify the trust and repurchase the loan.
    a. The trust is made whole, and the RP – who is the party who will rightfully bears the risk due to the manufacturing defect – can sell or work out the loan, conduct

or direct its servicer to conduct loss mitigation as it deems appropriate, etc., effectively protecting its own interest.

3. If RP does not find a breach, the servicer continues to conduct loss mitigation according to the applicable servicing standard and applicable law.
4. If the loan liquidates in a loss, the loan will be subject to independent review (although this becomes moot if the loan has already hit another objective review trigger).
    a. If a breach is found in the independent review and either the RP agrees or the breach is contested and ultimately arbitrated to be a valid, material breach, the RP is responsible (on a mandatory basis) to make the trust whole for the loss and all related costs, fees, expenses, etc. (including the cost of the independent review).
        i. The RP had the opportunity to evaluate the loan for breach in a timely manner and either chose not to do so or did so and didn't find a breach (or found a breach and, in bad faith, chose not to disclose its findings in violation of contractual obligations).
        ii. This is an equitable provision as it affords the RP an opportunity to protect its interests early in the process, so the RP cannot argue that it did not have a chance to protect itself.
    b. Even in the case where the RP did not find a breach or disagreed that a breach occurred, if a breach is ultimately confirmed in arbitration to the contrary, at least the RP had the opportunity to protect its interests and a legitimate, deliberate process was followed in the interest of maintaining the integrity of the trust and properly apportioning risk allocation.
    c. Additionally, the challenge and arbitration process occurs in a much more timely fashion that previously occurred in legacy transactions, under which breach claims were often filed years after liquidation.

Investor Roadmap to a Representation and Warranty Breach Determination and Enforcement Framework

NOTE: THE FOLLOWING MATERIAL CONSTITUTES A PRELIMINARY SUMMARY THAT PRESENTS RELEVANT BACKGROUND AND IDENTIFIES A NUMBER OF THE KEY ISSUES RELATING TO THE RMBS INDEPENDENT REVIEW AND BREACH DETERMINATION PROCESSES, AND ENFORCEMENT FRAMEWORK GENERALLY. AT THIS TIME, SFIG IS NOT MAKING ANY RECOMMENDATIONS. THE RMBS 3.0 TASK FORCE IS UNDERTAKING A DETAILED REVIEW OF THIS SUBJECT MATTER AND WILL PRESENT ITS FINDINGS, CONCLUSIONS AND RECOMMENDATIONS IN SUBSEQUENT GREEN PAPERS. NO REPRESENTATION IS MADE THAT ANY SFIG MEMBER OR RMBS 3.0 PARTICIPANT SUBSCRIBES TO OR ENDORSES ANY OF THE VIEWS OR OPINIONS EXPRESSED HEREIN.

As has been documented in this RMBS 3.0 Green Paper, the process regarding loan-level representations and warranties in RMBS deals pre-crisis had shortfalls and practical impediments to enforcement. Investors bore the cost of substantial litigation in order to seek remedies for loan-level breaches, further complicated by the fact that many originators and representation and warranty providers in the respective RMBS deals were bankrupt or no longer existed. Admittedly, breach discovery and remedy provisions were mostly boilerplate in the underlying transaction agreements for the majority of RMBS deals, and the industry had not previously seen such widespread breaches of loan-level representations and resulting litigation as was experienced post-crisis. In the adopting release of the final Regulation AB II rules, the SEC itself "noted investors' concerns about the effectiveness of contractual provisions related to the representations and warranties about the pool assets and the lack of responsiveness by sponsors and other parties to the transaction about potential breaches." Furthermore, the SEC acknowledged that "[a]s demonstrated by events surrounding the financial crisis, investors have not only lacked an effective mechanism to identify potential breaches of the representations and warranties, they have also lacked a mechanism to require sponsors to address their repurchase requests in a timely manner." In response to this concern, the SEC now requires that "the underlying transaction agreements include a provision providing that, if an asset subject to a repurchase request is not repurchased by the end of a 180-day period beginning when notice is received, then the party submitting such repurchase request would have the right to refer the matter, at its discretion, to either mediation or third-party arbitration." Under the new Regulation AB II, underlying transaction agreements must also require a review, at a minimum, upon the occurrence of a two-pronged trigger: one being that a delinquency threshold has been exceeded, and the other that investors may direct a review by vote. Relating to the latter point, the SEC acknowledged the concern expressed by investors that they had encountered difficulties in "locating other investors in order to enforce rights collectively under the terms of the ABS transaction,

especially those related to repurchase demands due to breaches of the representations and warranties" and, in response, the SEC requires under Regulation AB II that transaction documents incorporate a mechanism for investors to communicate with each other. While the foregoing provisions of Regulation AB II apply only to public deals, the investors' concerns and issues with the lack of adequate contractual provisions naturally apply to private deals as well, and recent private-label RMBS deals – most of which have been private – have incorporated provisions similar to those required by the SEC for public deals. In fact, there is a general consensus that a number of the provisions embedded in post-crisis RMBS transactions are actually more detailed and protective of investors than certain measures required under Regulation AB II, particularly with respect to the delinquency trigger. (*See Objective Independent Review Triggers)*

SFIG recognizes the valid concerns and issues expressed by market participants relating to breaches of representations and warranties, and this Chapter seeks to provide some guidance and clarity regarding the breach discovery, determination and enforcement mechanisms that have been implemented in recent RMBS deals. We have also noted where there have been unique deviations from the more market-standard processes, and have identified some additional points for investors and other transaction participants to consider for implementing any new framework relating to breaches of loan-level representations and warranties. In the coming months, RMBS 3.0 participants will evaluate the Independent Review process, how breaches are determined and the overall repurchase enforcement framework to determine best practices and highlight differences – including relative strengths and weaknesses – among the various provisions in place and new ideas developed by participants.

In undertaking its review of current and proposed practices, SFIG will consider at the core what one participant has coined the "Breach Litany." In this context, any Independent Review, breach determination and repurchase enforcement framework must seek to avoid "misallocated losses" – i.e., losses that, under governing transaction documents, arise from or relate to a breach that should be borne by the party making the breached representation or warranty, but are instead passed through to the trust, and therefore investors, due to a weakness, deficiency or gap in the framework. Under the Breach Litany, in order to avoid inappropriate assignment of misallocated losses, the framework must provide for the following:

1. Discovery or detection of every potential breach using criteria that trigger an "independent review" of the loan for such breaches and a requirement to notify any and all affected parties upon the occurrence of such trigger event.
2. A requirement to notify a party who has the expertise and authority to undertake a comprehensive evaluation of whether a breach has indeed occurred. *(Such party must be afforded access to all information relating to the loan including credit, servicing and collateral files).*
3. The framework must include a defined mechanism that allows for, in the event a breach is found, the pursuit of the breach claim and, if such claim is disputed, for the timely, efficient and binding enforcement of the dispute *(SFIG is considering*

recommending arbitration as the preferred course, subject to Task Force evaluation in a separate workstream).

A gap or deficiency in any part of the Breach Litany that would allow a potential breach to go undetected, uncommunicated, unreviewed by a qualified party, unpursued or unenforced poses a risk to the transaction of misallocated losses, which many feel was one of the most damaging elements of pre-crisis transactions. The Task Force will consider different review and enforcement frameworks and how they comport with the Breach Litany, and whether they do, in fact, pose the risk of misallocated losses to investors and whether this risk may be mitigated or exacerbated under different circumstances.

A. "Material Breach"

The typical definition of a material breach remains consistent with the pre-crisis formulation. That is, a "Material Breach" is commonly defined as a breach of a representation or warranty that materially and adversely affects the value of the mortgage loan or mortgage loans or the interest of the Certificateholders (or issuing entity) in the related mortgage loan or mortgage loans.

Recent deals have implemented alternative categories of breaches that are subject to certain remedy obligations of sellers and originators. Some examples include the following:

- Breaches that consist solely of breaches with respect to (i) the representation made by the sponsor as to its ownership of the mortgage loans without any adverse liens immediately prior to the transfer to the depositor and (ii) violations of the REMIC-eligibility representation.

- Breaches that would constitute a "material test failure" that materially and adversely affects the value of the related mortgage loan. A material test failure is a test failure that is determined to meet one or more of the following: (i) materially increased the credit risk of the related mortgage loan (from the perspective of a loan underwriter applying the applicable origination underwriting guidelines), (ii) materially increased losses in connection with the liquidation of a mortgage loan, (iii) materially impaired the ability of the trust to enforce payment of any obligations under the related mortgage note or to realize the benefits of, or exercise the rights under, the related mortgage note or the mortgage or (iv) with respect to specific tests, materially increased the risk of the mortgage loan from a servicer's perspective.

- Breaches that have caused or are reasonably expected to cause a material increased loss in connection with the liquidation of a mortgage loan or will materially impair the ability of the trustee to enforce payment of any obligations under the related mortgage note or to realize the benefits of, or exercise the rights under, the related mortgage note or the mortgage.

- Breaches with respect to violations of the TRID rule (*i.e.*, the TILA-RESPA Integrated Disclosure rule promulgated by the CFPB, which became effective for mortgage loans whose applications were received on or after October 3, 2015).

In many programs, "deemed materiality" is associated with fatal, uncurable violations of certain laws. These have included the Patriot Act (OFAC), qualified mortgage (in the context of both the Qualified Mortgage definition under the Ability to Repay Rule and as it the term is defined under the REMIC rules) and high-cost representations and warranties. A number of purchasers have tried to argue that a breach of the fraud representation be deemed material, although such position has rarely been successful. The higher burden of proof (having to prove intent) is favorable to originators and loan sellers; the contrasting view from the investors' perspective is that trusts incur significant litigation costs given such higher burden of proof. Industry participants should consider whether investors would benefit from a uniform approach to select which, if any, of the representations and warranties should have a "deemed materiality" standard if there is a breach.

Furthermore, certain representation and warranty enforcement structures provide for repurchases and/or indemnification in the event of "alleged" breaches, as opposed to breach claims that are required to be determined valid. Sellers have often vehemently battled purchasers who seek this protection during whole loan purchase agreement negotiations. Sellers argue that the mere allegation of a breach does not make it so, and that allegations may be specious. Purchasers, however, often counter that the inclusion of a breach allegation as a basis for repurchase helps protect them against disingenuous delays in the repurchase process and the ability to put back a loan before it becomes a problem – i.e., a loss – with which the purchaser is inappropriately saddled rather than the breaching seller, who may have gone out of business by the time a material breach is confirmed. This speed and efficiency is also more important when repurchase disputes are subject to shared costs and where parties are solely responsible for their own legal fees (this is not the case in transactions that use a "loser pays" model, where parties have a disincentive to act disingenuously).

Structures that provide for repurchase in the event of an allegation are even more problematic in the context of "deemed material and adverse" breaches. Consider the following example. 8 years following origination of a loan where the borrower had a documented and reasonably determined Ability to Repay, a perfect-pay borrower suffers a true catastrophic life event and defaults on his loan. Wanting to stay in the home, he battles the foreclosure action and writes a letter to the servicer alleging that his consumer rights have been violated, including those under the Ability to Repay Rule. If the Ability to Repay representation and warranty is subject to a "deemed material and adverse" standard, and the seller is required to repurchase alleged breaches, then the seller must repurchase the loan in question even though no breach actually occurred. This is a misallocated loss – in this case, to the detriment of the seller rather than the purchaser. Additionally, some industry participants see this dynamic as effectively constituting a performance guarantee, which violates REMIC rules. Parties should take care to understand the potential impact of the inclusion of allegation as a basis for repurchase in their transactions, and consider stronger triggers and more effective enforcement mechanisms in the interest of substance and fairness.

In fact, a number of commentators have pointed out that a more timely, efficient and definitive breach review and repurchase enforcement framework would help allay the concerns that some purchasers have raised in support of a negotiated protection for alleged breaches.

B. Key Parties Involved in the Discovery of Breaches

(a) Servicer/Master Servicer

The servicer and/or master servicer is the most likely transaction participant to discover certain types of breaches of representations or warranties, typically in connection with a borrower complaint (e.g., alleging a pre-existing environmental hazard on the property), an inability to foreclose (e.g., title or lien issues) or a borrower's assertion of a defense (e.g., ATR or TILA violation). Transaction agreements do not typically provide that if the servicer discovers a breach of representation or warranty, it should notify the trustee (and/or master servicer and/or depositor). However, some deals require the servicer to provide notice to a controlling holder or asset manager, or other person responsible for the direction of the enforcement of breaches, with respect to specific events, such as, if the servicer receives any written complaint or counterclaim in a foreclosure proceeding related to a violation of (i) the ATR rules by a mortgagor or any agent (including attorney or credit counseling service) of a mortgagor or (ii) the TRID rules, or in the case of a mortgage loan becoming a certain number of days' delinquent. Servicing agreements and/or pooling and servicing agreements may have Rule 15Ga-1 compliance provisions regarding notifying the trustee when it receives a demand for repurchase based on a breach of a representation or warranty made by the seller or the originator of a mortgage loan, but absent specific violations as described above, the agreements usually do not expressly contain affirmative duties to notify the trustee in the event that a breach is discovered by the servicer or master servicer, as applicable. It may be useful to explore what types of provisions may be incorporated in underlying servicing agreements with respect to discovery of breaches, and how these provisions can be operationalized at the business line or policies and procedures levels within a servicer. Participants should also consider to what extent, if any, provisions should be added providing for an independent reviewer (or its equivalent) to have access to the servicer's records and for the servicer's cooperation. Presently, many custodial agreements contemplate the independent reviewer (or its equivalent) being able to request documents from the mortgage file (or credit file if in the possession of the custodian), but a corresponding "request for release" concept is not typically built into many servicing agreements. There are some post-crisis deals, however, that make clear the that the independent reviewer has a right to obtain origination, servicing and collateral files (as well as applicable underwriting guidelines) in connection with a breach review, and the RMBS 3.0 Task Force recognizes this as a best practice.

If the servicer of a mortgage loan was also the originator/seller of the applicable mortgage loan, the servicer may be reluctant to notify transaction parties of the existence of a breach. In addition, a controlling holder or directing holder that is the same as or an affiliate of the seller may also be reluctant to notify transaction parties of the existence of a breach, as

it would be exposing itself to repurchase and, in some cases indemnification, risk. Many participants – particularly investors – strongly oppose this practice as self-dealing. Such parties believe that if the originator/servicer knew of the information prior to closing, the loan would not have been included in the trust; therefore, why should the loan remain in the trust if such knowledge is obtained subsequent to closing? In this context, parties should be aware of the strength of what some commentators have called a "see something, say something" approach to breach disclosure.

Some RMBS transactions exclude the seller and its affiliates from the calculation of "majority holders" or "directing holders" to help to address this concern. An additional feature that has been incorporated in recent RMBS deals is for the credit/origination file (as well as applicable underwriting guidelines) to be delivered to the custodian at closing. If the credit file is not delivered upfront, at the time that an independent reviewer may need the credit files in order to review whether or not a breach occurred, the originator/seller has no incentive to hand over those files that may implicate itself.

(b) Trustee

The trustee may discover breaches in connection with litigation against the trust, or by way of notice from the servicer/master servicer or a Certificateholder. It is standard for trust agreements and pooling and servicing agreements to contain an affirmative duty for the trustee to notify the seller or originator, as applicable, if it discovers or becomes aware of a breach. However, what we have learned as a result of post-crisis litigation is that trustees were not actually enforcing against the seller or originator, as applicable, if such entity failed to cure or repurchase the related mortgage loan. Whether or not trustees were required to enforce such claims is a topic of ongoing litigation, and are dealt with elsewhere in the Green Papers. Beyond this, trustees also did not want to be in a position to determine whether or not a breach "materially and adversely affected" the trust or Certificateholders, on the basis that it was not appropriate for the trustees to make judgment calls such as this. The new framework requiring a third party review for breaches and, in the event of a dispute, direction or instruction from Certificateholders (or empowering a Deal Agent to act on their behalf) has been designed, in part, to deal with some of the trustees', as well as investors', issues and concerns.

C. Review Trigger Events; Determining Materiality

Recent RMBS deals have predominantly incorporated a delinquency review trigger, as well as a trigger based on a certain percentage of Certificateholders directing the trustee or other transaction party responsible for the enforcement of breaches, both of which are generally consistent with the Regulation AB II requirements. In addition, a few deals have incorporated review triggers specific for each representation and warranty in accordance with specified review procedures for each such representation and warranty.

The independent reviewer is responsible for discovering whether breaches of representations and warranties exist and in some deals, goes further to determine whether the related breaches are "material breaches." For purposes of this discussion, the term "independent reviewer" includes any equivalent third-party representation and warranty reviewer in the transaction documents. Transactions typically provide that the third-party independent reviewer may not be the same as one of the due diligence vendors that performed due diligence on the mortgage loans to be included in the related securitization transaction. This is intended to ensure that the third party reviewer is not reluctant to come to a conclusion of breach that was not discovered and/or disclosed in the original due diligence process and report.

In some RMBS programs, the independent reviewer is engaged at the closing of the deal and receives a fee from the deal cashflow like other deal service providers, but does not perform any review until a trigger event has occurred or it receives direction, as applicable. In others, the independent reviewer is engaged only at the time of the trigger event or allegation of breach as to which directing holders have instructed the trustee to cause a related mortgage loan to be reviewed. Finally, there are a number of recent deals that engage an independent reviewer at the time of closing, and such independent reviewer conducts tests automatically upon review triggers occurring in accordance with very specific testing procedures for each representation and warranty, as previously described. The review procedures are referred to as "tests" and if results are unsatisfactory, a "test failure" is declared. Examples relating to the same representations and warranties are provided below from two different deals (with different independent evaluators).

Reception as to which of these models is ideal has been mixed; each model has its share of strong proponents and opponents. We will present a thorough evaluation of the different models in a subsequent Green Paper.

Additional discussion of the independent reviewer and the various trigger events that have been used in RMBS or contemplated by market participants is included in the Chapter entitled "*Objective Independent Review Triggers*" in this RMBS 3.0 Green Paper.

Sample 1

Representation	**Sunset**	**Review trigger date and as-of date**	**Determination Procedure**

(i) Each Mortgage Loan complied in all material respects with all applicable federal, state and local laws including, without limitation, usury, truth-in-lending, real estate settlement procedures, consumer credit protection, equal credit opportunity, predatory and abusive lending laws and disclosure laws in effect at the time of closing or such noncompliance was cured subsequent to origination, as permitted by applicable law. The servicing of each Mortgage Loan prior to the securitization closing date complied in all material respects with all then-applicable federal, state and local laws.	No sunset	Severely Delinquent Mortgage Loan, Stop-Advance Mortgage Loan (if applicable) and Liquidated Mortgage Loan, as of origination date or, in the case of Test (j)2, as of the Closing Date	**Test (j) 1, Applicable Origination Law Test:** The Reviewer will utilize the services of [VENDOR] or a similar industry-accepted compliance testing vendor (determined in the Reviewer's sole discretion) and will rerun the Mortgage Loan for compliance with laws and regulations in effect at the time of origination. The Reviewer will not be required to test any laws which were not programmed into [VENDOR] as of the origination date and is not required to confirm or guarantee that [VENDOR] tests for every applicable state, local, and federal law. Any non-compliance that can be cured subsequent to origination shall not be a Test Failure if such non-compliance has been cured prior to a Final Determination. If non-compliance is identified, the Reviewer will inspect Appendix I to the Private Placement Memorandum, and if such compliance exception was noted in Appendix I to the Private Placement Memorandum, then such non-compliance shall not result in a Test Failure. **Test (j) 2, Applicable Servicing Law Test and Additional Compliance Testing:** The Reviewer will inspect the Servicing Notes and the Servicing Payment History, in each case, for the time period on or prior to the Closing Date, and identify if anything on the face of the Servicing Notes or the Servicing Payment History indicates a violation of commercially well-known laws. For the avoidance of doubt, if such a violation is not evident by inspecting such Servicing Notes and Servicing Payment History, a Test Failure shall not have occurred.

Sample 2

Representation and Warranty	Responsible Party and "As-of" Date for Testing Purposes	Review Trigger	Sunset	Breach Determination Procedure
Each Mortgage Loan complied in all material respects with all applicable federal, state and local laws including, without limitation, usury, truth-in-lending, real estate settlement procedures, consumer credit protection, equal credit opportunity, predatory and abusive lending laws and disclosure laws in effect at the time of closing of the related Mortgage Loan or, other than as disclosed on Appendix I to the PPM, such noncompliance was cured subsequent to origination, as permitted by applicable law.	Originator: As of Origination Date	Delinquency and Stop Advance (if applicable) and Liquidation with Realized Loss	No sunset	Test (j) 1, Origination Compliance Testing The File Reviewer will utilize industry-accepted compliance testing software (determined in the File Reviewer's sole discretion) and will rerun the Mortgage Loan for compliance with laws and regulations in effect at the time of origination of the Mortgage Loan. The File Reviewer will not be required to test any laws which were not programmed into the industry-accepted compliance testing software as of the Origination Date and will not confirm or guarantee that the industry-accepted compliance testing software tests for every applicable state, local, and federal law. To the extent that any non-compliance that can be cured as permitted by applicable law subsequent to origination shall not be deemed to fail this Test if such non-compliance has been cured as permitted by applicable law prior to a Final Determination. If such noncompliance has been identified and such non-compliance was disclosed in the Private Placement Memorandum, such non-compliance will not be deemed a Test Failure. Test (j) 1a, Rate Lock Test The File Reviewer will compare the rate on the rate lock agreement to the Note to ensure the correct rate was used and the rate lock was valid at the time of closing. The File Reviewer shall have no duty to acquire additional information or evidence not provided it in the related Review Materials and lack of any written information in the Review Materials will not be considered a Test Failure. If non-compliance is identified, the File Reviewer will review the Review Materials provided on the Securitization Closing Date, and if such compliance exception was noted on the Compliance Exception Table, then the File Reviewer shall not deem such non-compliance to fail this Test. Test (j) 1b, Good Faith Estimate ("GFE") Test The File Reviewer will confirm that any time a new GFE is issued, a Changed Circumstances form is completed documenting the reason why a new GFE was needed.

The servicing of each Mortgage Loan prior to the Securitization Closing Date complied in all material respects with all then-applicable federal, state and local laws.	Originator: As of Securitization Closing Date	Delinquency and Stop Advance (if applicable) and Liquidation with Realized Loss	No sunset	Test (j) 2, Servicing Testing With respect to servicing, the File Reviewer will confirm that, based on the face of the Servicing Notes and Payment History, nothing appears to violate commercially well-known servicing laws. For the avoidance of doubt, the File Reviewer will not conduct any review or investigation of the Servicer or the Servicer's practices and will only review the Servicing Notes and Payment History for the Mortgage Loan. Test (j) 2b, Servicing Compliance Test (2) If applicable, the File Reviewer will validate based on the face of the Servicing Notes that the Servicer has provided the borrower with a notice of interest rate or payment adjustment on ARM Loans between 210 and 240 days prior to the first payment due at the first rate adjustment. For the avoidance of doubt, the File Reviewer will not conduct any review or investigation of the Servicer or the Servicer's practices and will only review the Servicing Notes and the Payment History for the Mortgage Loan.

A study of the frameworks for two different deals highlighted some of the variations and discrepancies as to how different independent evaluators would determine whether or not breaches of representations and warranties were material. The examples provided above illustrate the variations in testing methods and review standards. Participants discussed whether or not there were enough vendors that are able to provide the review services and the effect that increased competition might have on influencing decisions as to materiality, particularly when the seller/sponsor is the entity making the representations and warranties and also the entity that engages the independent reviewer at the beginning of a deal – similar to the conflict that may be perceived to exist between a sponsor and rating agency engaged by the sponsor.

Participants also discussed the benefit to investors of having the transparency of a breach framework that explicitly laid out how each representation and warranty would be tested and under which circumstances. Some, however, suggested that the framework may be too complicated and that rating agencies did not seem to assign higher ratings or more preferable levels to RMBS deals that went with the detailed approach over other RMBS deals with comparable assets. Furthermore, as seen from the above examples, the review standards are different among different deals. Such variations could lead to different conclusions even if the independent reviewer were reviewing almost identical mortgage files, and therefore the enforcement of any related breach could differ from deal-to-deal for the same (or similar) breach. Industry participants should determine whether uniform review standards would be appropriate, and whether for all or just for some of the more critical representations and warranties. Alternatively, participants may consider whether the industry should adopt a baseline set of review or test standards with respect to all or some of the representations.

D. Enforcement; Sunset

Under certain current models, in lieu of the independent reviewer making a determination as to materiality of the breach, the independent reviewer will provide results of its review process to the trustee or controlling holder (or other specified transaction party) and such trustee or controlling holder – or in some cases, a specified percentage of Certificateholders – will instead make the conclusion as to whether the breach is material. Conflicts of interest may exist between Certificateholders if a certain class or a certain percentage of holders is able to make the decision whether or not to pursue enforcement of any breach. Many transaction agreements provide that any such holders directing a trustee (or other applicable party) to enforce breach remedies must pay the trustee (or such other applicable party) in advance for any fees, costs and expenses it incurs for pursuing remedy obligations. Some agreements further require those holders to provide indemnification requested by the trustee in connection with any instruction received by it from those holders. These payment and indemnification obligations may discourage directing holders from instructing the trustee to pursue enforcement of a seller's or originator's remedy obligations. Participants may consider whether or not the trustee should automatically pursue remedies for specific, more significant, breaches that are concluded to be "material breaches" or "essential breaches" by the independent reviewer, rather than have a directing holder make a decision. For example, a breach of the REMIC representation could possibly not require any additional Certificateholder consent or the directing holder could be required (rather than have the option) to provide direction to the trustee to pursue an action against the seller/originator, and the cost of such automatic or mandatory enforcement could be a trust expense.

In many recent RMBS deals, the trustee will post or otherwise make available to Certificateholders any report or findings from an independent reviewer, and a percentage of Certificateholders will be required to make certain decisions about whether to pursue enforcement or not, and in which manner. In order to facilitate investors being able to communicate to make up the required percentage to form a directing holder group, many deals have incorporated the concept of an "investor registry" that would contain a listing of investors who request to be included in the registry, and those investors that have elected to participate in the registry would have access to a special website established and maintained by the trustee with the names of each other. This feature fulfills the Regulation AB II requirement – applicable to public deals – that investors have a mechanism to communicate with each other. As there have been relatively few breach of representation and warranty claims on recent securitizations of new origination mortgage loans, it is yet to be seen how effective the investor registry feature is for achieving the desired impact of facilitating communication among investors.

Finally, as we emerged from the crisis, certain RMBS sponsors sought to limit their exposure to representation and warranty breaches by incorporating sunset provisions that limited a trust's ability to enforcement for those breaches of representations and warranties after a certain period of time. Following the practice of Fannie Mae and Freddie Mac, some

private-label RMBS provided a sunset on the fraud and underwriting representations if the related mortgage loans do not experience any delinquency for a certain number of years after the deal closes. Investors have generally not responded favorably to such sunset provisions and rating agencies expressed mixed feedback as to whether they would allow sunsets of any loan-level representations and warranties with respect to new origination RMBS. We should note, however, that recent case law provides that the statute of limitations for the enforcement of representations and warranties under New York law is generally six years after the closing date, where the remedy if for repurchase of the related mortgage loan. As such, the representations and warranties are effectively being sunset despite investors' preference for life of loan coverage.

E. Additional Elements for Review

To reiterate or add to many of the questions raised in this summary, other items the Task Force will consider in its evaluation of Independent Review and repurchase enforcement frameworks include the following:

1. Inclusion or exclusion of certain trigger events.
2. Role of controlling holder, Deal Agent, or other party who can select, under different models, whether to conduct a review and who conducts the review.
3. Different types of reporting to the trust/investors about potential breaches, breach reviews, breach claims and breach dispute resolution status.
4. Which party determines the existence of a material breach?
5. If a breach is disputed, who is empowered to pursue breach dispute resolution?
6. The impact of cost structure on Independent Review models, pricing and credit enhancement.
7. How the Independent Reviewer should be afforded access to credit, servicing and collateral files, and applicable underwriting guidelines.
8. Arbitration vs. Litigation with respect to breach disputes.
9. Identification of the Independent Review in the transaction documents vs. retention from time to time as needed pursuant to certain criteria.
10. Comparison and evaluation of breach review methodology and discussion of standardization.
11. Rating agency review of potential Independent Reviewers.

Due Diligence, Data, and Disclosure

Underwriting Guidelines Disclosure

Issue Overview

An effective method of disclosing underwriting guidelines used to originate mortgage loans can improve disclosure and aid investor understanding.

History

While narrative disclosure about underwriting guidelines was provided in pre-crisis transactions and continues to be provided in RMBS 2.0, many participants (including issuers and investors) support enhancing consistency in the depth, scope, presentation and format in these disclosures. In addition, some participants feel that the generally standard narrative format can make it difficult to convey certain granular information in a succinct manner.

Industry Positions

Investors suggested that a matrix based approach can provide supplemental disclosure in greater and more consistent detail about the underwriting guidelines. The matrix that is proposed by SFIG should be read in conjunction with the narrative disclosure about the underwriting guidelines. The matrix is not intended as a substitute for the narrative disclosure.

In conjunction with the following summary of some related disclosure requirements under Regulation AB, the matrix approach serves as an aid for investor review of transactions. The matrix may further serve some issuers as a more convenient and clear means of presenting information.

Debate & Discussion

Participants believe that providing greater transparency through the underwriting guideline disclosure would aid investor understanding of the guidelines and allow investors to compare guidelines more effectively, both within a transaction and across transactions. Additionally, it has been proposed that this approach would assist issuers (or originators) in preparing underwriting guideline disclosure according to a more standardized format that comports with guideline formats used by many originators.

Proposed Solutions and Recommendations

A summary of certain requirements to assist market participants in developing the requisite disclosures follows. As always, transaction parties should consult with counsel to assess if their disclosures have satisfied appropriate securities laws.

	Reg AB - Item 1110	Reg AB - Item 1111	Rule 193
Origination /Purchase Program Criteria	• To the extent material, description of origination program (only for originators of at least 20% of pool)	• Describe the solicitation, credit-granting or underwriting criteria used to originate or purchase the assets	
	• To the extent material, credit-granting or underwriting criteria for asset type (only for originators of at least 20% of pool)	• Describe the extent to which such criteria are or can be overridden, to the extent known	
		• Describe the method and criteria by which the assets were selected for the transaction	
Due Diligence Review Disclosures		• Describe nature of review of the assets performed, including whether the issuer or sponsor engaged a third party to perform the review	• Requirement for issuer to review assets, which review is designed and effected to provide reasonable assurance that the disclosure regarding the pool assets is accurate in all material respects (may be performed either by issuer or third party)
		• Findings and conclusions of the review • Describe benchmarks or criteria if different from those specified in prospectus, including findings and conclusions • Disclose size of sample and criteria used to select sample	
		• Disclose how any assets deviate from disclosed underwriting criteria or other criteria (including amount and characteristics of those assets)	
		• Disclose which entity determined that assets should be included in the pool, and what factors were used to make determination (along with data on amount of assets that do or do not meet such factors)	

	• If compensating or other factors were used to include assets that deviate from criteria, provide data on amount of assets that met and did not meet those factors	
Third Party Reviewer	• Name of Third-Party Reviewer (if findings and conclusions of the review are attributed to third party)	Name of Third-Party Reviewer (if findings and conclusions of the review are attributed to third party)
	• If findings and conclusions of the review are attributed to third party, the third party must consent to being named as an expert	If findings and conclusions of the review are attributed to third party, the third party must consent to being named as an expert

The RMBS 3.0 project also developed a Sample Underwriting Guidelines Matrix to provide a visual manual that will highlight objective underwriting criteria to aid in reading and reviewing the full underwriting disclosures. The matrix is not intended as a substitute for the narrative disclosure and the example provided is meant to convey a description of the type and range of information issuers (or originators) might consider including as part of this approach.

INTRODUCTION TO SAMPLE UNDERWRITING GUIDELINES MATRIX

Set forth below is a form of "Sample Underwriting Guidelines Matrix" ("Sample Matrix") produced by SFIG. The following is intended to aid the user in understanding the purpose of the Sample Matrix and is subject to change the following further review and development.

1. The Sample Matrix is intended to provide a high level overview of a given set of underwriting or purchase criteria, for residential mortgage loans. It is not intended to be a complete description of the underwriting or purchase approval process.
2. The Sample Matrix is designed to convey factual information about the underwriting or purchase criteria, in a clear and concise format, using a tabular and bullet point presentation. This format is intended to promote readability, and ready comparisons among different examples of the Sample Matrix using a similar format.
3. The Sample Matrix could be used to describe the underwriting criteria of a specific originator. Alternatively, the Sample Matrix could be used to describe the purchase criteria of an aggregator that purchases loans from a variety of originators.
4. If the Sample Matrix is used as part of an offering document, the offering document would typically include additional disclosures related to underwriting such as:
    - Narrative description of the originator's underwriting process and/or the aggregator's purchase approval process, including reference to exceptions allowed based on compensating factors
    - Loan-level disclosure describing exceptions to the underwriting or purchase criteria, and related compensating factors
    - Description of the pre-offering loan review procedures and results
5. The substantive content of the Sample Matrix is not intended to endorse, and SFIG is not endorsing, any specific underwriting or purchase criteria. The principal purpose of the Sample Matrix is to suggest a standardized format for describing such criteria and an example of the type and range of potential information issuers (or originators) might consider including under such an approach.
6. SFIG endorses the use of the Sample Matrix as an illustrative format, in circumstances where this format would be useful. Generally the format would be most useful a) when used to describe the underwriting criteria of one or a small number of originators, or b) when used to describe the purchase criteria of an aggregator, for example as an "overlay" that all loans are evaluated against even though originated by various originators with differing underwriting criteria.
7. SFIG acknowledges that the Sample Matrix will be less useful in some circumstances, for example where there are numerous originators with varying criteria such that a large number of different versions of the Sample Matrix would be provided., SFIG also acknowledges that not all originators employ underwriting procedures that would be amenable to being summarized in this format.

SAMPLE UNDERWRITING GUIDELINES MATRIX

Eligible Products

Product Description	
30yr Fixed Jumbo	5/1 ARM 30yr Jumbo
15yr Fixed Jumbo	7/1 ARM 30yr Jumbo
	10/1 ARM 30yr Jumbo

Minimum Loan Amounts

Number of Units	Contiguous States	Alaska and Hawaii
1 Units	$[-]	$[-]
2 Units	$[-]	$[-]

ARM Details

Product(s)(1)	Index Type	Margin(2)	Look Back Period	Conversion Feature
All	1 Year LIBOR	[-]	Index Established Date = [-] Days Prior to the Change Date	[YES][NO]

1) Unless other requirements are set forth by applicable law: 5/1 ARM must be qualified at the Note Rate + [-]% never less than the fully indexed rate based on a fully amortizing principal and interest payment; 7/1 and 10/1 ARM must be qualified at the Note Rate based on a fully amortizing principal and interest payment.

2) Margin is a component of pricing and may be subject to change.

Rate Cap Adjustments

Product(s)	Initial Adjustment		Potential Periodic Adjustments(1)		Lifetime Cap: % Over Initial Rate
	%	After	%	After Initial Adjustment	
5/1 Year	[-]	5 Years	[-]	Every Year Thereafter	[-]
7/1 Year	[-]	7 Years	[-]	Every Year Thereafter	[-]
10/1 Year	[-]	10 Years	[-]	Every Year Thereafter	[-]

1) The Loan is subject to the indicated Rate Cap Adjustment (up or down), but the Adjustment may never be greater than the Lifetime Adjustment over the Note Rate. The Loan Interest Rate can never adjust lower than the Margin.

Owner Occupied Properties - LTV, CLTV, and Loan Amount Chart

Loan Purpose	Property Type	Minimum Credit Score(1)	LTV/CLTV(2)(3)(8)	Maximum Loan Amount(7)
Purchase and Rate/Term Refinance(9)	1-Unit, PUD, Warrantable Condo, Co-op	[-]	--/--	$[-]
			--/--	$[-]
			--/--	$[-]
			--/--	$[-]
			--/--	$[-]
		[-]	--/--	$[-]
	2 Unit	[-]	--/--	$[-]
		[-]	--/--	$[-]
Cash Out Refinance(4)(5)(6)	1 Unit, PUD, Warrantable Condo	[-]	--/--(4)	$[-]
			--/--(5)	$[-]
			--/--	$[-]
		[-]	--/--	$[-]
			--/--	$[-]

1) Minimum Credit Score for wholesale and correspondent loans is [-].

2) LTV/CLTV is reduced by [-]% on properties in declining markets as indicated by appraiser.

3) [New subordinate financing not permitted.]

4) For Cash Out transactions, maximum cash out amount permitted is $[-] to [-]% LTV/CLTV.

5) For Cash Out transactions, maximum cash out amount permitted is $[-] to [-]% LTV/CLTV.

6) To be eligible for a Cash Out refinance transaction, the loan being paid off must be seasoned for at least [-] months.

7) First Time Home Buyer (FTHB) Maximum Loan Amount is $[-].

8) [-]% maximum LTV/CLTV for all ARM and 15yr amortized products.

9) The refinancing of non-purchase money closed end and HELOC 2nd liens will be considered a rate/term refinance if they are seasoned ≥ [-] months and there are no draws on the HELOC within the last [-] months.

Second Homes - LTV, CLTV, and Loan Amount Chart

Loan Purpose	Property Type	Minimum Credit Score	LTV/CLTV(1)(2)	Maximum Loan Amount
Purchase and Rate/Term Refinance	1 Unit, PUD, Warrantable Condo	[-]	--/--	$[-]
			--/--	$[-]
			--/--	$[-]
			--/--	$[-]
			--/--	$[-]

1) LTV/CLTV is reduced by [-]% on properties in declining markets as indicated by appraiser.
2) [New subordinate financing not permitted.]

Underwriting Requirements

Risk Assessment	Loans must be manually underwritten. Residential Mortgage Credit Report or tri-merged in file from all three repositories is required. Credit Report is good for [-] days, from application to closing. Mortgage or Rental history must be 0x30 over prior [-] months. Rental history evidenced by Institutional VOR or [-] months proof of payment ([-] months for FTHB). The representative credit score for each borrower is the median of the three scores (or lesser of two, if only two scores are returned); the representative score for the loan is that of the borrower with the lowest representative score. Each borrower's credit profile must include a minimum of [-] open trade lines that have a [-] month history, [-] of the trade lines must have had activity within the last [-] months. [If a borrower can't meet the minimum of [-] trade lines but has a minimum of [-] open trade line with [-] months or more reporting, it could be considered without exception if the borrower meets the following criteria: • [-] or more trade lines reported with at least one being a mortgage trade line and having a minimum of [-] yrs of established credit history. (A borrower not using income to qualify and showing $0 earned or is not employed; don't need to meet the minimum trade line requirements listed above.)] A written explanation for all inquiries within [-] days is required. Prior Bankruptcy not allowed (any type). [Prior Foreclosure, Short-Sale, Deed-in-Lieu or Modifications not allowed.] All Judgments or liens affecting title must be paid. Non-title charge-offs and collections exceeding $[-] (either individually or in aggregate) must be paid. All past due accounts must be brought current prior to closing. Borrowers with a history of collection accounts should be required to pay off derogatory accounts. [No Authorized User Accounts will be used to satisfy minimum trade line or FICO requirements.] Cash out may not be used to pay down debt to qualify for the loan. [Borrowers cannot pay down revolving debt within [-] days of the credit report in order to qualify for the loan nor pay down installment debt to [-] payments or less to exclude payment from DTI calculations. Revolving and installment debt can be excluded from calculations if the accounts are closed and proof is provided.] All deposits/ gifts must be verified with the borrower(s).

Risk Assessment cont'd	Payment shock not to exceed [-]% for FTHB & borrowers with less than [-] years job history and consistent earned income. Borrowers who sold their home within the last [-] days use the prior mortgage payment for purposes of payment shock calculation. If the home is owned free and clear, use the prior mortgage payment. A copy of the HUD1 for the sold home or proof of payoff is required. Refinance transactions are excluded. All deposits/ gifts must be verified with the borrower(s). [Departing residences, regardless if converted to investment, 2nd home or listed for sale requires a minimum of [-]% equity. (2055 Drive by Appraisal or higher is required).] Title may not be held in a business name.
Occupancy	**Eligible:** Primary Residence Second Homes **Ineligible:** Investor or Non Owner Occupied **Primary Residence:** A primary residence is a property that the borrower(s) intend to immediately occupy as his or her principal residence. Characteristics that may indicate that a property is used as a client's primary residence include: • It is occupied by the client for the major portion of the year. • It is in a location relatively convenient to the client's principal place of employment. • It is the address of record for such activities as federal income tax reporting, voter registration, occupational licensing, and similar functions. **Second Homes:** A property is considered a second home when it meets all of the following requirements: • Must be located a reasonable distance away from the borrower(s) principal residence. • Must be occupied by the borrower(s) for some portion of the year. • Is restricted to a one-unit dwelling. • Must be suitable for year-round occupancy. • The borrower(s) must have exclusive control over the property.
Borrower Eligibility	**Eligible:** U.S. Citizens First Time Home Buyer (FTHB) Permanent Resident Aliens Non-Permanent Resident Aliens (on a pre-approved basis) Inter-Vivos Revocable Trust First Time Home Buyers: • A First Time Home Buyer is an individual that has not had a mortgage in the past or owned a home in the past [-] years. A Permanent Resident Alien: • A Permanent Resident Alien is an individual who permanently resides in the United States. Lawful permanent resident aliens of the United States are eligible for financing under the same terms that are available to U.S. Citizens. Non-Permanent Resident Aliens must meet the following requirements: • Must have an unexpired passport from their country of citizenship containing INS form I-94 which must be stamped Employment Authorized. • An Employment Authorization Card along with a copy of the Petition for Non-Immigrant Worker (Form I-140) in file.

Borrower Eligibility cont'd	• The borrower(s) must have a minimum of [-] years residency, with the likelihood of employment continuance for at least [-] years. • Owner Occupied only, Single Family and Condo. • Only H1B and H2B Visas are accepted. • Visa must have a minimum remaining duration of [-] years. • Borrowers with diplomatic immunity or A1, A2, or A3 Visas are ineligible. • [-]% LTV/CLTV Maximum. **Ineligible Borrowers include, but are not limited to:** Foreign Nationals Irrevocable or Blind Trusts Limited partnerships, general partnerships, corporations Non-Occupant Co-Borrowers Number of properties owned: the maximum is [-] financed properties per borrower (note: additional LTV and reserve restrictions apply for > [-] financed properties). • LTV maximum for borrowers with > [-] financed properties is [-]% below the maximum that is otherwise applicable for the specific loan. • Lender will not finance more than [-] loans to one borrower. • If the borrowers can qualify with all financed properties PITI without rental income, the [-]% reduction in LTV is not applicable. Borrowers will be required to hold the greater of [-] months reserves or otherwise stated for the subject property and [-] months for each additional financed property in lieu of the [-]% reduction. See below for additional reserve requirements.
Documentation Type	Full income and asset verification
Property Eligibility	**Eligible Property Types:** One Unit Single Family Residences (Attached and Detached) and PUDs (Attached and Detached) Warrantable Condominiums 2-Unit Properties (within matrix parameters) Co-ops that met FNMA eligibility standards(limited basis) **Ineligible Property Types include, but are not limited to:** Manufactured homes Condotels Multi-unit (3-4 unit primary residences and 2-4 unit second homes) Mixed use properties [Log Homes] Unique properties Maximum 10 acres Hobby farms Lighthouses Agricultural zoned
Project Review	Condos must be warrantable. Condo projects with less than [-] units are not permitted.
Appraisal Analysis	Two Appraisals required for all loans > $[-]. Interior photos required. Appraisals good for [-] days. New appraisal required after [-] days. Properties owned < [-] months, use the lesser of the original purchase price or new appraised value . For refinance transactions, properties that had been offered for sale must be delisted [-]months prior to application date. Appraisals should be sent to Lender for review prior to close. A new appraisal is required for both purchase and refinance transactions (appraisal update / recertification of value not permitted).

Ratios	Total debt ratio maximum is [-]%
Income **Income cont'd**	Full Income Documentation is required. For most income types, this would include: Employed Borrowers: Most Recent Paystub including year-to-date earnings (covering minimum of [-] days) and [-] years W2's. All borrowers must be qualified using current verifiable income, not projected income. Self-Employed Borrowers: [-] years personal returns (along with all schedules) and business tax returns (for businesses where borrower has [-]% or more ownership interest and the income from the businesses are being used for qualification). In addition, Verbal Verification of Employment required for all borrowers and must be completed: • Within [-] calendar days prior to the closing date for employment income. • Within [-] calendar days prior to the closing date for self-employment income. (VVOE for Self Employed income should include verification of a phone listing and address for the borrower's business AND verification through a third party such as a CPA, regulatory agency or applicable licensing bureau. If contact is made verbally, the loan file must be documented to identify both the source of the information obtained and the name & title of the person who obtained the information. IRS Form 4506T is required to be signed and executed during the origination process, and transcript documentation for the most recent [-] years must be provided in the closed loan file. For self-employed borrowers, this applies to both personal returns and business returns (for businesses where borrower has [-]% or more ownership and the income from the businesses are being used for qualification). Form 4506T must also be signed at closing.
Assets and Reserves	Full Asset Documentation is required for both funds to close and reserves. For most asset types, this would include all pages of the most recent two months statements or the most recent quarterly statement. **Reserves – Primary Residence** Loan amounts up to $[-]: [-] months verified PITI **([-] months for First Time Home Buyers)** Loan amounts $[-] up to $[-]: [-] months verified PITI **([-] months for First Time Home Buyers)** Loan amounts $[-] up to $[-]: [-] months verified PITI Loan amounts $[-] up to $[-]: [-] months verified PITI Loan amounts $[-] up to $[-]: [-] months verified PITI **Reserves – Second Home** Loan amounts up to $[-]: [-] months verified PITI Loan amounts $[-] up to $[-]: [-] months verified PITI Loan amounts $[-] up to $[-]: [-] months verified PITI Loan amounts $[-] up to $[-]: [-] months verified PITI Loan amounts $[-] up to $[-]: [-] months verified PITI **Reserves – Borrower has > two financed properties** [-] months verified PITI, unless higher reserve level required per above. Borrower must disclose, and lender must verify, all assets. Business accounts are not eligible to help meet reserve requirements; the underwriter may consider business accounts for funds to close if the borrower is [-]% owner of the business, and a letter from the business accountant is obtained to confirm that the withdrawal will not negatively impact the business. Stocks/Bonds/Mutual Funds - [-]% may be used for reserves. Vested Retirement Account funds – [-]% may be considered for reserves. If needed to close, verification that funds have been liquidated (if applicable) is required. Gifts from relatives are allowed (min [-]% borrower contribution required). Grant Funds not allowed.

	Pooled funds not allowed. Builder Profits not allowed. No Employer Assistance Assets. Interested Party Contributions are allowable in accordance with FNMA standards. Amounts in excess of the limits set forth by FNMA or additional cash back to the borrower for any contributions that exceed the actual amount of closing costs are considered to be sales concessions and must be treated accordingly (deducted from sales price when calculating LTV).
Ineligible	Temporary buydowns Conversion loans Construction loans Non-Arms length transaction
Assumable	Fixed Rate products are not assumable. ARM products are assumable to a qualified borrower after the fixed term.
Limited Cash out	Limited cash out will be considered as the **lesser** of [-]% or $[-].
Pre-payment Penalty	[Not permitted.]

Due Diligence Extract to Investors

Update

SFIG is updating its Green Paper on providing a due diligence extract to investors. In this update, we have attempted to answer some of the key questions we raised in our first release, account for newly adopted Rule 15Ga-2, and develop best practices for a contemplated extract.

Issue Overview

Prior to the credit crisis, investors were reliant on data and disclosure from other parties to a transaction. Investors had limited access to "raw" data. As a potential solution to address this gap, certain participants proposed the delivery of an extract of the due diligence reports created in connection with or in respect of an RMBS transaction to investors and potential investors. In our first edition Green Paper, SFIG stated that key legal issues such as privacy and selective disclosure must be addressed prior to the creation of a workable due diligence extract.

Since the first edition Green Paper, the SEC has promulgated Rule 15Ga-2, effective in June 2015, requiring disclosure of the "findings and conclusions" of any third party due diligence report in both public and private RMBS transactions. SFIG recognizes that the rule may impact the analysis regarding the due diligence extract. Readers should also note that in addition to the impact of Rule 15Ga-2, we continue to assess the legal and operational issues relating to the delivery of a due diligence extract (as well as the proposed form of the draft extract) in order to assess whether participants intending to provide such an extract will be able to solve for these issues.

As the market digests Rule 15Ga-2, and task force members evaluate the applicable legal and operational issues, we will continue to update the module as necessary, including any initial conclusions contained in this release. The discussion contained herein should therefore be viewed as a current state of affairs with respect to the due diligence extract, and this due diligence extract module must be considered evolutionary and is not a final recommendation.

History

Prior to the credit crisis, it was common practice for securitization-related due diligence to be performed by or on behalf of underwriters, who engaged third party diligence vendors to perform a pre-issuance review on a sample of the securitized mortgage loans for credit, property valuation, compliance or other aspects. However, the diligence results were not generally shared with investors. In addition, results of any due diligence conducted by originators or aggregators on loans to be securitized were generally not shared in the manner that they are in offering documents for current transactions.

RMBS 2.0 Diligence

RMBS 2.0 pre-offering review disclosure generally includes, but is not limited to, a description of any third party diligence vendors' review of the mortgage loans, including the findings and conclusions of the review, in key areas such as: credit underwriting, legal and regulatory compliance, property valuation, data accuracy, and in some cases a servicing review.

Due diligence sample sizes in pre-crisis transactions were traditionally less than 100 percent, with aggregator sampling at the time of whole loan acquisition and underwriter sampling at the time of securitization subject to different industry standards.

By contrast, in post-crisis new issue RMBS deals, in many cases 100 percent of the loans included have gone through due diligence, although in some transactions and for some established originators, the sample size has been lower. The project will review the issue of due diligence sample sizes and scalability as a separate topic.

Rating agencies that rate RMBS have issued guidelines as to the scope of third party due diligence and the qualifications of its providers.

Pre-offering review disclosure in recent RMBS offerings has included a fulsome narrative description of the scope and findings of the third party diligence, as well as exhibits that provide loan specific information about exceptions. In Rule 144A offerings, the third party diligence provider may or may not be named but such party makes no representation as to the accuracy of the information.

Rule 193

Under RMBS 2.0, a best practice emerged in 2011 to include in the RMBS offering documentation a summary of the scope and findings of any third party diligence (often called the "pre-offering review"), in both public and Rule 144A offerings. This practice emerged around the time of the SEC's adoption of Rule 193 (effective March 28, 2011) as mandated under the Dodd-Frank Act, which requires that the issuer of an asset backed security perform a pre-offering review of the assets according to certain criteria. While the Rule 193 pre-offering review requirements currently apply only to public transactions, post-crisis issuers have made this a standard part of 144A transactions, as well. Generally, Rule 193 requires that the pre-offering review be designed to provide reasonable assurance that the disclosure about the pool assets is accurate in all material respects. Concurrently adopted Item 1111(a)(7) and (8) of Regulation AB require disclosure in public transactions of:

- A description of the nature of the review, including whether a third party was retained to undertake the review
- The findings and conclusions of the review
- Whether any assets in the pool deviate from the disclosed underwriting criteria, the nature of such variance, which entity determined that such assets should be included in the pool and the compensating factors on which the entity made its determination
- Any sampling methodology employed, if applicable

In public offerings, pursuant to Rule 193, the provider may be named if the provider is willing to be identified as an expert in the prospectus.

Current Due Diligence Report Process and Content

A specific party engages a third party diligence provider and executes an engagement letter. The scope of services is described in an attachment to the engagement letter. The client may be an originator, a whole loan purchaser, an aggregator buying with a view to possible securitization, or an RMBS issuer or underwriter. The diligence may be performed specifically for an upcoming securitization, or may have been performed in connection with a purchase of loans that at a later time are selected for inclusion in a securitization. In cases where an RMBS issuer or underwriter wants to rely on diligence that was performed for a different client, the third party diligence provider may provide a reliance letter to the RMBS issuer or underwriter for an additional fee.

Third party due diligence reports and supporting documentation are typically delivered by the due diligence provider directly to the RMBS issuer. The issuer then posts the reports and supporting documentation to the Rule 17g-5 password-protected internet website. Credit rating agencies, whether or not engaged, are able to access this website to evaluate the pool and, if engaged, to develop a credit rating of the security. Occasionally, a rating agency may request that certain information be provided to them by the due diligence firm directly, although such items would typically be subject to concurrent posting by the issuer to the Rule 17g-5 site. Importantly, in the current process the investor does not receive diligence information directly.

The following is an overview of the contents of the reports and supporting documentation that are typically provided by a third party diligence provider, highlighting areas where the reports and documents contain non-public personal information ("NPPI") that directly identifies the borrower such as name or street address. It is common for all of the reports and documents, other than the individual loan summaries, to be delivered by the third party diligence provider directly to the rating agencies in connection with a securitization. The overview also includes information related to which reports are posted by the issuer to the Rule 17g-5 website.

Attestation – posted to 17g-5 website	This document from the third party review firm outlines all material aspects of the review methodology and confirms that all required rating agency review standards were met by the third party review firm.
Executive Summary (Narrative) – posted to 17g-5 website	This report provides an overview of the diligence services performed, and contains all of the findings and conclusions of the services performed in an aggregated format. Typically, there is little loan specific information and no NPPI in this document.
Scope of Services – not posted to 17g-5 website but incorporated into the Executive Summary	The scope of review may vary from engagement to engagement depending on the specific needs of the client and the purpose of the review.
Rating Agency Grading Spreadsheet (Conditions Report) – posted to 17g-5 website	This is a spreadsheet with a separate line for each loan, showing data such as the initial and final grade, including the composite grade and the grade for each component of the review. Information about all exceptions are shown, including commentary about the exception and compensating factors. The commentary may reflect a back and forth discussion between the provider and the client that details the migration of initial grade to final grade with respect to a loan exception. This spreadsheet may include NPPI, such as borrower name or address, often inadvertently as individual loan underwriters prepare the spreadsheet's commentary. Importantly, the spreadsheet also may include information in the exception commentary that, while not NPPI per se, potentially could give clues as to the borrower's identity. Examples include: ▪ Clearing an exception for a missing document re account information at a named financial institution. ▪ Compensating factors that bear on employment history such as identifying the employer or the borrower's occupation and length of employment.
Exception Spreadsheet– may be posted to 17g-5 website	A separate spreadsheet showing all information about the exceptions and compensating factors, for each loan for which there was an exception. Typically, all information in this spreadsheet is also in the Rating Agency Grading Spreadsheet.

Valuation Spreadsheet– posted to 17g-5 website	A spreadsheet that gives an overview of the process by which the property valuation was reviewed for each loan in accordance with the specified procedures, typically starting with the appraised value at origination and comparing it to one or more additional valuation products that are used to verify the original appraised value. Generally this spreadsheet does not include NPPI or other information that could help identify the property.
Tape to File Spreadsheet– posted to 17g-5 website	A spreadsheet that on a loan-level basis indicates any discrepancies found in comparing the mortgage loan schedule data file to the documents contained in the loan file. Only certain specified data fields are compared to the loan file in accordance with the Scope of Work. This spreadsheet may include NPPI (particularly if it includes commentary and rebuttals between the issuer and the diligence provider), and may also include data fields that could give clues to the borrower's identity or the property location. However, the information in the spreadsheet is generally limited to data in the mortgage loan schedule data file or corrections to that data.
Qualified Mortgage Spreadsheet– posted to 17g-5 website	A spreadsheet that reviews the testing of each loan subject to the Ability-to-Repay rules against the various elements of the definition of "qualified mortgage" in order to confirm the loan's proper characterization under these rules. This spreadsheet may (but is not likely to) include NPPI, and may also include data fields that could give clues to the borrower's identity.
Individual Loan Summaries – not posted to 17g-5 website	This is an individual summary showing extensive specific data about the loan in a standardized format. This data includes NPPI. These summaries are not used and in many cases not requested by parties, nor is the information always dispositive or subject to reconciliation by the requesting party.
RMBS Disclosure Data Package	This file provides loan-level data information based on the current RMBS disclosure tape model adopted for RMBS 2.0 transactions. This file is furnished by the third party diligence provider to the issuer; however, the issuer may opt to post its own tape format or data

	to the 17g-5 site (depending on its whole loan/securitization protocol).

SEC Promulgates Rule 15Ga-2 (effective June 2015)

On August 27, 2014, the SEC issued Rule 15Ga-2, which requires the issuer or underwriter of an asset-backed security, as defined in Section 3(a)(79) of the Exchange Act ("Exchange Act ABS"), that is to be rated by an nationally recognized statistical rating organization ("NRSRO") to furnish Form ABS-15G (the "Form") to the SEC containing the findings and conclusions of any third-party due diligence report obtained by the issuer or underwriter. The Form must be provided regardless of which party pays for the rating, and regardless of whether the NRSRO receives or uses the third-party due diligence report in determining its credit rating. The Form should be filed on EDGAR at least five business days prior to the first sale in the offering. The rule applies to all offerings of rated Exchange Act ABS, whether they are publicly or privately offered. However, the rule does not apply to offshore offerings (i.e., issuance by a non-U.S. Person in a non-registered offering to investors outside of the U.S.). We will continue to analyze the interplay, if any, between Rule 15Ga-2 and the extract we are contemplating in this module.

Industry Positions

In the October 2013 RMBS 3.0 Roundtable, investor participants expressed a clear desire to have direct access to the third party diligence reports themselves, subject to appropriate redaction for privacy concerns (the reports as redacted are referred to as "extracts"). Many investors continue to express an interest in more granular disclosure about exceptions and more detail about instances where a characteristic is outside of an underwriting criteria range. A number of issuers and other transaction participants have raised a number of legal and practical issues with providing extracts. This module addresses the ability to potentially provide extracts, and related securities law and privacy law concerns. RMBS 3.0 intends to explore, subject to a number of potential operational and legal issues, provisions of a sample due diligence extract that issuers may be able to provide to investors, as well as a set of related procedures designed to solve for these operational and legal issues. RMBS 3.0 also intends to evaluate differences in disclosure relating to underwriting and due diligence exceptions among participants in the current market.

Debate & Discussion

SFIG discussions to date focused on the legal issues associated with potentially providing a due diligence extract to investors. It was initially discussed that participants would work to develop a template extract that, even when redacted, would provide helpful information to investors and not run afoul of legal issues.

Disclosure Medium and Securities Law Considerations

As a working hypothesis for our first Green Paper, we assumed that the vehicle for providing this disclosure would have the features delineated below as bullet points. Updates following member discussions that occurred between the first Green Paper and the current Green Paper (including initial analysis of how Rule 15Ga-2 might impact these discussions) are set forth below as sub-bullet points.

- The reports made available to investors would include the items generically described and listed in the preceding section, excluding individual loan reports.
    - Participants working on the form extract noted the copious amount of information contained in the third party diligence provider's reports. These reports are often difficult to follow and take a great deal of time to digest even for individuals who are very familiar with their form and content. Furthermore, much of the material is (1) meaningful primarily only in the context of detailed rating agency criteria or (2) interim in nature and just as likely to cause confusion without the ability reference actual underlying credit file documents.
        - Participants working on the form extract determined that a useful form extract would provide investors with more robust, meaningful due diligence information in a clear, user-friendly and consistent format.
        - The due diligence extract would supplement exception and valuation annexes currently in use in RMBS 2.0 transactions; together, the materials would provide robust due diligence information for investors.
    - Attached as an appendix is the form of extract that participants working on the form extract recommend as a starting point for evaluation. This form derives directly from the third party due diligence provider Exception Spreadsheet.
        - The form extract includes information on any loan that began or ended with a rating agency grade other than "A" or a diligence grade of "1", each of which indicates no noted defects. This populates directly from the diligence provider's system (the data can be mapped and incorporated systematically).
        - The form extract shows the migration of the initial to final diligence grade in the event an initial or final grade is other than an "A" or a "1". This data can also be mapped.
        - The form extract provides the same narrative showing the diligence provider's comments and any commentary from the lender or issuer, as the case may be, that is provided by the diligence provider to the rating agencies. This data is out of the sponsor's control (and therefore not subject to manipulation by the sponsor) and can also be mapped.
        - Market participants should note that the grade provided by the rating agencies could vary from the grade initially provided by due diligence contractors.
- The form extract would be redacted for NPPI, and would be further redacted for information that might help identify the borrower's identity or the property location as described in the following section. This redaction would be performed by the RMBS issuer.

- Participants working on the form extract suggest that the sponsor, rather than the diligence firm, should be responsible for redacting the narrative to delete any NPPI or other potentially identifying information. While this may create additional work for the sponsor, participants felt that this work is manageable and the extract is more appropriately a sponsor document since investors would rely on the information contained in the document in forming their investment decisions (much as the rating agencies rely on the full due diligence reports in arriving at their ratings decisions).
- Market participants should note that the extract will not be the same report that is provided by rating agencies under Rule 17g-5(a). As an example, issuers may have to remove privacy-related information.
- Participants also doubted that third party due diligence providers would be in a position or would agree to accept responsibility for redacting the extract. It is the issuer's responsibility to provide the due diligence disclosure required under Rule 193 and Rule 15g-2(a), and the due diligence extract is meant to be marketing material.

- The reports would be made available only via a secure, password restricted website. At this juncture, we believe the reports would not be available for download.
- The reports would be made available to all prospective investors in any given offering, and this availability would be noted in the offering documents.
  - Additional disclaimers should be considered to remind investors that the information only relates to the origination of the loan and that no representation is made as to the ongoing accuracy of "non-static" information or data points.
- During the offering period, access to the website would be controlled by a specified party (that is, a specified party would authorize providing passwords to prospective investors in the offering). Market participants should note that we continue to analyze the interplay between hosting the due diligence extract on a website versus potentially filing the diligence extract on EDGAR.
- A process should be established for the issuer to maintain a compliant record of sufficient permanence to comply with all applicable record retention requirements of the reports displayed on the website, even after they are no longer available on the website.
- In order to avoid the need to file the reports as "free writing prospectus" material, as well as to minimize the possibility that not all prospective investors would have access to the reports, these reports would only be provided in Rule 144A offerings.
  - RMBS 3.0 will consider and address the diligence extract in the context of Rule 15Ga-2. At this time, a consensus view has not yet emerged as to exactly what must be filed on Form ABS-15G in order for it to contain the "findings and conclusions" of the third party due diligence services. It is possible that a narrative description similar to that typically found in the offering document in RMBS 2.0 deals would be sufficient. Alternatively, it may be possible that an "Executive Summary" by itself would be sufficient to meet the requirements, because it contains the findings and conclusions of the due diligence services in an aggregated form. Consideration will also be given to whether the diligence

extract would be required to be included in the Form ABS-15G filing. SFIG intends to develop industry guidance as part of RMBS 3.0 as to what documents would be required to be filed on Form ABS-15G, prior to the effective date of those requirements.

In developing these standards and practices further, additional consideration was given to the questions and concerns below. We originally raised many of these questions in our initial release and now have attempted to answer them.

- How long should the reports be available on the website?
  - Subject to future analysis on 15Ga-2, members believed that the extract should be available for the length of a deal as that would facilitate secondary trading of securities.
- Should they be available for download?
  - Members believed that at this juncture the reports would not be available for download and should be maintained on a password protected website.
- Should the reports be available for an extended or indefinite period, to support secondary trading?
  - Members believed that the extract should be available for the length of a deal as that would facilitate secondary trading of securities.
- After the initial offering, what should be the mechanism for authorizing access to the website?
  - Subject to future analysis on 15Ga-2, we presently contemplate a process whereby an investor would request a password and, after verification, an investor would be provided with a password.
- What is the issuer's responsibility to investors for the information in the third party diligence reports?
  - Further evaluation of this question is expected in the near future from counsel and other participants.
- What is the issuer's responsibility for omissions resulting from its redaction of the reports for the investor website?
  - Further evaluation of this question is expected in the near future from counsel and other participants.
- What is the third party diligence provider's responsibility to investors for the content of the reports? (Note that revisions to the standard forms of engagement letter may be needed to allow for the provision of the reports to investors; however, provider liability is limited in RMBS 2.0 transactions and does not extend to investors, so it is not anticipated that this status will change in RMBS 3.0.)
  - Further evaluation of this question is expected in the near future from counsel and other participants.
- If the provisions of these reports in Rule 144A offerings becomes a standard practice, what are the implications on the adequacy of disclosure in public offerings if the reports are not provided in these offerings?
  - Further evaluation of this question is expected in the near future from counsel and other participants.

Redaction and Privacy Law Considerations

As a working hypothesis in the area of privacy, several additional factors related to privacy law also must be considered. We initially raised these in our initial Green Paper.

- The Due Diligence extracts and reports proposal increases the likelihood that, taken in conjunction with other publicly available data, some previously anonymized data may be re-identified or de-anonymized.
- Issuers, investors and other users of the data may be subject to privacy law considerations and Fair Credit Reporting Act regulations regarding both the use and disposal of information and will need to ensure that they are not inadvertently deemed a credit reporting agency.
- All participants within the data "chain", by their very association with the data may, in the case of hacking or inappropriate use of data, be subject to reputational risk – such risk being associated not just with the industry participant, but also with any easily associated corporate parent, subsidiary or affiliate.
- Borrowers may suffer harm if their data is re-identified and is used improperly.
- A significant Disclaimer as well as Legal Terms and Conditions must be crafted for the website, if a website is to be used, including a click through or other user acceptance mechanism for users to acknowledge compliance with applicable terms, conditions and regulatory requirements.

Proposed Solutions

Model Extract

The model extract recommended for evaluation by RMBS 3.0 participants working on the form should contain the following fields:

1. Loan Number
2. Initial diligence (rating agency or diligence provider – to be discussed) with a brief explanation of what each rating means.
3. Final grade.
4. For any loan other than a loan that begins at "A" or "1" and ends at "A" or "1", the commentary relating to the exception, any compensating factors and any grade migration.
5. Which entity decided to include the loan in the final pool (i.e., whether it was a known exception in the original underwriting of the loan or if it was an exception that was uncovered in due diligence that the sponsor decided to accept).

The Third Party Reviewer should state in the extract what criteria was used for the review.

A portion of a sample extract and example of one set of sample review criteria is provided below. The sample extract in its entirety is located in Appendix C. Readers should note that the sample provided below is based on historical criteria typically provided by rating agencies. Project RMBS 3.0 will continue to evaluate and review the criteria in subsequent modules. Accordingly, the sample review criteria may change and could vary from transaction to transaction.

Sample Review Criteria

Third Party Review ("TPR") firm examined the selected loan files with respect to the presence or absence of relevant documents, enforceability of mortgage loan documents, and accuracy and completeness of data fields. TPR firm relied on the accuracy of information contained in loan documentation provided to TPR firm.

The TPR will typically use the criteria to review against, in the case of an originator, origination guidelines, and in the case of an aggregator, purchase guidelines.

Credit Review

- The credit scope of review conducted on this transaction included the following elements:
- Assessed whether the characteristics of the mortgage loans and the borrowers conformed to the underwriting guidelines utilized;
- Re-calculated loan to value, combined loan to value ratios, income, liabilities, and debt-to-income ratios and compared these against the origination guidelines;
- Analyzed asset statements in order to determine whether funds to close and reserves were within origination guidelines;
- Confirmed that credit scores and credit histories were within origination guidelines;
- Evaluated evidence of borrower's willingness and ability to repay the obligation;
- Examined fraud risk evaluation report for income, employment, Nationwide Mortgage Licensing System and Registry ("NMLS") and occupancy status alerts. Researched alert information against loan documentation and assigned loan conditions accordingly.

Property Valuation Review

- The Property Valuation scope of review conducted on this transaction included the following elements:
- Original appraisal assessment
    - TPR firm reviewed the original appraisal provided to determine whether the original appraisal was complete, thorough and the original appraised value was reasonably supported.
- Value Supported Analysis
    - TPR firm applied a cascade methodology to determine if the original appraised value was reasonably supported when compared to an independent third party valuation product.
    - TPR firm independently ordered and received a desktop review.

- If the desktop review was within a +/-10% tolerance and the value was supported, no further diligence was completed.
- If a loan with a desktop review fell outside of a +/-10% tolerance, then a Field Review was recommended to support the final conclusion of value.

Regulatory Compliance Review

The Regulatory Compliance scope of review conducted on this transaction included the elements summarized below.

The scope of the compliance review performed is summarized below:

- Tested for certain applicable federal, state and local high cost and/or anti-predatory laws;
- Assessed compliance with state specific consumer protection laws by testing late charge and prepayment penalty provisions;
- Truth-in-lending/regulation Z testing included the following:
- Notice of Right to Cancel (Right of Rescission) adherence if applicable;
- Truth-in-lending Disclosure Timing (3/7/3) and disclosure content;
- Truth-in-lending Annual Percentage Rate and finance charge tolerances;
- Timeliness of adjustable rate mortgage disclosures (if applicable);
- Section 32 APR and points and fees thresholds and prohibited practices;
- Section 35 higher priced mortgage loan thresholds and applicable escrow and appraisal requirements;
- Prohibited acts or practices including loan originator compensation rules, NMLS identification on documents, financing credit insurance, mandatory arbitration clauses, and negative amortization counseling;
- Reviewed Ability to Repay ("ATR")/Qualified Mortgage ("QM") ATR minimum standards for transactions: for applications on or after January 10, 2014.
    - TPR firm confirmed the loan files contain documentation to evidence the lender considered and verified the borrower's ability to repay.
        - This included identifying whether QM loans met agency exemptions or were underwritten in accordance with Appendix Q.
        - Non-QM loans were reviewed to ensure the lender documented that they considered and verified the eight (8) underwriting factors required for ATR compliance in accordance with either their guidelines or the aggregator's guidelines;
    - The ATR/QM rules allow the lender to exclude up to two discount points from the 3% points and fees evaluation depending on the loan's undiscounted interest rate in relation to the APOR index rate.
    - The ATR/QM rule does not set the required rate reduction per discount point.
    - The TPR firm evaluated the lender's exclusion of discount points from the 3% points and fees calculation for all loans in this transaction using a [XXX%] rate reduction threshold per discount point.
    - Prepayment penalty restrictions.

Real Estate Settlement Procedures Act (RESPA) laws and regulations testing included:

- Good Faith Estimate ("GFE") initial disclosure timing and content;

- Confirmed the file contains the final HUD-1 Settlement Statement ("HUD-1");
- GFE to HUD-1 evaluation for 0% and 10% fee tolerances;
- Homeownership Counseling Notice;
  Affiliated Business Disclosure if applicable

Rating Agency Grading

	Credit			Property Valuations			Compliance		
Grade Description	Multiple*	S&P	Fitch	Multiple*	S&P	Fitch	Multiple*	S&P	Fitch
No exceptions noted	A	CA	A	A	VA	A	A	RA	A
Cured (previously material) exceptions	A	CA	A	A	VB	A	B	RB	B
Non-material exceptions noted	B	CB	B	B	VB	B	B	RB	C
Material, non-document-related exceptions noted	C	CC	C	C	VC	C	C	RC	D
Material documentation missing	D	CD	D	D	VD	D	D	RD	D

The grade definition is used by multiple rating agencies, including Moody's, Kroll, and DBRS

Loan Number	Exception Type	Exception Description	Initial Grade	Final Grade	Cleared vs. Exception	Lender (origination) or Sponsor (Due Diligence) Exception	Exception Commentary	Exception Notes, Compensating Factors
1001	Credit	Income/ Employment	B	A	Cleared	N/A	Income/Employment : Income docs do not meet guidelines - Initial [DD FIRM] Comments: 7/11/2013 1:38:04 PM - Missing the K1s for brokerage company for 2012 and 2011. Both years showing a loss, per guidelines K1s are required. - Client/Seller Response Comments: - 8/5/13 Lender provided K1's for [COMPANY] for 2011/2012 - [DD FIRM] Conclusion Comments: - 8/5/13 condition satisfied	Borrower time on job 6 years or more Borrower has been self-employed for 6 years. DTI is 5% or more below guideline requirement 14% DTI is below the 45% DTI. LTV 5% or more below guidelines 50% LTV is below the 80% guideline. Credit score exceeds guidelines by 20 points or more 760 Credit score exceeds the guideline of 720.

1001	Credit	Continuity of obligation	B	B	Exception	Lender	Terms/Guidelines: Ownership seasoning does not meet minimum per guidelines - Initial [DD FIRM] Comments: 7/11/2013 - Per Guidelines - properties that have been listed for sale within the past 6 months of loan application are not eligible for a rate/term refinance. Appraiser states property was listed 08/21/2012 and withdrawn on [DATE]. LOE from borrower in file. - Client/Seller Response Comments: - 7/18/13 Lender provided approved exception for property listed less than 6 months ago - [DD FIRM] Conclusion Comments: - 7/18/13 [DD FIRM] final grade B, due to low LTV and DTI and excellent reserves	Borrower time on job 6 years or more Borrower has been self-employed for 6 years. DTI is 5% or more below guideline requirement 14% DTI is below the 45% DTI. LTV 5% or more below guidelines 50% LTV is below the 80% guideline. Credit score exceeds guidelines by 20 points or more 760 Credit score exceeds the guideline of 720.
1002	Credit	Application	B	A	Cleared	N/A	Application: Application is incomplete - Initial [DD FIRM] Comments: 1/22/2014 2:35:56 PM - Missing 1008 - Client/Seller Response Comments: - 2/3 Client provided Lender approval 1008 form - [DD FIRM] Conclusion Comments: - 1/28 [DD FIRM] received 1008, does not match terms of loan. 2/3 [DD FIRM] received Lender 1008 approval with correct terms. Condition satisfied.	Borrower time on job 5 years or more Borrower is a doctor and has been employed for 19 years. Verified cash reserves exceed guidelines $500,000 verified cash reserves, 110 months PITI reserves, exceeds the guidelines 12 months subject $50,000 and 6 months additional property $25,000

1002	Credit	Credit history	B	B	Exception	Lender	Credit/Mtg History: Credit score below guidelines - Initial [DD FIRM] Comments: 1/22/2014 PM - 700 credit score is below the 720 credit score guidelines by 20 points. - Client/Seller Response Comments: - 2/3 Lender provided exception approval for credit score of 700 below guideline minimum - [DD FIRM] Conclusion Comments: - 2/3 [DD FIRM] initial and final grade B, Qualifying Fico credit score is 700 or 20 points below minimum for program on 2nd home, 8 year residence, 20 years employment, 60+ months satisfactory m mortgage history, total of 40 satisfactory trades, 35% DTI, $22,000 residual monthly income with $500,000 in post close reserves	Borrower time on job 5 years or more Borrower is a doctor and has been employed for 19 years. Verified cash reserves exceed guidelines $500,000 verified cash reserves, 110 months PITI reserves, exceeds the guidelines 12 months subject $50,000 and 6 months additional property $25,000
1003	Compliance	RESPA	3	**2**	Exception	Sponsor	RESPA: GFE 0% tolerance exceeded-Lender Cured with credit to borrower at funding in the amount of $20.00 and reflecting in final correct HUD-1 prior to closing	N/A
1004	Compliance	Missing Doc	3	1	Cleared	N/A	Missing final HUD-1; 09/10/2014: Received final HUD clearing issue	N/A
1005	Compliance	TILA	3	2	Exception	Sponsor	Finance charge not within tolerance-Under-disclosed $100. It appears the Lender did not included courier and wire fees in final TIL calculations	09/08/2014: Lender provided evidence of refund to borrower and re-disclosure of TIL along to evidence of delivery - Event changed to 2
1006	Compliance	Missing Doc	3	1	Cleared	N/A	Missing final HUD-1- 09/08/2014 -Final HUD-1 already located in file, clearing issue	N/A

1007	Credit	Ratio	3	1	Cleared	N/A	DTI is greater than maximum allowed by guidelines- 46% DTI > 43% max - missing lease agreement for departing residence. Lender used $2000 monthly rental income to offset payment - no lease provided to support	09/08/2014: Received lender income calculation and 2 year average income used - no lease required as borrower did not lease; full payment including taxes and insurance were used in debt calculations. Issue cleared and lender DTI confirmed
1008	Property	Value not supported	C	A	Cleared	N/A	Appraisal Desk Review was received with a value of $850,000 which is a -15% variance from the origination appraisal of $1,000,000. Field review is recommended.	Lender provided a field review supporting the origination appraisal of $1,000,000. Exception Satisfied.
1009	Property	Non-Warrantable Condominium	B	B	Exception	Lender	Guidelines do not permit non-warrantable condominiums (per Fannie Mae Guidelines). Condominium is non-warrantable due to incidental income that exceeds Fannie Mae Guidelines.	Lender approved this as an underwriting exception and exception approval form is in the file. Lender conducted a review of the condominium financials. The condominium project receives approximately 5% of its income from retail space and a studio. The project has a history of receiving this income since it was converted to condominiums over 7 years ago. Commercial space is <10% of the project. Without the additional income from all the commercial space, the homeowners association fees would only increase a de minimis amount per month for each unit to match the lost income.

Due Diligence Sampling

Issue Overview

While the number of RMBS transactions have diminished since the recent credit crisis (and volume is lower in 2014 than 2013), a potential issue exists as to how the private label RMBS market would react to additional supply.

If the government takes actions to stimulate private label RMBS supply by lowering the conforming loan limit for loans that the Government Sponsored Enterprises ("GSEs") may purchase or by increasing the guarantee fees that the GSEs charge, will sampling be necessary to deal with a potential volume increase?

Several questions arise with respect to sampling for due diligence purposes in transactions.

(1) If private label RMBS volume were to increase, could the market digest the increased supply given the current practice to due diligence 100 percent of the loans in a private label securitization?
(2) If the market adjusts to allow for sampling in lieu of 100 percent diligence in new transactions, what would the recommended solution/sampling framework look like?
(3) What factors are key to allow for a return to sampling less than 100 percent, and how would they impact the statistical analysis used to determine statistically valid sample, appropriate error rate, and general diligence percentage?

History

Due diligence sample sizes in pre-crisis transactions were typically less than 100 percent. Generally, due diligence providers reviewed up to 25 percent of the loans in a securitization. Issuers selected the sample size and due diligence providers did not participate in the selection of the sample pool or size.

While up to 25 percent was a general target, the number could vary depending on pool and loan type, familiarity of the buyer with the seller's product, seller's performance history, and seller/purchaser negotiations. Generally, a mix of random and adverse sampling techniques were used.

Some issuers tended to use 100 percent diligence even pre-credit crisis. For example, issuers who had less of an issuance history used larger sampling sizes than issuers that were more established. As these newer issuers issued additional deals, they were able to decrease the percentage of loans diligenced because investors became more comfortable with those issuers and loan performance over time.

Underwriting criteria and the characteristics of the mortgage loan were factors in the diligence process. Pre-crisis, subprime loans had more diligence associated with them than prime loans as market participants were more concerned about the credit characteristics of the subprime loans.

The situation changed due to the credit crisis. Post crisis, almost without exception, 100 percent of loans in pools included in new issue RMBS have gone through due diligence. Many market participants indicate that the related poor performance of mortgage collateral relative to other asset classes (e.g., credit cards, auto loans, and commercial mortgage-backed securities) and the decline in mortgage origination and issuance have been largely responsible for the trend toward 100% due diligence. While rating agencies issue sampling framework criteria (see below), the current market may not provide sufficient performance history or transaction framework to allow for comfort with sampling on many new transactions.

Industry Positions

In discussions with our membership, investor members held the view that other aspects of Project RMBS 3.0 need to be completed before best practice recommendations for sampling could be developed. A more appropriate approach, investors suggested, was to solve the other structural issues that Project RMBS 3.0 is addressing and then revisit sampling to determine whether an acceptable structural framework is in place that would allow investors to be comfortable with reduced diligence levels.

Some of our issuer members suggested that 100 percent due diligence is not sustainable over the long term, particularly if the US Government begins to withdraw from the mortgage market by taking actions such as reducing GSE loan limits and increasing guarantee fees charged by the GSEs. They raise the issue of scalability. Conversely, other issuer members believed that the private label RMBS market will return in increments and scalability is less of an issue. For example, if the market increases to twenty deals a year, additional resources could be provided for 100% diligence. To date there has not been an analysis to support the hypothesis that resource scarcity prevents scalability. This will be addressed as part of a future "sampling" agenda.

Issuers who are aggregators may have more of an issue with 100% diligence as they are purchasing from numerous counterparties, necessitating the need to provide substantial due diligence resources allocated to multiple sites.

Some issuers posed the question as to whether investors could become comfortable with allowing for some level of sampling when there is a demonstrated performance history coupled with strong representations and warranties and strong counterparty credit. These issuers suggested that these additional mitigating factors should be part of the equation that allows for a reduction in diligence.

Requirements	RA1*	RA2	RA3	RA4	RA5
Sample Size					
Target sample size (Recommended)	Based on: 95% confidence level; 2% precision level; actual error rate for pool is less than estimated sample error rate	Statistically valid sample as the number of loans based on a 5% one-tailed level of significance with a 2% level of precision. The number of loans in the sample may also be a function of an estimate of the error rate	Does not address	Generally, uses a 95% confidence level and a threshold error rate of 5%	See minimum acceptable sample size above
Sample size selected by	Due Diligence Firm	Due Diligence Firm	Due Diligence Firm	Due Diligence Firm	Third Party Review Firm
Minimum acceptable sample size	**Based on:** • 95% confidence level • 5% precision level • Assumed error rate equal to the higher of: – The historic error rate for originator, or: The minimum assumed error rate randomly selected.	**Based on:** • Greater of number of loans for a statistically valid sample, or a sample of 10% for subprime, 5% sample for prime loans • Minimum # of loans 200 for sub-prime, 100 for prime • Statistically valid sample based on 5% one-tailed level of significance w/2% level of precision, 4% error rate for 1st three reviews w/originator • Any adverse sample review that transaction underwriter, sponsor or manager chooses to perform should be in addition to this random sampling criteria A larger sample might be warranted on a case-by-case basis depending on facts & circumstances surrounding a transaction. If the due diligence firm is	**Based on:** • Random sample approach • Based on results from initial findings, sample size may be increased (RA would provide info on additional number/percentage of loans added; if additional loans are not added or if level of additional exceptions continue, RA will use exception ratio to determine pool risk or refuse to rate transaction) **Minimum sample sizes:** • Single originator – prime, newly originated: greater of 200 loans or 10% of pool; randomly selected • Multiple originators/Conduit – prime, newly originated: greater of 300 loans or 20% of entire pool with at least 20% from each originator represented; randomly selected. Any exceptions: An exception to loan count may occur if the originators	**Based on:** • Random sample to determine whether or not the error rate is less than a critical threshold value that RA designates (detailed explanation of statistical sampling methodology is provided)	**Based on:** • Sample size for a particular transaction will be primarily be a function of deal and loans specific factors and, in some cases, the entire pool may be reviewed *For pools from single originator*: • Expects that sample size selected and reviewed by diligence firm will at least equal the sample size that would be obtained if calculated using 95% confidence level • Generally expects to see minimum sample size of 150 to 200 loans, depending on specific transaction and relative overall pool size • For any originator that is either a new or infrequent originator, or an originator for which RA does not have adequate information

		asked to used a sampling methodology that produces a smaller sample than ratings criteria suggests, RA will make what they consider appropriate adjustments to credit enhancement levels based on their view of the robustness of the due diligence, when viewed as a whole	contributing more than 15% of the subject pool have received an originator review by RA & are assessed at average or above average. In this case, the minimum sample size may be reduced to the greater of 200 loans or 20% of entire pool with at least 20% from each originator represented • Single/Multiple Originator(s) - all other product types newly originated: greater of 400 loans or 20% of the pool; randomly selected • If originator or its loan programs are unable to provide two years of performance history, sample sizes above should be doubled up to 100% maximum of what the normal sample size currently is. This increase will provide greater clarity as to the quality of the entire pool. • If originator or its loan programs are unable to provide two years of performance history, sample sizes above should be doubled up to 100% maximum of what the normal sample size currently is. This increase will provide greater clarity as to the quality of the entire pool		regarding the results of the loan file reviews of such originator's loans from recent transactions, they will generally expect a minimum sample size equal to the size obtained if calculated using a 5% error rate and a 2% level of precision • If RA has sufficient information regarding the results of loan file review of an originator's loans from recent transactions, they generally expect the minimum sample size to at least equal the size obtained if calculated using an error rate within the range of recent results *For transactions backed by a pool of loans aggregated from multiple originators:* Expects the minimum sample size to include a representative sample of loans from each originator that contributed a material portion of loans to the pool. Other factors that may also impact sample size on aggregated transactions include: • Composition of the pool based on loan and underwriting characteristics • Portion of the total pool contributed by each originator • Aggregator's due diligence and re-underwriting processes • Loan level representations

					and warranties, the enforcement mechanisms available in the event of a material breach of a representation or warranty • Entity responsible for fulfilling any repurchase obligations in the event of a material breach and its financial strength

RA (Rating Agency)

As mentioned above, the current RMBS environment does provide some framework for a sampling analysis. Rating agencies provide parameters for analyzing pools of loans to determine whether or not sampling may be appropriate and further determine the necessary level of diligence and acceptable criteria for the sampling analysis. While this framework exists, issuers and investors have not yet indicated the intent to employ sampling on a widespread basis.

Debate & Discussion

It is the members' collective view that while sampling is an important aspect of Project RMBS 3.0, the topic is more properly contextualized subsequent to resolving other key issues in Project RMBS 3.0. As an example, it may be appropriate to establish the framework for representations and warranties prior to determining appropriate level of due diligence. Furthermore, the provision of a due diligence extract to investors could also be an important consideration that may influence whether some form of sampling, rather than 100 percent due diligence, is appropriate.

Proposed Solutions

See future Green Papers.

Recommendations

See future Green Papers.

MISMO/SFIG Data Standardization

Background

As the mortgage market has migrated to a largely electronic format over time, private label secondary market participants developed idiosyncratic data definitions and data standards, sometimes on an ad hoc basis, to meet their needs. This idiosyncratic development has been due to many factors, including: adapting legacy systems, meeting differing reporting needs of various business groups within a given organization, and, occasionally, lack of experience. The lack of accepted standards can lead to confusion and disagreement between counterparties and service providers, particularly when data is calculated or dependent on day count. Data fields like "Loan to Value" and "Number of Days Delinquent" are examples of fields subject to some degree of interpretation. This subjectivity in turn has led to man hours spent reinventing the wheel as loan buyers, servicers, and others have to reconcile data formats and definitions each time new parties enter into an agreement. Adopting universal standards for data definitions could reduce errors and cost.

Overview

The Mortgage Bankers Association ("MBA") created the Mortgage Industry Standard Maintenance Organization, commonly known as MISMO, in October, 1999. MISMO is a standards development body for the mortgage industry which developed a common language for exchanging information for the mortgage finance industry. MISMO standards are deployed by every type of entity involved in creating mortgages, including regulators, housing agencies and the GSEs. MISMO is a wholly owned subsidiary of the Mortgage Bankers Association.

MISMO standards, are grounded in an open process to develop, promote and maintain voluntary consensus-based standards that allow participants in the mortgage industry such as mortgage lenders, investors, servicers, industry vendors, borrowers and other parties to exchange information more efficiently and economically. Anyone working in the mortgage industry can participate in MISMO.

Over the last few years, MISMO has been working on creating a set of residential mortgage data specifications (referred to collectively as "the MISMO Reference Model"[i]), a standardized set of data element definitions. That work is nearly complete and will soon be made available to mortgage industry stakeholders. The MISMO Reference Model defines data elements and attributes and establishes a structure for the organization of the data elements. Established companies may already have data dictionaries and data architecture policies that are much more comprehensive or extensive than those defined within this model. Others may find them useful for building or augmenting their own data architecture policies. One of the big challenges for data quality and data stewardship teams is making

sure that the meaning and validation parameters of each data point under their supervision are clearly documented and understood. This becomes especially critical when mapping data to and from external sources where the data may not always have good accompanying data dictionaries.

The MISMO Reference Model

The MISMO Reference Model is a set of XML data formats businesses can use to exchange data electronically in mortgage transactions. The MISMO Reference Model consists of:

- *Logical Data Dictionary (LDD): To document the Reference Model, MISMO creates a Logical Data Dictionary (LDD) that defines each mortgage data element. The result is a single, central data set for the mortgage industry. The borrower, employment, property and other commonly used information have a common data definition, no matter which mortgage industry sector or process is using the data.*
- *XML Schema: The MISMO V3 XML Schema specifies how the data elements are organized into a logical, well-defined structure that allows for both the exchange of data and documents as well as its use within a system or enterprise.*

The MISMO LDD can be a valuable resource for business systems analysts tasked with identifying data points to be included in the business requirements and assigning them a standard industry name and definition. For data points that have a limited set of possible values, the LDD documents the enumerated attribute values that the MISMO industry work groups have compiled. From the MISMO list of valid data points the analyst can either restrict the list of values or extend it depending on their business use of each data point. SFIG and MISMO have worked together to map the data elements required to be reported on Schedule AL, pursuant to Reg AB II, to the LDD - *See Fig I below*. Adopting the MISMO Reference Model could allow business groups to shift the responsibility of updating mapping and definitions to a recognized industry group, potentially reducing overhead and increasing efficiency.

Alternative View

The use of a single, clearly defined data standard for all data exchanges reduces the cost of implementing connections between users and validating the quality of the data. Furthermore, common standards would promote clarity, transparency, and minimize confusion. However, SFIG recognizes that some market participants have significant resources committed to maintaining existing systems and may choose to not adapt to the MISMO standard. Nonetheless, consistent with its goals of promoting clear and transparent standards for the mortgage market, SFIG endorses the adoption of the MISMO Reference Model.

http://www.mismo.org/standards-and-resources/residential-specifications

Fig. I – MISMO mapping to Schedule AL

Regulation AB Schedule AL	Schedule AL - Attribute Name	Schedule AL Definition - Taken from Reg AB II Final Rule	Mapping to MISMO v3.3	MISMO v3.3 Definition	MISMO v3.3 XPath	LoanRoleType	LoanStateType	PartyRoleType / BorrowerClassificationType	Notes
Item 1(a)(1) (Required)	Asset Type Number	Identify the source of the asset number used to specifically identify each asset in the pool.	LoanIdentifierType	Identifies the secondary mortgage market institution (investor) associated with the lender or trading partner.	MESSAGE/DEAL_SETS/DEAL_SET/DEALS/DEAL/LOANS/LOAN/LOAN_IDENTIFIERS/LOAN_IDENTIFIER	SubjectLoan	Atissuance	N/A	New Enumeration (UniversalLoan) addedin v. 3.4 (discuss in I-Guide) **I-Guide Note: This field is required for file acceptance by the SEC. The intent is for this ID numberto be associated with the loan throughout the life of the security**
Item 1(a)(2) (Required)	Asset Number	Provide the unique ID number of the asset. *Instruction to paragraph (a)(2): The asset number must reference a single asset within the pool and should be the same number that will be used to identify the asset for all reports that would be required of an issuer under Sections 13 or 15(d) of the Exchange Act (15 U.S.C. 78m or 78o(d)). If an asset is removed and replaced with another asset, the asset added to the pool should be assigned a unique asset number applicable to only that asset.*	Loan Identifier	Provide the unique ID number of the asset.	MESSAGE/DEAL_SETS/DEAL_SET/DEALS/DEAL/LOANS/LOAN/LOAN_IDENTIFIERS/LOAN_IDENTIFIER	SubjectLoan	Atissuance	N/A	New Enumeration (UniversalLoan) addedin v. 3.4 (discuss in I-Guide) I-Guide Note: This field is required for file acceptance by the SEC. The intent is for this ID numberto be associated with the loan throughout the life of the security SFIG to determine mechanism for assigning the Universal Loan ID. See MISMO white paper by Unique Loan Identifier SWG at MISMO summit?
Item 1(a)(3)	Asset Group Number	Asset group number. For structures with multiple collateral groups, indicate the collateral group number in which the asset falls.	Investor Grouping Identifier	A unique identifier that segregates loans for a specific investor according to defined characteristics, such as interest rate, service fee, pool, asset group, etc.	MESSAGE/DEAL_SETS/DEAL_SET/DEALS/DEAL/LOANS/LOAN/INVESTOR_LOAN_INFORMATION/	SubjectLoan	Atissuance	N/A	Further discussion required around loan grouping hierarchy. Just a label or tag to group loans together as identified in the offering document for the security.
Item 1(b)(1)	Report Period Begin Date	Specify the beginning date of the reporting period.	Investor Reporting Cycle Begin Date	The date associated with the beginning of the investor reporting cycle that the servicer is reporting to the investor.	MESSAGE/DEAL_SETS/DEAL_SET/SERVICER_REPORTING/SERVICER_REPORTING_DETAIL/	N/A	N/A	N/A	10/6 - Need to add this as a new field to MISMO
Item 1(b)(2)	Report Period End Date	Reporting period end date. Specify the ending date of the reporting period. General information about the residential mortgage.	Investor Reporting Cycle Date	The date associated with the investor reporting cycle that the servicer is reporting to the investor.	MESSAGE/DEAL_SETS/DEAL_SET/SERVICER_REPORTING/SERVICER_REPORTING_DETAIL/	N/A	N/A	N/A	
Item1(c)(1)	Original Loan Purpose Code	Original loan purpose. Specify the code which describes the purpose of the loan at the time the loan was originated.	1) LoanPurposeType 2) Refinance Cash Out Determination Type 3) Mortgage Originator First Time Home Buyer Eligibility Indicator 4) Refinance Primary Purpose Type 5) Construction Loan Type 6) Assumed Indicator 7) Construction Method Type 8) Sale Type 9) Refinance Initiator Type LenderInitiated - Lender initiated refinance BorrowerInitiated - Borrower initiated refinance. 10) Facilitate REO Purchase Indicator	1) Specifies the purpose for which the loan proceeds will be used. 2) Specifies how the lender has classified a refinanced loan. 3) When true, indicates that the mortgage originator has determined that this deal is eligible to be considered a "First Time Home Buyer." 4) Specifies the primary purpose of the refinance. 5) Specifies the specific type of construction loan. 6) Indicates if the loan has been assumed 7) Describes the construction process for the main dwelling unit of the subject property. 8) Quantifies the type of sales transaction for the property as indicated from the analysis of the sales contract. 9) A value from a MISMO prescribed list that specifies who initiated the refinance. 10) When true, indicates that this loan or mortgage was made to facilitate the sale of an REO property.	1) MESSAGE/DEAL_SETS/DEAL_SET/DEALS/DEAL/LOANS/LOAN/TERMS_OF_LOAN/ 2) MESSAGE/DEAL_SETS/DEAL_SET/DEALS/DEAL/LOANS/LOAN/REFINANCE/ 3) MESSAGE/DEAL_SETS/DEAL_SET/DEALS/DEAL/LOANS/LOAN_DETAIL/ 4) MESSAGE/DEAL_SETS/DEAL_SET/DEALS/DEAL/LOANS/LOAN/REFINANCE/ 5) MESSAGE/DEAL_SETS/DEAL_SET/DEALS/DEAL/LOANS/LOAN/CONSTRUCTION/ 6) MESSAGE/DEAL_SETS/DEAL_SET/DEALS/DEAL/LOANS/LOAN_DETAIL/ 7) MESSAGE/DEAL_SETS/DEAL_SET/DEALS/DEAL/COLLATERALS/COLLATERAL/SUBJECT_PROPERTY/PROPERTY_DETAIL/ 8) MESSAGE/DEAL_SETS/DEAL_SET/DEALS/DEAL/COLLATERALS/COLLATERAL/SUBJECT_PROPERTY/SALES_CONTRACTS/SALES_CONTRACT/SALIS_CONTRAC	SubjectLoan	AtClosing	N/A	**See ENUM Tab and 'OriginalLoanPurposeCode' tab for MISMO mapping (multiple MISMO data fields)** **for SEC purpose, it allows for reporting of multiple values as applicable.** **The LoanState not applicable for all datapoints.** **10/4/2016: Need to address additional field for loan level First Time Home Buyer (MISMO currently has this field as a borrower level)** 10/21/16: MISMO to add refi initiator type – options: 1) obligor – 2) lender 3) other also add Refinance Initiator Type Other Description
Item1(c)(2)	Originator Name	Originator. Identify the name of the entity that originated the loan.	1) Full Name 2) Party Role Type = LoanOriginationCompany	1) The unparsed name of either an individual or a legal entity. 2) A value from a MISMO defined list that identifies the role that the party plays in the transaction. Parties may be either a person or legal entity. A party may play multiple roles in a transaction.	1) MESSAGE/DEAL_SETS/DEAL_SET/DEALS/DEAL/PARTIES/PARTY/LEGAL_ENTITY/LEGAL_ENTITY_DETAIL/ 2)MESSAGE/DEAL_SETS/DEAL_SET/DEALS/DEAL/PARTIES/PARTY/ROLES/ROLE/ROLE_DETAIL	N/A	N/A	LoanOriginationCompany	**10/21/2016: Need clarification from SEC on what is meant by 'Originator."** **SEC Response (9/2015): "The lender who is extending credit to the obligor" The SEC already considered this defined by original Reg AB. Industry practice has been to define the originator as being the party whose underwriting guidelines are used to approve the loan application. Name of the new MISMO data point should reflect this. "Underwriting Guidelines Provider Name" (or something)** **Underwriting Details container**
Item1(d) (i)	Original Loan Amount	Original loan amount. Indicate the amount of the loan at the time the loan was originated.	1- NoteAmount 2 - HELOCMaximumBalanceAmount	1- The amount to be repaid as disclosed on the Note. 2- The maximum dollar amount of credit available to the borrower on a home equity line of credit (HELOC).	1- MESSAGE/DEAL_SETS/DEAL_SET/DEALS/DEAL/LOANS/LOAN/TERMS_OF_MORTGAGE/NoteAmount	SubjectLoan	AtClosing	N/A	grab definitions from model. Recommend two data points for this.
Item1(d) (ii)	Original Loan Maturity Date	Original loan maturity date. Indicate the month and year in which the final payment on the loan is scheduled to be made at the time the loan was originated	LoanMaturityDate	The date when the loan is scheduled to be paid in full as reflected on the Note.	MESSAGE/DEAL_SETS/DEAL_SET/DEALS/DEAL/LOANS/LOAN/MATURITY/MATURITY_RULE/	SubjectLoan	AtClosing	N/A	9/22/2015 - data should only include Month and Year Why does the Sched AL definition ask for the month and year, rather than the date? Yes, servicer can provide the day if it does not impact
Item1(e) (i)	Original Amortization Term Number	Original amortization term. Indicate the number of months that would have been required to retire the mortgage loan through regular payments, as determined at the origination date of the loan. In the case of an interest-only loan, the original amortization term is the original term to maturity (other than in the case of a balloon loan). In the case of a balloon loan, the original amortization term is the number of months used to calculate the principal and interest payment due each month (other than the balloon payment).	1- LoanAmortizationPeriodCount 2- LoanAmortizationPeriodType = "Month"	1- The number periods (as defined by the Loan Amortization Period Type) over which the scheduled loan payments of principal and/or interest are calculated to retire the obligation. 2- The duration of time used to define the period over which the loan is amortized.	1- MESSAGE/DEAL_SETS/DEAL_SET/DEALS/DEAL/LOANS/LOAN/AMORTIZATION/AMORTIZATION_RULE/ 2- MESSAGE/DEAL_SETS/DEAL_SET/DEALS/DEAL/LOANS/LOAN/AMORTIZATION/AMORTIZATION_RULE/	SubjectLoan	AtClosing	N/A	

[1] http://www.mismo.org/standards-and-resources/additional-tools-and-resources/document-mappings/schedule-al-reg-ab-ii-mapping

Role of Transaction Parties

Role of Transaction Parties

Issue Overview

In response to the investor desire and identified need for clarity and understanding of the responsibilities of transaction parties, SFIG developed a detailed and comprehensive list of all roles and functions within an RMBS 3.0 transaction. Separately, investors have an ongoing concern that most past and current PLS transactions do not have an independent party charged with the specific responsibility to, and empowered with the authority to, effectively protect the interests of the trust and investors. Investor concern in this regard arose as a result of legacy RMBS pooling and servicing agreements and other governing trust documents that were sometimes ambiguous or lacked effective oversight and enforcement mechanisms designed to ensure adherence to and identify and remedy violations of contractual terms.

To provide clarity and address investor concerns, RMBS 3.0 participants developed the Transaction Parties Matrix found below. The version of the Transaction Parties Matrix included here contemplates the inclusion of a Deal Agent to act as an independent investor and trust representative in providing a range of monitoring, remedial and other functions, including oversight of functions performed by other parties to the transaction.

By analyzing the responsibilities and functions requisite for a robust RMBS 3.0 environment, the working group participants have included many activities that may have been present in RMBS 1.0 and RMBS 2.0 transactions. However, SFIG reiterates that the focus of RMBS 3.0 is to create an appropriate and sustainable set of recommendations and guidelines for the future, and the Transaction Parties Matrix found here reflects that objective and should be viewed as forward-looking. We therefore included notes and comments to provide additional clarity with respect to certain functions or included entries that have yet to be implemented but are integral to the construction of a properly functioning RMBS trust that achieves these objectives.

As the working group furthers its discussion on the Role of Transaction Parties, RMBS 3.0 intends to expand upon the framework presented here to add further clarity. RMBS 3.0 will clarify certain language and concepts through a comprehensive glossary of terms that are included in the current version of the matrix. Furthermore, participants will seek to address outstanding questions that industry members believe are critical to ensuring effective implementation of a structure contemplating the assignment of roles and responsibilities as presented in the Transaction Parties Matrix. Questions such as those below will be addressed in future efforts to ensure that the Transaction Parties framework developed through RMBS 3.0 is enforceable and operational.

- What "standard of care" should attach to certain parties, and their specific roles and responsibilities. To what extent should this standard apply?
- How are parties operating under a specific "standard of care" protected in the event of unforeseen events?

- How will transaction parties be paid and by whom? With particular respect to the Deal Agent, how will compensation be determined and who will cover those costs? Will compensation be on a variable fee for service basis or through some other scheme?
- How will protection of trust interests be ensured in a transaction structure that does not employ an independent Deal Agent?
- How might Regulation AB II affect or limit the assignation of roles and responsibilities to various parties?

Future Green Papers will address these questions, and seek to provide further clarification on the roles and responsibilities involved in an RMBS 3.0 transaction.

History

In the post-crisis RMBS marketplace, certain bondholders have raised questions about what the relationship and roles of the parties were, are, and should be. Historically, pooling and servicing agreements have been silent on certain issues relating to transaction party roles, which investors and other industry members believe created questions and contributed to the lack of clarity on parties' respective responsibilities during the credit crisis. Relevant investor and other criticisms have included the following points:

1. Even in the presence of a pre-crisis "credit risk manager," there was no party or mechanism that effectively monitored the trust to ensure that breaches or violations of reps and warranties or covenants were systematically identified, pursued and enforced (often causing investors to bear a loss that another transaction party should have borne under the terms of the applicable trust documents).
2. Investors had little, if any, transparency into many of the decisions made on behalf of the trust, and believe that a number of such decisions were made without proper regard for the interests of the trust or investors.

Differences in views of various industry participants relating to "roles" are accentuated when viewed in conjunction with differences of opinion regarding whether there should be a related "standard of care." Over the course of recent years, the debate around "standard of care" for legacy transactions has been at the forefront of industry news and contributed to concern in various sectors of the RMBS industry.

SFIG reiterates that the focus of RMBS 3.0 is to support the growth of the RMBS market and to create a sustainable and robust set of standards for the future. SFIG believes it is important to consider the utility and feasibility of all suggested roles. Participants from all sectors of the industry remain represented in the RMBS 3.0 initiative as we develop a position on the roles and responsibilities of transaction parties.

Industry Positions

With regard to future transactions, the responsibilities and functions, roles and standard of care ascribed to transaction parties are relevant areas where the industry needs to align itself around a common understanding.

SFIG believes that the most effective way to evaluate these issues is to address them sequentially, with the debate around responsibilities and functions coming first. In analyzing the roles and responsibilities of an RMBS 3.0 transaction, SFIG sought to build from the ground up through an extensive discussion and accounting for specific party functions.

Therefore, as referenced in the "Issue Overview" section, above, the RMBS 3.0 process determined that a full analysis of each party and their functions might better help determine if and where a duty or standard may apply. As the RMBS 3.0 process continues to address questions as to the implementation and enforcement of transaction party responsibilities, the working group will consider what standard of care is appropriate for any of the identified roles.

Given the importance investors place on ensuring that there is an independent investor representative to protect their interests (generally meant to align with protecting the interest of the trust in the related assets), the RMBS 3.0 working group focused its efforts on developing a transaction structure that contemplates the presence of a Deal Agent and its related functions.

However, SFIG understands that a transaction model that incorporates the use of a Deal Agent may not be applicable or appropriate to all of our members' business structures or interests. Therefore, SFIG's forward looking agenda will include an analysis of a transaction that does not include a Deal Agent in order to evaluate how roles may be redistributed to other parties, or whether certain functions may not be covered.

RMBS 3.0 Transaction Parties Matrix & Deal Agent Overview

The following Transaction Parties Matrix attempts to present a full accounting of roles and responsibilities in a deal structure that includes a Deal Agent. The Transaction Parties Matrix was prepared by SFIG, with input from various industry participants representing investors, issuers, master servicers, servicers, trustees and potential deal agents. SFIG was able to determine that in many cases, a single party could be responsible for performance of a role. However, there are many functions where multiple parties may be responsible for undertaking the role given either the business model of that party or the requirements of law and regulation. The Transaction Parties Matrix reflects a range of functions that may be called for in connection with RMBS transactions and identifies deal participants that could be engaged to perform such functions in the manner and setting and with the limitations and protections provided for in the applicable RMBS transaction documents. This Transaction Parties Matrix is not intended to provide any guidance in connection with interpreting RMBS transaction documents.

Also included, herein, at the end of the Matrix, is a Deal Agent Overview. To aid in understanding a Deal Agent role in a transaction structure such as that contemplated here, the Deal Agent Overview provides a summary of that party's functions and responsibilities.

The key accompanying the matrix should be read as such:

X Party identified by working group as appropriate and able to perform a role. In certain situations, more than one party is indicated due to shared responsibility for performance.

R Party identified is required by business model or another consideration to perform the role.

O/E Party identified is responsible for the oversight and enforcement of primary performance of the role/function described.

Includes Deal Agent

TRANSACTION PARTIES MATRIX

KEY:
X: Selected transaction party
O/E: Oversight/Enforcement obligation of transaction party
R: Required function of transaction party

		Requested RMBS Transaction Party Function	Functional Category	Functional Sub-Category	[Notes]	Bond Administrator	Deal Agent	Document Custodian	Independent Reviewer	Master Servicer	Other (See Note)	Servicer	Trustee	Party Comments
1		Receive, and safe keep, Mortgage Files*, perform initial review of those files against specified criteria in the governing documents; report on results of initial review, including any exceptions	Control of Documents	Custody of Documents	**Servicing notes should stay at servicer.* In a typical securitization, in the initial review, the Custodian just indicates whether it has a note (and perhaps an Assignment of Mortgage) that appears on its face to pertain to each Mortgage.			X			NRSRO implications			If reference to servicer notes remaining with servicer remain, this should also be a servicer responsibility. Servicing notes are generally not delivered under a Custodial Agreement or PSA and should be distinguished from documents held by custodian.
2		Deliver a certification, as to each mortgage loan listed on the mortgage loan schedule, that all (i) are in parties possession, (ii) have been reviewed and appear on their face to be regular and relate to such mortgage loan and (iii) satisfy the requirements set forth in the scope of review	Control of Documents	Custody of Documents	*Discuss potential for development of standards through the RMBS 3.0 work process.*		O/E	X						Party required to provide trailing documents; Deal Agent oversight will ensure completion of task
3	a.	Deliver an initial certification with respect to the Mortgage Files as and when required by governing documents, including an exception report for any discrepancy or missing items identified during file review; does not include a responsibility for curing any issues relating to the discrepancies or missing items	Control of Documents	Custody of Documents	Limited to a review of the documents on their face. The Custodian is not responsible for determining if the documents are otherwise deficient.			X			NRSRO implications			

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		Requested RMBS Transaction Party Function	Functional Category	Functional Sub-Category	[Notes]	Bond Administrator	Deal Agent	Document Custodian	Independent Reviewer	Master Servicer	Other (See Note)	Servicer	Trustee	Party Comments
	b.	Oversee the initial certification process of the Mortgage Files and drive appropriate remedial action as becomes necessary			*Deal Agent also responsible for enforcement of any curative measures relating to discrepancies or missing items identified by the Document Custodian in 3(a)*		X							Enforcement of oversight will be specific to the transaction per the deal docs
4		Deliver a final certification with respect to the Mortgage Files, including an updated exception report identifying outstanding or missing documentation with respect to any mortgage loan	Control of Documents	Custody of Documents	This certification is limited only to the documents for which the Custodian is required to confirm receipt		O/E	X			NRSRO implications			
5		Release Mortgage File to servicer or other authorized party per governing documents	Control of Documents	Custody of Documents	Custodians and servicers should agree on a check-in/check-out process.			X						
6		Provide copies of Mortgage Files to authorized parties upon request	Control of Documents	Custody of Documents	This may apply for periodic requests for copies of documents held by the custodian. Generally, the custodian does not deliver copies of the documents in the mortgage loan filed to transaction participants. This function may refer to requests from time to time for copies of documents held by the Custodian			X						
7	a.	Safe-keep and physically release Trust Assets/Collateral as instructed and authorized	Control of Documents	Custody of Documents	Custodians and servicers should develop and agree on a check-in/check-out process.			X					X	Document Custodian for collateral; Trustee for Trust assets (if referring to certificates)
	b.	Oversee the check-in and check-out process of Collateral per the instructions of the transaction documents	Control of Documents	Custody of Documents				X						

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8	a.	Manage and maintain properties during the loan default process	Loan Servicing	Loan Servicing			O/E					X		Servicer is functioning agent for day-to-day actions
	b.	Monitor and oversee servicer management and maintenance of properties during the loan default process; maintains the physical property to comply with local housing codes after foreclosure	Loan Servicing	Loan Servicing			O/E			R				Master servicer required to provide servicer oversight; Deal Agent may provide instruction and enforcement of such oversight per the terms of the transaction docs
9	a.	Collect payments from the borrowers/mortgagees; Process mortgage payments	Loan Servicing	Payments: Servicing								X		
	b.	Monitor and oversee collection of payments from borrowers/mortgagees and the processing of mortgage payments	Loan Servicing	Payments: Oversight			O/E			R				Master servicer required to oversee servicer action on mortgage payments and processing; Deal Agent may provide further oversight and enforcement of that activity per the terms of transaction docs
10		Maintain official loan-level records	Loan Servicing	Custody of Documents	Note: definition of relevant files to be included in matrix glossary							X		
11		Perform primary mortgage loan servicing functions , i.e., billing, collection calls, collection notices, borrower customer service, payoff processing	Loan Servicing	Payments: Servicing			O/E					X		
12	a.	Receives Servicer Reporting		Monitor & Review		R	X		X	R			R	This is a required function for Independent Reviewer Role for some review criteria such as sunsets

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		Requested RMBS Transaction Party Function	Functional Category	Functional Sub-Category	[Notes]	Bond Administrator	Deal Agent	Document Custodian	Independent Reviewer	Master Servicer	Other (See Note)	Servicer	Trustee	Party Comments
	b.	Receives servicer reporting in a transaction that includes Master Servicer, Deal Agent and Independent Reviewer		Monitor & Review			X		X	X				In a transaction that includes these parties, the transaction documents must provide an ability for the Master Servicer and Deal Agent to receive servicer reporting
13		Make advances (P&I, T&I, Property Protection, etc.)	Loan Servicing	Payments: Liquidity								X		
14	a.	Based on defined independent review trigger(s), report on asset compliance with applicable representations and warranties in accordance with defined duty to investigate breach	Monitor & Review	Monitor & Review								X		
	b.	Based on defined independent review trigger(s), monitor assets for compliance with applicable representations and warranties, and monitor servicer reporting on asset compliance	Monitor & Review	Monitor & Review			O/E			R				Master servicers will notify stated party upon actual knowledge of breach; will not review asset. Deal Agent will provide oversight and enforcement mechanism pertaining to asset compliance with independent review triggers per the terms of the transaction documents
	c.	Based on definited trigger(s) relating to performance of loan, review assets for compliance in accordance with defined duty to investigate a potential breach	Monitor & Review	Monitor & Review			X		X					Depending on the construct of the deal, either the Deal Agent OR Independent Review would have this role
15	a.	Review collateral, on an ongoing and periodic basis, in accordance with terms of transaction documents	Monitor & Review	Monitor & Review	Note: with upfront diligence ongoing review is costly and could be viewed as unnecessary, especially immediately post-closing.		O/E		X			X		In a transaction without an Independent Reviewer the Deal Agent may be responsible

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		Requested RMBS Transaction Party Function	Functional Category	Functional Sub-Category	[Notes]	Bond Administrator	Deal Agent	Document Custodian	Independent Reviewer	Master Servicer	Other (See Note)	Servicer	Trustee	Party Comments
	b.	Further investigate, as needed, for breaches of representation, warranty or covenants of seller/s, servicers/s, originator/s. Recommend seeking enforcement of repurchase obligations of other remedies, as provided in the transaction document		Monitor & Review			O/E		X	R		R		Applies to master servicer with regard to servicing reps only
16	a.	In accordance with terms of transaction documents, when requested perform required sampling of loan's compliance with certain representations and warranties	Monitor & Review	Monitor & Review	*Need for further clarification regarding the meaning of "Test for accuracy"*		X		X					
	b.	Identify any missing documentation needed for a review of compliance with representations and warranties	Monitor & Review	Monitor & Review			X	X	X		X			
17	a.	Determine whether a breach has occurred with respect to a representation and warranty, and if such breach exceeds the materiality standard, if any, set forth in the transaction document requiring purchase	Monitor & Review	Monitor & Review	*For public deals, the Trustee takes this role at the direction of investors, but is not responsible for declaring that a breach has occurred		X		X				X*	
	b.	Determine and report whether a servicer performance breach has occurred as set forth in the transaction documents					O/E			R				
18	a.	Prepare findings of underwriting and origination related breach review, including facts supporting the conclusion and name of the party in breach	Monitor & Review	Monitor & Review			O/E		X					
	b.	Prepare findings of servicing related breach review, including facts supporting the conclusion and name of the party in breach	Reporting	Reporting			O/E			R				
19		Provide representation and warranty findings to the issuing entity	Monitor & Review	Monitor & Review			X		X					
20	a.	Supervise and monitor primary servicer obligations set forth in servicing agreement	Monitor & Review	Monitor & Review			O/E			R				

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		Requested RMBS Transaction Party Function	Functional Category	Functional Sub-Category	[Notes]	Bond Administrator	Deal Agent	Document Custodian	Independent Reviewer	Master Servicer	Other (See Note)	Servicer	Trustee	Party Comments
	b.	Complete on-site review of primary servicers on an annual, or more frequently as needed, basis					O/E			R				Transaction documents should provide Deal Agent ability to conduct onsite primary servicer review and/or oversight of such review by master servicer
	c	Enforce communication protocol, Key Performance Indicators ("KPIs") and exception management criteria as described in transaction documents.	Monitor & Review	Monitor & Review			X							
	d.	Vet servicer/vendor management protocols and execution.	Monitor & Review	Monitor & Review			X							
	e.	Monitor delegated authority as described in transaction documents.	Monitor & Review	Monitor & Review			X							
	f.	Monitor FC/BK attorney selection criteria and measurement, valuation policy.	Monitor & Review	Monitor & Review			X							
	g.	Monitor servicer status of compliance with CFPB	Monitor & Review	Monitor & Review			X							
	h.	Conduct monthly servicer calls, or more frequently as needed, with department managers, and conduct onsite visits with servicers					X			X				NOTE: Both parties must be on call
	i.	Maintain familiarity with loan-level loss mitigation decisioning, NPV model creation/applications, asset "watch list" oversight, modification waterfalls, and borrower outreach strategizing		Loan Management			X			X				
	j.	Direction and/or oversight related to: NPV model review and application thereof, Loan-level loss mitigation and modification waterfall decisioning, default/FC/BK, charge-off & final disposition, deficiency pursuit, litigated file management, loan sale, rental management, REO management.		Loan Management	Direction or oversight will depend on contract terms and servicer delegated authority		X			X				

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		Requested RMBS Transaction Party Function	Functional Category	Functional Sub-Category	[Notes]	Bond Administrator	Deal Agent	Document Custodian	Independent Reviewer	Master Servicer	Other (See Note)	Servicer	Trustee	Party Comments
	k.	Remittance reconciliation including corporate advances and bank deposits, cash flow and fee reconciliation, verification of cash distribution to bondholders		Verification		R	O/E				X		X	A third party accounting firm may be appointed on a transaction to undertake this item as their sole task, resulting in additional cost
	l.	Review reconciliation of servicer data reported to a system calculation data for principal, interest, payment constant, interest rate, UPB, scheduled balance, actual due dates, and scheduled due dates.					O/E			R				
	m.	Receive periodic data from servicers/vendors, conduct data integration and QC, performance and liquidation reporting, cash flow/payment speed reporting, loss mitigation reporting, delinquency/default reporting, collateral exceptions reporting, representation and warranty reporting.		Reporting	Certain elements are done routinely vs. periodically. *To what end? What is the ultimate task to be performed?*		O/E			R				
	n.	Monitor servicing transfers: T&R checklist, pre-transfer data review, verify post-transfer data integrity, identify and manage high risk transfer assets, conduct calls with the servicer pre and post transfer, payment ACH management, Hello/Goodbye letter review; in case of transfer of servicing, review default reporting data for accuracy through edit checks prior to boarding to data system		Verification, Analytics	*What does T&R stand for?*		O/E			R				
	o.	Systematic auditing of modification reporting for adherence to delegated authorities		Review			X			X		X		This is loaded by the master servicer, the reports have to be reviewed prior to a master servicer loading the data as well
	p.	Monitor servicer paid mortgage insurance policies to ensure policies are current and servicer is		Monitoring			O/E			R				

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		Requested RMBS Transaction Party Function	Functional Category	Functional Sub-Category	[Notes]	Bond Administrator	Deal Agent	Document Custodian	Independent Reviewer	Master Servicer	Other (See Note)	Servicer	Trustee	Party Comments
		stripping correct servicing fee from trust												
	q.	Verify all MI claim submissions are reviewed to ensure that all inappropriate denials or curtailments are not passed through to the trust		Review			O/E			R				
	r.	Conduct monthly review of all delinquent and default reporting data for accuracy to contracted minimum servicing DLQ		Verification, Analytics			O/E			R				
	s	Track assets and monitor timelines during default, bankruptcy, foreclosure, and/or REO to ensure that servicers adhere to the forecasted schedule from CFPB or, another other source as directed, for the designated loss mitigation strategy or default resolution		Monitoring			O/E			R				
	t	Review and approve loss mitigation, foreclosures and REO actions according to the delegated authority guidelines; provide direction on the above to master servicer		Monitoring	Delegated authority guidelines may be developed by the Deal Agent; Deal Agent may then delegate authority for review to Master Servicer or retain review authority internally		X							
	u.	Evaluate servicer charge-off recommendations to ensure the assets' equity positions support charge-off actions, transaction agreement and client guidelines		Monitoring, Verification			O/E			R				
	v.	Ensure charge-off loans sent to recovery vendor unless contractually prohibited		Loan Management			O/E			R		X		
	w.	Review all servicer trailing activity to verify amounts that have not previously been passed to the trust and that the amounts are within the predetermined tolerance levels.		Monitoring, Verification			O/E			R				
	x.	Monitor servicer for Default Events		Monitoring			O/E			R				

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	y.	MERS/MOM review to ensure assignments are executed and ensure if they have been properly assigned a Min #		Custody of Documents			O/E	X				X		
21	a.	Supervise and monitor Master Servicer obligations set forth in the master servicing agreement; complete periodic review of Master Servicer; provide notice of Master Servicer events of default.					X							
	b.	Submit report outlining any materially adverse findings during the annual compliance review to be distributed to holders of notes or certificates and Ratings Agencies.			*Is annual compliance review intended to be of Master Servicer, and is it the same as the "onsite review"?*		X							Deal Agent, or other servicing oversight party
22		Receive annual servicer compliance certifications to make available or disclose to investors pursuant to trust documents.											X	Sponsor may do this via Reg AB requirements
23	a.	Aggregate primary servicer reporting, review reported data	Monitor & Review	Verification						X				
	b.	Analyze primary servicer reporting and conduct further review and analysis of reported data.	Monitor & Review	Verification	*Need for clarification on further review and analysis to determine extent*		O/E			R				
24		Monitor primary servicer obligations in respect of mortgage insurance, or any other insurance (e.g. FHA/VA/USDA), to ensure policies are still in force.	Monitor & Review	Monitor & Review			O/E			R				
25	a.	Validate ongoing reporting as and when required by the transaction documents.	Monitor & Review	Verification	*Need for further clarification as to what reporting*		X			X				
	b.	Validate ongoing servicer reporting as and when required by the transaction document	Monitor & Review	Verification			X			X				
26		Initiate foreclosure process	Trust Action & Enforcement	Enforcement								X		

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27		Satisfaction of conditions precedent to transfer of equity interest	Trust Action & Enforcement		If this is a registered interest, it would be the role of the Bond Administrator (as registrar).	X								Tied to registrar and paying agent role
28		Processing of transfer of equity interest	Trust Action & Enforcement		If this is a registered interest, it would be the role of the Bond Administrator (as registrar).	X								Tied to registrar and paying agent role
29		Coordinate with Rating Agencies on RAC request when required by transaction documents	Trust Action & Enforcement	Structure									X	
30		Make filings with the SEC as and when required by the transaction documents	Trust Action & Enforcement	Trust Action & Enforcement		X					X			Issuer for public deals
31	a.	Facilitate collection of investor votes	Trust Action & Enforcement	Communication: Voting		X							X	Party designated as Registrar or Paying Agent; the Bond Administrator in its capacity as registrar/paying agent sends notices to DTC and votes are sent back and tabulated. The Trustee and Bond Administrator are not consent solicitation agents.
32	b.	Take as directed by investor vote*	Trust Action & Enforcement	Enforcement	*Need to further clarify "trust actions". Subject to the receipt of the requisite indemnity, the Trustee will act as directed.*									Multiple potential parties depending on the action enforced or remedy
33		Effect modification/amendment of transaction documents	Trust Action & Enforcement	Communication: Voting									X	Multiple potential parties, varies by specific action and issue

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		Requested RMBS Transaction Party Function	Functional Category	Functional Sub-Category	[Notes]	Bond Administrator	Deal Agent	Document Custodian	Independent Reviewer	Master Servicer	Other (See Note)	Servicer	Trustee	Party Comments
34	a.	Provide notice, in accordance with the procedures of the transaction documents, that the applicable transaction party cure any rep and warranty breach or take the applicable remedial action by the end of the specified cure period	Trust Action & Enforcement	Enforcement			X		X					Independent reviewer only applicable where used in transaction
	b.	Distribute notice to bondholders, in accordance with the procedures of the transactions documents, so that the applicable transaction party cure any rep or warranty breach or take the applicable remedial action by the end of the specified cure period.					X							
	c.	Provides notes to bond holders.												
35		In the context of servicing error demand, in accordance with the procedures set forth in the transaction documents, demand that the applicable servicer cure any breach or take the applicable remedial action by the end of the specified cure period	Trust Action & Enforcement	Enforcement			X							Change or make different for trustee role as this would be a notice function based on actual knowledge
36	a.	Monitor and recommend enforcement of transaction party obligations and direct trustee to act on behalf of trust	Trust Action & Enforcement	Enforcement			X							Transaction documents must provide authority for the Deal Agent to direct Trustee action on behalf of trust
	b.	Notify transaction party of failure to perform obligations, either upon actual knowledge of responsible officer or notice, and bring action on behalf of trust solely pursuant to transaction documents					X							
	c.	Exercise authority to bring action on behalf of the trust for enforcement of trust party obligations											X	
	d.	If breaching party fails to respond to a repurchase demand or disputes a demand, take remedial action solely in accordance											X	*See (a)*

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		Requested RMBS Transaction Party Function	Functional Category	Functional Sub-Category	[Notes]	Bond Administrator	Deal Agent	Document Custodian	Independent Reviewer	Master Servicer	Other (See Note)	Servicer	Trustee	Party Comments
		with the procedures of the transaction documents												
37		Facilitate communication among investors, such as a voluntary investor registry or other mechanism	Trust Action & Enforcement	Communication	Currently no efficient and effective mechanism for improving communications between bondholders exists and there is a need to develop enhanced technology and further address bondholder communication issues, and solve for inability to meet investors. Further discussion about technology and roles is warranted.	X	X						X	Pending future developments Tied to Registrar and Paying Agent function
38		Hold legal title to the assets for the benefit of the holders in the trust for a pass-through transaction	Trust Actions & Enforcement	Legal Ownership									X	In some instances it is an REO LLC.
39		Own the assets of the trust which will be pledged to Indenture Trustee	Trust Actions & Enforcement	Legal Ownership	Trust is a legal entity owning the assets. In a DST structure, the Trust itself (rather than Trustee) owns.								X	This is an Owner Trustee function
40		Pledgee of the assets pledged to it on behalf of holders under the indenture	Trust Actions & Enforcement	Legal Ownership									X	Indenture Trustee
41		Authenticate securities upon receipt of (i) authentication order and (ii) securities executed by Issuer	Trust Actions & Enforcement	Registration		X								Tied to registrar and paying agent function Trustee if no Bond Administrator

KEY:
X: Selected transaction party
O/E: Oversight/Enforcement obligation of transaction party
R: Required function of transaction party

		Requested RMBS Transaction Party Function	Functional Category	Functional Sub-Category	[Notes]	Bond Administrator	Deal Agent	Document Custodian	Independent Reviewer	Master Servicer	Other (See Note)	Servicer	Trustee	Party Comments
42		Provide notice of material breach of any representation, warranty or covenant of the seller (limited to actual knowledge of a breach—no duty to investigate breach)	Trust Actions & Enforcement	Communication: Reporting		X	X	X	X	X	Issuer	X	X	If any party has *actual knowledge* and the knowledge qualifier is embedded in transaction documents, any transaction party is responsible for breach notification
43	a.	Provide notice of a party's failure to repurchase a mortgage loan upon demand following validation of a breach of representation or warranty	Trust Actions & Enforcement	Enforcement			X						X	Master Servicer may have this function in some transactions.
	b.	Provide notification to parties based on Deal Agent recommendation following validation of breach of representation or warranty					O/E						X	
44	a.	Submit findings from ongoing and periodic reviews for potential breaches to a dispute resolution process, solely to the extent required by the transaction documents.	Trust Aggregated Analysis & Reporting	Enforcement			X							
	b.	At direction of Deal Agent, initiate demand for, and ensuing pursuit of, repurchase					O/E						X	
45		Engage arbitrator or mediator to resolve disagreements with respect to the final determination regarding breaches of a representation, warranty, or covenant at the direction of Deal Agent.	Trust Actions & Enforcement	Enforcement	*Depends on transaction model and party prescribed to undertake action*						Any party as required in transaction documents		X	Possible other transaction party; Trustee is still guardian of the asset but Deal Agent could oversee the function.
46		Make principal and interest advances if primary servicer fails to advance	Trust Actions & Enforcement	Payments: Liquidity						X	Successor Servicer			
47		Take remedial action, in accordance with transaction documents, against primary servicer based upon actual knowledge of default.	Trust Actions & Enforcement	Enforcement			X			X				Trustee at direction of Bondholder, or Deal Agent on behalf of Bondholder
48	a.	Perform loan level calculations including triggers as required by transaction documents	Trust Aggregated Analysis & Reporting	Analytics		R	O/E			R		R		

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		Requested RMBS Transaction Party Function	Functional Category	Functional Sub-Category	[Notes]	Bond Administrator	Deal Agent	Document Custodian	Independent Reviewer	Master Servicer	Other (See Note)	Servicer	Trustee	Party Comments
	b.	Independently calculates ARM rate and payment changes based on ARM parameters and related index values (indices loaded daily, weekly or monthly)		Analytics			O/E			X		X		
	c.	Perform bond calculations, including trigger calculations related to collateral as required by transaction documents	Trust Aggregated Analysis & Reporting	Analytics		R	O/E							
49		Determine calculations on waterfall distributions based on information provided by the primary servicer or Master Servicer	Trust Aggregated Analysis & Reporting	Analytics		R	O/E							
50		Maintain fidelity bond and errors and omissions policy	Trust Actions & Enforcement	Custody of Documents		X	X	X	X	X	See party comments	X	X	All deal parties must maintain proper levels of insurance
51	a.	Approve a successor servicer or, if unable to appoint a third party, assume servicing upon primary servicer termination	Trust Actions & Enforcement	Enforcement			O/E			X				Deal Agent and Master Servicer should engage in ongoing discussion and review of potential successor servicers; Deal Manage will oversee and approve Master Servicer managed set of potential successor servicers.
	b.	Notify trustee of appointment of successor servicer arrangement, or of Master Servicer assumption of servicing responsibilities in event no third party is appointed					O/E			X				
52	a.	If replacement Master Servicer becomes necessary, appoint a third party to assume Master Servicer responsibilities or, if unable to appoint a third party, assume such responsibilities if Master Servicer is terminated; provide notification to Trustee of appointment or assumption or responsibilities	Trust Actions & Enforcement	Enforcement			X							

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		Requested RMBS Transaction Party Function	Functional Category	Functional Sub-Category	[Notes]	Bond Administrator	Deal Agent	Document Custodian	Independent Reviewer	Master Servicer	Other (See Note)	Servicer	Trustee	Party Comments
	b.	If unable to appoint a third party, assume such responsibilities if Master Servicer is terminated;												
53		Open and maintain accounts required by transaction documents; receive collection on underlying receivables from servicer; deposit, invest, and withdraw funds as directed	Trust Actions & Enforcement	Payments: Admin		X	O/E			X		X	X	Tied to paying agent function
54		Execute investments for cash in accounts. Instruct party determining waterfall distributions, per above description, of such selection	Trust Actions & Enforcement	Payments: Investment		X	O/E			X		X	X	Tied to paying agent function
55		Prepare monthly distribution report	Trust Actions & Enforcement	Reporting		X								
56	a.	Make payment date statements available to Investors, transaction parties, Rating Agencies, and often electronically on the transactions 17g-5 website	Trust Actions & Enforcement	Reporting		X								Tied to paying agent function
	b.	Make loan-level data available to Investors and Rating Agencies	Trust Actions & Enforcement	Reporting						X		X		
57		Provide monthly reports to the Trustee or Bond Administrator including, but not limited to, a loan-level loss mitigation analysis and primary mortgage insurance claims analysis	Trust Aggregated Analysis & Reporting	Reporting			O/E			X				
58		Compile and report list of mortgage loans by delinquency status and summarize losses and indicate loss severity percentages	Trust Aggregated Analysis & Reporting	Monitor; Reporting		X	O/E			X		X		
59		Compile reports with statistical and/or geographic portrayals of: (i) the delinquency trend, over time, of the mortgage loans; (ii) the constant prepayment rate "CPR" experience of the mortgage loans; and, (iii) the standard default assumption experience of the mortgage loans	Trust Aggregated Analysis & Reporting	Monitor; Reporting		X								

KEY:
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R: Required function of transaction party

		Requested RMBS Transaction Party Function	Functional Category	Functional Sub-Category	[Notes]	Bond Administrator	Deal Agent	Document Custodian	Independent Reviewer	Master Servicer	Other (See Note)	Servicer	Trustee	Party Comments
60		Provide reports with statistical and/or geographic portrayals of: (i) the delinquency trend, over time, of the mortgage loans; (ii) the constant prepayment rate "CPR" experience of the mortgage loans; and, (iii) the standard default assumption experience of the mortgage loans	Trust Aggregated Analysis & Reporting	Monitor; Reporting								X	X	
61		Distribute required payments to Investors, and other required payments (e.g., fees and expenses of trust) to appropriate parties from available funds	Trust Actions & Enforcement	Payments: Admin		X	O/E				Whatever party is designated as paying agent in the terms of the docs		X	Tied to paying agent function
62		Determine interest rate payable on floating rate securities in accordance with set definitions	Trust Actions & Enforcement	Calculation		X	O/E							Deal Agent to provide oversight of calculation
63		Interact with the clearing agency (e.g., The Depository Trust Company) to effect distributions, effect exchanges, and generally maintain all book-entry securities	Trust Actions & Enforcement	Payments: Admin		X	O/E							Tied to paying agent function
64		Transfer/exchange physical/definitive securities	Trust Actions & Enforcement	Securities Management		X								Bond Administrator acting in capacity as Registrar
65		Act as counterparty/beneficiary, on behalf of the trust, of credit enhancement instruments, such as derivatives, insurance policies	Trust Actions & Enforcement	Structure									X	Where there are statutory trusts, this function is performed by the Owner Trustee.
66		Act as account bank for UCC Article 9 perfection purposes	Trust Actions & Enforcement	Structure									X	Tied to paying agent function
67		Cause to be prepared, or prepare and file tax returns for any grantor trusts or partnerships per the terms of the transaction documents	Trust Actions & Enforcement	Reporting		X							X	
68		Prepare and review annual compliance documents	Trust Actions & Enforcement	Reporting		X	O/E	X	X	X		X	X	Multiple potential parties

KEY:
X: Selected transaction party
O/E: Oversight/Enforcement obligation of transaction party
R: Required function of transaction party

		Requested RMBS Transaction Party Function	Functional Category	Functional Sub-Category	[Notes]	Bond Administrator	Deal Agent	Document Custodian	Independent Reviewer	Master Servicer	Other (See Note)	Servicer	Trustee	Party Comments
69		Prepare and file '34 Act Reports	Trust Actions & Enforcement	Reporting							Issuer, Depositor			
70		File deal level UCC Continuation Statements	Trust Actions & Enforcement	Reporting									X	
71		Cooperate with termination of transaction in accordance with transaction documents	Trust Actions & Enforcement	Enforcement		X	X	X	X	X		X	X	All transaction parties
72		Provide notices to, among others, Investors, Rating Agencies, Insurers, holders, Rating Agencies, etc. as required by the transaction documents	Trust Actions & Enforcement	Reporting		X	X	X	X	X		X	X	All transaction parties
73		Tracks negatively amortizing loan maximum balances avoids exceeding the maximum balance		Analytics			O/E			R		X		
74		Execute SCRA timelines, balloon payments, step service fees, and interest only expirations through systematic trigger events		Execution			O/E			X		X		
75		Determine action in event of loan being charged off, which becomes a trailing liability of the Trust (i.e. 'zombie' foreclosure properties and possible future regulation/enforcement).		Loan management			O/E			R		R		
76	a.	Identify modified loans and follow up to get the original signed modification agreement (mods are often not recorded). If original documents are released on a loan not paid in full, entity should also be responsible for following up to ensure that original documents are returned.		Custody of Documents: Loan files			O/E	X				X		The Servicer should monitor this activity
	b.	Receive and interfile modification agreements delivered to it as custodian.		Custody of Documents; Loan Files			O/E	X						

Introduction to the SFIG RMBS 3.0 Draft Deal Agent Agreement

In the early days of RMBS issuance, the issuing entities were considered to be entirely passive vehicles. Servicing involved relatively little discretion, and there was relatively little in the way of representation and warranty putback claims. Over time, the structure evolved only incrementally, with the bolting on of discrete additional roles such as special servicing in some types of transactions for delinquent loans, and limited oversight of servicing decisions. But neither pre-crisis RMBS 1.0, nor post-crisis 2.0, addressed the absence in the structure of a single party with oversight roles over the most critical elements of the transaction as well as a continuous fiduciary duty to investors. Apart from the economics, this absence could be viewed as an important reason for the failure of RMBS 2.0 to capture a substantial market share, and is often cited as a hurdle to the return of a scalable, sizeable PLS market should the economics evolve in support of it. The Deal Agent role is designed to address this issue and thereby accelerate the development of RMBS 3.0.

Overview

The concept of the Deal Agent was introduced into SFIG's RMBS 3.0 initiative in late 2013, and this initiative has generated tremendous interest, dialogue and significant support throughout the industry and within SFIG membership. The Draft Deal Agent Agreement (the "Agreement") is a form legal document, meant to be easily adapted for use in PLS transactions, that has been worked on extensively under the Transaction Roles and Responsibilities workstream and has gone through numerous drafts, only being finalized after significant input from RMBS 3.0 membership. We feel that the document is a robust and workable document but necessarily leaves open certain key elements (with accompanying commentary), in order to accommodate different collateral types and key transaction party relationships.

Agreement Objectives

The role of the Deal Agent, as contemplated herein, is as the overseer of the transaction parties responsible for maximizing the value of the trust assets without regard to an individual class of Certificateholders. Furthermore, the Deal Agent must be able to adapt to events and circumstances not necessarily contemplated when the transaction closed.

The Agreement was designed to eliminate what some market participants have cited in pre-crisis transactions as a failure to insure that there is an advocate for Certificateholders in stress environments. Such an advocate would be invested with the authority to ensure that the trust continues to function properly and that all oversight and enforcement responsibilities are being executed.

In order to ensure that the Deal Agent can discharge its tasks, the Agreement invests the Deal Agent with certain authority. In particular there are two key areas over which it will have authority:

- The Deal Agent has the oversight authority necessary to ensure that the representations and warranties are being enforced and repurchases, where required, are being executed; and
- The Deal Agent has oversight authority of the servicers and any master servicer. And that authority extends to the execution of the servicing of the mortgage loans in the trust, not just as a third-party loan reviewer.

Deal Agent Function

General Responsibilities – Duty of Loyalty and Duty of Care
The Deal Agent shall perform the Services as a fiduciary for the Trust, for the benefit of the Certificateholders, in accordance with the Duty of Care and the Duty of Loyalty and the terms of this Agreement, and shall have full power and authority, acting alone, to do or cause to be done any actions specifically enumerated and contemplated by the terms of the Agreement and any and all things which the Deal Agent deems in its reasonable judgment necessary or desirable and consistent with the terms of the Agreement.

Servicer/Master Servicer Oversight

Perhaps the most significant responsibility of the Deal Agent is monitoring on behalf of and reporting to Certificateholders on the ongoing performance of the mortgage loans in the transaction. Therefore the bulk of the Deal Agent's oversight will be over the parties with the most day-to-day interaction with the assets of the transaction, the servicers and master servicer.

The Deal Agent shall generally direct operating agents (Servicers, Master Servicer, etc.) to take direct action and the Deal Agent generally will not take direct action itself, except as otherwise indicated. Trustees will be apprehensive/averse to assuming a more active role in the deals without a re-evaluation of their traditional role, contractual protections, explicit responsibilities and fees. The Agreement was drafted contemplating extensive Servicer oversight performed by the Deal Agent. Such oversight could be scaled back depending on the circumstances and the characteristics of the Mortgage Loans, etc. In addition, transaction parties may decide that some of the [primary] servicer oversight obligations to be performed by the Deal Agent could be performed by the Master Servicer.

Inevitably there will be situations where conflict between the Deal Agent and a Servicer or Master Servicer will arise. We would expect that these conflicts will arise in the area of "business judgment" when the answer is not clear cut. The Deal Agent may request that the Servicer take a particular action with respect to a Mortgage Loan or Mortgage Loans in a given Trust and such actions may be deemed, in the good faith

judgment of the Servicer or Master Servicer, to put the Servicer at risk of litigation or regulatory enforcement action or to be in contravention of a policy of the Servicer, who in good faith established such policy as the result of their operating experience.

In these circumstances, some commentators believe that it is essential to the smooth operation of the Trust and servicing of the Mortgage Loans that the Deal Agent defer to the experience of the Servicer or Master Servicer, particularly when the Mortgage Loan performance has met or exceeded expectations and the Servicer or Master Servicer has not breached any provisions of any Deal Documents and no Mortgage Loan performance or Key Performance Indicator (KPI) triggers have been breached. However, other commentators believe that the primary function of the Deal Agent is to apply its experience and take a more active approach to its oversight of the Servicer. The appropriate balance to this tension will need to be considered. In contrast, there is agreement that a transaction party is not required to follow the direction of a Deal Agent should such party believe that following the direction would constitute or result in a violation of applicable law.

In addition, given that Master Servicers often perform backup and successor servicing duties, the Deal Agent should share information with respect to any Servicer review with the Master Servicer and consult with the Master Servicer during any such review to facilitate any backup or successor servicing.

NB: *The role of the Deal Agent is not to evaluate the adequacy of the Servicer's policies and procedures or cause the Servicer to substitute the Deal Agent's policies and procedures for those of the Servicer. Nonetheless, some commentators have noted that the Deal Agent should be able to discuss or have input into any changes by a Servicer to its procedures and policies. An RMBS 3.0 working group will consider this.*

Loan Performance Oversight – KPIs

Generally speaking, KPIs will be set at deal closing which the Deal Agents will be expected to monitor. However, should KPIs be tripped, Deal Agents may be involved in approving modified KPIs. In deciding which KPIs to include and at what level they are set, in any given transaction, full consideration should be given to the underlying collateral. It may be the case that certain KPIs used in non-prime transactions have no significant deterministic value in prime transactions and vice versa. Furthermore, care should be taken when setting KPIs to make sure that any breaches of such reflect Servicer failure to perform (and some commentators would assert inadequate or weak performance) and not factors related to the origination of the collateral or macroeconomic conditions. Therefore, we do not endorse at this time any preset and potentially over-rigid slate of KPIs, though an RMBS 3.0 working group will discuss and develop types of KPIs that could be included.

Loan Performance Oversight – Review for Representation and Warranty Breaches

The Representation and Warranties, review procedures, and the trigger events which would lead to loans being reviewed, are derived from RMBS 3.0. A RMBS 3.0 working group continues to consider and evaluate such triggers. Any recommendations resulting from such working group should be reflected in the Agreement.

Breach Enforcement and Dispute –
The Agreement seeks to simplify and clarify the enforcement of cures for breaches by largely placing the responsibility for determining the existence of a breach in the hands of a Deal Agent. In determining the existence of a breach, there must be a material and adverse impact on the value or enforceability of the trust assets. Although the Agreement includes a definition of "Material Breach" and guidance regarding factors that may support such a determination the definition of material and adverse was not settled in this document and will be taken up in a subsequent RMBS 3.0 workstream.
A breach determination by a Deal Agent can be disputed by the affected party. In the interests of quick determination and swift resolution some commentators favored arbitration. An RMBS 3.0 working group is evaluating the use of and standards for arbitration, including issues of evidentiary rules and scope of arbitration proceedings. Any recommendations resulting from such working group should be reflected in the Agreement. Pursuant to RMBS 3.0, origination files, underwriting guidelines, servicing files and collateral files should be made available for arbitration proceedings when needed by the parties. The retention of the origination files is subject to further discussion.

The scope of arbitration for the Deal Agent's services is disputed. Some feel that any decision should be subject to arbitration while others feel that the decisions of the Deal Agent should not be subject to arbitration, only the question of whether the Deal Agent made a decision or conducted some process in error. Further, the Deal Agent has to be able to conduct its services efficiently, which could potentially be severely diminished if all of its actions are subject to challenge.

Note that in public deals, pursuant to Reg AB II, the party requesting any asset repurchase has the right to choose arbitration or mediation and the allocation of expenses shall be determined by the arbitrator if arbitration is chosen or by the parties if mediation is chosen. Additionally, Reg AB II requires that the trustee make the determination of whether a material breach giving rise to a repurchase has occurred. This alternative construct will therefore apply in public transactions. It is unlikely – but remains subject to discussion – that a trustee would be able to rely under Reg AB II on a Deal Agent's recommendation as the sole basis for a determination of material breach, but it is certainly anticipated that the trustee would evaluate and consider the Deal Agent's recommendation in reaching its own conclusion.

Alternative Models

Many but not all SFIG members advocate for a Deal Agent role, and even among those that do some there is some disagreement as to the structure of that role. The Deal Agent role contemplated herein is not meant to be the sole recommendation of membership. Many feel that the Deal Agent role as described herein is too costly to be implemented in high-

quality, low margin transaction where the benefit of additional oversight may only be marginal at best. Instead, the role as defined is best for non-prime transactions where the benefit can be more significant given the expectation of greater default levels and resultant special servicing and loss mitigation activity. And there are some who feel that the role is unnecessary, particularly in transactions where significant risk is retained by the Seller and/or transaction documents are well structured without "gaps" in coverage and responsibility.

On behalf of the framework's proponents, we believe that the market should adopt the Agreement as the template for new RMBS transactions. To that end, we suggest that:

- Issuers are welcome to use this Agreement as the basis for a stand-alone Deal Agent Agreement to be incorporated into their future transactions;
- Potential Deal Agents may use this document to develop their own operational capabilities to meet the responsibilities laid out in the Agreement;
- Credit rating agencies and regulators may find the document useful in evaluating the quality of governance and investor protections in future securitizations; and
- SFIG and industry members alike continue to evaluate the Agreement and related ideas as part of a collective effort to reform and reinvigorate the PLS market via enhanced structural protections within RMBS trusts.

We do not represent that the Agreement has achieved unanimous acceptance, but believe it represents broad achievable consensus within the committee and can help reform and grow the RMBS market.

See Appendix F for the Sample Deal Agent Agreement

Bondholder Communications

Objectives

- By identifying, analyzing, explaining and creating solutions for the operational, legal and regulatory issues that concern industry participants as it pertains to communication with bondholders and among bondholders, SFIG seeks to:
- Evaluate alternatives [and recommend a solution] to address the challenges of the current communication framework in order to:
  - Provide investors, who are registered on the platform, with unimpeded ability to communicate with other certificateholders, including having equal and direct access to other certificateholders of the same securities (on an anonymous or known basis, as chosen by each individual certificateholder);
  - retain investor confidentiality/privacy, if they so choose;
  - increase the ability of issuers and bondholders to communicate directly;
  - improve and streamline the voting and consent solicitation process for the benefit of all market participants, including issuers, trustees, investors and deal agents; and
  - streamline the beneficial owner authentication mechanism.
- Draft [and endorse] system criteria/specification for bondholder communication platforms that facilitates the goals outlined above.
- Expand the Transaction Parties Matrix, as it relates to bondholder communication, to add further clarity and address outstanding questions that industry members believe are critical to ensuring effective implementation of a structure contemplating the assignment of roles and responsibilities as presented in the Transaction Parties Matrix.

System Criteria/Specifications for Bondholder Communication Platforms

Overarching Principles (as proposed by SFIG investors)

- The Transaction Parties shall maintain the roles and responsibilities reflected in SFIG's RMBS 3.0 Transaction Parties Matrix. *See Transaction Parties Matrix section.*
  - Investors believe deals should incorporate a communication platform *to facilitate* the Transaction Parties' roles and responsibilities - *not replace* the respective Transaction Party as they pertain to those roles and responsibilities.
- For all transactions issued after [□], a communication platform shall be designated by the [Issuer/Sponsor together with the Trustee] and shall act as third party service provider(s) to the transaction parties.

- The designated communication platform shall be disclosed in the Offering Memorandum/Prospectus;
- Any changes to the communication platform provider shall be disclosed in a [monthly servicer report] that is at least [forty-five (45)] days prior to the date the change takes effects.
- The communication platform shall support notifications sent by transaction parties, communication amongst authenticated bondholders and voting process for consent solicitations

- Each transaction should provide investors free access to the designated communication platform. [Discuss "deal-level access" paid by the transaction cashflows: Investors believe this is a viable solution to address their concern that a fee system charged to each individual investors will limit participation, especially biased against smaller investors, thereby negating a major objective]

System Criteria/Specifications for Bondholder Communication Platforms
SYSTEM-WIDE CRITERIA
▪ **Security.** Protect the integrity of records/data with industry leading security – *see* "SECURITY" *section below*
▪ **Usability.** Provide straightforward, user-friendly navigation for administrators and users.
▪ **Open architecture.** Built on open architecture that integrates with other platforms and software used by industry participants so administrators and registered users can easily integrate necessary reporting, monitoring and retention
▪ **Wide database support.** Support broad range of databases and platforms so users can simply and seamlessly upload necessary data from multiple sources of information
▪ **Real-time data.** Deliver real-time data directly from platform
▪ **Mobile support.** Allow users platform access and use across a variety of devices, networks and platforms used by industry participants
▪ **Scalability.** Capable of handling increasing platform growth, including: – Increasing number of organizations, users and securities – Enhancing the system by adding new functionalities – Increasing size of uploaded files
▪ **Platform reliability.**
▪ **Vendor credibility & longevity.**
▪ **Technical support.** Include [24 x 7] customer support
▪ **Pricing flexibility.**
ACCESS CRITERIA
▪ **User-friendly.** Access to the platform should be user-friendly
▪ **Simple registration for access to public information**. Enable all transaction parties to register on platform according to their industry participation type, including investor, lawyer, advisor, broker/dealer, trustee, issuer/manager, underwriter, custodian and other
▪ **Multi-factor authentication.**
▪ **Administrator control/security.**
– **User access rules/security.** Allow designated employer administrators control of platform access for its employees on a per-user basis through a role-based menu system, where administrator grants access rights at group, role or individual levels. Allow administrators to easily revoke access. For example, some potential investors constituency options: read-only role; read and write role; authority to vote role; review role of selected employees, administrator role; etc.

- **Bond-level access rules/security.** Allow designated administrators control of application level access/security on a bond-level basis

  For example, an employer may want to grant some employees "write" access for a limited number of securities but not all.

- **Customizable user interface.** Allow registered users to customize platform notifications and alerts, including:
- Allow registered users to record lists of "interested securities" and/or "owned securities"
- Ability for registered users to upload lists of securities to follow and/or list of owned securities
- Provide efficient search mechanism to facilitate proper and consistent tagging of securities
- Allow registered users to select notice types and information types they'd like to receive
- Allow registered users to select from various notification/communication delivery options (i.e., email, mobile application alert, etc.)
- Allow registered users the ability to receive alerts for list of tagged securities ("interested securities" and "owned securities"

AUTHENTICATION OF IDENTITY

- Support multiple methods of verification and authentication hierarchy, including:
- Users register with their corporate email address and click an email confirmation link to verify that email address belongs to them. Email domain name is matched to industry participation type by platform operator
- Access a global investor directory, which can rank participants' identities
- **Identity/Role Validation**. Authenticate corporate entities via corporate verification process, [exact process to be discuss].
  - Allow corporate entities to designate corporate administrators
  - Allow corporate administrator to verify individual employee users and certify users' industry participation type
- **QIB and Accredited Investor Status [Verification]**. Validate, via reasonable steps, that corporate and individual investors qualify as accredited investors and/or as QIBs.
- [Authenticate parties beneficial ownership of a deal through verify docs request or other appropriate avenues]
  - Enable re-verification process to ensure investor list does not grow outdated
  - Allow for time efficient, easy authentication for record date purposes

  [*See Bondholder Authentication Methodologies section*]

  - **Asset Ownership Authentication: Signed Affirmation.** Collect and review signed document attesting to an investors status as a beneficial owner of a particular asset, or of its intent to [potentially] purchase asset. This method should allow for electronic execution of affirmation [, if legally sufficient].
  - **Asset Ownership Authentication: Document Production.** Collect and review documents attesting to an investor's ownership status (such as a holding statement, trade ticket, etc.)

This method should allow for the uploading of electronic or scanned copies of the documents.

- **Medallion Guarantee.** Collect and review medallion guarantees delivered by custodians; where the medallion guarantee is a document that verifies the beneficial ownership for their investor client by the custodian stamping and signing a document listing the asset and amount of holdings as of a given date

– Facilitate creation of electronic medallion guarantee documentation process which Trustee can print off and have stamped by guarantor

▪ Ensure appropriate platform behavior by registered users via operational scores

COMMUNICATION: NOTIFICATION FROM TRANSACTION PARTIES

▪ **Anonymous communication option**. Provide all users with capability to communicate on an anonymous basis for each individual security, if so chosen.

▪ **Notification Posting**. Support user-friendly bulletin board type posting, by designated transaction parties, of various types of notification:

– **Notification type designation.** Support designation of various Notification Types; such as, "Voting Requests", "Consent Solicitations", "Servicer Reports", "Response to Investor Questions", "Investor Communication Requests", "Annual Servicer Compliance Certifications", etc.

– **Notification management.** Enable full control over notification creation, indexing and publication with version control, audit trails and secure viewing features

– **Permission designations.** Provide Issuer/Sponsor administrator with ability to designate transaction parties and their respective registered users with the ability to post notification which may be limited, at the Issuer/Sponsor administrator's option, to select Notification Types.

– **Recipient designations.** Provide Issuer/Sponsor administrator with ability to limit the group of registered users that receive any specific notification (important for 144A and private transactions)

▪ **Notification History**. Provide access to historical notices:

– Allow all registered users access to all prior public notices and public communication for any *public* security

– Allow registered users designated by the Issuer/Sponsor administrator access to all prior notices for any *non-public* security

- Provide capability for Issuer/Sponsor administrator of non-public securities to designate access to individual registered users or groups of registered users (i.e., groups such as "any validated QIBs", "any validated accredited investors", etc.)

COMMUNICATION: MESSAGING BETWEEN INDUSTRY PARTICIPANTS

▪

▪ **Communication Platform**. Provide secure platform for communication among investors and between investors and issuers, trustees and other transaction parties, on an anonymous or disclosed basis, as chosen by the user

– **Sending messages to designated recipients**. Enable sending of messages by all registered users, who have appropriate authority to send messages for such security (see "User Access Rules"), *on an*

anonymous or disclosed basis, to a self-selected list of recipients where such select recipients can be either limited or publicly available, such as:

(a). a public message delivered system-wide;

(b). a public message to any party with an designated "*interest in the deal*";

(b). a designated Group(s) of recipients (such as limited to only validated beneficial owners, or all "interested" investors, or other groups to be determined);

(c). designated transaction party(ies); or

(d). selected individual registered user(s)

[where public messages are only available for use on public deals.]

- **Responding**. Enable authorized users, *on an anonymous or disclosed basis*, to respond to communication sent to them: allowing such user to respond to the entire group on the distribution list or to a sub-segment of that list

- **Delivery tracking**. Support tracking of message delivery so parties know whether the message was delivered or mis-delivered as well as which participants received it and which participants opened it and when (where only the anonymous ID is disclosed for those participants who want to remain anonymous)

- **Contact request**. Enable users engaged in conversation to request each other's contact information in order to take discussion offline if so desired, including feature that only discloses contact information if and when both parties agree

- **Multiple technologies**. Allow for secure messaging/instant messaging/chat rooms and other technology forum to the extent they meets the retention and reporting criteria

- **Sophisticated search capabilities**. Support user friendly, efficient directory of chat rooms and other communications

- **[Independent Monitoring.** Establish independent (not self-regulated) monitor of substance of communication, to prevent inappropriate messages]

COMMUNICATION: VOTING PROCESS

- **Voting Notification.** Enable Trustees or other authorized transaction party to send notification to beneficial owners that an action is required. This criteria shall meet the criteria listed under "Communication: Notifications from Transaction Parties".

- **Collection of Votes.** Facilitate the distribution and collection of investor votes by Bond Administrator, Trustee and any other designated transaction party

  - **Ballot distribution**. Provide feature to create and/or download electronic ballots for distribution to validated bondholders

  - **Tracking votes**. Enable authorized transaction party(ies) to track distribution, receipt and submission of voting documents

  - **[Tally votes**. Tally votes received by bondholders]

  - **Record-keeping**. Full audit log of all record/data actions taken with respect to the voting process

- **Notification Alerts**. Send email notifications to designated investors that voting action is required; re-send notifications on designated dates and times, as designated by the authorized transaction party, if investor has not opened message contents online or investor has not yet voted

- Enable Trustee or other authorized transaction party to notify validated bondholders and other designated transaction parties of results of voting. This criteria shall meet the criteria listed under "Communication: Notifications from Transaction Parties".

RECORD-KEEPING, TRACKING AND MONITORING

- **Archiving, disaster recovery, backup and restoration.** Store copies of records with daily tape backups in a secure off-site redundant data center

- **Retention/disposal schedule development**. Industry to discuss the critical issue of storing the right amount of data for the right amount of time.

  - All data records and format (doc, PDF, MP3, etc.) should be addressed

  - All communication devices should be addressed (mobile, pc, application, etc.)

  - Adopt industry convention as baseline as well as provide ability to incorporate corporate preferences/overrides to those conventions, when needed.

    For example, individual investors may want to have capability to dispose of asset holding information stored on the platform on a more frequent basis or a institution may have a more conservative retention policy than the overall industry practice.

- **Activity tracking and auditing.** Full audit log of all log-on/log-off, communication, record/data actions taken (who added, reviewed, changed and/or deleted records as well as when and what action was taken) until time period consistent with the retention/disposal schedule (see "***Retention/disposal schedule development***" criteria).

- **Reporting/downloadable record-keeping.** Allow administrators to obtain and download real-time, regular and frequent reporting for its Authorized Records

  - **All encompassing**. Address any and all communication, on all platforms/devices; all record/data actions and any other actions taken by registered users

  - **Entity-specific data access**. Limit monitoring and reporting to those records that pertain to such entity.

  - **Self-service capabilities/Ad-hoc reporting**. Allow users capabilities to create their own reporting

  - **Interoperability/operation integration**. Function seamlessly with industry supervision and recordkeeping systems in a readily-accessible, downloadable format

  - **Open architecture.** Built on open architecture that integrates with other platforms and software used by the broad base of industry participants so Administrators can easily integrate necessary reporting, monitoring and retention

  - **Secure download.** Incorporate industry leading data and cyber security to protect data records

- **Management dashboard.** Access to detailed reports and dashboards for compliance and governance by providing "management users" real-time view of designated user activity.

SECURITY (protect the integrity of records/data with industry leading security)

- Secure access controls.

▪ Secure data controls. Data protected at rest and in transit – full encryption
▪ Security of content shared.
▪ Operations security.

Settlements

Loan Modifications Related to Future Legal Settlements and Future Private Label RMBS Transactions

Issue Overview

The US Department of Justice and state attorneys general have brought various legal actions related to the origination, servicing and securitization of residential mortgage loans. In connection with some of these legal actions, settlements or consent orders have been entered into with the federal and state governments.

Project RMBS 3.0 does not seek to take any position regarding existing litigation and is expressly focused on creating standards for new RMBS transactions only.

History

View of Transaction Parties

Investors are very concerned about the pattern that has been observed to date under which, when a given institution enters into a consent order or settlement agreement with state attorneys general or other state or federal agencies, a specified amount of "borrower relief" may be required to be provided in the form of principal reductions or other accommodations, and a loan originator or servicer might receive "credit" against the total settlement amount by applying such borrower relief to loans that may be in legacy private label securitization trusts. These concerns can create a general reluctance on the part of investors to re-enter the market, unless future private label RMBS transactions contain provisions that address such risks to investors.

Accordingly, SFIG believes that, for future private label RMBS transactions, a transparent and consistent approach needs to be agreed upon among market participants that will address contractual obligations and rights pertaining to possible future settlements and enforcement orders. SFIG intends to address this issue and work towards a resolution for future private label RMBS offerings, as part of RMBS 3.0.

In general, the RMBS 3.0 project, while recognizing there may not always be a "one-size-fits-all" approach seeks to, among other things, increase transparency, create consistency of approach and where possible standardization of documents, to clarify roles and responsibilities, and to remove areas of ambiguity.

Specifically investors believe, at a high level, that RMBS 3.0 should adopt recommendations for future private label transactions that would be transparent in the delineation of servicing

standards for trust assets – including a focus on how these servicing standards, inclusive of loss mitigation and principal forgiveness practices, may be impacted indirectly by settlements.

Debate & Discussion

SFIG has begun a review of historical settlements to fully understand the scope of the issue. Additionally, a subset of its members has begun initial discussions and looks forward to identifying productive solutions to solve this important structural issue on a going forward basis. It is not SFIG's intent to address historical issues with respect to principal reduction modifications but rather to create a set of best practices for the future.

Industry Positions

See future Green Papers.

Proposed Solutions

See future Green Papers.

Appendices

Appendix A

Why is Private Capital Absent from the Secondary Mortgage Market?

There are multiple elements that drive supply-demand market dynamics, with pricing being key among those elements. However, in the case of the private-label mortgage securities market ("RMBS market"), there are many other factors currently influencing the decisions of issuers to issue (supply) and investors to invest (demand). Issuance has been constrained by both structural issues and regulatory uncertainty. Investment has also been inhibited due to similar regulatory barriers and structural issues in the marketplace that impact the ability to assess transactions. An outline of these roadblocks and their effects on the RMBS market, is on the following page.

The following views reflect those of many of our investor and issuer members. SFIG membership is comprised of over 250 institutional members, some that may have views different and/or in addition to those expressed on the topics set forth above

Key Issues	Impact on the Mortgage-Backed Private Label Securities Market	
	Investor Viewpoint	**Issuer Viewpoint**
GSE Reform	Investors are unclear as to what the future state of mortgage finance will be and what level of private capital involvement is needed to fill any void left by the proposed retrenchment of the GSEs. In the meantime, the GSEs' market share continues to dominate the market.	Issuers are similarly unclear as to what the future state of mortgage finance will be and what level of private capital involvement is needed to fill any void left by the proposed retrenchment of the GSEs. In the meantime, the GSEs' market share continues to dominate the market.
Risk Retention	If a Qualified Mortgage does equal Qualified Residential Mortgage then investors may shy away from investing because neither the borrower nor the issuer have adequate "skin in the game." In addition to issuers retaining risk, many investors favor a "QM Plus" standard including some sort of down payment requirement and the absence of such in a final rule may impact investor appetite.	At this juncture it is still far from certain if a Qualified Mortgage will equal a Qualified Residential Mortgage. Issuers are hesitant to develop large scale programs because of the lack of clarity on how much risk they have to retain on future transactions and the process for calculating the amount of risk. Many originators and issuers support alignment of Qualified Residential Mortgage with Qualified Mortgage
Modifications	Investors are concerned that with the purchase of private-label securities, their investment may be subject to risk of being altered by regulators through governmental programs or mortgage settlements by state attorneys general.	
Eminent Domain	Investors are concerned about municipalities' proposals to seize "underwater" mortgages for the purposes of modifying borrowers' mortgages which would also alter their investment.	Issuers are similarly concerned about municipalities' proposals to seize "underwater" mortgages for the purposes of modifying borrowers' mortgages which would also alter their issuance.
US Implementation of Basel III	This regulation discourages the return of private capital by disincentivizing investment in private-label securities, as they are treated as illiquid under current proposals.	This regulation discourages the return of private capital by treating private-label securities in a lower tier than securities issued by the GSEs.
Regulation AB II	It is unclear to investors what level of loan-level disclosure will be provided to them under the rule.	Regulation AB II includes changes to disclosure and reporting protocols, which will impact internal systems that are designed to automate creation of required loan-level fields. Without final rules, necessary work to upgrade systems cannot be started. Manually inputting loan-level information, or outsourcing to third-parties, is not consistent with scalable and efficient funding. Issuers have very serious concerns with the workability of the SEC's recent new proposal requiring borrower sensitive loan level information to be provided on an issuer sponsored website.
Servicing Standards	A general concern that servicers' interests are not properly aligned with investors and a lack of transparency in servicer loss mitigation processes.	Issuers are unclear as to what servicing standards will exist in the future and whether the recent focus on specialty servicers means that broader changes are on the way.
Transaction Parties and Investor Communications	What will the interaction be between transaction parties and investors in a future state? The relationship was strained after the Credit Crisis when some investors felt they could not get adequate information from certain transaction parties.	
Representations, Warranties, and Repurchase Governance	Investors have indicated that a mechanism to solve issues related to representations and warranties is a pre-requisite to returning to the market.	Issuers continue to explore frameworks that provide appropriate breach determination features while also offering certainty that a breach claim stems from a material loan defect rather than a borrower life or credit event. Additionally, rating agencies tend to have differing views on how to develop these frameworks.
Substantial Due Diligence	Investors are further concerned about the inability to rely on rating agencies to the same degree as prior to the Credit Crisis. For investors to purchase securities, a substantial amount of due diligence is required which is costly and impacts profitability of an investment.	Presently, 100% due diligence is generally required by investors and rating agencies prior to engaging in private-label securities transactions, which is not an operationally scalable and sustainable model for large volume, periodic issuers.
Pricing	Low cost deposits and "easy" access to GSE funding for issuers do not make issuance attractive at levels that are required by investors. Additionally, the ease of advances through the Federal Home Loan Banks offers advantages.	Low cost deposits and "easy" access to GSE funding for issuers do not make issuance attractive at levels that are required by investors. Additionally, the ease of advances through the Federal Home Loan Banks offers advantages.

Appendix B

SUMMARY OF RMBS ROUNDTABLE, OCTOBER 2013

Module 1: Representation and Warranties—"Prior to Issuance"	Module 2: Enforcement—"Post Issuance"
▪ Representations & Warranties: ▪ Materiality ▪ Due Diligence ▪ Disclosure	▪ Sunsets ▪ Independent Reviewer ▪ Independent Review Process ▪ Bondholder Communications ▪ Role of Transaction Parties

Representations, Warranties and Repurchase Governance: Exploring the Differences in Post-Crisis RMBS

Module 1: Representations and Warranties ("Prior to Issuance")

The first module addressed matters that generally relate to a time prior to an RMBS issuance, including the content of the representations and warranties, pre-offering due diligence, and offering disclosure to investors.

1. Representations and Warranties

While a variety of views were expressed, a general consensus emerged that recognized a fair degree of consistency from deal to deal in the actual content of the representations and warranties. Many transactions do follow the rating agency templates, although in some cases the content varies significantly. There seemed to be a general recognition that any standardization of RMBS representation and warranty frameworks may need to vary to some significant degree based on three different issuer variations: (1) bank vs. non-bank sponsor/originator, (2) aggregator vs. originator, and (3) REIT sponsor/subordinate investor. For example, controlling holder provisions are most likely desired for the third issuer category. However, senior investors have conflicting concerns about the controlling holder model and seemed more comfortable with the independent reviewer model for other market variations (although some transactions within those other market segments do include both a controlling holder and an independent reviewer). Another example is that the aggregator model presents additional issues such as whether there is a need to include representation and warranty back-stops. This module found that there is significant variance among backstop provisions on top of differences among the content of representation and warranty packages themselves. Apart from these differences in basic market models, investors seemed somewhat concerned with language variations in the

representations themselves, but more concerned with insufficient detail about the roles and responsibilities of various parties to a deal within the contractual framework of new transactions. Several participants noted their belief that provisions under which certificate holders "may" pursue remedies are not effective.

2. Materiality

There was excellent discussion about materiality, and a consensus began to build among investors and issuers that work should concentrate on how more objective standards may develop to reduce reliance on subjective judgments when making breach of representation determinations for which there would be a remedy. Investors expressed a desire to see more "rules-based" contracts and support for this approach. Issuers also noted that the objective is to transfer credit risk and provide clarity as to what underwriting defects result in a put back so that representations and warranties do not act as a proxy for pushing credit risk back to the issuer. It was opined that causation (e.g., that the breach contributed to a subsequent default) should not be the definition of materiality.

3. Due Diligence

Panelists agreed that due diligence is extremely important, to assure loan quality prior to securitization. Participants expressed their view that the diligence results should be disclosed, and the diligence provider identified. Virtually all of the investors objected to the due diligence firms taking direction from the rating agencies. Investors further expressed a desire to receive the due diligence findings directly, although they had differing views about the level of detail that they wanted to see from those findings (e.g., loan -level detail vs. categories of extracts). There was also discussion of sample size, and some realization that as volumes ramp up sample sizes will need to be reduced below 100 percent. Dynamic sampling, under which adverse results would trigger increased sample size, was also discussed. A participant opinion suggested that a high sample size will continue to be needed for conduits.

4. Disclosure

This discussion concentrated on whether underwriting guidelines can or should be provided to investors, both in the form of detailed underwriting (or purchase) criteria as well as the complete underwriting manual. While there is a view that the detailed underwriting criteria may be proprietary, investors nevertheless feel that it should be disclosed. One issuer noted that their typical disclosure includes a description of the scope and results of the third party review, a loan-level listing of all exceptions, and the detailed underwriting criteria. Counsel noted the need to make sure that any loan-level disclosure does not violate privacy rules. Investors further expressed a desire to have access to a "data room" containing all information provided to the rating agencies. While investors differed on how much they should be able to rely on disclosure and the rating process for a AAA rated bond, there was a high level of interest in access to underlying information.

Module 2: Enforcement ("Post-Issuance")

The second module addressed matters that occur after the time of issuance, including representation and warranty sunsets, materiality and causation, independent review, and bondholder communications and actions.

1. Sunsets

There was robust discussion about sunsets/duration of representations. There were differences among investors on this subject, with some changing their position as Round Table sessions progressed. Some investors were willing to accept sunsets for certain representations after a period of time of acceptable borrower payment history in recognition that various types of "life events" are likely to be the proximate cause of subsequent defaults. Many expressed the view that a fraud representation should not sunset. Other investors did not seem willing to go that far, while some refrained from expressing an opinion. Some investors would be willing to agree to sunsets if the costs of arbitration were not imposed on the trust in a "loser pays" allocation. As to the time frame, 36 months was discussed and seemed acceptable to many. However, one investor opined that this period is not long enough in light of the timeline of economic cycles. Rating agencies also have varying views about this subject. One rating agency supported the view that representations related to the enhancement level, such as owner-occupancy, should not sunset. Another felt that sunsets should be mitigated by other factors, such as a large diligence sample.

2. Independent Reviewer

There was substantial discussion about independent reviewer provisions. For example, the question of whether an independent reviewer should be named up-front in the transaction documents was debated. Some issuers felt that the independent reviewer and the review process should be specified in the transaction documents. Another issuer believed there was some pushback from investors on setting a rigid review checklist upfront and that the first loss investor may wish to have the ability to designate the independent reviewer. A senior bond investor expressed a preference for having the reviewer designated upfront, but other investors were less clear on that point. One approach suggested that if the independent reviewer is not specified upfront, then standards and automatic triggers for selection should be specified.

3. Independent Review Process

There was also much discussion about whether the independent reviewer should conduct "automatic" reviews for all loans reaching a delinquency trigger or whether review triggers should depend upon the quality of the collateral or other considerations. While a review at 120 days' delinquency is a typical standard, some participants thought that a review should occur at 60 days' delinquency in the first year.

Appendix C

RMBS 3.0 Model Extract Form

Rating Agency Grading

Grade Description	Credit			Property Valuations			Compliance		
	Multiple*	S&P	Fitch	Multiple*	S&P	Fitch	Multiple*	S&P	Fitch
No exceptions noted	A	CA	A	A	VA	A	A	RA	A
Cured (previously material) exceptions	A	CA	A	A	VB	A	B	RB	B
Non-material exceptions noted	B	CB	B	B	VB	B	B	RB	C
Material, non-document-related exceptions noted	C	CC	C	C	VC	C	C	RC	D
Material documentation missing	D	CD	D	D	VD	D	D	RD	D

*The grade definition is used by multiple rating agencies, including Moody's, Kroll, and DBRS

Please See Reviewing Criteria in Module

Loan Number	Exception Type	Exception Description	Initial Grade	Final Grade	Cleared vs. Exception	Lender (origination) or Sponsor (Due Diligence) Exception	Exception Commentary	Exception Notes, Compensating Factors
1001	Credit	Income/ Employment	B	A	Cleared	N/A	Income/Employment: Income docs do not meet guidelines - Initial [DD FIRM] Comments: 7/11/2013 1:38:04 PM - Missing the K1s for brokerage company for 2012 and 2011. Both years showing a loss, per guidelines K1s are required. - Client/Seller Response Comments: - 8/5/13 Lender provided K1's for [COMPANY] for 2011/2012 - [DD FIRM] Conclusion Comments: - 8/5/13 condition satisfied	Borrower time on job 6 years or more Borrower has been self employed for 6 years. DTI is 5% or more below guideline requirement 14% DTI is below the 45% DTI. LTV 5% or more below guidelines 50% LTV is below the 80% guideline. Credit score exceeds guidelines by 20 points or more 760 Credit score exceeds the guideline of 720.

Loan Number	Exception Type	Exception Description	Initial Grade	Final Grade	Cleared vs. Exception	Lender (origination) or Sponsor (Due Diligence) Exception	Exception Commentary	Exception Notes, Compensating Factors
1001	Credit	Continuity of obligation	B	B	Exception	Lender	Terms/Guidelines : Ownership seasoning does not meet minimum per guidelines - Initial [DD FIRM] Comments: 7/11/2013 - Per Guidelines - properties that have been listed for sale within the past 6 months of loan application are not eligible for a rate/term refinance. Appraiser states property was listed 08/21/2012 and withdrawn on [DATE]. LOE from borrower in file. - Client/Seller Response Comments: - 7/18/13 Lender provided approved exception for property listed less than 6 months ago - [DD FIRM] Conclusion Comments: - 7/18/13 [DD FIRM] final grade B, due to low LTV and DTI and excellent reserves	Borrower time on job 6 years or more Borrower has been self employed for 6 years. DTI is 5% or more below guideline requirement 14% DTI is below the 45% DTI. LTV 5% or more below guidelines 50% LTV is below the 80% guideline. Credit score exceeds guidelines by 20 points or more 760 Credit score exceeds the guideline of 720.

Loan Number	Exception Type	Exception Description	Initial Grade	Final Grade	Cleared vs. Exception	Lender (origination) or Sponsor (Due Diligence) Exception	Exception Commentary	Exception Notes, Compensating Factors
1002	Credit	Application	B	A	Cleared	N/A	Application: Application is incomplete - Initial [DD FIRM] Comments: 1/22/2014 2:35:56 PM - Missing 1008 - Client/Seller Response Comments: - 2/3 Client provided Lender approval 1008 form - [DD FIRM] Conclusion Comments: - 1/28 [DD FIRM] received 1008, does not match terms of loan. 2/3 [DD FIRM] received Lender 1008 approval with correct terms. Condition satisfied.	Borrower time on job 5 years or more Borrower is a doctor and has been employed for 19 years. Verified cash reserves exceed guidelines $500,000 verified cash reserves, 110 months PITI reserves, exceeds the guidelines 12 months subject $50,000 and 6 months additional property $25,000
1002	Credit	Credit history	B	B	Exception	Lender	Credit/Mtg History: Credit score below guidelines - Initial [DD FIRM] Comments: 1/22/2014 PM - 700 credit score is below the 720 credit score guidelines by 20 points. - Client/Seller Response Comments: - 2/3 Lender provided exception approval for credit score of	Borrower time on job 5 years or more Borrower is a doctor and has been employed for 19 years. Verified cash reserves exceed guidelines $500,000 verified cash reserves, 110 months PITI reserves, exceeds the guidelines 12 months subject $50,000 and 6 months additional property $25,000

							700 below guideline minimum - [DD FIRM] Conclusion Comments: - 2/3 [DD FIRM] initial and final grade B, Qualifying Fico credit score is 700 or 20 points below minimum for program on 2nd home, 8 year residence, 20 years employment, 60+ months satisfactory m mortgage history, total of 40 satisfactory trades, 35% DTI, $22,000 residual monthly income with $500,000 in post close reserves	
1003	Compliance	RESPA	3	**2**	Exception	Sponsor	RESPA: GFE 0% tolerance exceeded- Lender Cured with credit to borrower at funding in the amount of $20.00 and reflecting in final correct HUD-1 prior to closing	N/A
1004	Compliance	Missing Doc	3	1	Cleared	N/A	Missing final HUD-1; 09/10/2014: Received final HUD clearing issue	N/A
1005	Compliance	TILA	3	2	Exception	Sponsor	Finance charge not within tolerance- Under-disclosed $100. It appears the Lender did not included courier and wire fees in final TIL calculations	09/08/2014: Lender provided evidence of refund to borrower and re-disclosure of TIL along to evidence of delivery - Event changed to 2
1006	Compliance	Missing Doc	3	1	Cleared	N/A	Missing final HUD-1-	N/A

							09/08/2014 -Final HUD-1 already located in file, clearing issue	
1007	Credit	Ratio	3	I	Cleared	N/A	DTI is greater than maximum allowed by guidelines- 46% DTI > 43% max - missing lease agreement for departing residence. Lender used $2000 monthly rental income to offset payment - no lease provided to support	09/08/2014: Received lender income calculation and 2 year average income used - no lease required as borrower did not lease; full payment including taxes and insurance were used in debt calculations. Issue cleared and lender DTI confirmed
1008	Property	Value not supported	C	A	Cleared	N/A	Appraisal Desk Review was received with a value of $850,000 which is a -15% variance from the origination appraisal of $1,000,000. Field review is recommended.	Lender provided a field review supporting the origination appraisal of $1,000,000. Exception Satisfied.
1009	Property	Non-Warrantable Condominium	B	B	Exception	Lender	Guidelines do not permit non-warrantable condominiums (per Fannie Mae Guidelines). Condominium is non-warrantable due to incidental income that exceeds Fannie Mae Guidelines.	Lender approved this as an underwriting exception and exception approval form is in the file. Lender conducted a review of the condominium financials. The condominium project receives approximately 5% of its income from retail space and a studio. The project has a history of receiving this income since it was converted to condominiums over 7 years ago. Commercial space is <10% of the project. Without the additional income from all the commercial space, the homeowners association fees would only increase a de

								minimis amount per month for each unit to match the lost income.
1010	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1001	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1012	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1013	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1013	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1014	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1015	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1016	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1017	N/A	N/A	I	I	N/A	N/A	N/A	N/A
1018	N/A	N/A	I	I	N/A	N/A	N/A	N/A
1019	N/A	N/A	I	I	N/A	N/A	N/A	N/A
1020	N/A	N/A	I	I	N/A	N/A	N/A	N/A
1021	N/A	N/A	I	I	N/A	N/A	N/A	N/A
1022	N/A	N/A	I	I	N/A	N/A	N/A	N/A
1023	N/A	N/A	I	I	N/A	N/A	N/A	N/A
1024	N/A	N/A	I	I	N/A	N/A	N/A	N/A
1025	N/A	N/A	I	I	N/A	N/A	N/A	N/A
1026	N/A	N/A	I	I	N/A	N/A	N/A	N/A
1027	N/A	N/A	I	I	N/A	N/A	N/A	N/A
1028	N/A	N/A	I	I	N/A	N/A	N/A	N/A
1029	N/A	N/A	I	I	N/A	N/A	N/A	N/A
1030	N/A	N/A	I	I	N/A	N/A	N/A	N/A
1031	N/A	N/A	I	I	N/A	N/A	N/A	N/A
1032	N/A	N/A	I	I	N/A	N/A	N/A	N/A
1033	N/A	N/A	I	I	N/A	N/A	N/A	N/A
1034	N/A	N/A	I	I	N/A	N/A	N/A	N/A
1035	N/A	N/A	I	I	N/A	N/A	N/A	N/A
1036	N/A	N/A	I	I	N/A	N/A	N/A	N/A

1037	N/A	N/A	I	I	N/A	N/A	N/A	N/A
1038	N/A	N/A	I	I	N/A	N/A	N/A	N/A
1039	N/A	N/A	I	I	N/A	N/A	N/A	N/A
1040	N/A	N/A	I	I	N/A	N/A	N/A	N/A
1041	N/A	N/A	I	I	N/A	N/A	N/A	N/A
1042	N/A	N/A	I	I	N/A	N/A	N/A	N/A
1043	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1044	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1045	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1046	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1047	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1048	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1049	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1050	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1051	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1052	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1053	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1054	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1055	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1056	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1057	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1058	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1059	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1060	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1061	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1062	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1063	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1064	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1065	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1066	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1067	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1068	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1069	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1070	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1071	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1072	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1073	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1074	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1075	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1076	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1077	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1078	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1079	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1080	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1081	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1082	N/A	N/A	A	A	N/A	N/A	N/A	N/A

1083	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1084	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1085	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1086	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1087	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1088	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1089	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1090	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1091	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1092	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1093	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1094	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1095	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1096	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1097	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1098	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1099	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1100	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1101	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1102	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1103	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1104	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1105	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1106	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1107	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1108	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1109	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1110	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1111	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1112	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1113	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1114	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1115	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1116	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1117	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1118	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1119	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1120	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1121	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1122	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1123	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1124	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1125	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1126	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1127	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1128	N/A	N/A	A	A	N/A	N/A	N/A	N/A

1129	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1130	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1131	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1132	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1133	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1134	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1135	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1136	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1137	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1138	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1139	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1140	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1141	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1142	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1143	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1144	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1145	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1146	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1147	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1148	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1149	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1150	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1151	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1152	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1153	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1154	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1155	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1156	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1157	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1158	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1159	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1160	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1161	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1162	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1163	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1164	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1165	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1166	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1167	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1168	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1169	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1170	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1171	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1172	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1173	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1174	N/A	N/A	A	A	N/A	N/A	N/A	N/A

1175	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1176	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1177	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1178	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1179	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1180	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1181	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1182	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1183	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1184	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1185	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1186	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1187	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1188	N/A	N/A	A	A	N/A	N/A	N/A	N/A
1189	N/A	N/A	A	A	N/A	N/A	N/A	N/A

Appendix D

SFIG RMBS 3.0 TRID COMPLIANCE REVIEW SCOPE

INTRODUCTION

Important Note: The goal of this SFIG Third Party Review (TPR) Scope documentation is to create a uniform testing standard as a result of a consistent Truth-In-Lending Act liability interpretation according to our understanding of prevailing legal precedent and informal written guidance and webinars offered by the CFPB, as it applies to the Know Before You Owe / TILA RESPA Integrated Disclosure Rule (78 FR 79730, as amended) across TPR firms. The underlying premise of this documentation is to establish a best practices approach to pre-securitization testing logic that will drive the due diligence conducted by TPRs.

Due to the fact that the logic driving the content of this document is based upon informal CFPB guidance, and legal precedent from several court decisions, there may be shifts in the

requirements should there be future CFPB rulemakings or formal guidance, and as case law develops following the passage of the Know Before You Owe / TILA RESPA Integrated Disclosure Rule.

Note that the conclusions set forth herein do not necessarily reflect how courts and regulators, including the CFPB, may view liability for TILA violations presently, or in the future. This is not intended to be legal advice, and is strictly for general informational purposes only and shall not be relied on by any third party as legal advice.

If you have received this matrix, and have questions about any specific transaction or generally about laws applicable to you, your business, or a particular transaction, you should consult with your legal counsel.

Disclosure	Provision of 12 C.F.R. Part 1026	Description of Provision	Assignee Liability Type	Initial Grade	Action to Resolve	Final Grade	In Scope to Test	Discussion Comments
Loan Estimate "LE"	19(e)(1)(i)	Requires creditor to provide LE.	Statutory Damages	EV3	No Obvious Cure	EV3	In Scope, Cannot Obviously be Cured	Includes the Verification of borrower(s) and address to ensure the LE is provided to borrower.
Loan Estimate "LE"	19(e)(1)(ii)	Requires mortgage broker or creditor to provide LE if mortgage broker receives an application.	Statutory Damages	EV3	No Obvious Cure	EV3	In Scope, Cannot Obviously be Cured	

Loan Estimate "LE"	19(e)(1)(iii)	Timing, within three business days after application	Statutory Damages	EV3	No Obvious Cure	EV3	In Scope, Cannot Obviously be Cured	
Loan Estimate "LE"	19(e)(1)(v)	Waiver for bona fide personal financial emergency	Actual Damages	EV2	No Obvious Cure	EV2	EV2, In Scope, Cannot Obviously be Cured	

Disclosure	Provision of 12 C.F.R. Part 1026	Description of Provision	Assignee Liability Type	Initial Grade	Action to Resolve	Final Grade	In Scope to Test	Discussion Comments
Loan Estimate "LE"	19(e)(1)(vi)	Written List of Providers	Actual Damages	EV2	No Obvious Cure	EV2	EV2, In Scope, Cannot Obviously be Cured	If there is a delay or other issues with the SSPL, the TPR firms will consider the fees associated with the services using a **10%** tolerance if the consumer was

								permitted to shop. (As indicated on the LE/CD). Will monitor for future CFPB guidance to determine whether one can allow service providers selected by the borrower that are not on the list to be excluded from the 10% tolerance consideration and instead moved to the Good Faith tolerance consideration using the best information available standard.
Loan Estimate "LE"	19(e)(2)(i)	Pre-disclosure fee restriction	Neither	N/A	N/A	N/A	Outside of Scope	
Loan Estimate "LE"	19(e)(2)(ii)	Worksheet disclaimer	Actual Damages	EV2	No Obvious Cure	EV2	EV2, In Scope, Cannot Obviously be Cured	
Loan Estimate "LE"	19(e)(2)(iii)	Prohibition of requiring verifying information	Neither	N/A	N/A	N/A	Outside of Scope	

Disclosure	Provision of 12 C.F.R. Part 1026	Description of Provision	Assignee Liability Type	Initial Grade	Action to Resolve	Final Grade	In Scope to Test	Discussion Comments

Loan Estimate "LE"	19(e)(3)	Tolerances	Statutory Damages	EV3	**LOE Proof of Delivery Refund Fee Tolerance Provide Corrected CD**	EV2 within 60 of consummation, EV2 within 60 of Discovery, EV3 if not within 60 of discovery	Yes, Explicit Funds due Consumer	Proof of delivery Non-material disclosures - Shipping label, confirmation of e-delivery, LOE from lender, or date issued on PC CD. Best practices for Material disclosures (TOP, Finance Charge, Amount Financed, APR, and Payment Tables) - shipping label with evidence of date sent. Will confirm shipping through FedEx, USPS, or UPS. Note: re-open RTC if applicable for the material disclosures.
Disclosure	Provision of 12 C.F.R. Part 1026	Description of Provision	Assignee Liability Type	Initial Grade	Action to Resolve	Final Grade	In Scope to Test	Discussion Comments

Loan Estimate "LE"	19(e)(4)(i)	Timing of Revised LEs for "Changed Circumstances," etc.	Statutory Damages	N/A	No Obvious Cure	N/A	Outside of Scope, but used for Tolerances	CIC not valid if LE provided outside of 3 days of CIC when fees increase, baseline for tolerance considerations are not adjusted. LE's provided outside of 3 days with downward adjustments in fees, i.e. rate lock, will impact the baseline. *(Applicable for CIC related fees, baselines not adjusted for unrelated disclosed fee values.)*

Disclosure	Provision of 12 C.F.R. Part 1026	Description of Provision	Assignee Liability Type	Initial Grade	Action to Resolve	Final Grade	In Scope to Test	Discussion Comments
Loan Estimate "LE"	19(e)(4)(ii)	Prohibition on Providing Revised LE after Providing CD, Timing of Final LE, Timing of "Changed Circumstance s on CD	Statutory Damages	EV3	No Obvious Cure	EV3	In Scope, Cannot Obviously be Cured	
Loan Estimate "LE"	37	General requirement that reflects terms of legal obligation, or if not known, must be in good faith based on best information reasonably available.	Statutory Damages	EV3	No Obvious Cure	EV3	In Scope, Cannot Obviously be Cured	
Loan Estimate "LE"	37(a)(1)	Form Title	Neither	N/A	N/A	N/A	Outside of Scope	
Loan Estimate "LE"	37(a)(2)	Form Purpose	Neither	N/A	N/A	N/A	Outside of Scope	
Loan Estimate "LE"	37(a)(3)	Creditor Name	Actual Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE and EV2, Outside of Scope	
Loan Estimate "LE"	37(a)(4)	Date Issued	Neither	N/A	N/A	N/A	Outside of Scope	
Loan Estimate "LE"	37(a)(5)	Applicants	Neither	N/A	N/A	N/A	Outside of Scope	
Loan Estimate "LE"	37(a)(6)	Property	Neither	N/A	N/A	N/A	Outside of Scope	
Loan Estimate "LE"	37(a)(7)	Sales Price	Neither	N/A	N/A	N/A	Outside of Scope	
Loan Estimate "LE"	37(a)(8)	Loan Term	Statutory Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE, Outside of Scope, will test on CD	
Loan Estimate "LE"	37(a)(9)	Purpose	Neither	N/A	N/A	N/A	Outside of Scope	
Loan Estimate "LE"	37(a)(10)	Product	Statutory Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE, Outside of Scope, will test on CD	
Loan Estimate "LE"	37(a)(11)	Loan Type	Neither	N/A	N/A	N/A	Outside of Scope	

Loan Estimate "LE"	37(a)(12)	Loan Identification Number	Neither	N/A	N/A	N/A	Outside of Scope	

Disclosure	Provision of 12 C.F.R. Part 1026	Description of Provision	Assignee Liability Type	Initial Grade	Action to Resolve	Final Grade	In Scope to Test	Discussion Comments
Loan Estimate "LE"	37(a)(13)	Rate Lock	Neither	N/A	N/A	N/A	Outside of Scope	
Loan Estimate "LE"	37(b)(1)	Loan Amount	Neither	N/A	N/A	N/A	Outside of Scope	
Loan Estimate "LE"	37(b)(2)	Interest Rate	Neither	N/A	N/A	N/A	Outside of Scope	
Loan Estimate "LE"	37(b)(3)	Principal and Interest Payment	Statutory Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE, Outside of Scope, will test on CD	
Loan Estimate "LE"	37(b)(4)	Prepayment Penalty	Actual Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE and EV2, Outside of Scope	
Loan Estimate "LE"	37(b)(5)	Balloon Payment	Statutory Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE, Outside of Scope, will test on CD	
Loan Estimate "LE"	37(b)(6)	Increases after Consummation	Statutory Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE, Outside of Scope, will test on CD	
Loan Estimate "LE"	37(b)(7)	Details about Balloon Payment	Statutory Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE, Outside of Scope, will test on CD	
Loan Estimate "LE"	37(b)(7)	Details about Prepayment Penalty	Actual Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE, Outside of Scope, will test on CD	
Loan Estimate "LE"	37(c)(1)-(3)	Projected Payments	Statutory Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE, Outside of Scope, will test on CD	
Loan Estimate "LE"	37(c)(4) and (5) (for items in escrow account)	Projected Payments	Statutory Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE, Outside of Scope, will test on CD	
Loan Estimate "LE"	37(c)(4) and (5) (for items not in escrow account)	Estimated Taxes, Insurance, and Assessments	Actual Damages	N/A	N/A	N/A	Based on LE and EV2, Outside of Scope	
Loan Estimate "LE"	37(d)(1)	Costs at Closing: Closing Costs	Actual Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE and EV2,	

							Outside of Scope	
Loan Estimate "LE"	37(d)(2)	Costs at Closing: Cash to Close	Actual Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE and EV2, Outside of Scope	
Disclosure	Provision of 12 C.F.R. Part 1026	Description of Provision	Assignee Liability Type	Initial Grade	Action to Resolve	Final Grade	In Scope to Test	Discussion Comments
Loan Estimate "LE"	37(e)	Website	Neither	N/A	N/A	N/A	Outside of Scope	
Loan Estimate "LE"	37(f)(1)	Loan Costs: Origination Charges	Actual Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE and EV2, Outside of Scope	Tests to exclude is alphabetical testing, fee naming conventions, etc. Tolerance testing would still consider all fees disclosed on LE's and CD's.
Loan Estimate "LE"	37(f)(2) to (4)	Loan Costs: Itemization of Services You Can and Cannot Shop For and Subtotal of Loan Costs	Actual Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE and EV2, Outside of Scope	Tests to exclude is alphabetical testing, fee naming conventions, etc. Tolerance testing would still consider all fees disclosed on LE's and CD's.
Loan Estimate "LE"	37(f)(5)	Loan Costs: Item Description and Ordering	Actual Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE and EV2, Outside of Scope	
Loan Estimate "LE"	37(f)(6)	Loan Costs: Use of Addenda in Addition to Form	Actual Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE and EV2, Outside of Scope	
Loan Estimate "LE"	37(g)(1) to (6)	Other Costs: Taxes, Prepaid(s), Escrow, Other, Lender Credits, Subtotal of Other Costs, Lender Credits and	Actual Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE and EV2, Outside of Scope	

Loan Estimate "LE"	37(g)(7)	Total Closing Costs Other Costs: Item Description and Ordering	Actual Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE and EV2, Outside of Scope	

Disclosure	Provision of 12 C.F.R. Part 1026	Description of Provision	Assignee Liability Type	Initial Grade	Action to Resolve	Final Grade	In Scope to Test	Discussion Comments
Loan Estimate "LE"	37(g)(8)	Other Costs: Use of Addenda in Addition to Form	Actual Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE and EV2, Outside of Scope	
Loan Estimate "LE"	37(h)	Calculating Cash to Close	Actual Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE and EV2, Outside of Scope	
Loan Estimate "LE"	37(i)	Adjustable Payment Table	Statutory Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE, Outside of Scope, will test on CD	
Loan Estimate "LE"	37(j)	Adjustable Interest Rate Table	Statutory Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE, Outside of Scope, will test on CD	
Loan Estimate "LE"	37(k)	Contact Information - NMLS ID Disclosure	Statutory Damages	EV3	Re-Disclose Correct Information	EV2	LE is within scope, requires re-disclosure of correct information on LE or CD	The TPRs will consider the re-disclosure to the consumer of the corrected information on a subsequent CD or a post close CD as resolving the exception to an EV2
Loan Estimate "LE"	37(k)	Contact Information - name,	Neither	N/A	N/A	N/A	Outside of Scope	

		address, email, phone, etc.						

Disclosure	Provision of 12 C.F.R. Part 1026	Description of Provision	Assignee Liability Type	Initial Grade	Action to Resolve	Final Grade	In Scope to Test	Discussion Comments
Loan Estimate "LE"	37(l)(1)	In 5 Years	Statutory Damages	EV3	Re-Disclose Correct Information	EV1	In Scope, can only be Cured on Subsequent LE, cannot be obviously cured once CD is issued.	
Loan Estimate "LE"	37(l)(2)	Annual Percentage Rate	Statutory Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE, Outside of Scope, will test on CD	Does not include LE's APR tolerance testing. Initial CD is required to be disclosed 3 days prior to consummation. Test initial CD and any subsequent CDs for MDIA tolerance requirements and re-disclosure requirements per TRID.
Loan Estimate "LE"	37(l)(3)	Total Interest Percentage	Actual Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE and EV2, Outside of Scope	
Loan Estimate "LE"	37(m)(1)	Appraisal (1 ECOA & 2 TRID)	Statutory Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE, Outside of Scope, will test on CD	ECOA testing is in place and can be verified with statement on LE but if not on LE then stand-alone Right to Receive

								Appraisal disclosure.

Disclosure	Provision of 12 C.F.R. Part 1026	Description of Provision	Assignee Liability Type	Initial Grade	Action to Resolve	Final Grade	In Scope to Test	Discussion Comments
Loan Estimate "LE"	37(m)(1)	Appraisal (1026.35 HPML)	Statutory Damages	EV3	No Obvious Cure	EV3	In Scope, Cannot Obviously be Cured	Not directly related to the TRID Scope… the issue relates to the Appraisal requirement applicable to HPML loans and therefore should be tested for HPML threshold loans…
Loan Estimate "LE"	37(o)(2)	"Estimated" in headings and labels	Actual Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE and EV2, Outside of Scope	
Loan Estimate "LE"	37(o)(3)(i)	Standard form requirements	Neither	N/A	N/A	N/A	Outside of Scope	
Loan Estimate "LE"	37(o)(3)(ii)	Model form requirements	Statutory Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE, Outside of Scope, will test on CD	Failure to provide an LE is a material exception that is addressed with row 2 above. 19(e)(1)(i)
Loan Estimate "LE"	37(o)(3)(iii)	E-SIGN	Actual Damages	EV2	No Obvious Cure	EV2	EV2, In Scope, Cannot Obviously be Cured	
Loan Estimate "LE"	37(o)(4)	Rounding	Actual Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE and EV2, Outside of Scope	Rounding requirements outside of scope for the LE. Tolerance testing is

								covered separately.

Disclosure	Provision of 12 C.F.R. Part 1026	Description of Provision	Assignee Liability Type	Initial Grade	Action to Resolve	Final Grade	In Scope to Test	Discussion Comments
Loan Estimate "LE"	37(m)(2)	Assumption	Actual Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE and EV2, Outside of Scope	
Loan Estimate "LE"	37(m)(3)	Homeowner's Insurance	Neither	N/A	N/A	N/A	Outside of Scope	
Loan Estimate "LE"	37(m)(4)	Late Payment	Actual Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE and EV2, Outside of Scope	
Loan Estimate "LE"	37(m)(5)	Refinance	Statutory Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE, Outside of Scope, will test on CD	
Loan Estimate "LE"	37(m)(6)	Servicing	Neither	EV2	Re-Disclose Correct Information	EV1	Only Test LE as not present on the CD	Accuracy of the statement will not be confirmed, only that the Servicing intent is disclosed. * Re-disclosure on the standalone Servicing transfer notice to consumer will be considered as a re-disclosure of correct information.

Loan Estimate "LE"	37(m)(7)	Liability After Foreclosure	Statutory Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE, Outside of Scope, will test on CD	TPR firms check to confirm that the disclosure is populated, but not the accuracy of the disclosed value.
Loan Estimate "LE"	37(n)	Signature Statement	Actual Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE and EV2, Outside of Scope	

Disclosure	Provision of 12 C.F.R. Part 1026	Description of Provision	Assignee Liability Type	Initial Grade	Action to Resolve	Final Grade	In Scope to Test	Discussion Comments
Loan Estimate "LE"	37(o)(5)	Exceptions	Actual Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE and EV2, Outside of Scope	
Closing Disclosure "CD"	19(f)(1)(i)	Creditor must provide CD	Statutory Damages	EV3	No Obvious Cure	EV3	In Scope, Cannot Obviously be Cured	
Closing Disclosure "CD"	19(f)(1)(ii)(A)	Timing of CD	Statutory Damages	EV3	No Obvious Cure	EV3	In Scope, Cannot Obviously be Cured	
Closing Disclosure "CD"	19(f)(1)(ii)(B)	Special Timing of CD for Timeshares	Neither	N/A	N/A	N/A	Outside of Scope	
Closing Disclosure "CD"	19(f)(1)(iv)	Waiver for Bona Fide Personal Financial Emergency	Statutory Damages	EV3	No Obvious Cure	EV3	In Scope, Cannot Obviously be Cured	
Closing Disclosure "CD"	19(f)(2)(i) and (ii)	Timing of corrected CDs (including one-day right to inspect)	Statutory Damages	EV3	No Obvious Cure	EV3	In Scope, Cannot Obviously be Cured	
Closing Disclosure "CD"	19(f)(2)(iii)	Post-consummation corrected CDs	Neither	N/A	N/A	N/A	Outside of Scope	
Closing Disclosure "CD"	19(f)(2)(v)	Tolerance Cures	Statutory Damages	EV3	**LOE Proof of Delivery Refund Fee Tolerance Provide**	EV2 within 60 of consummation, EV2 within 60 of Discovery, EV3 if not	Final CD is within Scope, Interim CDs out of scope	The fee tolerances will be tested against the final CD and post close CDs to confirm the consumer did not pay more than

					Corrected CD	within 60 of discovery		the permissible 0% and 10% tolerances permit. Tolerance cures through closing will be an EV1, post closing will be an EV2
Closing Disclosure "CD"	19(f)(3)(i)	Must be actual charge received by service provider	Statutory Damages	EV3	Letter of Explanation Re-Disclose Correct Information	EV2	Final CD is within Scope, Interim CDs out of scope	
Closing Disclosure "CD"	19(f)(3)(ii)	Average Charge	Statutory Damages	EV3	Letter of Explanation Re-Disclose Correct Information	EV2	Final CD is within Scope, Interim CDs out of scope	

Disclosure	Provision of 12 C.F.R. Part 1026	Description of Provision	Assignee Liability Type	Initial Grade	Action to Resolve	Final Grade	In Scope to Test	Discussion Comments
Closing Disclosure "CD"	38(d)(1)	Costs at Closing: Closing Costs	Actual Damages	EV2	Letter of Explanation Re-Disclose Correct Information	EV2	Limit Test to Final CD, no interim CDs	
Closing Disclosure "CD"	38(d)(2)	Costs at Closing: Cash to Close	Actual Damages	EV2	Letter of Explanation Re-Disclose Correct Information	EV2	Limit Test to Final CD, no interim CDs	
Closing Disclosure "CD"	38(e)	Alternative Calculating Cash to Close	Actual Damages	EV2	Letter of Explanation Re-Disclose Correct Information	EV2	Limit Test to Final CD, no interim CDs	
Closing Disclosure "CD"	38(f)(1)	Loan Costs: Origination Charges	Actual Damages	EV2	Letter of Explanation Re-Disclose Correct Information	EV2	Limit Test to Final CD, no interim CDs	
Closing Disclosure "CD"	38(f)(2) to (5)	Loan Costs: Services Borrower Did and Did Not Shop For; Subtotal and Total of Loan Costs	Actual Damages	EV2	Letter of Explanation Re-Disclose Correct Information	EV2	Limit Test to Final CD, no interim CDs	
Closing Disclosure "CD"	38(g)(1) to (6)	Other Costs: Taxes, Prepaid(s), Escrow, Other, Lender Credits, Subtotal and	Actual Damages	EV2	Letter of Explanation Re-Disclose Correct Information	EV2	Limit Test to Final CD, no interim CDs	

		Total of Other Costs						
Closing Disclosure "CD"	38(h)(1) and (2)	Closing Cost Totals	Actual Damages	EV2	Letter of Explanation Re-Disclose Correct Information	EV2	Limit Test to Final CD, no interim CDs	
Closing Disclosure "CD"	§ 1026.38(h)(3)	Closing Cost Totals: Lender Credits	Actual Damages	EV2	Letter of Explanation Re-Disclose Correct Information	EV2	Limit Test to Final CD, no interim CDs	
Closing Disclosure "CD"	§ 1026.38(h)(4)	Closing Cost Totals: Same Descriptions and Ordering for Charges as on Loan Estimate	Actual Damages	EV2	Letter of Explanation Re-Disclose Correct Information	EV2	Limit Test to Final CD, no interim CDs	

Disclosure	Provision of 12 C.F.R. Part 1026	Description of Provision	Assignee Liability Type	Initial Grade	Action to Resolve	Final Grade	In Scope to Test	Discussion Comments
Closing Disclosure "CD"	38(j)	Summaries of Transactions: Borrower's Transaction	Actual Damages	EV2	Letter of Explanation Re-Disclose Correct Information	EV2	Limit Test to Final CD, no interim CDs	
Closing Disclosure "CD"	38(k)	Summaries of Transactions: Seller's Transaction	Neither	N/A	N/A	N/A	Outside of Scope	
Closing Disclosure "CD"	38(l)(1)	Assumption	Actual Damages	EV2	Letter of Explanation Re-Disclose Correct Information	EV2	Limit Test to Final CD, no interim CDs	
Closing Disclosure "CD"	38(l)(2)	Demand Feature	Actual Damages	EV2	Letter of Explanation Re-Disclose Correct Information	EV2	Limit Test to Final CD, no interim CDs	
Closing Disclosure "CD"	38(l)(3)	Late Payment	Actual Damages	EV2	Letter of Explanation Re-Disclose Correct Information	EV2	Limit Test to Final CD, no interim CDs	
Closing Disclosure "CD"	38(l)(4)	Negative Amortization	Statutory Damages	EV3	Letter of Explanation Re-Disclose Correct Information	EV2	Final CD is within Scope, Interim CDs out of scope	
Closing Disclosure "CD"	38(l)(5)	Partial Payment Policy	Statutory Damages	EV3	Letter of Explanation Re-Disclose	EV2	Final CD is within Scope, Interim	

					Correct Information		CDs out of scope	
Closing Disclosure "CD"	38(l)(6)	Security Interest	Statutory Damages	EV3	Letter of Explanation Re-Disclose Correct Information	EV2	Final CD is within Scope, Interim CDs out of scope	
Closing Disclosure "CD"	38(l)(7)	Escrow Account	Statutory Damages	EV3	Letter of Explanation Re-Disclose Correct Information	EV2	Final CD is within Scope, Interim CDs out of scope	
Closing Disclosure "CD"	38(m)	Adjustable Payment Table	Statutory Damages	EV3	Letter of Explanation Re-Disclose Correct Information	EV2	Final CD is within Scope, Interim CDs out of scope	
Closing Disclosure "CD"	38(n)	Adjustable Interest Rate Table	Statutory Damages	EV3	Letter of Explanation Re-Disclose Correct Information	EV2	Final CD is within Scope, Interim CDs out of scope	Test Final CD

Disclosure	Provision of 12 C.F.R. Part 1026	Description of Provision	Assignee Liability Type	Initial Grade	Action to Resolve	Final Grade	In Scope to Test	Discussion Comments
Closing Disclosure "CD"	38(o)(1)	Total of Payments	Statutory Damages	EV3	**LOE Proof OF Delivery Re-open Rescission if Applicable** Disclose Correct Information	EV2	Final CD is within Scope, Interim CDs out of scope	Over disclosed TOP values that exceed the calculated TOP value will not warrant an exception. Only under-disclosed TOP values will warrant an exception. The calculated "Total of Payments," is the total the consumer will have paid after making all payments of principal, interest, mortgage insurance, and loan costs, as scheduled. This includes the Total Principal and Interest payment calculated for entire loan term , Total Payment stream MI for entire loan term,

								Total Loan Costs (Borrower Paid) from D of the CD, Borrower Paid Prepaid Interest, (including negative per diem), from F of the CD, Borrower Paid Mortgage Insurance from F of the CD, and Borrower Paid Mortgage Insurance from G of the CD The TOP tolerance considerations will allow an under-disclosure of less than ($0.02 * Number of payments) (e.g. $0.02 * 360 months = $7.20) due to permissible payment calculation variations.

Disclosure	Provision of 12 C.F.R. Part 1026	Description of Provision	Assignee Liability Type	Initial Grade	Action to Resolve	Final Grade	In Scope to Test	Discussion Comments
Closing Disclosure "CD"	38(o)(2)	Finance Charge	Statutory Damages	EV3	**LOE** **Proof of Delivery** **Refund Under disclosed amount** **Re-open Rescission if Applicable** Disclose Correct Information	EV2	Final CD is within Scope, Interim CDs out of scope	
Closing Disclosure "CD"	38(o)(3)	Amount Financed	Statutory Damages	EV3	**LOE** **Proof OF Delivery** **Re-open Rescission if Applicable** Disclose Correct Information	EV2	Final CD is within Scope, Interim CDs out of scope	

Closing Disclosure "CD"	38(o)(4)	Annual Percentage Rate	Statutory Damages	EV3	**LOE Proof of Delivery Refund Under disclosed equivalent unless based on Future ARM change Re-open Rescission if Applicable** Disclose Correct Information	EV2	Final CD is within Scope, Interim CDs out of scope	
Closing Disclosure "CD"	38(o)(5)	Total Interest Percentage	Actual Damages	EV2	Letter of Explanation Re-Disclose Correct Information	EV2	Limit Test to Final CD, no interim CDs	Best Practices is to require 3 decimal places if rounded and allowing a '0' in the third decimal place. Some TPRs will accept either 2 or 3 decimal places regardless of whether there is a 3rd decimal. TPRs will use a 0.003% tolerance.

Disclosure	Provision of 12 C.F.R. Part 1026	Description of Provision	Assignee Liability Type	Initial Grade	Action to Resolve	Final Grade	In Scope to Test	Discussion Comments
Closing Disclosure "CD"	38(p)(1)	Appraisal	Statutory Damages	EV3	Letter of Explanation Re-Disclose Correct Information	EV2	Final CD is within Scope, Interim CDs out of scope	
Closing Disclosure "CD"	38(p)(1)	Appraisal (1026.35 HPML)	Statutory Damages	EV3	No Obvious Cure	EV3	In Scope, Cannot Obviously be Cured	This is not directly related to the TRID Scope… the issue relates to the Appraisal requirement applicable to HPML loans and therefore should be tested for HPML threshold loans…
Closing Disclosure "CD"	38(p)(2)	Contract Details	Actual Damages	EV2	Letter of Explanation Re-Disclose Correct Information	EV2	Limit Test to Final CD, no interim CDs	

Closing Disclosure "CD"	38(p)(3)	Liability After Foreclosure	Statutory Damages	EV3	Letter of Explanation Re-Disclose Correct Information	EV2	Final CD is within Scope, Interim CDs out of scope	
Closing Disclosure "CD"	38(p)(4)	Refinance	Statutory Damages	EV3	Letter of Explanation Re-Disclose Correct Information	EV2	Final CD is within Scope, Interim CDs out of scope	
Closing Disclosure "CD"	38(p)(5)	Tax Deductions	Actual Damages	EV2	Letter of Explanation Re-Disclose Correct Information	EV2	Limit Test to Final CD, no interim CDs	
Closing Disclosure "CD"	38(q)	Questions Notice	Neither	N/A	N/A	N/A	Outside of Scope	
Closing Disclosure "CD"	38(r)	Contact Information - NMLS ID Disclosure	Statutory Damages	EV3	Letter of Explanation Re-Disclose Correct Information	EV2	CDs are within scope, requires re-disclosure of correct information on CD	The TPRs will consider the re-disclosure to the consumer of the corrected information on a subsequent CD or a post close CD as resolving the exception to an EV2
Closing Disclosure "CD"	38(r)	Contact Information-name, address, email, phone, etc.	Neither	N/A	N/A	N/A	Outside of Scope	

Disclosure	Provision of 12 C.F.R. Part 1026	Description of Provision	Assignee Liability Type	Initial Grade	Action to Resolve	Final Grade	In Scope to Test	Discussion Comments
Closing Disclosure "CD"	38(s)	Signature Statement	Actual Damages	EV2	Letter of Explanation Re-Disclose Correct Information	EV2	Limit Test to Final CD, no interim CDs	
Closing Disclosure "CD"	38(t)(1)	General form requirements; clear and conspicuous; form consumer can keep; segregated; only required information and same order as Form H-25.	Statutory Damages	EV3	Letter of Explanation Re-Disclose Correct Information	EV2	Final CD is within Scope, Interim CDs out of scope	

Closing Disclosure "CD"	38(t)(2)	"Estimated" in headings and labels	Actual Damages	EV2	Letter of Explanation Re-Disclose Correct Information	EV2	Limit Test to Final CD, no interim CDs	
Closing Disclosure "CD"	38(t)(3)(i)	Standard form requirement	Neither	N/A	N/A	N/A	Outside of Scope	
Closing Disclosure "CD"	38(t)(3)(ii)	Model form requirement	Statutory Damages	EV3	Letter of Explanation Re-Disclose Correct Information	EV2	Final CD is within Scope, Interim CDs out of scope	
Closing Disclosure "CD"	38(t)(3)(iii)	E-Sign	Actual Damages	EV2	No Obvious Cure	EV2	EV2, In Scope, Cannot Obviously be Cured	
Closing Disclosure "CD"	38(t)(4)	Rounding	Actual Damages	EV2	Letter of Explanation Re-Disclose Correct Information	EV2	Limit Test to Final CD, no interim CDs	
Closing Disclosure "CD"	38(t)(5)	Exceptions	Actual Damages	EV2	Letter of Explanation Re-Disclose Correct Information	EV2	Limit Test to Final CD, no interim CDs	

Disclosure	Provision of 12 C.F.R. Part 1026	Description of Provision	Assignee Liability Type	Initial Grade	Action to Resolve	Final Grade	In Scope to Test	Discussion Comments
Loan Estimate "LE"	37(o)(1)	General form requirements; clear and conspicuous; form consumer can keep; segregated; only required information and same order as Form H-24.	Actual Damages	N/A	Re-Disclose Correct Information	N/A	Based on LE and EV2, Outside of Scope	

SFIG RMBS 3.0 TRID Compliance Review Scope 2016-06-13 Additional Considerations

TPR Best Practices:

1) Although a TRID worksheet may be required as part of a client overlay, the baseline scope will not set an exception for any loan in which a TRID worksheet is not provided.

2) TIP Tolerance to be deemed as permissible up to 0.003 difference. (The threshold is based on differences using acceptable payment calculation methods including payment rounding, final payment difference considerations, and interest allocation through the amortization schedule. The same tolerance is to be used under-disclosed and over-disclosed TIP evaluations.)

3) Good Faith Fee Violations - The TPRs will not issue an exception for items that are not disclosed on the initial LE(s) that appear on later disclosures unless there is explicit evidence within the loan file clearly identifying when the lender was first aware of the fee and that the knowledge predates the disclosure issuance. If the file contains evidence the fee/charge should have been on the early disclosures, then lacking an explicit cure, the lender would be required to refund the fee to cure the Good Faith issue. (The default approach is to accept that the lender disclosed based on the best information available standard.)

4) The TPR firm can exclude an LE or CD from consideration if it was not provided to the consumer. Acceptable documentation is a lender attestation that it was not provided to the consumer. (This is only applicable if the document is not acknowledged by the consumer.)

5) Post Close CDs - TPR to add additional exceptions when cure refunds are provided for tolerance violations but corrected CD does not properly reflect cure in Section J and comparison table.

6) Although some clients will require a final Closing Disclosure to be wet signed by all consumers with an ownership interest in the property, the baseline scope will not set an exception for any loan in which the Final CD is not signed. (The signature and date can be useful for evidentiary purposes.) Will monitor for future CFPB guidance and/or industry considerations of this as a requirement.

7) A re-disclosed CD to reflect fee changes that occurred after closing, (e.g. a recording fee increase), the issuance of the corrected CD would yield an EV1… (No Exception)

8) A Fee tolerance cure that is provided through the final CD at closing, (e.g. a 0% Fee tolerance cure), would yield an EV1… (No Exception)

9) A Fee tolerance issue that requires a post close cure will be an EV3. If the cure is provided post-closing, (e.g. a 0% Fee tolerance issue existed at closing), based on the lender's internal QC or the TPR review results within 60 days of consummation, the exception would yield an EV2, B Grade. (If the cure occurs more than 60 days from

consummation the exception would also yield an EV2, B Grade.) Subject to the cure being within 60 days of discovery.

10) Fee tolerance considerations in relation to 0% and 10% fees that are rounded on initial LEs, the tolerance evaluation will be based on the consideration of the possibility the LE figures disclosed were rounded at time of LE disclosure and only issue an exception if the difference is outside the permissible rounded value considerations. (e.g. the LE discloses a fee for a service the consumer cannot shop for, the credit report. On the LE it reflects a charge of $8 and the CD reflects $8.46. The fee would not generate an exception.)

11) TOP payment example calculation Methodologies. (The TOP exceptions will only be generated if the amount disclosed is less than the total calculated under Option A.

A) Include negative per diem interest and only include borrower paid fees;

B) Include negative per diem interest, borrower paid fees, and include non-borrower paid fees, (Seller, Third Party, and Lender) other than Lender Paid Broker Compensation;

C) Include negative per-diem interest, borrower paid fees, and non-borrower paid fees that are not a borrower obligation, (Seller, Third Party, and Lender) other than Lender Paid Broker Compensation

D) Exclude negative per diem interest and only include borrower paid fees

E) E) Exclude negative per diem interest, borrower paid fees, and include non-borrower paid fees, (Seller, Third Party, and Lender) other than Lender Paid Broker Compensation

F) Exclude negative per diem interest, borrower paid fees, and non-borrower paid fees that are not a borrower obligation, (Seller, Third Party, and Lender) other than Lender Paid Broker Compensation

Appendix E

TRANSPARENCY MATERIALS

PROPOSED RMBS REPRESENTATION & WARRANTY TRANSPARENCY MATERIALS

- ***UNIFORM RMBS ISSUER REPRESENTATION & WARRANTY APPENDIX***
- ***UNIFORM RMBS ISSUER REPRESENTATION & WARRANTY MATRIX***
- ***UNIFORM RMBS INVESTOR REPRESENTATION & WARRANTY MAPPING MATRIX***

Many industry participants and commentators have expressed support for a single, standardized slate of Representations and Warranties that all private label RMBS issuers would adopt and all private label RMBS investors would accept. However, as discussed in the Introduction to SFIG's RMBS 3.0 Task Force Green Paper ("Green Papers" or "RMBS 3.0"), there are substantial impediments to any "one size fits all" approach in terms of both substance and implementation. This premise underlies the Green Papers' approach with respect to the development of a recommended benchmark slate of Representations and Warranties; specifically, the Task Force (1) narrowed down the differences among the wide variations in Representations and Warranties currently (and historically) in use, and then (2) developed a single version or, in some cases, a limited number of alternative versions of each Representation and Warranty that it recommended for inclusion in new private label transactions backed by recently-originated mortgage loans. In generating this RMBS 3.0 benchmark slate of Representations and Warranties (the "RMBS 3.0 R&W Benchmark Slate"), the Task Force also identified the most investor-favorable or "investor-friendly" version of each Representation and Warranty and labeled it a "Category 1" version, as further described in ***"Representations, Warranties, and Repurchase Enforcement"***.

Building upon this work, and for reasons we will address and consider in this section, many industry participants feel it is advisable – and some say imperative – to create greater transparency by facilitating the comparison of the Representations and Warranties included in a given transaction with either the RMBS 3.0 R&W Benchmark Slate or any benchmark slate used by the applicable transaction sponsor. This is particularly important when there are multiple slates of Representations and Warranties from different originators assigned into a trust, as is often the case in aggregator transactions. In deals with many sellers, this can mean dozens of slates, covering several thousand collective Representations and Warranties. Current accepted practice is for the issuer in this type of transaction to disclose only a "representative sample" of Representations and Warranties.[23] For example, in one recent aggregator transaction, the offering materials state that the list of Representations and Warranties "…*generally contains* the content of certain material representations and warranties which will be provided by the Originators in connection with the [transaction]. The *actual list will be substantially in the same form…, but may vary* by Originator, particularly with respect to

[1] Transactions with only a single seller typically consist of one slate of Representations and Warranties which, as a practical matter, is much easier to analyze than multiple slates. There has been some discussion of including a ***Uniform RMBS Investor Representation & Warranty Mapping Matrix*** in the Uniform Appendix for a single seller deal in which the issuer selects its own benchmark slate to compare against the RMBS 3.0 Category 1 R&W Benchmark Slate; however, this would require both slates to follow a similar format in order to provide the meaningful, user-friendly blackline contemplated under the Uniform Appendix, as described in more detail below.

[Originator 1] and [Originator 2]. This list *does not purport to constitute a complete list* of representations and warranties which are being provided." [Emphasis added.]

While such "representative sample" disclosure might suffice for purposes of the securities laws, it does not satisfy a number of investors who wish to make their own decisions regarding the materiality of variances from the applicable benchmark slate. Investors currently are not given this opportunity under this particular transaction model; in fact, many investors have noted extreme difficulty in obtaining this information even post-closing, even if the deal is a private placement (as virtually all save a few recent deals have been).[24] In support of this position, some industry participants argue that providing comprehensive Representation and Warranty disclosure reduces issuer liability since issuers would no longer make selective materiality decisions with respect to such disclosure.

Furthermore, many investors have been emphatic in their calls for comprehensive Representation and Warranty information to be provided during the marketing period in a more accessible, "user-friendly" format. The most common ask has been for issuers to provide investors with a similar type and presentation of information they would enjoy if they were buying the securitized loans in a whole loan trade. Whole loan buyers typically request and obtain blacklined documents that clearly highlight changes against a form Mortgage Loan Purchase Agreement, enabling a relatively efficient review. This is an important point for investors; they technically enjoy the same Representation and Warranty protections as whole loan buyers, so proponents of the Transparency Materials believe they should be able to evaluate the quality of these protections during the offering period in the same manner as whole loan buyers prior to purchasing a pool of loans. In contrast, a number of investors have pointed to the generally unstructured, voluminous documentation in current (similar to pre-crisis) transactions that layers significant difficulty into Representation and Warranty reviews at any stage of the deal process.

Simply put, these investors want (i) to know exactly what Representations and Warranties are being made into a trust and what variations exist among different slates of corresponding Representations and Warranties, and (ii) to be given this information in a user-friendly format that does not require them to dig through several hundred pages of documents and dozens of contracts during a very tight marketing period window, without the benefit of blacklined agreements that the issuer may have in its possession.

The Representation and Warranty "Transparency Materials" presented in this section propose a solution to these issues by offering what proponents believe are the clear identification and disclosure, ***during the offering process***, of (i) one designated benchmark slate of Representations and Warranties that serves as a reference point for the transaction, and (ii)

[2] It is likely that industry participants will be quite focused on ensuring that issuers properly file governing transaction documents in future public deals so, presumably, this information would be available post-closing in public deals. However, this does not guarantee comprehensive (as opposed to representative sample) Representation and Warranty disclosure during the initial marketing period, or for what many investors maintain is the cumbersome, "user-unfriendly" (albeit legally compliant) presentation of this information pre- or post-closing.

any divergence from this benchmark slate. We have used for purposes of illustration the RMBS 3.0 Category 1 R&W Benchmark Slate and an alternative version for comparison in the construction of the Transparency Materials. While an issuer could choose to use its own programmatic benchmark slate of Representations and Warranties in lieu of the RMBS 3.0 R&W Benchmark Slate, the approach we describe herein would effectively be no different, as we shall discuss below.[25]

The key feature of the Transparency Materials is that the issuer (i) affords investors, ***prior to or during the offering period for a transaction***, an opportunity to evaluate the issuer's chosen benchmark slate in order to determine if they are comfortable with its terms, and (ii) in the interest of transparency, clearly discloses any changes to this benchmark slate in any current or future transaction. This allows investors to do a one-time, up-front review of an issuer's chosen benchmark slate of Representations and Warranties, and have confidence that they will be timely and clearly apprised of any changes to this slate both ***within a deal*** and ***from deal to deal***. Proponents of this approach believe that this practice will enhance transparency in the RMBS offering process and therefore the investor's ability to make a more informed investment decision with respect to any particular transaction.

The Transparency Materials present this information through the "Uniform RMBS Issuer Representation and Warranty (RW) Appendix" or the "Uniform Appendix," coupled with the "Uniform RMBS Issuer RW Matrix" or the "Uniform Issuer Matrix." An issuer could provide to investors the Uniform Appendix and Uniform Issuer Matrix ***during the marketing period of*** and ***include them in the offering materials for*** an RMBS transaction, so that investors would have full access to this information prior to making an investment decision. Furthermore, the Transparency Materials include the "Uniform RMBS Investor Representation and Warranty Mapping Matrix" or the "Uniform Investor Matrix," which enables the investor to conduct an automated initial screen of the comprehensive Representations and Warranties in a transaction to determine which (if any) particular Representations and Warranties require further review and which constitute unapproved or "non-starter" language.[26] An issuer would prepare the Transparency Materials as follows:

1. In preparing the **"Uniform RMBS Issuer RW Appendix,"** the issuer would first select a benchmark slate of Representations and Warranties – e.g., the RMBS 3.0 Category 1 R&W Benchmark Slate or its own programmatic benchmark slate of Representations and Warranties (i.e., for an aggregator, those set forth in its

[3] Several proponents of uniformity among Representations and Warranties recommend the use of the RMBS 3.0 R&W Benchmark Slate (particularly Category 1 Representations and Warranties, in the case of many investors) in the interest of consistency across the industry. However, we are not addressing in this section the pros and cons of uniformity or the comparison of the RMBS 3.0 R&W Benchmark Slate vs. any particular issuer's own programmatic slate; we are merely establishing that the initial focal point of the Transparency Materials is an issuer-selected benchmark slate of Representations and Warranties.

[4] Additionally, rating agencies could make use of these materials in evaluating the Representations and Warranties in a given RMBS transaction and also in preparing their Rule 17g-7 reports, as further described herein. (17 CFR 240.17g-7)

programmatic form Mortgage Loan Purchase and Warranties Agreement). The Uniform Appendix serves as a summary guide as to the selected benchmark slate and highlights whether there are any variances to that slate. As reflected in the model Uniform Appendix set forth below, the first part of the Uniform Appendix is in tabular format and consists of the following fields:

a. A **letter key** corresponding to the individual benchmark Representations and Warranties.
b. The **title** of each Representation and Warranty.
    - Only the title is included for ease of reference; to review the actual text of the benchmark Representations and Warranties, investors would refer to the offering materials relating to a transaction, which would include such text. [27]
c. A column showing whether there is a variance in the actual Representation and Warranty used from the corresponding baseline Representation and Warranty and, if so, what percentage of loans in the pool is affected by the variance ("Concentration Percentage").
    - Disclosing the Concentration Percentage was subject to some debate among certain industry participants. Issuers could choose to identify with more granularity which loans (or which originator's/seller's loans) are impacted. The Concentration Percentage disclosure model would be used typically by aggregator issuers who, for proprietary and strategic reasons, do not wish to highlight differences in Representation and Warranty slates among their whole loan conduit accounts, to those same accounts. For example, the aggregator may have capitulated on a particular Representation and Warranty variance with one account but held firm and rejected such variance with other accounts. However, proponents of more granular disclosure note that this information might already be available in the rating agencies' 17g-7 reports for those originators that exceed the percentage threshold for inclusion in the representative sample – albeit in a cumbersome and, as some participants would posit, non-transparent manner, further described as follows:
        1. Under the initial rules relating to 17g-7 reports rating agencies compared in a publicly available report all Representations and Warranties against their respective Representation and Warranty criteria.
            a. For example, Originator 1 could review not only the full slate of Representations and Warranties it made in its Mortgage Loan Purchase Agreement through which it sold loans to Issuer X, but also review – and compare and

[5] Where the benchmark slate is the RMBS 3.0 R&W Benchmark Slate, investors could also refer back to the RMBS 3.0 Green Papers, where they would find additional commentary regarding the substance and context of the model Representations and Warranties.

contrast – the full slate of Representations and Warranties made by Originators 2 through 40 under their respective Mortgage Loan Purchase Agreements to Issuer X.[28]

2. Effective June 2015, Rule 17g-7 was revised to require that rating agencies only include in their 17g-7 reports information pertaining to the Representations and Warranties made to a Trust which were disclosed in the prospectus, private placement memorandum or other offering documents (which may include term sheets), against their respective Representation and Warranty criteria. This change was intended to limit the mandatory scope of the 17g-7 report to information about the Representations and Warranties that is material enough to be included in the offering documents. In practice, we are observing that offering documents for transactions involving multiple originators will include disclosure of one or more sets of "representative sample" Representations and Warranties that generally describe the material Representations and Warranties made, but state they may not be complete or describe all variations, and which may not take into account originators with a concentration below a certain threshold.
    a. Significant variances might not be included in 17g-7 reports issued subsequent to the effective date of the revision if the originators/sellers fall below this threshold (even though collectively, several of these smaller contributors could easily add up to a material portion of the pool) or if the specific variances are not described in the general description. Proponents of the Transparency Materials have been clear that they do not favor this change because it leaves them potentially exposed to material Representation and Warranty variances that might not be acceptable to them.
3. Rating agency and many other RMBS 3.0 participants have commented that the format of the Transparency Materials is much more user-friendly and transparent than typical 17g-7 report models. The Transparency Materials were designed in part to be usable by rating agencies for assistance in preparing their 17g-7 reports, and dialogue and evaluation to that end are underway.

[6] Anecdotally, some industry participants and commentators note that a number of originators – especially those unfamiliar with the RMBS market – were (and still are) unaware of rating agency 17g-7 reports. This is not represented as definitively representative of the industry, but perhaps more as an informative point. The sensitivity of the granular disclosure contemplated in this paragraph was, in reality, a non-issue since the information was available in 17g-7 reports prior to the August 2014 rule revisions.

d. Note that Example I of the Uniform Appendix set forth below contemplates the use of the RMBS 3.0 Category 1 Representations and Warranties as the benchmark slate. In Example II set forth below, the issuer uses the RMBS 3.0 RW Benchmark Slate but chooses to use different category constructions for certain Representations and Warranties other than Category 1; in this case, the issuer would provide an additional column to inform investors exactly which category it has chosen to use with respect to each Representation and Warranty.
    - As discussed previously, in line with a key RMBS 3.0 tenet, issuers – while encouraged to adopt the Uniform Appendix and use the RMBS 3.0 R&W Benchmark Slate – would not be required to do so. It is also important to note that an issuer's decision to use its own programmatic slate of Representations and Warranties does not mean that such slate is necessarily weaker than the RMBS 3.0 R&W Benchmark Slate; only a substantive review can yield this analysis. However, as discussed, it does mean that the burden would fall upon the issuer to inform and educate investors about its programmatic slate as a first step (or for investors to do this homework). In this regard, transparency and standardization are two different, albeit equally important points, and it would be up to investors to choose whether to invest in deals that provided (1) only transparency, (2) only standardization, (3) both transparency and standardization, or (4) neither.

2. After completing the tabular portion of the Uniform RMBS Issuer RW Appendix, the issuer would then include the actual blacklined text of all changes against the selected benchmark slate. The issuer would also identify different versions of these changes if there is more than one version in the pool for a particular Representation and Warranty that differs from the corresponding benchmark provision.
    a. The table helps the investor streamline its review of the Representations and Warranties; the blacklined portion then provides the investor with substantive information to consider in evaluating its investment decision.

3. Once an issuer completes the tabular and blackline portions of the Uniform RMBS Issuer RW Appendix, it can import the information from the tabular portion into an Excel spreadsheet – the **Uniform RMBS Issuer RW Matrix** or Issuer Matrix.[29]
    a. The Issuer Matrix would:
        - Track the lettering key from the Uniform Appendix.
        - Identify, if using the RMBS 3.0 R&W Benchmark Slate, the Representation and Warranty category used for each particular Representation and Warranty.

[7] Importing the applicable tabular information from the Uniform Appendix into the Issuer Matrix should be a simple task in Excel.

- Identify whether there is a variance from the benchmark for each particular Representation and Warranty.
- Identify the percentage of the pool that is affected by such variance.

b. Investors receive the Issuer Matrix during the marketing period. Investors will import the data in the Issuer Matrix into the **Uniform RMBS Investor RW Mapping Matrix** or the Investor Mapping Matrix.
   - This is where the importance and benefit of the investor's one-time, up-front initial review of the applicable benchmark slate becomes evident. Upon review of the benchmark – whether the RMBS 3.0 R&W Benchmark Slate or an individual issuer's programmatic benchmark slate – the investor populates a column in the Investor Mapping Matrix indicating whether it is comfortable with each Representation and Warranty and, if there is more than one version of the Representation and Warranty (e.g., in the case of different RMBS 3.0 R&W Benchmark Slate categories), which version number or numbers the investor approves. Essentially, this becomes the investor's officially reviewed and pre-approved list indicating its comfort (or discomfort) with the applicable benchmark slate. For example, the RMBS 3.0 Occupancy Representation and Warranty has three categories; if the investor only approves of Category 1, it will reflect that in this column. Once this review is complete, the investor need never evaluate that particular benchmark slate again, except and until the issuer alters it.
   - Importing the Issuer Matrix data for an RMBS transaction into the Investor Mapping Matrix will clearly and systematically highlight for the investor exactly which Representations and Warranties have a variance and whether that variance falls within an "Unapproved" category. This is an efficient screening tool for the investor to use instead of poring through voluminous deal documents and cracking the data tape; if a deal contains a version of a Representation and Warranty that is a non-starter for the investor (or is missing a required Representation and Warranty), the investor can easily identify this defect and reject the deal without wasting valuable time evaluating the marketing materials and potentially overlooking the defect in its review. Any other Representation and Warranty variance is also highlighted so that the investor can undertake a targeted review of the accompanying blacklined text and quickly and efficiently determine whether and how such variances might impact the investor's investment decision.

c. Effectively, the only thing the investor must do is a one-time review of the benchmark slate for each issuer it evaluates, and then (and only to the extent applicable) populate the Investor Mapping Matrix column with approved category versions. After that, the investor should be able to review, systematically and quickly, every single Representation and Warranty variance in a transaction, significantly streamlining a detailed evaluation of the Representations and Warranties.

Additional Commentary Regarding the Transparency Materials

As noted above, proponents of the Transparency Materials enthusiastically support the content and format of the component materials, particularly in the case of complex aggregator transactions that contain many slates of Representations and Warranties. In line with RMBS 3.0 protocol and tenets, however, we must also give weight to some of the issues or challenges relating to the Transparency Materials.

Legal, Economic and Operational Challenges

The Transparency Materials would constitute offering materials, and therefore would be subject to counsel's 10b-5 review. The issuer would incur these review costs to the extent outside counsel did not prepare the materials (some issuers have indicated that they would do the work themselves, while others have indicated that they would turn to outside counsel to complete the task). There is essentially a trade-off of counsel fees for preparation of the materials vs. review of materials that the issuer prepared on its own. The cost of counsel preparation or review depends largely on the number of seller accounts in a transaction and the complexity and scope of the variances.

The larger an aggregator's conduit program, the more challenging it may be to create the initial Transparency Materials and then maintain them. Conduit programs can consist of several hundred seller accounts. Typically, post-crisis conduit buyers purchase loans using their own form agreement as a base document. In the absence of this standardized practice, it may be more difficult – and perhaps functionally impractical in some cases – to create or select a meaningful and standardized benchmark slate to serve as the foundation of the Transparency Materials. The more divergent in form, even if not substance, the various Representation and Warranty slates may be, the less likely they are to lend themselves to a useful blackline.

In contrast, the task is much simpler for conduit issuers who have greater consistency across their Mortgage Loan Purchase Agreements, smaller conduit issuers that have fewer agreements to revise or review, or newer conduit issuers, who have not yet entered into a significant number of agreements. Such issuers would find implementation of the Transparency Materials a much less cumbersome task relative to the issuers described in the preceding paragraph.[30]

In fact, some proponents of Representation and Warranty standardization have suggested that all conduits could simply shift their programmatic benchmark slates to the RMBS 3.0 R&W Benchmark Slate, and that this standardization would help to streamline the required

[30] Similarly, single seller issuers could easily shift to the RMBS 3.0 R&W Benchmark Slate, as long as their origination practices comply substantively with the slate (and to the extent there are differences, the Uniform Appendix blacklines would reflect them).

work in implementing the Transparency Materials. Most RMBS 3.0 participants agree that this is easy to say but difficult to do for more mature conduits.[31] The time and expense of a wholesale Representation and Warranty overhaul could be sizeable, and such participants would likely – and understandably – evaluate the cost-benefit analysis of making the shift. As of the time of this writing, the prospect of RMBS 3.0 implementation still relies strongly on the incentives that industry participants are ready and willing to provide for improvements to transaction architecture. In the case of the Transparency Materials, at least a few investors have indicated that while they would normally refuse to do the homework required to evaluate a large aggregator issuance with complex, voluminous Representations and Warranties, and simply pass on the deal, a solution like the Transparency Materials could open the door to their participation (assuming the yield were there, of course – but that is a different matter entirely).

To implement the Transparency Materials, issuers would effectively create for each of their sellers a template Uniform Appendix, including both the table and the Representation and Warranty variance blackline against the chosen benchmark slate, and then compile these templates into a single Uniform Appendix for the deal based on the final pool population. That would give the issuer the information it needed to (i) identify all variances to the selected benchmark slate, (ii) calculate the percentage bands for each variance, (iii) cull the actual blacklined text for each variance (and each version of each variance) in forming the Uniform Appendix, and (iv) populate the Uniform Issuer Matrix. Note that the issuer would also need to account for any loans that dropped from the preliminary pool when preparing the final disclosure documents.

To maintain the Transparency Materials, issuers would have to install controls over (i) the addition of new seller accounts and the concurrent preparation of a template Uniform Appendix and Representation and Warranty blackline, (ii) any amendments to existing Mortgage Loan Purchase Agreements, and a related process to modify the template and blackline to reflect the amendment, and (iii) versioning control to allow for the inclusion in a particular securitization loans that the issuer purchased under different versions of a Mortgage Loan Purchase Agreement with a particular seller account.

Work Reallocation

As noted earlier, some RMBS 3.0 participants maintain that the current Representation and Warranty disclosure process is more than adequate, in that it provides the information necessary to make an informed investment decision and it complies with securities law requirements relating to disclosure. In this regard, such participants counter investor demands by saying that while comprehensive Representation and Warranty information is a "nice to have," it is not a "must have" because the additional information would not provide

[31] Such participants often point to the labor-intensive task of incorporating Regulation AB into standing Mortgage Loan Purchase Agreements. A key question with respect to the Transparency Materials is how much negotiation would an effort to overhaul Representations and Warranties entail if the industry overall was moving to an RMBS 3.0 R&W Benchmark Slate construct; this could dictate the difficulty level of the task.

any new material information to investors – assuming the issuer's determination of materiality ultimately comported with the investors' views. A number of these participants also maintain that the rating agency 17g-7 reports are a resource through which investors can obtain and review additional information relating to Representations and Warranties.

Counterarguments to these positions focus on the question of who is in a position to undertake what work and for what purpose and benefit. Consider, as an example, an aggregator deal that has 90 underlying sellers and therefore 90 underlying Mortgage Loan Purchase Agreements, each containing a different – or potentially different – slate of reps and warranties. One of two ways to review these Representations and Warranties is to read through of these 90 different purchase agreements. Even if investors had access to the Mortgage Loan Purchase Agreements – which, as we have noted, they do not – this would still be a gargantuan task, and certainly not one that investors could easily (if not actually) accomplish during the limited marketing period. If investors did have access to the documents and the significant bandwidth and expertise to review all 90 agreements within the marketing period, they would still need to select an appropriate benchmark slate that lent itself to a feasible and useful review, and then take the time or incur the expense to drill through the 90 different Mortgage Loan Purchase Agreements. And this assumes that investors were provided with the documents in an electronic format that allowed for blacklining in the first place.

While issuers have access to these documents and likely have the time, expertise and bandwidth to accomplish these reviews, many of the investors do not, and therefore have been vocal in their support for inclusion in the Transparency Materials of the proposed work product For investors, the potential for a questionable determination by the issuer of materiality and the exclusion from the disclosed representative sample of a material variance simply because no one seller representing that revised version exceeds a threshold percentage of the pool, constitute strong justifications for the inclusion of the Transparency Materials.

Additionally, such investors do not look to the rating agencies' 17g-7 reports as a sufficient proxy for their own reviews. As noted above, these reports also suffer from a lack of blacklining and effectively require a close reading in another format. They also are now limited to a representative sample. Adding to the enormous difficulty of review, the 17G-7 reports attempt to match up the representative sample alongside rating agency benchmarks, but the usefulness of this approach presupposes a deep knowledge of the different rating agency criteria and how one rating agency's criteria differs from that of the other rating agencies. This is not to say that the 17g-7 reports are not useful; to the contrary, the rating agencies put a tremendous amount of work into their reviews and focus on compliance with the requirements of Rule 17g-7; however, even several rating agency representatives acknowledge that preparing these reports is an arduous task and that the results often produce a result that is difficult to digest. This is why not only investors, but also rating agencies have expressed interest in the Transparency Materials, and at least a few of the rating agencies are evaluating whether they can leverage the methodology of preparing the Transparency Materials in order to formulate more user-friendly 17g-7 reports.

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In summary, a substantial population of investors have very clearly stated their collective belief that the current Representation and Warranty process is neither practically useful (as opposed to legally sufficient) for its intended purpose, nor scalable Proponents of the Transparency Materials believe that the materials could address if not solve noted practical issues under the current process. There are, however, compelling practical arguments against a universal mandate to adopt and implement the Transparency Materials that make the analysis something of a case-by-case basis at this point. RMBS 3.0 participants will continue to work on the Transparency Materials – including any suggestions or alternatives to the initial models proposed here – and evaluate the issues raised by voices on each side of the pertinent issues.

In line with discussions regarding implementation of RMBS 3.0 addressed elsewhere in the Green Papers, investors could certainly help to promote adoption of the Transparency Materials by requesting (if not demanding) adherence by issuers. While the choice to adopt and implement the Transparency Materials would fall on issuers, and could entail potentially significant legal, operational and economic considerations for such issuers as described above, proponents are hopeful that the consideration for such adoption and implementation would be increased transaction liquidity and more competitive pricing. It remains to be seen how the market treats or reacts to this incentive-based dynamic, and whether the Transparency Materials could, as proponents maintain, help pave the way in tandem with other RMBS 3.0 measures to a scalable, sizeable and properly functioning PLS market. We look forward to industry feedback on this question and on this RMBS reform proposal.

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Model Transparency Materials

Set forth below are the model Transparency Materials, along with some construction methodology and explanatory notes. The first iteration of the Uniform RMBS Issuer RW Appendix leverages the RMBS 3.0 Category 1 R&W Benchmark Slate. Following the accompanying blacklines, we have inserted another version of the Uniform Appendix table that accommodates alternative versions of the RMBS 3.0 benchmark Representations and Warranties. This is merely a suggested model, or a jumping off point for dialogue and evaluation of what standardized, uniform disclosure of Representation and Warranty variances might look like in an RMBS 3.0 world. This model also brings not only greater transparency and user-friendliness to the investor, but it also allows the issuer full latitude to use its own programmatic benchmark slate or select an alternative benchmark slate of Representations and Warranties should it not follow the RMBS 3.0 R&W Benchmark Slate.

Following the Uniform RMBS Issuer RW Appendix, we have included a model Uniform RMBS Issuer RW Matrix and a Uniform RMBS Investor RW Mapping Matrix. These leverage the RMBS 3.0 R&W Benchmark Slate allowing for versions other than Category 1,

as this approach allows us to illustrate the manner in which the models accommodate a greater degree of variance.

UNIFORM RMBS ISSUER REPRESENTATION AND WARRANTY APPENDIX [PROPOSED ANNEX [X] TO [TERM SHEET[[OFFERING CIRCULAR SUPPLEMENT]]

[MODEL LANGUAGE SUBJECT TO COUNSEL REVIEW AND MODIFICATION]

Below is a summary (the "R&W Summary") that generally reflects certain differences among the loan-level representations and warranties (the "R&W") that the [#] Originators of Mortgage Loans (each, an "Originator") will provide in the [RMBS] transaction (the "R&W").

Each Originator will make these R&W generally in (i) Section [x.xx] of the applicable underlying [Mortgage Loan Purchase Agreement] (in each case, the "Purchase Agreement"), and (ii) the corresponding Assignment, Assumption and Recognition Agreement pursuant to which the Sponsor will assign such Mortgage Loans to the Depositor.

The list of representative R&W relating to the Mortgage Loans set forth in Annex [X] to the Term Sheet constitutes the "Benchmark R&W" for purposes of this Addendum. The summary set forth below generally presents, in blackline format, a description of some, but not all of the differences between the Benchmark R&W and the Originators' respective R&W. The Sponsor's methodology in determining whether to include an R&W difference is generally as follows:

1. The Sponsor may have disregarded and not included or reflected one or more changes in preparing the R&W Summary based on the following reasons:

    a. Spelling, grammatical or "scrivener's" errors the Sponsor reasonably believes do not materially impact the contractual meaning of the applicable R&W.

b. R&W differences relating to types of mortgage loans other than the Mortgage Loans or mortgage loan features that do not apply to any of the Mortgage Loans. Such changes include those relating specifically to the following items:

   i. [NOTE: Insert applicable carve-outs here. For example, the Benchmark R&W may contemplate the subject mortgage loan being a second lien loan, and this provision may have been deleted in the Purchase Agreement or in the Assignment, Assumption and Recognition Agreement. If the pool is represented as only having first lien loans, showing the deletion of provisions in R&W solely relating to the second lien loan language is superfluous and need not be reflected as a variance. The same goes for items such as prepayment penalties, balloon terms and other features that may not apply to the mortgage loans in the pool. As long as affirmative reps are made that none of the loans contains features of this nature, then R&W variances merely showing the deletion of these inapplicable Benchmark R&W are superfluous and need not be reflected in the R&W Summary.]

c. The Sponsor may have included certain changes described in paragraphs (a) and (b) above in certain cases – for example, where such changes are accompanied by additional changes to an R&W that the Sponsor determined to include in the R&W Summary. [NOTE: where a change to a particular R&W that does not fall under (a) or (b) above is made, the proposed approach recommends leaving in all changes to such R&W so that the Sponsor does not selectively carve out changes where such changes are being disclosed. This is a much cleaner approach procedurally.]

2. Additional notes relating to the R&W pertaining to the Mortgage Loans:

   a. A summary table of the R&W Summary (the "R&W Table") immediately follows this introduction. In the R&W Table, and subject to the methodology described above:

      i. An "**N**" indicates that each Originator is making an identical R&W to the applicable Benchmark R&W, or the Sponsor determined not to include any applicable difference based on the methodology described in paragraphs (1)(a) and (b) above.

      ii. A "**Y – [#]-[#]%**" indicates the percentage band of the securitization pool that is subject to a variance from the Benchmark R&W. The R&W Summary following the R&W Table shows the actual differences through the provision of a blackline of the applicable R&W against the corresponding Benchmark R&W, and indicates the percentage band of the securitization pool providing subject to the variance. In the event there is more than one version of a variance for a particular R&W, each

such version will be provided, along with the applicable percentage band.

b. [Each Purchase Agreement contains a "knowledge clawback" provision substantially similar or identical to the following "With respect to any representation or warranty set forth in Section [X.XX] that is made to the [Originator]'s knowledge or to the best of the [Originator]'s knowledge, if it is discovered that the substance of such representation or warranty was, as of the time made or deemed made, inaccurate and such inaccuracy materially and adversely affects the value of the related Mortgage Loan or the interest of the Purchaser in such Mortgage Loan, the Purchaser shall be entitled to all the remedies to which it would be entitled for a breach of representation or warranty, including without limitation, the repurchase and indemnification requirements contained herein, notwithstanding the [Originator]'s lack of knowledge with respect to the inaccuracy at the time the representation was made."]

c. [Notwithstanding anything contained in this Appendix or in Appendix [Y] or [Z] to the Term Sheet, prospective purchasers are recommended to review the final offering memorandum relating to the securities discussed in the Term Sheet. Prospective purchasers are also advised that a R&W could change between the date of this Appendix and the closing date of the transaction, as may be further described in the final offering memorandum.]

d. [INSERT OTHER APPROPRIATE DISCLAIMERS AS COUNSEL ADVISES.]

PROPOSED MODEL RMBS 3.0 UNIFORM RMBS ISSUER R&W APPENDIX [MODEL ASSUMES ALL CATEGORY 1 R&W]

R&W	R&W Title	Change vs. Benchmark RW	R&W	R&W Title	Change vs. Benchmark RW	R&W	R&W Title	Change vs. Benchmark RW
(a)	No Modification	N	(r)	No Default	N	(jj)	Property Valuation	N
(b)	Taxes, Fees and Assessments Paid	N	(s)	No Rescission	N	(kk)	Income / Employment / Assets	N
(c)	No Mechanics' Liens	N	(t)	Enforceable Right of Foreclosure	N	(ll)	Occupancy	Y 10-20%
(d)	Manufactured Home	N	(u)	Lost Note Affidavit	N	(mm)	Source of Loan Payments	N
(e)	No Defenses	N	(v)	Leases	N	(nn)	Fraud	Y 0-10%
(f)	Downpayment	Y >40%	(w)	No Bankruptcy / No Foreclosure	N	(oo)	No Damage / No Condemnation	N
(g)	Data	N	(x)	Recordability / MERS Loans	N	(pp)	No Encroachments / Compliance with Zoning	N

(h)	Underwriting	Y 20-30%	(y)	Ability to Repay / Qualified Mortgage Loans	N	(qq)	Subject Property is 1-4 Units	N
(i)	Borrower	N	(z)	No Prior Liens	N	(rr)	Proceeds Fully Disbursed / Recording Fees Paid	N
(j)	Mortgage Insurance	N	(aa)	Enforceability and Priority of Lien	N	(ss)	[RESERVED]	N
(k)	Usury	N	(bb)	Certificate of Occupancy	N			
(l)	Early Payment Default	N	(cc)	Mortgage Loan Legal and Binding	N			
(m)	Insurance Coverage Not Impaired	N	(dd)	Hazard Insurance	Y 10-20%			
(n)	Deeds of Trust	N	(ee)	Mortgage Insurance	N			
(o)	Mortgage Property Recorded	N	(ff)	Title Insurance	N			
(p)	Due on Sale	N	(gg)	Licensing / Doing Business	N			
(q)	Loans Current / Prior Delinquencies	N	(hh)	Complete Mortgage File	N			
			(ii)	Environmental Laws	N			

PROPOSED MODEL UNIFORM ISSUER R&W APPENDIX
[XYZ 2016-1 MARKETING MATERIALS]

R&W CHANGES VS. BENCHMARK R&W [RMBS 3.0 CATEGORY 1]

(f) Downpayment (> 40% of Pool)

Unless otherwise indicated on the Mortgage Loan Schedule, with respect to each Mortgage Loan whose purpose is listed on the Mortgage Loan Schedule as "purchase", the borrower and/or co-borrower paid at least the greater of (a) 100% minus the CLTV of the mortgage loan and 10% of the purchase price with his/her own funds.

(h) Underwriting (20-30% of Pool)

(i) Version 1 (0-10% of Pool): Each Mortgage Loan either (i) was underwritten to the underwriting guidelines (including any applicable underwriting procedures) specified as applying to such Mortgage Loans and was not a material exception to those guidelines, or (ii) was written as an exception to the underwriting guidelines specified as applying to such Mortgage Loans and has compensating factors that compensate for the exceptions to the criteria of the underwriting guidelines. The exceptions to the underwriting guidelines and the compensating factors are documented

in the mortgage loan file and specified as applying to such Mortgage Loans. The methodology used in underwriting the extension of credit for the Mortgage Loan includes determinations with respect to the relationship between the borrower's income, assets, and liabilities and the proposed payment.

(j) Version 2 (10-20% of Pool): Each Mortgage Loan either (i) was underwritten to the underwriting guidelines (including any applicable underwriting procedures) specified as applying to such Mortgage Loans and was not an exception to those guidelines, or (ii) was written as an exception to the underwriting guidelines specified as applying to such Mortgage Loans and has compensating factors that compensate for the exceptions to the criteria of the underwriting guidelines. The exceptions to the underwriting guidelines and the compensating factors are documented in the mortgage loan file and specified as applying to such Mortgage Loans, and are specifically described in Annex B to this [[Term Sheet][Offering Circular Supplement]]. The methodology used in underwriting the extension of credit for the Mortgage Loan includes determinations with respect to the relationship between the borrower's income, assets, and liabilities and the proposed payment.

(dd) Hazard Insurance (10-20% of Pool)

The Mortgaged Property, other than a condominium unit, securing each Mortgage Loan is insured by an insurer acceptable to Fannie Mae or Freddie Mac against loss by fire and such hazards as are covered under a standard extended coverage endorsement, in an amount which is not less than the amount required under the Fannie Mae Guide or Freddie Mac Guide.

If the Mortgaged Property is a condominium unit, it is included under the coverage afforded by a blanket policy for the project which coverage protects no less than the amount required under the Fannie Mae Guide or Freddie Mac Guide.

If upon origination of the Mortgage Loan, any portion of the related Mortgaged Property is in an area identified in the Federal Register by the Federal Emergency Management Agency as having special flood hazards, a

flood insurance policy meeting the requirements of the current guidelines of the Federal Insurance Administration is in effect with a generally acceptable insurance carrier, in an amount representing coverage not less than the least of (1) the outstanding principal balance of the Mortgage Loan, (2) the full insurable value of the Mortgaged Property and (3) the maximum amount of insurance which was available under the National Flood Insurance Act of 1968, as amended.

Each Mortgage obligates the Mortgagor thereunder to maintain all such insurance at the Mortgagor's cost and expense, and upon the Mortgagor's failure to do so, authorizes the holder of the Mortgage to maintain such insurance at the Mortgagor's cost and expense and to seek reimbursement therefor from the Mortgagor to the extent permitted by applicable law.

Each such standard hazard and flood policy is a valid and binding obligation of the insurer and is in full force and effect, and contains a standard mortgagee clause naming the Seller, its successors and assigns as mortgagee, and may not be reduced, terminated, or canceled without thirty (30) days' prior written notice to the mortgagee.

All premiums due and owing on such insurance policies have been paid.

None of the Originator, the Seller, or, to Seller's knowledge, any prior owner of the Mortgage Loan, Mortgagor, or any other Person, has engaged in any act or omission, and no state of facts exists or has existed, that has resulted or will result in the exclusion from, denial of, or defense to coverage, under any such insurance policies, or that would impair the coverage of any such

insurance policy, the benefits of the endorsement provided for therein, or the validity and binding effect of either including, without limitation, the provision or receipt of any unlawful fee, commission, kickback, or other compensation or value of any kind.[32]

(kk) Occupancy (10-20% of Pool)

[32] Each R&W will be subject to a "knowledge clawback" provision that states: "With respect to any representation or warranty set forth in Section [x.xx] that is made to the [Seller]'s knowledge or to the best of the [Seller]'s knowledge, if it is discovered that the substance of such representation or warranty was, as of the time made or deemed made, inaccurate, the Purchaser shall be entitled to all the remedies to which it would be entitled for a breach of representation or warranty, including without limitation, the repurchase and indemnification requirements contained herein, notwithstanding the [Seller]'s lack of knowledge with respect to the inaccuracy at the time the representation was made.

The underwriting guidelines that apply to each Mortgage Loan, which are identified on the Mortgage Loan Schedule, require that the Originator evaluate whether the intended occupancy status of the property, as represented by the Mortgagor, was reasonable. The procedures used to evaluate the intended occupancy of the property include, but are not limited to other real estate owned by the Mortgagor, commuting distance to work, and appraiser comments and notes. For each loan, these procedures were followed, and documentation that these procedures were followed is included in the mortgage loan origination file.

(mm) Fraud (10-20% of Pool)

No fraud, material misrepresentation, material error or omission or negligence has taken place on the part of the originator or any other party in connection with the origination of the mortgage loan or the sale and servicing of such mortgage loan, in each case as of the date of origination or the sale or servicing, as the case may be, of the mortgage loan prior to the securitization closing date.

[END OF ADDENDUM]

PROPOSED MODEL UNIFORM ISSUER R&W APPENDIX
[XYZ 2016-1 MARKETING MATERIALS]

PROPOSED MODEL RMBS 3.0 UNIFORM RMBS ISSUER R&W APPENDIX
[ALTERNATIVE MODEL: ALLOWS FOR DIFFERENT RMBS 3.0 CATEGORIES; ACTUAL BLACKLINES WOULD FOLLOW]

R&W	R&W Title	RMBS 3.0 Category	Change vs. Baseline RW	R&W	R&W Title	RMBS 3.0 Category	Change vs. Baseline RW	R&W	R&W Title	RMBS 3.0 Category	Change vs. Baseline RW
(a)	No Modification	1	N	(r)	No Default	1	N	(jj)	Property Valuation	2	N
(b)	Taxes, Fees and Assessments Paid	1	N	(s)	No Rescission	1	N	(kk)	Income / Employment / Assets	1	N
(c)	No Mechanics' Liens	1	N	(t)	Enforceable Right of Foreclosure	1	N	(ll)	Occupancy	3	N

(d)	Manufactured Home	1	N	(u)	Lost Note Affidavit	1	N	(mm)	Source of Loan Payments	1	N
(e)	No Defenses	1	N	(v)	Leases	1	N	(nn)	Fraud	2	Y 0-10%
(f)	Downpayment	1	Y >40%	(w)	No Bankruptcy / No Foreclosure	1	N	(oo)	No Damage / No Condemnation	3	N
(g)	Data	2	N	(x)	Recordability / MERS Loans	1	N	(pp)	No Encroachments / Compliance with Zoning	1	N
(h)	Underwriting	1	Y 20-30%	(y)	Ability to Repay / Qualified Mortgage Loans	3	N	(qq)	Subject Property is 1-4 Units	1	N
(i)	Borrower	1	N	(z)	No Prior Liens	1	N	(rr)	Proceeds Fully Disbursed / Recording Fees Paid	1	N
(j)	Mortgage Insurance	2	N	(aa)	Enforceability and Priority of Lien	1	N	(ss)	[RESERVED]	1	N
(k)	Usury	1	N	(bb)	Certificate of Occupancy	1	Y 10-20%				
(l)	Early Payment Default	1	N	(cc)	Mortgage Loan Legal and Binding	1	N				
(m)	Insurance Coverage Not Impaired	1	N	(dd)	Hazard Insurance	1	N				
(n)	Deeds of Trust	1	N	(ee)	Mortgage Insurance	1	N				
(o)	Mortgage Property Recorded	1	N	(ff)	Title Insurance	1	N				
(p)	Due on Sale	1	N	(gg)	Licensing / Doing Business	1	N				
(q)	Loans Current / Prior Delinquencies	1	N	(hh)	Complete Mortgage File	1	N				
			N	(ii)	Environmental Laws	1	N				

PROPOSED MODEL UNIFORM ISSUER R&W APPENDIX
[XYZ 2016-1 MARKETING MATERIALS]

XYZ 2016-1 UNIFORM RMBS ISSUER R&W MATRIX

R&W	ISSUER SELECTED R&W VERSION	CHANGE	% POOL
(a)	1	N	N/A
(b)	1	N	N/A
(c)	1	N	N/A
(d)	1	N	N/A
(e)	1	N	N/A
(f)	1	Y	>40%

(g)	2	N	N/A
(h)	1	Y	20-30%
(i)	1	N	N/A
ETC.	ETC.	ETC.	ETC.

XYZ 2016-1 UNIFORM RMBS INVESTOR R&W MAPPING MATRIX

R&W	ISSUER SELECTED R&W VERSION	CHANGE	% POOL	INVESTOR APPROVED R&W VERSION	VARIANCE FROM INVESTOR ACCEPTED R&W VERSION
(a)	1	N	N/A	1	N
(b)	1	N	N/A	1	N
(c)	1	N	N/A	1	N
(d)	1	N	N/A	1	N
(e)	1	N	N/A	1	N
(f)	1	Y	>40%	1	Y - RED
(g)	2	N	N/A	1	Y - UNAPPROVED
(h)	1	Y	20-30%	1	Y - RED
(i)	1	N	N/A	1	N
ETC.	ETC.	ETC.	ETC.	ETC.	ETC.

NOTE: THIS COLUMN WOULD BE CREATED BY THE INVESTOR ONCE - AFTER INITIALLY GOING THROUGH THE BENCHMARK R&W. THE UNIFORM RMBS ISSUER R&W MATRIX COULD BE IMPORTED INTO AND COMPARED AGAINST THE INVESTOR MAPPING MATRIX.

NOTE - MAP AS FOLLOWS: * IF "CHANGE" COLUMN = N, THEN "VARIANCE" COLUMN = N. * IF "CHANGE" COLUMN = Y, THEN "VARIANCE" COLUMN = "Y - RED" (NEED TO REVIEW BLACKLINES). * IF "ISSUER SELECTED R&W VERSION" COLUMN ≠ "INVESTOR APPROVED R&W VERSION" COLUMN, THEN VARIANCE READS "Y - UNAPPROVED"; REJECT THE REPS/POOL OR EVALUATE FURTHER.

1 http://www.mismo.org/standards-and-resources/additional-tools-and-resources/document-mappings/schedule-al-reg-ab-ii-mapping

Appendix F

[_____],
as Trustee under the Pooling and Servicing Agreement relating to
[_____], Mortgage Pass-Through Certificates[33],
Series [___],

[_____],
as Depositor,

[_____],
as Servicer,

[_____],
as Servicer[34]

[_____],
as Master Servicer,

[_____],
as Securities Administrator,

[_____],
as Seller,
and

[_____],
as Deal Agent

RMBS 3.0 DRAFT DEAL AGENT AGREEMENT V.2 (2016-12-5)

as of [_____], 20___

[33] This sample Deal Agent agreement is conformed to a REMIC pass-through deal. References to "Pooling and Servicing agreement", "Trustee", "Certificate" and other structural specific terms should be conformed for different structures. Deal parties should add other parties as necessary and should consider adding the Deal Agent as a party to the Pooling and Servicing Agreement.

[34] This sample Deal Agent agreement contemplates multiple servicers and should be conformed to a single servicer as applicable.

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SCHEDULES AND EXHIBITS

This DEAL AGENT AGREEMENT (this "Agreement"), dated as of [_____], 20__, by and among [_____], a [_____] organized under the laws of the United States (the "Trustee"), not individually, but solely as trustee under the Pooling and Servicing Agreement for [_____], Mortgage Pass-Through Certificates, Series [___] (the "Trust"), [_____], a [_____], as depositor (the "Depositor"), [_____], a [_____], as seller (the "Seller"), [_____], a [_____], as a servicer ("[Servicer1]"), [_____], a [_____], as a servicer ("[Servicer2]"; together with Servicer1, the "Servicers"), [_____], a [_____], as master servicer (the "Master Servicer"), [_____], a [_____], as securities administrator (the "Securities Administrator"), and [_____], a [_____], as deal agent (the "Deal Agent").

W I T N E S S E T H

WHEREAS, the Depositor has agreed to transfer the Mortgage Loans to the Trustee, pursuant to the terms and conditions of the Pooling and Servicing Agreement, dated as of [___], 20__ (the "Pooling and Servicing Agreement"), among the Depositor, the Trustee, [_____] as a servicer, [____] as master servicer and [____] as securities administrator;

WHEREAS, the Servicers are to service the Mortgage Loans pursuant to the terms and conditions of the Pooling and Servicing Agreement or the related Servicing Agreement;

WHEREAS, the Depositor hereby engages the Deal Agent to perform certain monitoring, oversight, approval, reporting and enforcement services with respect to the Mortgage Loans, the Servicers and other Persons as set forth herein, including, without limitation, review and enforcement of Mortgage Loan representations and warranties and monitoring and oversight of Servicers, and the other parties hereto hereby acknowledge such engagement;

WHEREAS, pursuant to the Pooling and Servicing Agreement, the Master Servicer has agreed to perform certain services including, without limitation, to aggregate and reconcile the collateral reporting of the Servicers, perform certain monitoring and oversight and provide the Deal Agent with consolidated collateral reporting of the Servicers and

[COMMENT: Perhaps the most significant responsibility of the Deal Agent is monitoring on behalf of and reporting to Certificateholders on the ongoing performance of the Mortgage Loans in the transaction. Therefore it is logical to conclude that the bulk of the Deal Agent's oversight will be over the parties with the most day-to-day interaction with the assets of the transaction, the Servicers and Master Servicers.]

WHEREAS, the Deal Agent is authorized to act as the Deal Agent pursuant to this Agreement.

NOW THEREFORE, in consideration of the mutual undertakings herein expressed, the parties hereto hereby agree as follows:

Section 1. Definitions.

Capitalized terms used but not defined herein shall have the meanings assigned to them in the Pooling and Servicing Agreement, a copy of which has been received by the Deal Agent.

Accepted Servicing Practices: With respect to each Servicer, as such term or similar term is defined in the Pooling and Servicing Agreement or the related Servicing Agreement, as applicable.[35]

[Adverse Grantor Trust Event: As defined in the Pooling and Servicing Agreement.]

[Adverse REMIC Event: As defined in the Pooling and Servicing Agreement.]

Affiliate: With respect to any specified Person, any other Person controlling or controlled by or under common control with such specified Person. For the purposes of this definition, "control" when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

Agreement: This Agreement and all amendments, attachments and supplements hereto.

Applicable Law: With respect to any Person or any matter, any and all federal, state, local and/or applicable laws, statutes, ordinances, rules, regulations, court orders and decrees, administrative orders and decrees, regulatory directives and other legal requirements of an arbitrator or of any Governmental Authority, in each case applicable to or binding upon such Person (or any of its property) or such matter, or to which such Person (or any of its property) or such matter is subject.

Arbitration: Arbitration in accordance with the then governing Commercial Arbitration Rules of the American Arbitration Association and administered by the American Arbitration Association, which shall be conducted in New York, New York or other place mutually acceptable to the parties to the arbitration.

Arbitrator: A person who conducts an Arbitration and is selected in accordance with Section 20.

Assets: As defined in Section 17.

[35] A model definition of Accepted Servicing Practices is included in Exhibit B.

Breach: As defined in Section 4(a).

Breach Notification: As defined in Section 4(e).

Breaching Deal Party: As defined in Section 9(b).

Business Day: [36] Any day other than (i) a Saturday or a Sunday, (ii) a legal holiday in the [States of New York or [__]], (iii) a day on which banking institutions in the [States of New York or [__]] are authorized or obligated by law or executive order to be closed or (iv) a day on which the New York Stock Exchange or the Federal Reserve Bank of New York is closed.

Certificate: Any one of the certificates signed by the Trustee and authenticated by the Securities Administrator as Authenticating Agent in substantially the forms attached as Exhibit [_] to the Pooling and Servicing Agreement.

Certificate Register and Certificate Registrar: The register maintained and the registrar appointed pursuant to the Pooling and Servicing. The Securities Administrator will act as the initial Certificate Registrar.

Certificateholders: As defined in the Pooling and Servicing Agreement, except that, solely for the purposes of taking any action or giving any consent pursuant to this Agreement with respect to any matter concerning the Master Servicer, the Securities Administrator, the Seller or any Servicer (such party, an "Affected Party"), or any Affiliate of an Affected Party, any Certificate registered in the name of such Affected Party, or any Affiliate of such Affected Party, shall be deemed not to be outstanding in determining whether the requisite percentage necessary to take such action or effect such consent has been obtained and, in determining whether the Deal Agent shall be protected in taking such action or in relying upon such consent, only Certificates which a Responsible Officer of the Deal Agent actually knows to be so owned shall be disregarded. The Deal Agent may request and conclusively rely on certifications by the Master Servicer, the Securities Administrator or the Servicers in determining whether any Certificates are registered to an Affiliate of the Master Servicer, the Securities Administrator or the Servicers.

Closing Date: [_____].

Code: The Internal Revenue Code of 1986, as amended, and as it may be further amended from time to time, any successor statutes thereto, and applicable U.S. Department of Treasury regulations issued pursuant thereto in temporary or final form.

Confidential Information: As defined in Section 15(a).

Consumer Information: As defined in Section 15(b).

[36] Should conform to the definition used in the Deal Documents.

Corrective Action Plan: As defined in Section 5(e).

Custodial File: As to each Mortgage Loan, any mortgage loan documents which are delivered to the Custodian or which at any time come into the possession of the Custodian pursuant to the terms of the Custodial Agreement or the Pooling and Servicing Agreement, as applicable.

Custodian: [_____], a [_____] organized under the laws of [_____], in its capacity as Custodian, and its successors and assigns.

Deal Agent: [_____], a [_____] organized under the laws of [_____], in its capacity as Deal Agent, and its successors and assigns.

Deal Agent Direction Events: As defined in Section 6(a).

Deal Agent Indemnified Parties: As defined in Section 18(a).

Deal Documents: The Pooling and Servicing Agreement, Custodial Agreement, the Servicing Agreements, Assignment and Assumption Agreements, the Mortgage Loan Purchase Agreement and any other governing trust or sale document in connection with the transactions contemplated by the foregoing.

Deal Website: As defined in Section 11.

Delegated Authority Breach: As defined in Section 6(b).

Delegated Authority Review: As defined in Section 6(b).

Deliverables: As defined in Section 16.

Depositor: [_____], a [_____] organized under the laws of [_____], in its capacity as Depositor, and its successors and assigns.

Directing Certificateholders: The Certificateholder or Certificateholders of at least [twenty-five (25%) percent] of the aggregate outstanding class principal amount of all classes of Certificates.[37]

Disputed Breach Determination: As defined in Section 9(c).

Disputed Determination: As defined in Section 5(h).

Duty of Care: The obligation of the Deal Agent to act with the care an ordinarily prudent person in a like position would exercise under similar circumstances to maximize the value of the Mortgage Loans and any other assets of the Trust Fund and to

[37] Some pooling and servicing agreements use a definition of Voting Rights, to provide voting rights to classes of Certificates with no principal amount such as interest-only classes. For such a transaction, this Agreement would be modified to reference Voting Rights as appropriate.

otherwise protect the interests of the Trust for the benefit of the Certificateholders in the aggregate, as if it were acting on its own behalf.

Duty of Loyalty: The obligation of the Deal Agent to act solely on behalf of the Trust for the benefit of the Certificateholders hereunder without regard to its own self-interest, to exercise its judgment and discretion hereunder in a manner it reasonably[38] believes to be in the best interests of the Certificateholders as a whole and not with respect to any single class, and to avoid actual, or the [reasonably perceived appearance of][39], conflicts of interest and/or self-dealing. For the avoidance of doubt, the Duty of Loyalty shall include the duties of good faith and fair dealing for purposes of this Agreement.

Exchange Act: As defined in Section 16.

Governmental Authority: The government of the United States of America, any political subdivision thereof, whether federal, state or local, and any agency, authority, commission, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

[HAMP: The Home Affordable Modification Program as it may be modified from time to time.][40]

Incurable Servicer Event of Default: As defined in Section 5(e)[41].

Indemnitees: As defined in Section 18(b).

Insolvency Event: With respect to any Obligated Party, the occurrence and continuation of any of the following events (i) a decree or order of a court or agency or supervisory authority having jurisdiction for the appointment of a conservator or receiver or liquidator in any insolvency, bankruptcy, readjustment of debt, marshalling of assets and liabilities or similar proceedings, or for the winding-up or liquidation of its affairs, shall have been entered against such Obligated Party and such decree or order shall have remained in force undischarged or unstayed for a period of sixty (60) days; (ii) such Obligated Party shall consent to the appointment of a conservator or receiver or liquidator in any insolvency, bankruptcy, readjustment of debt, marshalling of assets and liabilities or similar proceedings of or relating to such Obligated Party or of or relating to all or substantially all of its property; or (iii) such Obligated Party shall admit in writing its inability to pay its debts generally as they become due, file a petition to take advantage of any applicable insolvency or reorganization statute, make an assignment for the benefit of its creditors, or voluntarily suspend payment of its obligations.

[38] Deal Agents would prefer a standard of good faith rather than reasonable though we believe the more objective reasonable standard is more appropriate.
[39] To be discussed.
[40] Set to expire 12/31/2016.
[41] Consider providing the right of Certificateholders to waive an Incurable Servicer Event of Default.

KPI: With respect to each Servicer, the key performance indicators, agreed-upon performance thresholds and Mortgage Loan Data accuracy thresholds set forth on Schedule C hereto, which may be amended from time to time with the consent of the related Servicer in accordance with the provisions of Section 29.

[COMMENT: In deciding which KPIs to include and at what level they are set, in any given transaction, full consideration should be given to the underlying collateral. It may be the case that certain KPIs used in non-prime transactions have no significant deterministic value in prime transactions and vice versa. Furthermore, care should be taken when setting KPIs to make sure that any breaches of such reflect Servicer failure to perform (and some commentators would assert inadequate or weak performance) and not factors related to the origination of the collateral or macroeconomic conditions.]

KPI Breach: As defined in Section 5(d).

Losses: As defined in Section 18(a).

Majority Certificateholder: As defined in Section 10(b).

Master Servicer: [_____], a [_____] organized under the laws of [_____], in its capacity as Master Servicer, and its successors and assigns.

Material Breach: As defined in Section 4(d).

Material KPI Breach: As defined in Section 5(e).

Mortgage Loan: [___].[42]

Mortgage Loan Data: As defined in Section 5(d).

Mortgage Loan Impairment Amount: As defined in Section 5(f).

Mortgage Loan Impairment Breach: As defined in Section 5(f).

Mortgage Loan Schedule: The schedule of Mortgage Loans attached to the Pooling and Servicing Agreement.

Obligated Party: The related Originator, the Depositor or the Seller, as applicable, who has made representations and warranties with respect to the Mortgage Loans in the Deal Documents, the breach of which may create a right of Remedy for the Trust for the benefit of the Certificateholder.

[42] This definition should track the definition in the Pooling and Servicing Agreement and include REO property and any substituted mortgage loans, as applicable.

Onsite Servicer Review: With respect to any Servicer, a review conducted by the [Deal Agent][Master Servicer] pursuant to Section 5(b) and in accordance with the Scope of Servicer Review at one or more of such Servicer's operating locations of the current state (at the time of any such review) of such Servicer's policies, procedures and controls and such Servicer's ability, capacity and readiness to service, and actual servicing of, the applicable Mortgage Loans in accordance with Accepted Servicing Practices.

Opinion of Counsel: [___][43]

Origination File: The items pertaining to a particular Mortgage Loan including, but not limited to, the applicable underwriting guidelines, computer files, data disks, books, records, data tapes, notes, and all additional documents generated as a result of or utilized in originating each Mortgage Loan.[44]

Originator: [___][45]

Person: An individual, corporation, limited liability company, partnership, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

Pooling and Servicing Agreement: As defined in the recitals to this Agreement.

Qualified Investor Inquiry: As defined in Section 10(a).

Remedy: With respect to any Mortgage Loan, any right of the Trust on behalf of the Certificateholders of repurchase, cure, substitution, indemnification or other payment or remedy with respect to such Mortgage Loan against an Obligated Party.

[REMIC Provisions: [___][46]]

Remote Servicer Review: With respect to any Servicer, a remote operational review of such Servicer conducted by the [Deal Agent][Master Servicer] pursuant to Section 5(a) and in accordance with the Scope of Servicer Review.

Representation and Warranty Review: As defined in Section 4(a).

Representation and Warranty Review Procedures: With respect to any Representation and Warranty Review, the procedures and tests listed in Schedule A hereto, as may be amended from time to time in accordance with Section 29. The Representation and Warranty Review Procedures may, and shall upon the request of the Depositor [or the

[43] This definition should be conformed to the Pooling and Servicing Agreement.
[44] Deal parties to consider maintaining the Origination Files in a deal data room maintained by the Securities Administrator or delivering the Origination Files to the Custodian to hold for the life of the deal. The costs related thereto should be at the expense of the Trust. Operational aspects of completeness of Origination Files to be considered.
[45] This definition should be conformed to the Pooling and Servicing Agreement.
[46] This definition should be conformed to the Pooling and Servicing Agreement.

Directing Certificateholders (provided such Directing Certificateholders cover the cost of such additional review, upon request)], include additional analysis beyond the procedures and tests listed in Schedule A hereto if such additional analysis is determined by the Deal Agent in its reasonable discretion to be in the best interests of the Certificateholders.

[COMMENT: The enforcement procedures for Representation and Warranty Review Procedures are currently under discussion by a RMBS 3.0 working group. Any recommendations resulting from such working group should be reflected in this Agreement. The working group also anticipates modification to the procedures to accommodate Reg AB II.]

Representation and Warranty Review Trigger Event: With respect to any Mortgage Loan, (i) such Mortgage Loan being Delinquent (as defined in the Pooling and Servicing Agreement or the related Deal Document, as applicable) for [one hundred twenty (120)] days, (ii) such Mortgage Loan is subject to a permanent Servicing Modification (as defined in the Pooling and Servicing Agreement or the related Servicing Agreement, as applicable), (iii) such Mortgage Loan is Delinquent (as defined in the Pooling and Servicing Agreement or the related Deal Document, as applicable) [and any Obligated Party exercises any optional right to purchase such Mortgage Loan], (iv) the determination by the related Servicer that any advance is or would be non-recoverable, (v) such Mortgage Loan has been liquidated at a loss, (vi) an Insolvency Event with respect to the related Obligated Party and such Mortgage Loan is Delinquent for thirty (30) days or more, or (vii) either the related Servicer informs the Deal Agent that such Servicer believes, or the Deal Agent otherwise believes in its good faith judgment, that such Mortgage Loan may have breached any of the representations or warranties made with respect to such Mortgage Loan or such other representation or warranty, covenant or condition to transfer of such Mortgage Loan, including without limitation filing or delivery requirements, which otherwise may create a right of Remedy for the Trust for the benefit of the Certificateholders.

[COMMENT: The Representation and Warranty Review Trigger Events are derived from RMBS 3.0. A RMBS 3.0 working group continues to consider and evaluate such triggers. Any recommendations resulting from such working group should be reflected in this Agreement.]

Responsible Officer: With respect to (i) the Deal Agent, any officer or employee of the Deal Agent with direct responsibility for the administration of this Agreement or, with respect to a particular matter related to this transaction, any other officer or employee to whom such matter is referred because of his or her knowledge of and familiarity with the particular subject, (ii) the Trustee and the Securities Administrator, as defined in the Pooling and Servicing Agreement, or (iii) any other party to this Agreement, any officer or employee of such party with direct responsibility for the administration of such party's role in this transaction or, with respect to a particular matter related to this transaction, any other officer or employee to whom such matter is referred because of his or her knowledge of and familiarity with the particular subject.

Scope of Servicer Review: With respect to any Remote Servicer Review or Onsite Servicer Review, the specific scope and nature to be performed by the [Deal Agent][Master Servicer] for such Remote Servicer Review or Onsite Servicer Review, as applicable (i) as set forth on Schedule B hereto, which may be amended from time to time in accordance with the provisions of Section 29, or (ii) as required by a Corrective Action Plan with respect to such Servicer resulting from a Material KPI Breach in accordance with Section 5(e). In the case of a Remote Servicer Review or Onsite Servicer Review that occurs as a result of a Servicer Review Trigger Event, the scope of such review will be tailored by the [Deal Agent][Master Servicer], in its reasonable judgment, to address the issues giving rise to such event.

Securities Administrator: [_____], a [_____] organized under the laws of [_____], in its capacity as Securities Administrator, and its successors and assigns.

Seller: [_____], a [_____] organized under the laws of [_____], in its capacity as Seller, and its successors and assigns.

Servicer Review Trigger Event: With respect to any Servicer, (i) any event, occurrence or circumstances that the Deal Agent believes, in its reasonable discretion after consultation with such Servicer, causes or may cause imminent concern with respect to such Servicer's ability, capacity and readiness to service the applicable Mortgage Loans in accordance with Accepted Servicing Practices or (ii) the occurrence of a Material KPI Breach.[47]

Servicer Limitation of Liability: Any provision set forth in this Agreement, the related Servicing Agreement or the Pooling and Servicing Agreement that limits the Servicer's liability.

Servicers: [____].

Services: As defined in Section 2.

Servicing File: The items pertaining to a particular Mortgage Loan set forth in the Pooling and Servicing Agreement or the related Servicing Agreement including, but not limited to, the computer files, data disks, books, records, data tapes, notes and all additional documents generated as a result of or utilized in servicing each Mortgage Loan, which are held in trust for the Trust by the related Servicer.

Third-Party Due Diligence Provider: Any third-party due diligence provider, subcontractor or other person engaged by the Deal Agent in accordance with Section 4(b) to conduct a Representation and Warranty Review, one or more discrete functions in connection

[47] Triggers could be pool level or loan level and may include Servicer events of default or occurrences. Consider adding an ability for the Depositor or some threshold percentage of Certificateholders (directly or through the Trustee) to invoke a trigger.

therewith, under the direction or authority of the Deal Agent and bound by confidentially obligations to the same extent imposed on the Deal Agent under this Agreement.

Third-Party Review Agreement: The written contract between the Deal Agent and a Third-Party Due Diligence Provider relating to the performance of a Representation and Warranty Review as provided in Section 4(b).

Trust: As defined in the preamble to this Agreement.

Trustee: [_____], a [_____] organized under the laws of [_____], not individually, but solely in its capacity as Trustee under the Pooling and Servicing Agreement or its assigns.

Section 2. Acknowledgment.

The Depositor, by execution and delivery of this Agreement, hereby engages the Deal Agent, subject to the terms of this Agreement, to perform the monitoring, oversight, approval, reporting and enforcement services set forth in Sections 4 through 11 hereof (the "Services"). The Deal Agent hereby accepts such engagement and agrees to perform the Services in accordance with the terms hereof. The other parties hereto acknowledge such engagement of the Deal Agent hereunder.

Section 3. Standard of Care.

[COMMENT: The Deal Agent shall generally direct operating agents (Servicers, Master Servicer, etc.) to take direct action and generally will not take direct action itself, except as otherwise indicated herein. Trustees will be apprehensive/averse to assuming a more active role in the deals without a re-evaluation of their traditional role, contractual protections, explicit responsibilities and fees.]

The Deal Agent shall perform the Services [as a fiduciary[48]] for the Trust, for the benefit of the Certificateholders, in accordance with the Duty of Care and the Duty of Loyalty and the terms of this Agreement, and shall have full power and authority, acting alone, to do or cause to be done any actions specifically enumerated and contemplated by the terms of this Agreement and any and all things in connection with the Services which the Deal Agent deems in its reasonable judgment necessary [or desirable] and consistent with the terms of this Agreement[49]. In furtherance of the Duty of Loyalty, the Deal Agent shall not own, directly or indirectly, any Certificates or place the interests of any class of Certificates above the interest of any other class of Certificates.

[48] Deal parties may consider defining fiduciary and identifying the scope of the obligations and exposure related thereto.

[49] Disputes over the authority of the Deal Agent to take any action pursuant to this Agreement should be resolved by the arbitration provisions of Section 20.

Section 4. Representation and Warranty Review; Breach; Enforcement of Remedies.[50]

(a) The Deal Agent shall review all reports and other materials provided by the [Master Servicer][Securities Administrator] and the Servicers pursuant to this Agreement for the existence of a Representation and Warranty Review Trigger Event with respect to any Mortgage Loan. Upon the Deal Agent's determination of, or its receipt of notice from the Trustee, the Depositor, the Master Servicer, the Securities Administrator, the Seller or any Servicer of the existence of a Representation and Warranty Review Trigger Event with respect to any Mortgage Loan (each of such parties hereby agreeing to give written notice thereof to the Deal Agent if a Responsible Officer of such party has actual knowledge thereof), the Deal Agent shall notify the Trustee, the Depositor, the Master Servicer, the Securities Administrator and the related Servicer of the existence of such Representation and Warranty Review Trigger Event and shall conduct a comprehensive review[51] of such Mortgage Loan, including, without limitation, the related Custodial File, related Origination File, related Servicing File and any other information provided by any Person with respect to such Mortgage Loan, in accordance with the Representation and Warranty Review Procedures to determine if there is a breach of any representation and warranty with respect to such Mortgage Loan given by the applicable Obligated Party (a "Breach") that creates, in the Deal Agent's reasonable discretion, a colorable right of a Remedy for the Trust for the benefit of the Certificateholders (a "Representation and Warranty Review"). Notwithstanding anything herein to the contrary, in the event of a Representation and Warranty Review Trigger Event due to an Insolvency Event with respect to any Obligated Party, the Deal Agent shall conduct a Representation and Warranty Review with respect to all Mortgage Loans acquired from such Obligated Party that are Delinquent for thirty (30) days or more at the time of such Insolvency Event.

In connection with such Representation and Warranty Review, upon the request of the Deal Agent (i) the Custodian shall deliver copies of the related Custodial File to the Deal Agent, (ii) the related Servicer shall deliver copies of the related Servicing File to the Deal Agent and (iii) the [Depositor/Seller] shall deliver copies of the related Origination File to the Deal Agent or, alternatively, shall provide the Deal Agent access to any data room established to hold the Origination Files. The Deal Agent shall at all times have access on demand as soon as practicable to copies of all Custodial Files, Servicing Files and Origination Files, subject only to reasonable limitations necessary to preserve information security and confidentiality. With respect to any individual occurrence of a Representation and Warranty Review Trigger Event, the Deal Agent shall not conduct multiple Representation and Warranty Reviews with respect to such Mortgage Loan unless the Deal Agent receives additional information with respect to such Mortgage Loan after the completion of a Representation and Warranty Review of such Mortgage Loan that clearly indicates that an additional Representation and Warranty Review may result in a different determination. If,

[50] If the Deal Documents include representations and warranties concerning delivery of loan documents to the Custodian (such that certain document defects may separately constitute breaches of representations and warranties), the parties should evaluate whether a greater involvement by the Custodian is necessary to facilitate the Deal Agent's representation and warranty review.

[51] Consider adding a timing requirement.

after the Closing Date, a Servicer, a third-party provider engaged by the Depositor or the sponsor or other independent third-party on behalf of such Servicer reviews or has reviewed the applicable Mortgage Loan and has provided the Deal Agent with a written report presenting the results of such review with respect to such Mortgage Loan, the Deal Agent shall take into account such report in its Representation and Warranty Review with respect to such Mortgage Loan. The Deal Agent shall report the determination of each Representation and Warranty Review Trigger Event and the findings and determination of each Representation and Warranty Review in accordance with Section 11.

(b) The Deal Agent may arrange for a Third-Party Due Diligence Provider[52] to perform any Representation and Warranty Review pursuant to a Third-Party Review Agreement; provided, that such arrangement and the terms of the related Third-Party Review Agreement must provide for the Representation and Warranty Review to be performed in a manner consistent with the terms of this Agreement, including, without limitation, the scope of such Representation and Warranty Review being materially consistent with the Representation and Warranty Review Procedures; provided, further, that any fees or expenses of such Third-Party Due Diligence Provider and of the Deal Agent in connection with such Third-Party Due Diligence Provider and the related Third-Party Review Agreement shall be payable solely by the Deal Agent and shall not result in any increase of the fees payable to the Deal Agent under this Agreement. Each Third-Party Due Diligence Provider shall be authorized to transact business in the state or states required by law applicable to such Third-Party Due Diligence Provider to enable such Third-Party Due Diligence Provider to perform its obligations hereunder and under the related Third-Party Review Agreement. Notwithstanding anything to the contrary herein or in the related Third-Party Review Agreement, the Deal Agent shall remain obligated and liable hereunder for the performance of the Services in accordance with the provisions of this Agreement without diminution of such obligation or liability by virtue of such arrangement with a Third-Party Due Diligence Provider to the same extent and under the same terms and conditions as if the Deal Agent alone were performing the Services. All actions of each Third-Party Due Diligence Provider performed pursuant to the related Third-Party Review Agreement shall be performed as an agent of the Deal Agent with the same force and effect as if performed directly by the Deal Agent.

(c) The Depositor shall cause the applicable Deal Documents to include the covenants set forth on Exhibit A hereto. In connection with any Representation and Warranty Review, if the applicable Obligated Party against whom a Remedy may be asserted fails to provide any information reasonably requested by the Deal Agent within [thirty (30)] days of the receipt of a written request from the Deal Agent, then the Deal Agent shall again request in writing such information from such Obligated Party, and if such Obligated Party has not provided such information within [two (2)] weeks of the receipt of such additional written request from of the Deal Agent, then the related Mortgage Loan shall automatically be subject to repurchase in accordance with Section 4(e) below.

[52] Consider adding a schedule of pre-approved providers from which the Deal Agent may choose.

[COMMENT: A RMBS 3.0 working group will evaluate whether an Obligated Party should still have an opportunity to cure notwithstanding the failure to timely comply with the request for information. Some commentators expressed a need for consequences for delays and lack of cooperation. Other commentators believe that curing the actual failure is paramount.

Additionally, breach determinations and other procedural aspects are being evaluated by such working group to comply with Reg AB II. Any recommendations resulting from such working group should be reflected in this Agreement.]

(d) Upon the determination of a Breach with respect to any Mortgage Loan, the Deal Agent shall determine if (1) such Breach did or could reasonably be expected to materially and adversely affect the value or enforceability of the such Mortgage Loan and/or (2) such Breach creates a right of Remedy for the Trust for the benefit of the Certificateholders (each, a "Material Breach")[53]. For purposes of this Section 4(d), factors that may support a determination of Material Breach may include, without limitation: (i) a direct contribution to or cause of a mortgagor event of default; (ii) a Servicer's inability to complete an applicable default action against the related mortgagor; (iii) a Servicer's inability to liquidate such asset; (iv) any fees, costs and/or expenses incurred as a result of such Breach and reimbursable from the Trust Fund; or (v) a reduction of realized or expected asset liquidation proceeds. Notwithstanding anything herein to the contrary, if the applicable Deal Documents contain guidelines for determining a material breach thereunder, the Deal Agent shall apply such guidelines in its determination of a Material Breach under this Agreement.

The Deal Agent's determination of a Material Breach shall not serve to diminish, eliminate or replace any other rights that the Trustee may have under the Pooling and Servicing Agreement or otherwise with regard to investigating and determining the existence of any breach and/or enforcing any remedies with respect to such breach; provided, that, notwithstanding the foregoing, the Trustee shall not conduct a separate review or any determination with respect to any Mortgage Loan to the extent that the Deal Agent performs its review and responsibilities pursuant to this Section 4.

(e) With respect to any Mortgage Loan (i) subject to an automatic repurchase obligation pursuant to Section 4(c) above, the Deal Agent shall direct the Seller to repurchase or cause the related Obligated Party to repurchase such Mortgage Loan in accordance with the terms and provisions of the Pooling and Servicing Agreement, the Mortgage Loan Purchase Agreement, the related Servicing Agreement or any other related document, as applicable, and (ii) for which a Material Breach has occurred, the Deal Agent shall direct the Seller to cure or cause the related Obligated Party cure such Material Breach, or, if in the reasonable

[53] We believe the determination as to whether or not a Breach results in a Material negative impact on an asset or assets of a given Trust should be done in a consistent manner, across mortgage securitizations. Consistency would make performance comparisons across Trusts easier for investors and ultimately reduce transaction costs as there should be fewer disputes dependent on interpretation. Recommendations for a standard of materiality is being undertaken by a RMBS 3.0 working group, and any definition of such term herein should conform to that standard.

discretion of the Deal Agent[54] no cure is available, pursue any applicable Remedy against the related Obligated Party in accordance with the terms and provisions of the Pooling and Servicing Agreement, the related Servicing Agreement or other applicable Deal Document, as applicable (each, a "Breach Notification"). The Deal Agent shall report the occurrence and status of each Beach Notification in accordance with Section 11.

(f) Any dispute, controversy or claim relating to any Beach Notification or any determination by the Deal Agent under this Section 4 (including any determination of a Material Breach) shall be resolved by Arbitration in accordance with Section 20.

Section 5. Servicer Performance Oversight.

[COMMENT: This Section 5 is drafted with extensive Servicer oversight performed by the Deal Agent as proposed by some in the industry. Such oversight could be scaled back depending on the circumstances and the characteristics of the Mortgage Loans, etc. In addition, transaction parties may decide that some of the [primary] servicer oversight obligations to be performed by the Deal Agent could be performed by the Master Servicer.

Inevitably there will be situations where conflict between the Deal Agent and a Servicer or Master Servicer will arise. We would expect that these conflicts will arise in the area of "business judgment" when the answer is not clear cut. The Deal Agent may request that the Servicer take a particular action with respect to a Mortgage Loan or Mortgage Loans in a given Trust and such actions may be either deemed, in the good faith judgment of the Servicer or Master Servicer to put the Servicer at risk of litigation or regulatory enforcement action or be in contravention of a policy of the Servicer, who in good faith established such policy as the result of their operating experience.

In these circumstances, some commentators believe that it is essential to the smooth operation of the Trust and servicing of the Mortgage Loans that the Deal Agent defer to the experience of the Servicer or Master Servicer, particularly when the Mortgage Loan performance has met or exceeded expectations and the Servicer or Master Servicer has not breached any provisions of any Deal Documents and no Mortgage Loan performance or KPI triggers have been breached. However, other commentators believe that the primary function of the Deal Agent is to apply its experience and take a more active approach to its oversight of the Servicer. The appropriate balance to this tension is still being considered.

In addition, given that Master Servicers often perform backup and successor servicing duties, the Deal Agent should share information with respect to any Servicer review with the Master Servicer and consult with the Master Servicer during any such review to facilitate any backup or successor servicing.]

[54] Consider providing for input from the related Obligated Party with respect to such determination.

(a) No later than by [____] of each calendar year beginning in [___], the [Deal Agent][Master Servicer] shall conduct a Remote Servicer Review of each Servicer to determine, in the [Deal Agent's][Master Servicer's] reasonable judgment, whether such Servicer's practices for the prior calendar year (or, for the first Remote Servicer Review for each Servicer, the period beginning the Closing Date through the end of the calendar year in which the Closing Date occurs) complied with (i) Accepted Servicing Practices, and (ii) any written directions or recommendations provided by the Deal Agent or the Master Servicer in accordance with the provisions of this Agreement that, in the Servicer's good faith judgment, did not violate or conflict with Accepted Servicing Practices, the Deal Documents or Applicable Law. Upon thirty (30) days' prior written notice to such Servicer, such Servicer shall provide to the [Deal Agent][Master Servicer] reasonable access to data and personnel and/or copies of any documentation regarding the Mortgage Loans, without charge, upon reasonable written request and during such Servicer's normal business hours. Such Servicer shall provide any additional information, documentation or materials reasonably requested by the [Deal Agent][Master Servicer] within [two (2) weeks] of receipt of the [Deal Agent's][Master Servicer's] written request. Failure of any Servicer to provide such access or documentation pursuant to this Section 5(a) shall constitute an event of default with respect to such Servicer under Section [-] of the Pooling and Servicing Agreement or Section [-] of the related Servicing Agreement, as applicable (subject to any materiality qualifiers and cure periods provided in such documents).[55] [The Master Servicer shall report the results of each Remote Servicer Review conducted by the Master Servicer and any corrective actions proposed and/or implemented in connection with such review promptly to the Deal Agent. The Deal Agent shall review the results of each Remote Servicer Review conducted by the Master Servicer and any related corrective actions, monitor the performance of any such corrective actions and take any action that it deems, in its reasonable discretion, appropriate and authorized pursuant to this Agreement.] The Deal Agent shall report the results of each Remote Servicer Review in accordance with Section 11.

In connection with any Remote Servicer Review, the [Deal Agent][Master Servicer] shall obtain and will take into account in such Remote Servicer Review any applicable signed attestations of a registered public accounting firm delivered pursuant to the Pooling and Servicing Agreement or the related Servicing Agreement, as applicable, that attests to, and reports on, the assessment of compliance made by such Servicer.

[COMMENT: We are discussing adding the ability of the [Deal Agent][Master Servicer] to subcontract Servicer reviews under the same terms and scope of this Agreement with the [Deal Agent][Master Servicer] to remain responsible.]

(b) No later than by [____] of each calendar year beginning in [___], or upon the occurrence of a Servicer Review Trigger Event[56], the [Deal Agent][Master Servicer] shall conduct an

[55] The determination of a Servicer event of default should be subject to any stay of execution included in Section 20 during any arbitration over this provision.

[56] If an action of a Servicer necessitates any additional review, such review should be at the expense of such Servicer.

Onsite Servicer Review[57] of each Servicer [(other than [__])][58]. Upon no less than [thirty (30) days'] written notice (or such other timeframe as reasonably requested by the Deal Agent due to a Servicer Review Trigger Event, which notice shall include a statement by the [Deal Agent][Master Servicer] describing the event, occurrence or circumstances giving rise to such Servicer Review Trigger Event), each Servicer shall provide to the [Deal Agent][Master Servicer] reasonable access to such Servicer's premises, data and personnel and/or copies of any documentation regarding the Mortgage Loans or any applicable reports that would provide the reasonably equivalent access, without charge, upon reasonable request and during the normal business hours at the applicable offices of such Servicer. The failure of any Servicer to provide such access or documentation shall constitute an event of default with respect to such Servicer under Section [-] of the Pooling and Servicing Agreement or Section [-] of the related Servicing Agreement, as applicable (subject to any materiality qualifiers and cure periods provided in such documents).[59] [The Master Servicer shall report the results of each Onsite Servicer Review conducted by the Master Servicer and any corrective actions proposed and/or implemented in connection with such review promptly to the Deal Agent. The Deal Agent shall review the results of each Onsite Servicer Review conducted by the Master Servicer and any related corrective actions, monitor the performance of any such corrective actions and take any action that it deems, in its reasonable discretion, appropriate and authorized pursuant to this Agreement.] The Deal Agent shall report the results of each Onsite Servicer Review for each Servicer in accordance with Section 11.

(c) With respect to each Remote Servicer Review [as well as each Onsite Servicer Review] related to a specific Servicer, such review by the [Deal Agent][Master Servicer] may be performed as part of a broader review encompassing other mortgage loans, pooling and servicing agreements or servicing agreements with respect to which the [Deal Agent][Master Servicer] is required to perform a similar review under other agreements similar to this Agreement.

(d) Each Servicer shall provide the [Deal Agent][Master Servicer] with the populated data for the fields listed on the Mortgage Loan Schedule with respect to the related Mortgage Loans and, upon the [Deal Agent's][Master Servicer's] request, copies of the related Servicing Files, in each case in its possession (collectively, "Mortgage Loan Data"). The [Deal Agent][Master Servicer] shall store all Mortgage Loan Data in its data warehouse (subject to Section 15) and shall use the Mortgage Loan Data: (i) on a [monthly] basis to determine whether the related Servicer's measured performance with respect to each KPI was within each applicable threshold or was in violation of such KPI (each, a "KPI Breach") and (ii) on an annual basis, to conduct audits of Mortgage Loan Data and documentation to confirm that the information relied upon to calculate and measure KPI values is accurate and comprehensive. For each KPI Breach, the Deal Agent shall provide the related Servicer with written notice (with a copy

[57] Generally, there should be one remote review and one onsite review conducted annually. Consider specifying a staggered review period for each review. Consider allowing less frequent than annual reviews after some period of years.

[58] Consider excluding any Servicers that are servicing a small or immaterial amount of Mortgage Loans.

[59] The determination of a Servicer event of default should be subject to any stay of execution included in Section 20 during any arbitration over this provision.

to the Depositor and the Trustee) of such KPI Breach, which notice shall include a request for such Servicer to cure such KPI Breach within the applicable cure period set forth on Schedule C, if applicable. [The Master Servicer shall report the results of each review and audit conducted by the Master Servicer under this Section 5(d) and any applicable plans to cure such KPI Breach by the related Servicer promptly to the Deal Agent. The Deal Agent shall review the results of each such review conducted by the Master Servicer and any applicable plans to cure such KPI Breach, monitor the performance of any such plans to cure such KPI Breach and take any action that it deems, in its reasonable discretion, appropriate and authorized pursuant to this Agreement.] The Deal Agent shall report the results of each review and audit under this Section 5(d) and any applicable plans to cure such KPI Breach by the related Servicer in accordance with Section 11.

(e) For each KPI Breach that remains uncured within the applicable cure period set forth on Schedule C, the Deal Agent shall determine in its reasonable judgment whether such KPI Breach has been caused solely by systemic macroeconomic conditions or events beyond the control of the related Servicer and: (i) represents an immediate and significant risk to any Mortgage Loan or the Trust Fund; (ii) has existed for a sustained period in excess of allowable limits set forth in Schedule C; or (iii) has been present at a frequency in excess of allowable limits set forth in Schedule C (each, a "Material KPI Breach"). With respect to each Servicer, the Deal Agent shall coordinate with the related Servicer for the creation, implementation and execution of a written plan to cure each Material KPI Breach (each, a "Corrective Action Plan"). In connection with any Corrective Action Plan and the Deal Agent's evaluation and confirmation of compliance therewith, the Deal Agent may: (1) conduct targeted or statistically sampled Mortgage Loan reviews of such Servicer activities; (2) perform onsite reviews of Servicer systems, policies, procedures, and personnel in accordance with Section 5(b); and/or (3) perform such other actions that the Deal Agent reasonably determines are appropriate. Notwithstanding anything to the contrary, in the event that the Deal Agent determines in its reasonable judgment after consultation with the related Servicer that a Material KPI Breach cannot be cured, such Material KPI Breach shall constitute an incurable event of default with respect to such Servicer under Section [-] of the Pooling and Servicing Agreement or Section [-] of the related Servicing Agreement, as applicable (each, an "Incurable Servicer Event of Default")[60], and the Deal Agent shall notify the Trustee, the Depositor, the Master Servicer, the Securities Administrator and the applicable Servicer of such Incurable Servicer Event of Default in accordance with Section 8. The Deal Agent shall report the occurrence and status of each Material KPI Breach and the related Corrective Action Plan in accordance with Section 11.

[COMMENT: In connection with the role of the Deal Agent to assess whether the Servicer is complying with the Servicer's policies and procedures, the role of the Deal Agent is not to evaluate the adequacy of those policies and procedures or cause the Servicer to substitute the Deal Agent's policies and procedures for those of the Servicer.]

[60] The determination of an Incurable Servicer Event Of Default should be subject to any stay of execution included in Section 20 during any arbitration over this provision.

(f) In performing reviews pursuant to this Section 5 and in making any determinations in connection therewith, the [Deal Agent][Master Servicer] shall identify Mortgage Loans as to which in the reasonable discretion of the [Deal Agent][Master Servicer] the value or cash flow thereof has been reduced due to the action or inaction of the related Servicer in violation of Accepted Servicing Practices [or the terms and provisions of the Pooling and Servicing Agreement or related Servicing Agreement, as applicable] (each, a "Mortgage Loan Impairment Breach"). In the event of any Mortgage Loan Impairment Breach, the Deal Agent shall determine the resulting amount of such impairment (a "Mortgage Loan Impairment Amount") using a net present value calculation that includes such assumptions and factors that the Deal Agent believes in good faith to be reasonable after consultation with the related Servicer [and the Master Servicer]; provided, that in no event shall a Mortgage Loan Impairment Amount include any amount due solely to a difference in discount rates between such Servicer's net present value calculation and the Deal Agent's net present value calculation absent manifest error in such Servicer's net present value calculation. The Deal Agent shall provide the related Servicer with written notice (with a copy to the Depositor, the Master Servicer, the Securities Administrator and the Trustee) of each Mortgage Loan Impairment Breach, which shall include the Deal Agent's initial calculation of the related Mortgage Loan Impairment Amount, a demand for such Servicer to reimburse the Trust Fund for the applicable Mortgage Loan Impairment Amount in accordance with the Pooling and Servicing Agreement or related Servicing Agreement, as applicable, and a time period in which to comply with such demand; provided that no Servicer shall be liable for any Mortgage Loan Impairment Amount to the extent such amount is covered by any applicable Servicer Limitation of Liability. In the event that the related Servicer does not comply with or otherwise timely respond to, rebut and/or dispute the Deal Agent's demand for reimbursement of any Mortgage Loan Impairment Amount within the cure period set forth in the Pooling and Servicing Agreement, the related Servicing Agreement or the notice provided by the Deal Agent to such Servicer, the Deal Agent shall notify the Trustee, the Depositor, the Master Servicer, the Securities Administrator and the applicable Servicer of an Incurable Servicer Event of Default in accordance with Section 8.[61] The Deal Agent shall report each Mortgage Loan Impairment Breach, including the status and amount of any associated Mortgage Loan Impairment Amount, in accordance with Section 11.

> ***[COMMENT: Note that net present value is an area of particular focus of investors because it is a critical element of default servicing. We therefore anticipate detailed discussion around this concept.]***

(g) Each Servicer shall provide to the Deal Agent and the Master Servicer written notice[62] of all changes to such Servicer's procedures and policies applicable to the related Mortgage Loans, including any changes to the assumptions or other factors of its net present value model.

[61] The determination of an Incurable Servicer Event Of Default should be subject to any stay of execution included in Section 20 during any arbitration over this provision.

[62] Consider having the Servicers give notice to the Deal Agent of all changes to its policies and procedures immediately or in a weekly/monthly update.

[COMMENT: Some commentators have noted that the Deal Agent should be able to discuss or have input into any changes by a Servicer to its procedures and policies. A RMBS 3.0 working group will consider this.]

(h) Any dispute, controversy or claim arising under this Section 5 (including any determination of a Material KPI Breach, an Incurable Servicer Event of Default and/or a Mortgage Loan Impairment Amount) shall be resolved by Arbitration in accordance with Section 20. For the avoidance of doubt, if a determination made by the Deal Agent under this Section 5 (including a determination of an Incurable Servicer Event of Default) is disputed by the applicable Servicer (such determination, a "Disputed Determination"), such Disputed Determination shall have no force and effect under this Agreement, the Pooling and Servicing Agreement and/or the related Servicing Agreement, as applicable, until such time (if any) that the related arbitration or any settlement negotiations results in a judgment or settlement affirming such Disputed Determination.

Section 6. Deal Agent Direction Event; Delegated Authority Review.

(a) Upon the occurrence and continuance of a Servicer Review Trigger Event with respect to any Servicer, such Servicer must obtain the direction, consent and/or approval from the Deal Agent prior to performing those certain actions with respect to the Mortgage set forth on Schedule D hereto (collectively, "Deal Agent Direction Events"). Each Servicer shall notify the Deal Agent in writing within [ten (10)] Business Days within the occurrence of a Deal Agent Direction Event, or such earlier date that would allow the Deal Agent at least [two (2)][63] full Business Days to comply with this Section 6[64], and shall (i) include in such notice any applicable deadline for receipt of a written response from the Deal Agent with its direction, consent and/or approval to avoid any adverse effect on the value of any Mortgage Loan or the Trust Fund which may result from delayed action of such Servicer; provided, that if the Deal Agent does not provide its written response to such Servicer prior to the deadline set forth in such notice, the Deal Agent shall be deemed to have provided its direction, consent and/or approval with respect to such Deal Agent Direction Event; provided, further that such Servicer shall provide the Deal Agent with any additional time for a response requested by the Deal Agent to the extent such additional time does not cause the Servicer to violate any applicable deadline imposed by Applicable Law or otherwise have an adverse effect on the value of any Mortgage Loan or the Trust Fund, (ii) include with such notice all data, documentation and other information necessary for the Deal Agent's direction, consent and/or approval with respect to such Deal Agent Direction Event or as the Deal Agent shall otherwise reasonably request, and (iii) consult with the Deal Agent to the extent reasonably requested by the Deal Agent. The Deal Agent shall make its determination with respect to any Deal Agent Direction Event on a case-by-case basis and shall provide such Servicer with its written direction, consent and/or approval to take such action or actions with respect to such Deal Agent Direction Event that the Deal Agent reasonably believes are consistent with

[63] The amount of time may differ depending on the applicable Servicer Review Trigger Event.

[64] Under certain circumstances, an earlier date may be required by law or exigent circumstances. Several commentators believe that a Servicer must inform the Deal Agent of the reason for such shortened period. A RMBS 3.0 working group will consider this.

its Duty of Care and Duty of Loyalty. The Deal Agent shall report in accordance with Section 11 all Deal Agent Direction Events for which the Deal Agent receives notice thereof and the actions taken with respect thereto.

In no event shall the Deal Agent be responsible for the execution, or lack thereof, by any Servicer of any required servicing duties in connection with a Deal Agent Direction Event so long as the Deal Agent has provided the related Servicer its direction, consent and/or approval in accordance with the terms of this Agreement.[65] In no event will the Deal Agent assume responsibility or liability for any Servicer's non-compliance with Applicable Laws, even in consideration of the Deal Agent's written direction, consent and/or approval related to Deal Agent Direction Events. In the event that in the reasonable judgment of any Servicer, any action directed by the Deal Agent to be performed by the Servicer conflicts with any Applicable Laws or the Pooling and Servicing Agreement, such Servicer shall inform the Deal Agent and the Trustee in writing of the details of such conflict. The Deal Agent shall consider any such conflict and shall revise its written directions to such Servicer to bring such directions into compliance with Applicable Laws or the Pooling and Servicing Agreement, as applicable, as advised to it by such Servicer, including into compliance with any regulatory directive that requires the servicer to follow specific policies and procedures in the servicing of any Mortgage Loan; provided, that the Deal Agent shall not be responsible for determining whether such revised directions comply with Applicable Laws or the Pooling and Servicing Agreement, as applicable, and all such responsibility shall remain with such Servicer. The Deal Agent's communications with any Servicer concerning compliance with Applicable Laws or the Pooling and Servicing Agreement, as applicable, shall be subject to the confidentiality requirements of Section 15(a).

(b) Upon the occurrence and continuance of a Servicer Review Trigger Event with respect to any Servicer, the Deal Agent shall perform a [quarterly] review of a sample[66] of actions taken by such Servicer in connection with events that such Servicer determined did not constitute a Deal Agent Direction Event (the "Delegated Authority Review") to determine whether such Servicer inappropriately determined that such actions did not require the direction, consent and/or approval of the Deal Agent (a "Delegated Authority Breach"). In the event of any Delegated Authority Breach, the Deal Agent shall determine if such Delegated Authority Breach resulted in any Mortgage Loan Impairment Breach and calculate the resulting Mortgage Loan Impairment Amount, if any. The Deal Agent shall provide the related Servicer with written notice (with a copy to the Depositor, the Master Servicer, the Securities Administrator and the Trustee) of each such Delegated Authority Breach, which shall include the Deal Agent's calculation of such Mortgage Loan Impairment Amount, a demand for such Servicer to reimburse the Trust Fund for the applicable Mortgage Loan Impairment Amount in accordance with the Pooling and Servicing Agreement or related Servicing Agreement, as applicable, or other actions to be taken to cure such Delegated Authority Breach and a time period in which to comply with such demand. The Deal Agent

[65] Consider excluding instances in which the Deal Agent was deemed to have provided its direction, consent and/or approval due to its failure to respond to a Servicer's request in the applicable time period required.

[66] Should provide for a standard sample size and how the sample is selected (including random, adverse and targeted selection).

shall report the results of each Delegated Authority Review, including the status and amount of any associated Mortgage Loan Impairment Amount, in accordance with Section 11.

(c) Any dispute, controversy or claim arising under this Section 6 shall be resolved by Arbitration in accordance with Section 20.

Section 7. Reporting Review and Reconciliation.

[COMMENT: The Deal Agent may choose to utilize in its reviews under this Agreement the work of the Master Servicer, accountants or other third-parties. This is beneficial as it should reduce the cost of inclusion of the Deal Agent in transactions; however, this should be voluntary and the Deal Agent should be able to determine, in its sole judgment, whether or not to rely on or utilize such work (and the extent of such reliance or utilization). With this in mind, reconciliation should be defined broadly, it could be as detailed as a forensic reconstruction of mortgage payments or as general as comparing summary reports provided by Servicers and the Master Servicer.]

(a) Each Servicer shall deliver to the Deal Agent copies of all reports that it delivers to the Trustee, the Master Servicer, any other Servicer, the Securities Administrator, the Custodian or any other Person pursuant to the Pooling and Servicing Agreement or the related Servicing Agreement, as applicable. The [Deal Agent][Master Servicer][67] shall perform a [monthly] reconciliation of (1) remittance reporting of each Servicer and (2) Mortgage Loan Data reported by each Servicer to identify any inconsistencies with respect to: (i) cash collected by any Servicer from mortgagors or from the liquidation of any Mortgage Loans; (ii) cash advanced by any Servicer in accordance with the Pooling and Servicing Agreement or the related Servicing Agreement, as applicable; and (iii) cash withheld by any Servicer with respect to fees and escrows and advance reimbursements.[68]

(b) The Master Servicer shall deliver or make available to the Deal Agent copies of all reports that it delivers to the Trustee, any Servicer, the Securities Administrator, the Custodian or any other Person pursuant to the Pooling and Servicing Agreement. The Deal Agent shall perform a monthly reconciliation of (1) remittance reporting of the Master Servicer and (2) Mortgage Loan Data reported by the Master Servicer to identify any inconsistencies with respect to: (i) cash collected by any Servicer or the Master Servicer from mortgagors or from the liquidation of any Mortgage Loans; (ii) cash advanced by any Servicer or the Master Servicer in accordance with the Pooling and Servicing; and (iii) cash withheld by any Servicer or the Master Servicer with respect to fees and escrows and advance reimbursements.[69]

[67] In the case of the Master Servicer performing the remittance reconciliation, it shall report its findings to the Deal Agent, who shall take appropriate action in accordance with Section 7(d).
[68] For monthly reconciliations performed by the Deal Agent, the deal parties should determine the level of detail.
[69] For monthly reconciliations performed by the Deal Agent, the deal parties should determine the level of detail.

(c) The Deal Agent will perform reconciliation of other remittance reporting of the Servicers and the Master Servicer not described in Section 7(a) or 7(b), as determined by the Deal Agent in its reasonable discretion, to identify any material inconsistencies or inaccuracies.

(d) In the event that (i) the Deal Agent or the Master Servicer identifies any inconsistencies or inaccuracies in accordance with Section 7(a) above, or (ii) the Deal Agent identifies any inconsistencies or inaccuracies in accordance with Section 7(b) above, that (as to either (i) or (ii)) are determined to be material by the Deal Agent in its reasonable judgment, the Deal Agent will provide written notice to the related Servicer or the Master Servicer, as applicable. Such notice will include details of the findings of the Deal Agent or the Master Servicer, as applicable, and direction on corrective actions required of the related Servicer or the Master Servicer, as applicable, as determined by the Deal Agent in its reasonable judgment. The Deal Agent shall report cash flow and reporting reconciliation findings in accordance with Section 11.

(e) Any dispute, controversy or claim arising under this Section 7 shall be resolved by Arbitration in accordance with Section 20.

Section 8. Successor Servicer Selection and Mortgage Loan Transfer Oversight.

In the event of an Incurable Servicer Event of Default, the Deal Agent shall notify in writing the Trustee, the Depositor, the Master Servicer, the Securities Administrator and the applicable Servicer, and a successor servicer [with respect to all Mortgage Loans serviced by such Servicer or only those Mortgage Loans subject to such Incurable Servicer Event of Default] [70] shall be appointed in accordance with the terms and provisions of the Pooling and Servicing Agreement or the related Servicing Agreement, as applicable. The Deal Agent shall monitor the transfer of the related Mortgage Loans from such Servicer to the successor servicer in accordance with the terms and provisions of the Pooling and Servicing Agreement or the related Servicing Agreement, as applicable, including an assessment of (i) such Servicer's pre-transfer data and document status and availability, (ii) the successor servicer's onboarding of data and documents to its systems of record, and (iii) sample Mortgage Loans to confirm continuity of servicer actions, including, but not limited to Mortgagor notifications, collection, loss mitigation, default management activities and asset liquidation proceedings.

Section 9. Oversight of Other Parties.

(a) The Deal Agent shall review the receipts and certifications delivered by the Custodian pursuant to the Custodial Agreement for completeness and accuracy in accordance with the terms of the Custodial Agreement and shall notify the Custodian of any deficiencies or inconsistencies in any receipt, certification and/or the Custodial Files that in the Deal Agent's reasonable discretion require correction. The Custodian shall deliver copies of any Custodial Files requested by the Deal Agent and any trailing documents or other documents

[70] Consider adding flexibility for partial servicing transfers.

required to be delivered to the Custodian pursuant to the Custodial Agreement. The Deal Agent shall report the findings of its review under this Section 9(a) in accordance with Section 11.

(b) In the event that a Responsible Officer of the Deal Agent receives notice or otherwise obtains knowledge of a material breach by the Trustee, the Depositor, the Master Servicer, the Securities Administrator, the Custodian or a Servicer of any representation or warranty or covenant of such party (a "Breaching Deal Party") in any Deal Document, the Deal Agent shall notify the Depositor, or such other appropriate party who has authority to act in respect of such breach, of such breach and the Depositor shall enforce the applicable provisions of the related Deal Document against the Breaching Deal Party to the extent that the Depositor has such rights under the applicable Deal Documents. In the event that the Depositor does not timely enforce such provisions and is empowered by the Deal Documents to enforce such provisions, the Deal Agent shall assert any and all rights to compel the Depositor to enforce such applicable provisions. [To the extent not prohibited in the applicable Deal Documents, upon the direction of the Majority Certificateholders, the Deal Agent shall (i) declare an event of default with respect to any Breaching Deal Party and seek any applicable remedy indicated by the Majority Certificateholders in accordance with the Deal Documents, and/or (ii) replace such Breaching Deal Party.][71] The Deal Agent shall promptly report the details of any Breaching Deal Party and the actions of the Depositor and the Deal Agent in accordance with Section 11.

(c) Any dispute, controversy or claim arising under this Section 9 shall be resolved by Arbitration in accordance with Section 20. For the avoidance of doubt, if a breach determination under this Section 9 is disputed by the Breaching Deal Party (such breach determination, a "Disputed Breach Determination"), such Breach Disputed Determination shall have no force and effect under this Agreement, the Pooling and Servicing Agreement and/or the related Servicing Agreement, as applicable, until such time (if any) that the related arbitration or settlement negotiations results in a judgment or settlement affirming such Disputed Breach Determination

Section 10. Inquiries from Certificateholders; Ratification by Certificateholders.

(a) The Deal Agent shall review all inquiries from Certificateholders where (i) the applicable Certificateholder provides [proof of current ownership] [72] of any class of Certificates, (ii) such inquiries are submitted to the Deal Agent [through the Deal Website], and (iii) the inquiring Certificateholder agrees that the inquiry and the Deal Agent's response will be disclosed by the Deal Agent in its [monthly] report in accordance with Section 11 (a "Qualified Investor Inquiry"). In the event that a Qualified Investor Inquiry constitutes a request for the Deal Agent to perform any review or analysis which does not fall within the Services described herein in the Deal Agent's reasonable judgment, the Deal Agent shall not be obligated to perform such requested review or analysis but shall report in accordance with Section 11 that the Qualified Investor Inquiry is out of the Deal Agent's scope of Services.

[71] This provision should be conformed to the related provisions of the Deal Documents.
[72] The Deal Agent may rely on the Securities Administrator for such proof of ownership.

[COMMENT: A RMBS working group will discuss further providing for the investors' interest vs. while maintaining the ability of the Deal Agent to handle unforeseen circumstances. Any recommendations resulting from such working group should be reflected in this Agreement.]

(b) The Deal Agent may submit to the Certificateholders any action that may be taken or has been taken or not taken by the Deal Agent pursuant to this Agreement for approval or ratification thereof by the Certificateholder or Certificateholders of more than [50]% of the aggregate outstanding class principal amount of all classes of Certificates (the "Majority Certificateholder")[73]. Any action taken or not taken of the Deal Agent that is approved or ratified by the Majority Certificateholder pursuant to the procedures set forth in Section [__] of this Agreement[74], shall be deemed to have satisfied the Deal Agent's Duty of Care and Duty of Loyalty. The Deal Agent acknowledges and agrees that such submissions for approval or ratification shall not be made on a routine basis, and shall not delay the performance by the Deal Agent of its duties hereunder.

Section 11. Deal Agent Reporting.[75]

In addition to other reports and information required to be delivered pursuant to this Agreement, no later than [two (2)] Business Days prior to its reporting to the Certificateholders, the Deal Agent shall provide a monthly report, in such form and format as agreed upon by the parties hereto, to the Depositor, the Trustee[, the Servicer, the Master Servicer] and the Securities Administrator on the performance of the Services hereunder, including, without limitation, all information required to be reported by the Deal Agent pursuant to Sections 4 through 10 hereunder and Mortgage Loan aggregation and trending reports on the aggregate performance of the Mortgage Loans and any other assets of the Trust Fund.

The Deal Agent shall make all reports and information required to be delivered hereunder available on a website maintained by it[76] (the "Deal Website"). Access to the Deal Website shall be password protected and restricted to Persons that certify that they are current [or prospective] investors in the Certificates, meet the eligibility requirements for investing in the Certificates and accept such access through a "click-through" agreement in the form attached hereto as Exhibit C. Notwithstanding anything to the contrary, the Deal Website shall be subject to and maintained in compliance with the terms and provisions of Section 15(b) and the Deal Agent shall redact from all reports or information prior to posting on the Deal Website all fields of information identified on Exhibit D hereto.

[73] Consider higher percentage or class-by-class voting.

[74] Consent solicitation/vote procedures should be added with the Trustee/Securities Administrator, at the expense of the Trust Fund, expected to administer any consent solicitation/vote following its customary practices in administering each consent solicitation/vote.

[75] To the extent a platform for communications to the Certificateholders is established in any deal, the Deal Agent should use such platform in addition to the Deal Website. Note that this section is drafted assuming that the related Certificates were offered under Rule 144A, and were not publicly offered

[76] Consider adding a link to the website.

In no event will the Deal Agent be required to report data or information if the Deal Agent in good faith believes that: (i) reporting such data would violate Section 15 or any applicable consumer or privacy laws, (ii) reporting such data would violate securities or other laws, or (iii) such data or information is materially inaccurate (without limiting the Deal Agent's obligation pursuant to Section 5(d) to report on the accuracy and comprehensiveness of certain information provided by the Servicers)[77].

Section 12. Deal Agent Compensation.

The Deal Agent shall be entitled to such fees for its services under this Agreement as set forth in Schedule E hereto, which fees[, together with the Deal Agent's reasonable and documented expenses in connection herewith,] shall be reimbursable from Trust Fund, subject to the [insert reference to provisions of the Pooling and Servicing Agreement capping the annual expenses of parties].[78]

Section 13. Representations and Warranties.

The Deal Agent hereby represents and warrants to the parties hereto, for the benefit of the Certificateholders, as of the Closing Date:

(a) the Deal Agent is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is duly qualified to do business in each jurisdiction where such qualification is required. The Deal Agent has all licenses, qualifications, authorizations, registrations and permits necessary to the conduct of its business and to its compliance with the terms of this Agreement;

(b) the Deal Agent has the full power and authority to execute and deliver this Agreement and to perform its obligations hereunder in accordance with the terms hereof;

(c) the execution, delivery and performance of this Agreement by the Deal Agent and the consummation of the transactions contemplated hereby have been duly and validly authorized;

(d) this Agreement evidences a legal, valid and binding obligation of the Deal Agent, enforceable against it in accordance with its terms;

(e) neither the execution and delivery of this Agreement, nor the performance of the Services hereunder, will conflict with or result in a breach of any of the terms, conditions or provisions of the Deal Agent's organizational documents or any legal restriction or any agreement or instrument to which the Deal Agent is now a party or by which it is bound, or constitute a

[77] The Deal Agent should first use good faith efforts to redact any Consumer Information or other confidential information.

[78] Add a schedule of expenses to Schedule E. The content and format of such schedule, and the priority of the Deal Agent's expenses in the deal waterfall, should be discussed by the deal parties.

default or result in an acceleration under any of the foregoing, or result in the violation of any law, rule, regulation, order, judgment or decree to which the Deal Agent is subject;

(f) there is no charge, investigation, action, suit or proceeding before or by any court pending or, to the best knowledge of the Deal Agent, threatened that, in the reasonable judgment of the Deal Agent, would have a material adverse effect upon the performance by the Deal Agent of its duties under, or on the validity or enforceability of, this Agreement; and

(g) the Deal Agent has sufficient personnel, experience and other resources to conduct its business and to perform its obligations hereunder, and will at all times cause its personnel to devote as much of their time and attention to the performance of this Agreement as shall be reasonably necessary to fulfill the terms hereof and to meet the Duty of Care and Duty of Loyalty set forth herein.

Section 14. Covenants.

(a) The Deal Agent will: (i) obtain, preserve and keep in full force and effect its separate [corporate] existence and all rights, licenses, registrations and franchises necessary to the proper conduct of its business or affairs; (ii) qualify and remain qualified as a foreign [corporation] in each jurisdiction in which the character or location of the properties owned by it or the business transacted by it requires such qualification; and (iii) continue to operate its business as substantially presently operated.

(b) The Deal Agent will comply with the requirements of all Applicable Laws.

(c) The Deal Agent will promptly notify the Trustee, the Depositor, the Master Servicer, the Securities Administrator, the Servicers and the Certificateholders of any action or proceeding brought against the Deal Agent where such action or proceeding, if determined adversely to the Deal Agent, could reasonably be expected to have a material adverse effect on the Deal Agent or its ability to perform its obligations hereunder.

(d) The Deal Agent shall maintain appropriate books of account and records relating to the services performed hereunder, and such books of account and records shall be accessible for inspection by representatives of the Depositor, the Trustee, [the Directing Certificateholders] and any independent accountants appointed by any of the foregoing parties at any time during normal business hours upon not less than [two (2)] Business Days' prior notice.

(e) The Deal Agent, at its expense, shall maintain in effect a blanket fidelity bond and an errors and omissions insurance policy, affording coverage with respect to all directors, officers, employees and other Persons acting on the Deal Agent's behalf, and covering errors and omissions in the performance of the Deal Agent's obligations hereunder. The errors and omissions insurance policy and the fidelity bond shall be in such form and amount generally acceptable for entities serving as deal agents or as otherwise required to perform the Services hereunder.

Section 15. Confidential Information.

[COMMENT: The Deal Agent should not be limited from using what it learns across all of its engagements (including acting as Deal Agent on other transactions as well as other types of engagements), though such ability of the Deal Agent to use information from other engagements may possibly be limited to a "triggering event" that obligates further inquiry and the relevance of the information to a particular deal. Consideration should be given to conflict of interest standards for a Deal Agent such that its ability to protect the Trust's interests is not affected by other engagements that the Deal Agent may have with the Servicers and other deal parties. Any such review based on something learned by the Deal Agent in a separate engagement should be triggered only if, based on a reasonable facts and circumstances analysis, the Deal Agent reasonably believes that the discovered deficiency could reasonably be believed to potentially impact the transaction (i.e., discovery of a condition should not give rise automatically to a "witch hunt" of other deals), nor should any fiduciary obligation of the Deal Agent be interpreted to require an aggressive read or incentivize the Deal Agent so that it feels it must investigate another deal in order to protect itself from a future claim (e.g., by knowing about something on a separate engagement, some investors could challenge a perfectly reasonable decision by the Deal Agent not to investigate other deals for the same deficiency). In this regard, generally a Deal Agent should avoid being made subject to any confidentiality agreement that would prevent it from utilizing relevant information derived from another engagement with its role as Deal Agent to the transaction.

In addition, the disclosure of other deals involving a Servicer where the Deal Agent is acting in a similar capacity should be evaluated as it might be important to know whether there is a risk of "cross-pollination" (i.e., discovery of something in another deal based on a policy or practice that could reasonably potentially impact another deal). Whether the Deal Agents should have a published, disclosable list of such deals is being considered.]

(a) In performing its obligations hereunder, the Deal Agent may have access to and receive disclosure of certain confidential information about or belonging to the Trustee, the Master Servicer, the Securities Administrator, the Depositor, a Servicer or a Mortgagor which is confidential and the property of the party disclosing such information (collectively, "Confidential Information"). Confidential Information shall not include: (i) information in the public domain at the time that it was provided by the furnishing party or subsequently came into the public domain other than as a result of breach of the confidentiality provisions contained herein; (ii) information obtained from a third party not based on Confidential Information (provided such party was not bound by confidentiality agreements with the furnishing party); or (iii) information which the Deal Agent develops independently. The Deal Agent agrees: (x) to keep all Confidential Information secure and confidential; (y) treat all

Confidential Information with the same degree of care as it accords its own Confidential Information, but in no event less than a reasonable degree of care; and (z) not to use or disclose any Confidential Information of any other Party for any purpose other than as expressly required or permitted under the terms of this Agreement or as required by law.

(b) Without limiting the foregoing, the Deal Agent agrees that it shall protect the privacy of the consumers' non-public personal information made available to it pursuant to this Agreement ("Consumer Information"). Without limiting the generality of the foregoing sentence, the Deal Agent shall not disclose any Consumer Information to any third person for any purpose other than as expressly required or permitted under the terms of this Agreement or as required by law, and the Deal Agent shall not use any Consumer Information except to perform the Services. The Deal Agent shall implement and maintain an information security program that includes administrative, technical and physical safeguards for borrower records and information, including Consumer Information, in the Deal Agent's control or possession from time to time. Such safeguards shall be designed for the purpose of: (i) insuring the security of such records and information; (ii) protecting against any anticipated threats or hazards to the security or integrity of such records and information; (iii) protecting against unauthorized access to or use of such records and information that would result in substantial harm or inconvenience to any person; (iv) assuring that such records remain available for access and use by the Trust; (v) mitigating any risk that reports and information provided by the Deal Agent in accordance with Section 11 contain data that could enable the re-identification of any mortgagor; and (vi) ensuring the proper disposal of Consumer Information. Such safeguards shall be established in accordance with Section 501(b) of Gramm-Leach-Bliley Act and the Interagency Guidelines Establishing Standards for Safeguarding Customer Information adopted pursuant to Section 501(b) of GLBA) and other applicable federal, state and local requirements to protect the privacy of Consumer Information, as such requirements may be established or amended from time to time. Upon written request from the [Servicer][Master Servicer], the Deal Agent will provide satisfactory evidence to allow the [Servicer][Master Servicer] to confirm that the Deal Agent has satisfied its obligations under this Section 15. The Deal Agent shall immediately notify the [Servicer][Master Servicer] in the event of a breach or suspected breach to the Deal Agent's information security systems, including the unauthorized access to Consumer Information, or any other material risk to Consumer Information. The obligations of the Deal Agent set forth in this Section 15 shall remain in effect as long as the Deal Agent has control or possession of borrower records and information, including Consumer Information.

(c) The provisions of this Section 15 shall survive the resignation or termination of the Deal Agent or the termination of this Agreement.

Section 16. Use of Deliverables.

The Trustee[79] may, without the consent of the Deal Agent, use the information and reports provided to it by the Deal Agent hereunder (the "Deliverables") in order to carry out the

[79] The Trustee should be indemnified under the Pooling and Servicing Agreement for actions required to be taken under this Agreement.

Trustee's responsibilities under the Pooling and Servicing Agreement, the related Servicing Agreement or any other applicable document; provided, however, that the Trustee may not distribute any Deliverable or derivation thereof to any Persons other than regulators and auditors of the Trustee, the Certificateholders, the Depositor, the Master Servicer, the Securities Administrator, the Servicers and their respective Affiliates or as otherwise required by Applicable Law without the Deal Agent's prior written consent, which shall not be unreasonably withheld, qualified or delayed; provided, however, the Trustee may forward to the Securities Administrator any Deliverables required to be posted to the website maintained by the Securities Administrator pursuant to the Pooling and Servicing Agreement for posting to such website. In no event shall the Trustee or the Securities Administrator be obligated to post to the Deal Website or any other website or otherwise deliver to any Person any Deliverable that, in the good faith judgment of the Trustee or the Securities Administrator, contains Consumer Information or the posting or delivery of which would otherwise violate Applicable Laws. Notwithstanding the foregoing, to the extent that any portion of the Services constitutes "due diligence services" under Rule 15Ga-2 of the United States Securities Exchange Act of 1934, as amended (the "Exchange Act"), and Rule 17g-10 under the Exchange Act, the Deal Agent shall furnish to the Depositor Form ABS-15G, and any such Form ABS-15G shall be permitted to be furnished on the SEC's EDGAR website if so required under Applicable Law. Any dispute, controversy or claim arising under this Section 16 shall be resolved by Arbitration in accordance with Section 20

Section 17. No Investment Advice.

The parties hereto hereby acknowledge and agree that the Deal Agent may provide opinions from time to time with regard to the subject matter of the Services performed by the Deal Agent and that such opinions differ from other Persons with direct or indirect interests in the Trust Fund. The parties hereto expressly agree that the Deal Agent is not advising the Trustee, the Depositor, the Master Servicer, the Securities Administrator and the Servicers on the suitability of any particular transaction or investment strategy or other matter and that no reference to a particular valuation, determination, analysis or any other investment vehicle constitutes a recommendation for any such transaction. Certain information provided by the Deal Agent may be compiled and based upon information provided to the Deal Agent by unaffiliated parties, and except to the extent that (i) such information is the subject of the Services, or (ii) relying on such information would be inconsistent with the Deal Agent's Duty of Care, the Deal Agent shall be permitted to reasonably rely on such information without independently confirming, verifying or auditing the accuracy or completeness of such information. The parties hereto expressly agree and acknowledge that any value given to any loans, securities, instruments or collateral ("Assets") that may be reviewed by the Deal Agent in its performance of the Services is based upon a specific point in time and reflects the Deal Agent's opinion of the value or status of such Asset(s) solely up to that point in time and does not forecast the value, price or performance of such Asset(s) or any portfolio in the future.

Section 18. Indemnification.

(a) Subject to the [insert reference to provisions of the Pooling and Servicing Agreement capping the annual expenses of parties], the Deal Agent, its Affiliates, assignees and each of its and their managing directors, directors, partners, officers, employees and agents (collectively, "Deal Agent Indemnified Parties") shall be indemnified and held harmless by, and entitled to reimbursement from, the Trust Fund for any claim, loss, liability, damage, cost or expense (including any reasonable legal fees and expenses)(collectively "Losses") incurred in connection with any claim or legal action relating to this Agreement or in connection with the performance of any of the Deal Agent's duties hereunder, other than any Loss incurred by reason of gross negligence, bad faith or willful misconduct in the performance of any of the Deal Agent's duties hereunder[80]. The provisions of this Section 18(a) shall survive the resignation or termination of the Deal Agent or the termination of this Agreement.

The Deal Agent shall promptly notify the Trustee and the Securities Administrator in writing and report to the Certificateholders of any claim or proceeding which the Deal Agent believes falls within the scope of this Section 18(a), but failure to give such notice shall not extinguish the right of indemnification hereunder unless the Trust Fund is materially prejudiced by such failure.

(b) The Deal Agent shall indemnify each Servicer, the Custodian, the Depositor, the Trustee, the Master Servicer and the Securities Administrator and in each case any officer, director, employee or agent of such party or any successor in interest to such party (collectively, the "Indemnitees" and individually, an "Indemnitee") and hold harmless any such Indemnitee against any and all Losses that any Indemnitee may sustain in any way related to (i) the failure of the Deal Agent to perform its obligations under this Agreement in accordance with the Duty of Care and the Duty of Loyalty, or (ii) a material breach of the Deal Agent's representations or warranties contained in this Agreement; provided, however, that the Deal Agent shall not indemnify any Indemnitee to the extent that any such Losses resulted from the gross negligence, bad faith or willful misconduct of any such Indemnitee. The provisions of this Section 18(b) shall survive the resignation or termination of the Deal Agent or the termination of this Agreement.[81]

Section 19. Limitation of Liability.

Except as otherwise provided in Section 18, neither the Deal Agent nor any of the officers, employees or agents of the Deal Agent shall be under any liability to any Servicer, the Depositor, the Trustee, the Master Servicer, the Securities Administrator or the Certificateholders for any action taken or for refraining from the taking of any action in good faith by the Deal Agent in connection with the performance of the Services pursuant to this Agreement, or for exercise of judgment or discretion as permitted under this Agreement;

[80]Deal parties should consider limiting the Deal Agent's indemnification if the Deal Agent demands a change that is otherwise in compliance with law.

[81] This section contemplates that the underlying Deal Documents will indemnify deal parties for actions appropriately taken by them under the applicable Deal Document.

provided, however, that this provision shall not protect the Deal Agent or any such person against any breach of warranties or representations made in Section 13 herein, or a failure to perform its obligations in material compliance with any standard of care set forth in this Agreement, or any liability which would otherwise be imposed by reason of any breach of the terms and conditions of this Agreement; provided, further that this provision shall not protect the Deal Agent against any liability that would otherwise be imposed by reason of the willful misconduct, bad faith or gross negligence in the performance of duties or by reason of reckless disregard of its obligations or duties hereunder. The provisions of this Section 19 shall survive the resignation or termination of the Deal Agent or the termination of this Agreement.

Section 20. Dispute Resolution.[82]

> ***[COMMENT: A RMBS 3.0 working group is evaluating the use of and standards for Arbitration, including issues of evidentiary rules and scope of Arbitration proceedings. Any recommendations resulting from such working group should be reflected in this Agreement. Pursuant to RMBS 3.0, origination files should be made available for Arbitration proceedings when needed by the parties. The retention of the origination files is subject to further discussion.***
>
> ***The scope of arbitration for the Deal Agent's services is disputed. Some feel that any decision should be subject to arbitration while others feel that the decisions of the Deal Agent should not be subject to arbitration, only the question of whether the Deal Agent made a decision or conducted some process in error. Further, the Deal Agent has to be able to conduct its services efficiently, which could potentially be severely diminished if all of its actions are challenged.***
>
> ***Note that in public deals, pursuant to Reg AB II, the party requesting any asset repurchase has the right to choose arbitration or mediation and the allocation of expenses shall be determined by the arbitrator if arbitration is chosen or by the parties if mediation is chosen.]***

The parties hereto agree to attempt in good faith to resolve among themselves any controversy or claim arising out of or relating to the Services[83], and if any such controversy or claim has not been resolved to the satisfaction of the disputing parties after such good faith attempt at resolution, such controversy or claim shall be resolved by Arbitration administered by the American Arbitration Association; provided, that if any Arbitration arising out of or relating to an obligation or alleged obligation of an Obligated Party to provide a Remedy in respect of a Mortgage Loan relating to the same representation and warranty has commenced and is continuing, then such Arbitration shall be joined with the Arbitration commenced hereunder[84].

[82] Consider adding a stay of servicing transfers and other actions action during arbitration.
[83] Consider adding more specific pre-arbitration procedures.
[84] Consider requiring that actions be grouped together into monthly groups.

(a) To commence Arbitration, the moving party shall deliver written notice to the other party(ies) that it has elected to pursue Arbitration in accordance with this Section 20; provided, that if an Obligated Party has not responded to a notification of a Material Breach or a Servicer has not responded to a notification of a Material KPI Breach, the moving party shall not commence Arbitration with respect to such breach before [sixty (60)] days following such notification in order to provide such Obligated Party or such Servicer, as applicable, with an opportunity to respond to such notification. Within [ten (10)] Business Days after a party has provided notice that it has elected to pursue Arbitration, each party may submit the names of one or more proposed Arbitrators to the other party in writing. If the parties have not agreed on the selection of an Arbitrator within [five (5)] Business Days after the first such submission, then the party commencing Arbitration shall, within the next [five (5)] Business Days, notify the American Arbitration Association in New York, New York and request that it appoint a single Arbitrator with experience in arbitrating disputes arising in the financial services industry[85].

(b) It is the intention of the parties that Arbitration shall be conducted in as efficient and cost-effective a manner as is reasonably practicable. Promptly following the retention of Arbitrators, the Arbitrators shall commence the arbitration in New York City, New York under the auspices of the American Arbitration Association. The Depositor, each Servicer, the Custodian, the Trustee, the Master Servicer and the Securities Administrator shall provide reasonable cooperation in connection with the Arbitration. If requested by the Arbitrator or any party, any hearing with respect to an Arbitration shall be conducted by video conference or teleconference, except upon the agreement of both parties or the request of the Arbitrator. In connection with any Arbitration, upon the request of the Deal Agent (i) the Custodian shall deliver copies of the related Custodial File to the Arbitrators, (ii) the related Servicer shall deliver copies of the related Servicing File to the Arbitrators and (iii) the [Depositor/Seller] shall deliver copies of the related Origination File to Arbitrators or, alternatively, shall provide the Arbitrators access to any data room established to hold the Origination Files.

(c) The finding of the Arbitrators shall be final and binding upon the parties. Judgment upon any arbitration award rendered, including, without limitation, the transfer of servicing from any Servicer, may be entered and enforced in any court of competent jurisdiction. The parties hereto generally intend that the costs and fees of any Arbitration shall be paid by the party against whom judgment is rendered. The Arbitrators, in their sole discretion determined by majority vote, shall have the power in the award to allocate among the parties all of the costs and fees of the Arbitration as it deems appropriate to avoid manifest unfairness based upon, among other factors, the relative success and failure in the award or Arbitration or under different issues. For purposes of this Section 20(c), "costs and fees" mean all reasonable pre-award expenses of the Arbitration, including the Arbitrators' fees, administrative fees, travel expenses, out-of-pocket expenses, expert fees, witness fees and attorneys' fees.

(d) The Deal Agent shall report the occurrence and status of all Arbitration actions in accordance with Section 11.

[85] The time frames set forth in this Section 20(a) are intended merely as guidance and may be adjusted as needed.

(e) The provisions of this Section 20 shall survive the resignation or termination of the Deal Agent or the termination of this Agreement.

Section 21. Term; Termination; Resignation or Removal of the Deal Agent.

(a) This Agreement shall commence as of the date first set forth above and, unless terminated earlier as provided for herein, shall terminate upon the final payment or other liquidation (or advance with respect thereto) of the last Mortgage Loan remaining in the Trust or the disposition of all property acquired upon foreclosure or deed in lieu of foreclosure of any Mortgage Loan remaining in the Trust, and the final remittance of all funds due under the Pooling and Servicing Agreement.

(b) Subject to Section 24, the Deal Agent shall have the right to resign as the Deal Agent under this Agreement only upon [ninety (90)] days' prior written notice to the Trustee, the Master Servicer, the Securities Administrator, the Depositor, the Servicers and the Certificateholders; provided, however, that except as otherwise required by Applicable Law, no resignation under this Agreement shall become effective until a successor Deal Agent has been appointed pursuant to Section 21(d) below.

(c) If the Trustee, the Depositor or the Directing Certificateholders believes that Cause exists to terminate the rights, powers, duties, responsibilities and obligations of the Deal Agent as deal agent under this Agreement, the Depositor may, and if so directed by the Directing Certificateholders in accordance with Section 21(h) shall, by notice in writing to the Deal Agent[86], in addition to whatever rights the Depositor may have at law or equity to damages, including injunctive relief and specific performance, terminate all of the rights, powers, duties, responsibilities and obligations of the Deal Agent as deal agent under this Agreement other than any rights or obligations that expressly survive the termination of this Agreement. For purposes hereunder, "Cause" shall mean:

(i) the willful and intentional breach by the Deal Agent of a [material] provision of this Agreement;

(ii) the violation of or failure to perform in any material respects by the Deal Agent of any provision of this Agreement which violation or failure, if capable of being cured, is not cured within [thirty (30)] days of the Deal Agent receiving notice from the [Depositor][Trustee] of such violation, unless the Deal Agent has taken action that the Deal Agent reasonably believes in good faith will cure such violation or failure and such action does cure such violation or failure within [sixty (60)] days after the Deal Agent's receipt of notice from the [Depositor][Trustee];

(iii)the Deal Agent (A) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy, for liquidation or to take advantage of any bankruptcy, insolvency, reorganization, moratorium or other similar law of any jurisdiction, (B) makes an assignment for the benefit of its creditors,

[86] Consider adding a notification period.

(C) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property, (D) admits in writing its inability to pay its debts generally as they become due, or voluntarily suspends payment of its obligations, or (E) admits in writing or is adjudicated as insolvent or bankrupt, or a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Deal Agent, or appointing a receiver, liquidator, assignee or sequestrator (or other similar official) of the Deal Agent or of any substantial part of its property or ordering the winding up or liquidation of the Deal Agent, and the continuance of any such petition or order is unstayed and in effect for a period of sixty (60) consecutive days;

(iv)the failure of any representation, warranty or certification made or delivered by the Deal Agent, in writing, in or pursuant to this Agreement to be correct in any material respect when made; or

(v) the Deal Agent is indicted by a court of competent jurisdiction, or is sanctioned by any Governmental Authority for any actions involving a breach of fiduciary duty, fraud or willful misconduct.

(d) Upon the resignation or removal of the Deal Agent, the Depositor shall appoint a successor Deal Agent which satisfies the criteria in this Section 21(d) and shall notify the Trustee, the Master Servicer, the Securities Administrator, the Servicers and the Certificateholders of such appointment; provided that the Directing Certificateholders do not object to such appointment in writing within [thirty (30)] days of receipt of notice from the Depositor of such appointment. Any successor Deal Agent: (i) must be able to demonstrate an ability to professionally and competently perform duties similar to those imposed upon the Deal Agent, (ii) is legally qualified and has the capacity to act as deal agent, (iii) is not currently engaged in litigation or other proceedings against any Servicer and (iv) does not cause or result in the Trust becoming required to be registered as an investment company under the Investment Company Act of 1940[87]; provided, however, that no removal of or resignation by the Deal Agent shall be effective until a successor Deal Agent has been appointed and approved in the manner specified in this Agreement. In the event that the Deal Agent has resigned or been removed pursuant to this Agreement and the Depositor shall not have appointed a successor Deal Agent within [thirty (30)] days of the termination of the Deal Agent or receipt by the Depositor of written notice of the Deal Agent's resignation, or the Directing Certificateholders have objected to such appointment in writing within [thirty (30)] days of receipt of notice from the Depositor of such appointment, the Deal Agent may petition any court of competent jurisdiction for the appointment of a successor Deal Agent, which appointment will not require the consent of the Trustee, the Depositor or any Certificateholder. The Deal Agent shall be reimbursed from the Trust Fund for all reasonable and documented fees and expenses incurred by the Deal Agent through the date of its resignation or removal, subject to the [insert reference to provisions of the Pooling and Servicing Agreement capping the annual expenses of parties].

[87] Consider adding minimum capital requirement.

(e) Any successor appointed as provided herein shall execute, acknowledge and deliver to the Trustee, the Depositor, the Master Servicer, the Securities Administrator, the Servicers and the Certificateholders, an instrument accepting such appointment, whereupon such successor shall become fully vested with all the rights, powers, duties, responsibilities and obligations of the Deal Agent, with like effect as if originally named as a party to this Agreement; provided, however, that such successor shall not assume, and the terminated Deal Agent shall indemnify such successor for, any and all liabilities arising out of the terminated Deal Agent's actions or inactions as deal agent prior to any such termination or resignation. Any termination or removal of the Deal Agent under this Agreement shall not affect any claims that the Trustee may have against the Deal Agent arising prior to any such termination or resignation or remedies with respect to such claims.

(f) The Deal Agent shall timely deliver to the successor Deal Agent any documents and statements held by it hereunder, including without limitation any Origination Files, Servicing Files and Custodial Files. The Deal Agent shall execute and deliver such instruments and do such other things all as may reasonably be required to more fully and definitively vest and confirm in the successor all such rights, powers, duties, responsibilities and obligations of the Deal Agent as deal agent.

(g) In the event that the Deal Agent's rights, powers, duties, responsibilities and obligations under this Agreement shall be terminated pursuant to this Agreement, the Deal Agent shall discharge such rights, powers, duties, responsibilities and obligations during the period from the date that a Responsible Officer of the Deal Agent acquires knowledge of such termination or removal until the effective date thereof with the same degree of diligence and prudence which it is obligated to exercise under this Agreement. Notwithstanding anything herein to the contrary, the resignation or removal of the Deal Agent pursuant to this Agreement shall in no event relieve the Deal Agent of the representations and warranties made hereunder and the remedies available to the applicable parties hereunder, it being understood and agreed that the provisions of Sections 13, 15 and 18(b) shall survive and be applicable to the Deal Agent notwithstanding any such resignation or termination of the Deal Agent or the termination of this Agreement.

(h) In the event that the Directing Certificateholders believe that Cause exists and desire to terminate the Deal Agent as deal agent under this Agreement pursuant to Section 21(c), upon written notice thereof to the Depositor, the Trustee and the Securities Administrator, the [Trustee][Securities Administrator] shall, at the expense of the Trust Fund subject to the [insert reference to provisions of the Pooling and Servicing Agreement capping the annual expenses of parties], provide [thirty (30)] days' prior written notice to all Certificateholders that the Directing Certificateholders believe that Cause exists and that the Directing Certificateholders desire to terminate the Deal Agent as deal agent which notice shall (i) attach a summary prepared by the Directing Certificateholders concerning the basis for the Directing Certificateholders' determination of the existence of Cause and other information the Directing Certificateholders reasonably desire to include in such summary, and (ii) provide information regarding the method by which Certificateholders may object to such termination of the Deal Agent as deal agent under this Agreement and any applicable deadline

for the receipt of any objection. Upon the expiration of the deadline set forth in such notice to the Certificateholders, if the percentage of the aggregate outstanding class principal amount of all classes of Certificates held by any Certificateholder or Certificateholders, if any, who object in writing to such termination of the Deal Agent in accordance with this Section 21(h) is less than the percentage of the aggregate outstanding class principal amount of all classes of Certificates held by the Certificateholder or Certificateholders, including the Directing Certificateholders, who agree with the existence of Cause and desire to terminate the Deal Agent as deal agent under this Agreement, then the Directing Certificateholders may direct the Depositor to terminate the Deal Agent as deal agent under this Agreement in accordance with Section 21(c).

Section 22. **Governing Law.**

THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICT OF LAWS PROVISIONS (OTHER THAN SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW), AND THE OBLIGATIONS, RIGHTS, AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

Section 23. Non-Petition.

The Deal Agent hereby covenants and agrees that it shall not at any time institute against the Depositor, or join in any institution against the Depositor of, any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings, or other proceedings under any United States federal or state bankruptcy or similar law in connection with any obligations relating to the Certificates, this Agreement or any of the documents entered into by the Depositor in connection with the transactions contemplated by this Agreement and the Pooling and Servicing Agreement.

Section 24. Limited Recourse.

The Deal Agent acknowledges and agrees that the obligations of the Trustee under this Agreement are limited recourse obligations payable solely to the extent that funds are available in the Trust Fund therefore pursuant to the priority of payments set forth in the Pooling and Servicing Agreement. To the extent such funds are not available and the assets of the Trust Fund have been fully realized and applied, the Deal Agent may resign immediately upon written notice to the Trustee, the Master Servicer, the Securities Administrator, the Depositor, the Servicers and the Certificateholders. Upon the Deal Agent's resignation, the Deal Agent shall have no further obligations, rights or remedies under this Agreement other than those that expressly survive the termination of this Agreement until the expiration of the applicable statute of limitations.

Section 25. Notices.

All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if mailed, by registered or certified mail, return receipt requested, or, if by other means, when received by the other party at the address as follows:

(a) if to the Trustee:

[_____]
[ADDRESS]
ATTENTION:
EMAIL:

(b) if to the Deal Agent:

[_____]
[ADDRESS]
ATTENTION:
EMAIL:

(c) if to the Depositor:

[_____]
[ADDRESS]
ATTENTION:
EMAIL:

(d) if to the Master Servicer:

[_____]
[ADDRESS]
ATTENTION:
EMAIL:

(e) if to the Securities Administrator:

[_____]
[ADDRESS]
ATTENTION:

(f) if to [Servicer]:

[_____]
[ADDRESS]
ATTENTION:
EMAIL:

(g) if to [Servicer]:

[_____]
[ADDRESS]
ATTENTION:
EMAIL:

(h) if to the Seller:

[_____]
[ADDRESS]
ATTENTION:
EMAIL:

or such other address as may hereafter be furnished to the other parties by like notice. Any such demand, notice or communication hereunder shall be deemed to have been received on the date delivered to or received at the premises of the addressee (as evidenced, in the case of registered or certified mail, by the date noted on the return receipt).

Section 26. Successors and Assigns.

The Deal Agent may not assign its rights and obligations under this Agreement, in whole or in part, without the prior written consent of the Trustee and the Depositor; provided, that any assignee of the Deal Agent shall satisfy the requirements for a successor Deal Agent set forth in Section 21(d). This Agreement shall inure to the benefit of the successors and assigns of the parties hereto. Any person into which the Deal Agent may be merged or converted or with which the Deal Agent may be consolidated, or any Person resulting from any merger, conversion or consolidation to which the Deal Agent shall be a party, or any Person succeeding to the business of the Deal Agent, shall be the successor of the Deal Agent hereunder, without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything to the contrary herein notwithstanding.

Section 27. Reproduction of Documents.

This Agreement and all documents relating thereto, including, without limitation, (a) consents, waivers and modifications which may hereafter be executed, (b) documents received by any party at the closing, and (c) financial statements, certificates and other information previously or hereafter furnished, may be reproduced in an electronic format. The parties agree that any such reproduction shall be admissible in evidence as the original itself in any judicial or administrative proceeding, whether or not the original is in existence and whether or not such reproduction was made by a party in the regular course of business, and that any enlargement, facsimile or further reproduction of such reproduction shall likewise be admissible in evidence.

Section 28. Severability.

Any part, provision, representation or warranty of this Agreement which is prohibited or which is held to be void or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof. Any part, provision, representation or warranty of this Agreement which is prohibited or unenforceable or is held to be void or unenforceable in any jurisdiction shall be ineffective, as to such jurisdiction, to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction as to any Mortgage Loan shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by Applicable Law, the parties hereto waive any provision of law which prohibits or renders void or unenforceable any provision hereof. If the invalidity of any part, provision, representation or warranty of this Agreement shall deprive any party of the economic benefit intended to be conferred by this Agreement, the parties shall negotiate, in good-faith, to develop a structure the economic effect of which is nearly as possible the same as the economic effect of this Agreement without regard to such invalidity.

Section 29. Waiver; Amendment.

(a) This Agreement may be amended from time to time by written agreement among the Depositor, the Master Servicer, the Deal Agent and the Trustee, without notice to or the consent of any of the other parties hereto or the Certificateholders (i) to cure any ambiguity or mistake in this Agreement, (ii) to make any other provisions with respect to matters or questions arising under this Agreement to the extent such provisions are additive to the Agreement and do not conflict with any terms or provisions of the Agreement, (iii) to add, delete, or amend any provisions to the extent necessary or desirable to comply with any requirements imposed by the Code[and the REMIC Provisions], (iv) [to maintain the status of the Grantor Trust as a grantor trust], or (v) if necessary in order to avoid a violation of any Applicable Law; provided, that in each case, to the extent any such amendment adversely affects in any material respect the interests of any party hereto, such amendment shall not be effective against such party without its written consent. Any amendment effected pursuant to the preceding sentence shall not, as evidenced by an Opinion of Counsel, [(I) result in an Adverse REMIC Event or an Adverse Grantor Trust Event or, (II)] in the case of any amendment effected pursuant to clause (iii) of such sentence, adversely affect in any material respect the interests of any Certificateholder. Any amendment effected pursuant to this Section 29(a) shall be permissible (and not subject to Certificateholder consent) notwithstanding any adverse economic impact on any Certificateholder that may result therefrom. Prior to entering into any amendment without the consent of Certificateholders pursuant to this paragraph, the Trustee shall be provided with an Opinion of Counsel (at the expense of the party requesting such amendment) to the effect that such amendment is permitted and not prohibited under this Agreement and Applicable Law and (x) with respect to an amendment effected pursuant to clause (iii) above, also to the effect that such amendment is necessary or desirable to comply with any requirements imposed by the Code[and the REMIC Provisions], [(y) with respect to an amendment effected pursuant to clause (iv) above, also to the effect that such amendment is necessary to maintain the status

of the Grantor Trust as a grantor trust], and (z) with respect to an amendment effected pursuant to clause (v) above, also to the effect that such amendment is necessary in order to avoid a violation of such Applicable Law.

(b) This Agreement may also be amended from time to time by written agreement of the Deal Agent, the Trustee, the Master Servicer and the Depositor[, with the consent of the Certificateholder or Certificateholders of at least [66-2/3% percent] the aggregate outstanding class principal amount of all classes of Certificates] for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Agreement or of modifying in any manner the rights of the Certificateholders; provided, however, that no such amendment shall be made unless the Trustee receives an Opinion of Counsel, at the expense of the party requesting the change, to the effect that (i) such amendment is permitted and not prohibited under this Agreement and Applicable Law [and (ii) such change will not cause an Adverse REMIC Event or an Adverse Grantor Trust Event;] and provided further, that to the extent any waiver or amendment is sought to be enforced against any of the Securities Administrator, the Seller or any Servicer, the Securities Administrator, the Seller or the related Servicer, as applicable, shall have consented to such amendment in writing.

(c) The Deal Agent shall report any waiver or amendment under this Agreement, including, without limitation, any amendment to the Schedules and Exhibits hereto, in accordance with Section 11.

Section 30. Further Agreements.

The parties hereto each agree to execute and deliver to the other such reasonable and appropriate additional documents, instruments or agreements as may be necessary or appropriate to effectuate the purposes of this Agreement.

Section 31. Entire Agreement.

This Agreement constitutes the entire agreement and understanding of the parties with respect to the matters and transactions contemplated by this Agreement and, except to the extent otherwise set forth in writing, supersedes any prior agreement and understandings with respect to those matters and transactions; provided, however, that to the extent any terms and provisions of this Agreement conflict with the terms and provisions of the Pooling and Servicing Agreement, the terms and provisions of the Pooling and Servicing Agreement shall control and, provided, further, that nothing in this Agreement shall affect the respective rights, privileges, immunities and contractual protections of the Trustee and the Securities Administrator under the Pooling and Servicing Agreement, which rights, privileges, immunities and contractual protections shall equally apply to all of the Trustee's and Securities Administrator's respective rights, powers, duties and obligations under this Agreement.

Section 32. Counterparts.

This Agreement may be executed simultaneously in any number of counterparts. The parties agree that this Agreement, any documents to be delivered pursuant to this Agreement and any notices hereunder may be transmitted between them by email and/or by facsimile. The parties intend that faxed signatures and electronically imaged signatures such as .pdf files shall constitute original signatures and are binding on all parties. The original documents shall be promptly delivered, if requested. Each counterpart shall be deemed to be an original, and all such counterparts shall constitute one and the same instrument

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have caused their names to be duly signed hereto by their respective officers thereunto duly authorized, all as of the date first above written.

[_____],
not in its individual capacity but solely as Trustee under the Pooling and Servicing Agreement for [_____]

By: _____
Name:
Title:

[_____],
as Depositor

By: _____
Name:
Title:

[_____],
as Deal Agent

By: _____
Name:
Title:

[_____],
as Master Servicer

By: _____
Name:
Title:

[_____],
as Securities Administrator

By: _____
Name:
Title:

[_____],
as Servicer

By: _____
Name:
Title:

[_____],
as Servicer

By: _____
Name:
Title:

[_____],
as Seller

By: _____
Name:
Title:

ACKNOWLEDGED AND AGREED:

[_____],
as Custodian

By: _____
Name:
Title:

SCHEDULE A

REPRESENTATION AND WARRANTY REVIEW PROCEDURES

SCHEDULE B

SCOPE OF SERVICER REVIEW

[COMMENT: The Scope of Servicer Review may include a random sampling of Mortgage Loans to confirm that such Mortgage Loans have been serviced in accordance with Accepted Servicing Practices.]

SCHEDULE C

KEY PERFORMANCE INDICATORS

[*COMMENT: Schedule C of the draft Deal Agent Agreement included in the Fifth Edition of the RMBS 3.0 Green Papers called for the standardization of Key Performance Indicators (KPIs), and detailed the formation of a, "working group to evaluate KPIs and make a recommendation for the inclusion of certain KPIs with appropriate cure period." In response, SFIG convened a dedicated and diverse working group of industry leaders to devise a set of consensus measurements. These metrics are intended to standardize measurements of servicer performance and loan performance which the proposed Deal Agents or other parties will be expected to monitor.*

In response, our working group produced 12 sections with 150 specific measurements to quantify various levels and classifications of performance. In gathering consensus, the group reached out to various stakeholders, including issuers, investors, trustees, master servicers, and servicers, in order to obtain their input and feedback on the proposed KPIs. The working group also considered the frequency with which individual metrics should be collected and reported, the parties that should be responsible for compiling the data, and which parties should receive performance updates.

While the original mandate for the working group was to construct a list of KPIs, determine cure periods, and delegate roles and responsibilities for participating parties with regard to actions in response to the KPI reporting, it was decided that cure periods and roles and responsibilities should be deal-specific. Participants noted that cure periods tend to be contingent on the underlying collateral, and should be negotiated within the deal documents. Cure periods may also hinge on other, servicer-specific factors. The same holds true for roles and responsibilities of related parties. Therefore, to avoid being overly prescriptive, the SFIG working group elected to allow concerns of cure periods and roles and responsibilities to be made on a deal-by-deal basis. To the extent possible, KPIs should be standard across all Servicers on a deal.]

KEY PERFORMANCE INDICATORS

Indicator	Definition	Frequency	Responsible Party	Receiving Party
Loss Mitigation				
Total Funds in Suspense	Total funds in suspense	Monthly	Servicer	MS & DA
Loans in Suspense	Total number of loans in suspense	Monthly	Servicer	MS & DA
New Forbearance Plans	Number of new forbearance plans set up in the current month	Monthly	Servicer	MS & DA
Loss Forbearance	Number of forbearance plans with a loss	Monthly	Servicer	MS & DA
Non-Loss Forbearance	Number of forbearance plans without a loss	Monthly	Servicer	MS & DA
New Repay Plans	Number of new repay plans set up in the current month	Monthly	Servicer	MS & DA
New Charge Offs	Number of new charge offs in the current month	Monthly	Servicer	MS & DA
Modifications				
New trials	New trials set up in the current month	Monthly	Servicer	MS & DA
New completed mods	New mods completed in the current month	Monthly	Servicer	MS & DA
Active inventory in loss mitigation	active inventory	Monthly	Servicer	MS & DA
Timely Modifications	Total loans decisioned <30 days / total loans decisioned	Monthly	Servicer	MS & DA
Mods with interest reduction delegated	% of modifications with interest reduction	Monthly	Servicer	MS & DA
Mods with interest reduction non-delegated	% of modifications with interest reduction	Monthly	Servicer	MS & DA
Mods with interest reduction total	% of modifications with interest reduction	Monthly	Servicer	MS & DA
Average interest reduction %	Average % of interest reduction on modifications	Monthly	Servicer	MS & DA
Mods with Principal forgiveness delegated (%)	% of modifications with Principal reduction	Monthly	Servicer	MS & DA
Mods with Principal forgiveness non-delegated (%)	%of modifications with Principal reduction	Monthly	Servicer	MS & DA
Mods with Principal forgiveness total (%)	% of modifications with Principal reduction	Monthly	Servicer	MS & DA
Average Principal forgiveness $ delegated	Average $ amount of Principal forgiveness	Monthly	Servicer	MS & DA
Average Principal forgiveness $ non-delegated	Average $ amount of Principal forgiveness	Monthly	Servicer	MS & DA
Average Principal forgiveness $ total	Average $ amount of Principal forgiveness	Monthly	Servicer	MS & DA
Mods with Principal forbearance delegated (%)	% of modifications with Principal reduction	Monthly	Servicer	MS & DA
Mods with Principal forbearance non-delegated (%)	% of modifications with Principal reduction	Monthly	Servicer	MS & DA
Mods with Principal forbearance $ delegated	% of modifications with Principal reduction	Monthly	Servicer	MS & DA
Average Principal forbearance $ delegated	Average $ amount of Principal forbearance	Monthly	Servicer	MS & DA

KEY PERFORMANCE INDICATORS

Indicator	Definition	Frequency	Responsible Party	Receiving Party
Average Principal forbearance $ non-delegated	Average $ amount with Principal forbearance	Monthly	Servicer	MS & DA
Average Principal forbearance $ total	Average $ amount with Principal forbearance	Monthly	Servicer	MS & DA
Mods with term extension delegated	% of modifications with term extensions	Monthly	Servicer	MS & DA
Mods with term extension non-delegated	% of modifications with term extensions	Monthly	Servicer	MS & DA
Mods with term extension total	% of modifications with term extensions	Monthly	Servicer	MS & DA
Mods with capitalization delegated	% of modifications with capitalization	Monthly	Servicer	MS & DA
Mods with capitalization non-delegated	% of modifications with with capitalization	Monthly	Servicer	MS & DA
Mods with capitalization total	% of modifications with capitalization	Monthly	Servicer	MS & DA
Average amount capitalized $	Average $ of capitalization on modifications	Monthly	Servicer	MS & DA
Average term extension	Average length of term extension	Monthly	Servicer	MS & DA
Loans with multiple mods	Number of loans with multiple mods made	Monthly	Servicer	MS & DA
Total loans modified	Total loans modified	Monthly	Servicer	MS & DA
Modification - 6 month recidivism	Loans that became 60 or more days delinq (re-defaulted) in the six months following the modification	Monthly	Servicer	MS & DA
Modification - 12 month recidivism	Loans that became 60 or more days delinq (re-defaulted) in the 12 months following the modification	Monthly	Servicer	MS & DA
Short Sale / DIL				
Short Sale Completed (Units)	Number of short sales completed in current month	Monthly	Servicer	MS & DA
Short Sale Active Inventory	Short Sale Active Inventory	Monthly	Servicer	MS & DA
Loss severity %	Loss severity %	Monthly	Servicer	MS & DA
% of third party sales in foreclosure	% of third party sales in foreclosure	Monthly	Servicer	MS & DA
Deed in Lieu Completed (Units)	Number of Deed in Lieu completed in current month	Monthly	Servicer	MS & DA
DIL Inventory	DIL Inventory	Monthly	Servicer	MS & DA
Short Sale / DIL Net Proceeds to Value Total	Net Proceeds/BPO value	Monthly	Servicer	MS & DA
Short Sale / DIL Net Proceeds to Value Delegated	Net Proceeds/BPO value delegated assets	Monthly	Servicer	MS & DA
Short Sale / DIL Net Proceeds to Value Total Non-Delegated	Net Proceeds/BPO value non-delegated assets	Monthly	Servicer	MS & DA
Foreclosure and Bankruptcy				
Foreclosure sales	Number of FC sales held in current month	Monthly	Servicer	MS & DA
Pre-sale foreclosure inventory	Number of loans in Pre-sale foreclosure inventory	Monthly	Servicer	MS & DA
FC in Active Loss Mit	Number of FC loans in Active Loss Mit	Monthly	Servicer	MS & DA

KEY PERFORMANCE INDICATORS

Indicator	Definition	Frequency	Responsible Party	Receiving Party
% of Third Party Sales	Percentage of Third Party Sales compared to total FC sales	Monthly	Servicer	MS & DA
Third Party Foreclosure Sale Proceeds to Value	Sales Amount/Max BPO	Monthly	Servicer	MS & DA
New Bankruptcy	Number of new loans with BK files in current month	Monthly	Servicer	MS & DA
Bankruptcy Inventory	Bankruptcy Inventory	Monthly	Servicer	MS & DA
MFR Filed	Number of loans in bankruptcy where a Motion for Relief has been filed	Monthly	Servicer	MS & DA
Chapter 7	Number of loans in Chapter 7 BK	Monthly	Servicer	MS & DA
Chapter 13	Number of loans in Chapter 13 BK	Monthly	Servicer	MS & DA
Other	Number of loans in other BK	Monthly	Servicer	MS & DA
REO				
REO Holding Period >180 Days(%)	Percent of active REO inventory greater than or equal to 180 days out of the total active REO asset inventory	Monthly	Servicer	MS & DA
REO Proceeds to Value	Net Sales Price/Recon Value	Monthly	Servicer	MS & DA
REO Auction sales %	% of sales from auctions	Monthly	Servicer	MS & DA
REO Auction Sales Proceeds	Proceeds from auctions in dollars	Monthly	Servicer	MS & DA
REO Average loss % for Auction	Average % loss from auction sales	Monthly	Servicer	MS & DA
REO FC to List Avg Days	Average Days from Foreclosure date to list date	Monthly	Servicer	MS & DA
REO Eviction Avg Days	Average days for eviction on occupied properties	Monthly	Servicer	MS & DA
REO CFK %	Average percentage of occupied properties with successful CFK program	Monthly	Servicer	MS & DA
REO Average CFK $	Average CFK dollar amount on occupied assets	Monthly	Servicer	MS & DA
REO Avg DOM Listed	Average days on market once REO is listed	Monthly	Servicer	MS & DA
REO AVG DOM Total	Average total days in REO	Monthly	Servicer	MS & DA
REO Proceeds to LP (%)	Average list price to proceeds	Monthly	Servicer	MS & DA
REO Sales Price to LP (%)	Average sales price to current list price	Monthly	Servicer	MS & DA
REO Sales price to current value (%)	Average sales price to current BPO or appraisal value	Monthly	Servicer	MS & DA
REO Avg Loss % total inventory	Average loss percentage on REO sale	Monthly	Servicer	MS & DA
REO Avg Loss % Delegated	Average loss percentage on REO sales delegated assets	Monthly	Servicer	MS & DA
REO Avg Loss % Non-Delegated	Average loss percentage on REO sales non delegated assets	Monthly	Servicer	MS & DA
Avg Repair Amount	Average repair amount for the assets in EOM REO Total Inventory with repair cost > $0	Monthly	Servicer	MS & DA
EOM REO Eviction Inventory	End of month inventory in EVCT, EVCP and EVPP statuses	Monthly	Servicer	MS & DA
EOM REO Pre-Marketing Inventory	End of month inventory in WOCP, WCONFIRM and WSTRAT statuses	Monthly	Servicer	MS & DA
EOM REO Pending List Inventory	End of month inventory in B-SUBMIT, BP-EXPX and WLST statuses	Monthly	Servicer	MS & DA

KEY PERFORMANCE INDICATORS

Indicator	Definition	Frequency	Responsible Party	Receiving Party
EOM REO Listed Inventory	End of month inventory in NMKT, EVCT/MKT, REDM/MKT and SPND statuses	Monthly	Servicer	MS & DA
EOM REO Under Contract Inventory	End of month inventory in SPNDC and SPNDX statuses	Monthly	Servicer	MS & DA
EOM REO Uncontrollable Inventory	End of month inventory in PROPMGMT, LITIGAT, REDM, SALERAT, WFCDOCS and NONMRKBL statuses	Monthly	Servicer	MS & DA
EOM REO Other Inventory	End of month inventory in O-SUBMIT, TA, UNK, REOS/RC and REOS/LC statuses	Monthly	Servicer	MS & DA
Evictions Completed	Number of assets which have moved out of EVCT and EVCT/MKT statuses during the month	Monthly	Servicer	MS & DA
Evictions Completed by FRA	Number of evictions completed by FRA during the month	Monthly	Servicer	MS & DA
Evictions Avg FRA Amount	Average FRA amount for the evictions completed by FRA during the month	Monthly	Servicer	MS & DA
Avg Days - Eviction Completion Age	Average cumulative days spent in Eviction phase for assets that were in pre-market at BOM and moved out of pre-market at EOM	Monthly	Servicer	MS & DA
Avg Days - Pre-Marketing Completion Age	Average cumulative days spent in Pre-Market phase for assets that were in pre-market at BOM and moved out of pre-market at EOM	Monthly	Servicer	MS & DA
Avg Days - Pending List Completion Age	Average cumulative days spent in Pending List phase for assets that were in pre-market at BOM and moved out of pre-market at EOM	Monthly	Servicer	MS & DA
Avg Days - Listed Completion Age	Average cumulative days spent in Listed phase for assets that were in pre-market at BOM and moved out of pre-market at EOM	Monthly	Servicer	MS & DA
Avg Days - Under Contract Completion Age	Average cumulative days spent in Under Contract phase for assets that were in pre-market at BOM and moved out of pre-market at EOM	Monthly	Servicer	MS & DA
Avg Days - Uncontrollable Completion Age	Average cumulative days spent in Uncontrollable phase for assets that were in pre-market at BOM and moved out of pre-market at EOM	Monthly	Servicer	MS & DA
Avg Days - Other Completion Age	Average cumulative days spent in other phase for assets that were in pre-market at BOM and moved out of pre-market at EOM	Monthly	Servicer	MS & DA
MI				
MI Claims curtailed - Servicer	Number of loans with an MI Claim curtailed in the current month	Monthly	Servicer	MS & DA
MI Claims curtailed - Origination/Underwriting	Number of loans with an MI Claim curtailed in the current month	Monthly	Servicer	MS & DA
MI Claims denied - Servicer	Number of loans with MI Claims denied in current month	Monthly	Servicer	MS & DA

KEY PERFORMANCE INDICATORS

Indicator	Definition	Frequency	Responsible Party	Receiving Party
MI Claims denied - Origination/Underwriting	Number of loans with MI Claims denied in current month	Monthly	Servicer	MS & DA
Total MI Claims denied ($) - Servicer	Dollar amount of MI Claims denied	Monthly	Servicer	MS & DA
Total MI Claims denied ($) - Origination/Underwriting	Dollar amount of MI Claims denied	Monthly	Servicer	MS & DA
MI Rescissions - Servicer	Number of loans with MI rescission in current month	Monthly	Servicer	MS & DA
MI Rescissions - Origination/Underwriting	Number of loans with MI rescission in current month	Monthly	Servicer	MS & DA
Default				
Current	Number of current loans by servicer	Monthly	Master Servicer	Deal Agent
Pre-30 days delinquent	Number of loans 1 - 30 days delinq by servicer	Monthly	Master Servicer	Deal Agent
31-60 days delinquent	Number of loans 31 - 60 days delinq by servicer	Monthly	Master Servicer	Deal Agent
61-90 days delinquent	Number of loans 61 - 90 days delinq by servicer	Monthly	Master Servicer	Deal Agent
90+ days delinquent	Number of loans >90 days delinq by servicer	Monthly	Master Servicer	Deal Agent
Foreclosure	Number of loans in FC status by servicer	Monthly	Master Servicer	Deal Agent
Loss Mit	Number of loans in Loss Mit status by servicer	Monthly	Master Servicer	Deal Agent
Bankruptcy	Number of loans in BK status by servicer	Monthly	Master Servicer	Deal Agent
Current rate	% of loan population that is current	Monthly	Master Servicer	Deal Agent
30 day delinquency rate	% of loan population that is 1 - 30 days delinquent	Monthly	Master Servicer	Deal Agent
31-60 day delinquency rate	% of loan population that is current	Monthly	Master Servicer	Deal Agent
61-90 day delinquency rate	% of loan population that is current	Monthly	Master Servicer	Deal Agent
90+ day delinquency rate	% of loan population that is current	Monthly	Master Servicer	Deal Agent
Foreclosure rate	% of loan population that is FC status	Monthly	Master Servicer	Deal Agent
Loss Mit rate	% of loan population that is in Loss Mit status	Monthly	Master Servicer	Deal Agent
Bankruptcy rate	% of loan population that is in BK status	Monthly	Master Servicer	Deal Agent
30 to 60 Roll Rate	Loans that were 30 days delinq last month and rolled to 60 days delinq this	Monthly	Master Servicer	Deal Agent
60 to 90 Roll Rate	Loans that were 60 days delinq last month and rolled to 90 days delinq this	Monthly	Master Servicer	Deal Agent
90 to 120 Roll Rate	Loans that were 90+ days delinq last month and rolled to 120 days delinq this	Monthly	Master Servicer	Deal Agent
Default Cure Rate	Loans that were 90+ days delinq in the prior month and became current this month	Monthly	Master Servicer	Deal Agent

KEY PERFORMANCE INDICATORS

Indicator	Definition	Frequency	Responsible Party	Receiving Party
FC Cure rate	90+ Days Delinq loans that were in FC the prior month and became current this month	Monthly	Master Servicer	Deal Agent
Remittance Reconciliation				
Discrepancies over 90 days	Number of loans reported with a variances > 90 days	Monthly	Master Servicer	MS & DA
Dollar Amount of loans with discrepancies over 90 days	Specific dollar amount of loans reported with a variance > 90 days	Monthly	Master Servicer	MS & DA
Principal interest of on loans with discrepancies over 90 days	Amount of principal interest on loans with discrepancies > 90 days	Monthly	Master Servicer	MS & DA
Security Balance Differences on loans with discrepancies over 90 days	Security balance difference on loans with discrepancies > 90 days	Monthly	Master Servicer	MS & DA
Cash Controls/Advances/Fees				
P&I Advances	Non-refundable advances, and non-recoverable advances recouped, advanced for principal and Interest	Monthly	Servicer	MS & DA
Servicing Advances (millions) - Escrow (1 month lag)	Total Escrow advances	Monthly	Servicer	MS & DA
Servicing Advances (millions)- Corporate (1 month lag)	Total corporate advances	Monthly	Servicer	MS & DA
Number of Loans put in stop advance	New, and cumulative number of, loans put in stop advance, measured in dollars and volume	Monthly	Servicer	MS & DA
Recoupment of non-recoverable advances	Non-recoverable advances, non-refundable advances recouped, and funds recovered in current month	Monthly	Servicer	MS & DA
Customer Service				
Number of Calls	Total calls by Servicer (not by platform)	Quarterly	Servicer	MS & DA
Average Speed to Answer (seconds)	Total calls by Servicer (not by platform)	Quarterly	Servicer	MS & DA
Speed to Answer (%)	Average Speed to Answer Service Level of < 60 seconds (%)	Quarterly	Servicer	MS & DA
Average Abandonment Rate	Total abandonment rate by Servicer not by platform	Quarterly	Servicer	MS & DA
New Customer Complaints	Customer complaints by platform	Quarterly	Servicer	MS & DA
Collections				
Average Speed to Answer (seconds)	Total calls by Servicer (not by platform)	Quarterly	Servicer	MS & DA
Average Abandonment Rate	Total abandonment rate by Servicer (not by platform)	Quarterly	Servicer	MS & DA
Blockage Rate %	Percentage of inbound calls offered but unable to connect to the call center because the IVR was full, resulting in a busy signal to the caller	Quarterly	Servicer	MS & DA
Connects Per Hour	Average number of outbound calls per hour that connect to a live person	Quarterly	Servicer	MS & DA

KEY PERFORMANCE INDICATORS

Indicator	Definition	Frequency	Responsible Party	Receiving Party
Right Party Contact %	Right party contact on 60+ Delinquent borrowers (%)	Quarterly	Servicer	MS & DA
Promise to Pay Taken/Hour	The average of all promises-to-pay taken over the month divided by the total number of hours worked	Quarterly	Servicer	MS & DA
Promise Kept%	Percentage of promises where a payment was received by the date promised.	Quarterly	Servicer	MS & DA
Active Accounts Per SPOC Agent	Ave workable accts assigned per SPOC, at current reporting month (count excludes all management FTE).	Quarterly	Servicer	MS & DA
Litigation				
Loans in litigation	Number of loans in litigation	Quarterly	Servicer	MS & DA
Foreclosure Loans in Litigation	Number of non-contested loans in foreclosure and in litigation	Quarterly	Servicer	MS & DA
Contested Foreclosure	Number of loans in contested foreclosure	Quarterly	Servicer	MS & DA
Loans Pending Foreclosure in Litigation	Number of loans pending foreclosure and in litigation	Quarterly	Servicer	MS & DA
Loans in Class-Action Suit	Number of loans involved in class-action litigation	Quarterly	Servicer	MS & DA

KPI Glossary		
BPEXP	Business Plan Expired	List strategy has expired; plan must be reviewed and extended
B-SUBMIT	Business Plan Submitted	List strategy and price submitted to management for approval
DA	Deal Agent	Deal Agent
EVCP	Eviction Pending	Occupied; eviction referral not yet sent to attorney
EVCT	Eviction Active	Occupied; active eviction
EVCT/MKT	In Eviction while on Market	Active eviction; listed for sale as occupied property
EVPP	Eviction of Personal Property	Personal property eviction underway
LITIGAT	Litigation	Active litigation or title claim; REO marketing on hold
MS	Master Servicer	Master Servicer
NMKT	On Market	Actively listed for sale
NONMRKBL	Non-Marketable	Non-Marketable
O-SUBMIT	Offer Submitted	Offer submitted to management for approval
PROPMGMT	Property Management	Occupied by protected tenant; eviction can't proceed
REDM	Redemption	Active redemption period that has not yet expired
REDM/MKT	Marketing while Redemption/Ratification	Active redemption; listed for sale subject to right of redemption
RENOVATE	Renovate	Active renovation underway
REOS/LC	Sold/Legal Close	Legally closed
REOS/RC	Sale Recognized	Operationally closed.
RSTRAT	Rental/Renovation Strategy	Property under review for potential rental or renovation
SALERAT	FC Sale Ratification	Pending sale ratification as required by court
SPND	Sale Pending	Offer accepted; pending contract execution by buyer and seller
SPNDC	Under Contract	Offer accepted; contract executed by all parties
SPNDX	Contract Expired	Offer accepted; estimated close date has passed
TA	Troubled Asset	Adverse conditions that prevent forward movement of REO workflow
UNK	Unknown	Unknown
WCONFIRM	Property Secure Confirmation	Pending initial securing by property preservation company
WFCDOCS	Waiting for FC Documentation	Foreclosure deed required to complete eviction or marketing
WLST	Waiting to List	Pending listing; either initial or re-list after price reduction
WOCP	Waiting on Occupancy	Pending occupancy verification by property preservation company
WSTRAT	Valuation	Pending initial valuation for REO listing

SCHEDULE D

DEAL AGENT DIRECTION EVENTS

SCHEDULE E

DEAL AGENT COMPENSATION

EXHIBIT A
COVENANTS FOR DEAL DOCUMENTS

[In connection with any Representation and Warranty Review under the Deal Agent Agreement, if the applicable Obligated Party against whom a Remedy may be asserted refuses or fails to provide any information reasonably requested by the Deal Agent within [thirty (30)] days of the receipt of a written request from the Deal Agent, then the Deal Agent shall again request in writing such information from such Obligated Party, and if such Obligated Party has not provided such information within [two (2)] weeks of the receipt of such additional written request from of the Deal Agent, then the related Mortgage Loan shall automatically be subject to repurchase.]

[The Deal Agent may at any time request and shall be entitled to receive the original underwriting files, with request to any Mortgage Loans upon [two] Business Days' notice.]

[All parties agree that repurchase rights with respect to any Mortgage Loan shall be available for [ten years] following the discovery of any breach of a representation or warranty, subject to any applicable statute of limitations.]

[The Custodian shall provide a copy to the Deal Agent of all certifications provided to the Trustee under the Custodial Agreement.]

[The Custodian shall correct any deficiencies or inconsistencies in any receipt, certification and/or the Custodial Files that in the Deal Agent's reasonable discretion require correction.]

EXHIBIT B

MODEL DEFINITION OF ACCEPTED SERVICING PRACTICES

[COMMENT: The definition of accepted servicing practices is a critical one that appears, in some form, in all Servicing Agreements. It is one of the yardsticks with which one measures Servicer compliance with the terms of the Servicing Agreement. A well written definition should reflect the servicing needs of the specific transaction and collateral, and clearly prioritize which rules take precedence over others (e.g. compliance with law should trump all other servicing behavior) and should avoid generic and difficult to measure standards (e.g. "generally accepted" or "market standard").

We have included in this exhibit an expansive definition as a model for the Pooling and Servicing Agreement and the Servicing Agreements, meant to be well-structured and all-encompassing covering all collateral types. To the extent the collateral to be serviced is not best served by some of the methods described herein or that the Servicer does not make it a practice to service in accordance with some aspect of those same methods, such particular clause should be deleted or amended to reflect actual practice.

A critical component of the definition is to have a priority of standards to avoid potentially conflicting directions. Several commentators have noted the absence of such priorities in servicing agreements.]

[Accepted Servicing Practices: The procedures utilized in connection with servicing and administration of the Mortgage Loans will be:

(a) in accordance with (i) applicable federal, state and local laws and regulations, [including HAMP,][1] and applicable judicial and administrative judgments, orders, stipulations, awards, writs, and injunctions; (ii) the written policies and procedures and general servicing guideline(s) issued from time to time by the applicable federal and state regulatory bodies governing mortgage loans and mortgage loan servicing; (iii) the related mortgage loan documents; (iv) the related Servicing Agreement and the Pooling and Servicing Agreement, as applicable; (v) as applicable, the rules, regulations, guidelines and contractual obligations of any public or private guarantor or insurer [,including [Fannie Mae] [Freddie Mac],] of the Mortgage Loans; and (vi) the related Servicer's policies and procedures;

(b) with a view to the maximization of the recovery on each Mortgage Loan on a net present value basis and in the best interests of the Trust and the Certificateholders (as a whole and not with respect to any single class);

(c) without regard to (i) any relationship (including that of debtor or creditor) that the related Servicer[, the Master Servicer] or any of [its][their respective]

[1] Set to expire 12/31/2016.

Affiliate may have with the related mortgagor, the related mortgaged property, guarantor or property manager for the related mortgaged property or any other party to the securitization of the Mortgage Loans; (ii) the ownership of any security by the related Servicer[, the Master Servicer] or any of [its][their respective] Affiliates; (iii) the right of the related Servicer[, the Master Servicer] or any of [its][their respective] Affiliates to receive compensation or other fees for its services rendered pursuant to the related Servicing Agreement or the Pooling and Servicing Agreement, as applicable; (iv) the obligations of the related Servicer[, the Master Servicer] or any of [its][their respective] Affiliates to make servicing advances under the related Servicing Agreement or the Pooling and Servicing Agreement, as applicable; and (v) the ownership, servicing or management by the related Servicer[, the Master Servicer] or any of [its][their respective] Affiliate of any other mortgage loans or mortgaged property; and

(d) in the same manner in which, and with the same care, skill, prudence and diligence with which, the related Servicer [or Master Servicer, as applicable,] generally services and administers mortgage loans of a similar type in the applicable jurisdiction for other third-parties giving due consideration to customary and usual standards of practice of prudent institutional residential mortgage lenders servicing their own mortgage loans.

If any conflict exists among the standards listed above, the related Servicer's [or Master Servicer's, as applicable,] obligations shall be determined by the order of the standards as listed.]

EXHIBIT C

FORM OF "CLICK-THROUGH" AGREEMENT

EXHIBIT D

INFORMATION TO BE REDACTED