

Industry Initiatives to Increase Transparency
Issuer and Investor Transparency Initiatives

June 2008

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List of Initiatives and Association Involvement

<i>Initiatives</i>	Co-Chair(s)	Associations Involved
CRD Pillar 3 Securitisation Disclosures	Deutsche Bank	EBF, LIBA, ESG, EACB and EAPD
Industry Data Report	Joint	ESF, SIFMA, CMSA, ICMA
Increasing Transparency in Information to Provided to Investors (Working Groups Below)	Various Below	ESF, SIFMA, ICMA, CMSA, EBF, LIBA, ESG, EACB and EAPD (please note that not all associations are involved with every project)
<i>Workstreams</i>		
Current ABCP industry disclosure practices	Bank of America/Citi	
Legal obstacles to ABCP disclosure	Mayer Brown	
ABCP industry code of conduct	Joint	
Term RMBS, ABS, and CDO investor views of pre and post-issuance reporting practices	European Credit Management	
Development of RMBS, ABS and CDO term issuer/manager transparency and disclosure principles	Groups Below	
<i>RMBS issuer principles</i>	Unicredit HVB	
<i>Industry data portals</i>	SFM/Cadwalader, Wickersham & Taft, Dealers	
Development of CMBS term issuer/manager transparency and disclosure principles	CMSA Groups Below	
Legal obstacles to term RMBS, ABS, CMBS and CDO industry principles for transparency and disclosure	Allen & Overy	
Legal survey of EU term securitisation disclosure practices	Clifford Chance	
Business survey of EU term securitisation disclosure practices	Deutsche Bank	
Business survey of EU credit card ABS disclosure practices	RBS	
Standardised definitions for RMBS	Fitch Ratings	

Standardised definitions for CMBS	CMSA	
<i>CMBS Issuance</i>	HSBC	
<i>CMBS Post-Issuance</i>	Morgan Stanley	
Investor credit assessment and principles	Joint	



A. Code of Conduct On Disclosure in the ABCP Market

Introduction

Background and Purpose of the Code of Conduct

The asset-backed commercial paper (ABCP) market in Europe proposes to adopt a Code of Conduct on disclosure as a standard of best practice. The Code of Conduct is designed to ensure that investors in ABCP have timely access to information through different sources:

- the information memorandum;
- the monthly investor report;
- investor meetings; and
- rating agency reports

The information should be reviewed by investors, both before buying and on an ongoing basis. Purchases should not be based on rating alone. Specifically, investors should know, monitor and be comfortable with: the type of assets financed; the sponsor of the programme; the sponsor's ability to administer the programme; the liquidity support and credit enhancement provided; and the mechanism for repaying the commercial paper should market conditions not permit rollover.

Status of the Code of Conduct

In keeping with the European Commission's preference for market-led initiatives as opposed to additional regulation, the Code of Conduct will be voluntary. Participants in the ABCP market will be invited to comply with the code.

The International Capital Market Association, through its Euro Commercial Paper Committee, and the European Securitisation Forum have agreed to promote the Code.

Dialogue between Issuers, Investors and Dealers

ABCP market participants are keen to cooperate to enhance the information provided should that be required. However it is important to note that the vast majority of those directly involved in the market, and particularly those in the investor community, do not believe that a lack of transparency – through failure to provide adequate disclosure – has been a significant contributor to the recent global market turbulence.

ICMA, through its ECP Committee, will facilitate dialogue between issuers, investors and dealers in the ABCP market with the objective of finding a market-led solution to recent concerns. When the market has settled, the Code will be reviewed with issuers and investors to ensure that it meets investor needs in the new market environment.

Code of Conduct

Programmes wishing to issue asset-backed short term debt should provide the following information on a timely basis and ensure, where appropriate, that it is kept up-to-date:

- *Information memoranda:* The information memorandum is the primary marketing document of the programme, which should include issuer description, terms and conditions, form of notes, and selling restrictions. Currently this is usually only made available to actual and potential investors permitted under the selling restrictions, as the commercial paper is sold to institutional investors in the private placement market and usually is not listed on an exchange. The information memorandum should be subject to appropriate legal review.
- *Investor reports:* The investor report is a regular update on the vehicle provided by the issuer to investors. Issuers should distribute investor reports on a monthly basis at least. They should describe current assets and verify compliance with key programme tests or requirements. In general, issuers should include the following information: total asset size; total commercial paper outstanding; asset type breakdown; credit enhancement and overall liquidity support. Investor reports should normally only be made available to programme investors, so as to limit the transmission of sensitive client and competitive information and comply with private placement rules.
- *Investor meetings:* Issuers should make themselves available for ad hoc conference calls or meetings to address queries from active investors as they arise. Investors should have access to senior conduit management and senior bank management to assess the commitment of the sponsor.
- *Rating agency reports:* Programmes should have ratings from at least two recognised rating agencies. In order to obtain these, issuers will need to meet structural and credit standards, satisfy documentation requirements, and be subject to ongoing monitoring and surveillance.

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B. Legal Considerations on Disclosure in ABCP Transactions

1. Background

We have prepared this memorandum at the request of the European Securitisation Forum (the "**ESF**") to identify the principal legal issues that may arise under laws in effect in the European Union and the United States in relation to the disclosure of information to investors or potential investors in asset-backed commercial paper ("**ABCP**") and which may merit further analysis by ABCP industry participants and relevant regulatory bodies.

The Code of Conduct on Disclosure in the ABCP Market (the "**ABCP Code of Conduct**") recommends among other things that "information memoranda" and "investor reports" be made available only to existing and prospective investors in ABCP and that such information be kept up-to-date where appropriate. The type of disclosure customarily given to investors in ABCP programmes balances investors' need for information with legal and commercial imperatives limiting dissemination of information about the programmes and the underlying assets and obligors. Market participants continue to believe that self-regulation is the best way to organise the dissemination of statistical data within the ABCP market. Investors in ABCP are sophisticated firms who have the opportunity to demand the information they need, and the wherewithal to analyse and assess it. On the other hand, regulatory guidance on certain specific questions could be helpful to increase legal certainty for ABCP market participants.

Many of the legal issues affecting disclosure in ABCP programmes also apply to other types of asset-backed securities ("**ABS**") as described in the Allen & Overy memorandum entitled "Term ABS – Disclosure and Transparency Recommendations. Legal Considerations" and dated on or about the date of this memorandum (the "**ABS Legal Memo**"). However, while many ABS are listed on stock exchanges and may be offered to the public, ABCP, for various reasons, is almost never listed on an exchange and is almost always offered only to sophisticated institutional investors in private transactions. As such, a number of the issues and recommendations described in the ABS Memo do not apply to ABCP.

2. Potential legal issues

Legal requirements affecting disclosure to potential investors in ABCP programmes include:

- (i) applicable selling restrictions, including US private placement rules, in order to avoid the necessity of costly registration or publication of a prospectus;
- (ii) insider dealing restrictions to the extent these are applicable to ABCP programmes;

- (iii) consumer data protection laws;
- (iv) contractual restrictions under confidentiality agreements with asset sellers; and
- (v) financial promotions and regulated activities.

We consider these in turn below.

(a) Compliance with private placement regulations; internet postings

The delivery of information memoranda and investor reports to actual and prospective investors should be made in compliance with the requirements in the Prospectus Directive (Directive 2003/71/EC) ("**PD**") to avoid the obligation to publish a prospectus in relation to a placement of transferable securities (private placement).

In order to avoid a public offering in the US, the delivery of these materials to investors should likewise comply with Regulation S of the US Securities and Exchange Commission (the "**SEC**") under the US Securities Act of 1933, as amended (the "**Securities Act**"), for sales to non-US persons outside the US. Where US investors are targeted, the placement of European ABCP should comply with Section 4(2) of the Securities Act and SEC Regulation D to qualify as private placements, and allow for resales to qualified institutional investors under SEC Rule 144A.

EU and US private placement rules are not identical, which increases legal costs and uncertainty for ABCP issuers.

Of particular concern is the internet posting of marketing materials. In the ABCP market, it is customary to send transaction information privately to actual and potential investors. As pointed out by the ABCP Code of Conduct, however, a few issuers utilise password-protected websites to disseminate pool reports. The STEP Market website (www.stepmarket.org), on the other hand, currently gives free on-line access to the information memorandum and other materials of a few European ABCP transactions. The STEP website relies on a disclaimer with the customary selling restrictions and the following wording in relation to US securities regulations:

"The Commercial short term papers available on the STEP website have not been and will not be registered under the Securities Act of 1933 of the United States of America (as amended) (the "1933 Act") or the securities laws of any of the States of the United States. The Commercial short term papers may not be offered, sold or delivered directly or indirectly in the United States of America, its territories or possessions or in any State or the District of Columbia (the "United States") or to or for the account or benefit of any U.S. person as defined in Regulation S under the 1933 Act ("U.S. Person") except to a limited number of U.S. Persons pursuant to an exemption from, or in a transaction not subject to the registration requirements of the 1933 Act and any applicable State laws. Any person wishing to apply for the Commercial short term papers will be required to certify whether they are a "U.S. Person".

No U.S. federal or state securities commission has reviewed or approved the contents of the Step website. Any representation to the contrary is a criminal offense."

The SEC provided some guidance in relation to internet postings in an interpretative release of 1998 (Statement of the Commission Regarding Use of Internet Web Sites to Offer Securities, Solicit Transactions or Advertise Investment Services Offshore, 23 March 1998 (Release No. 33-7516)). According to this, publicly accessible websites located off-shore would not trigger any issues under US securities laws where the relevant company or financial service provider has implemented "precautionary measures that are reasonably designed to ensure that offshore internet offers are not targeted to persons in the United States or to US persons". Disclaimers such as the one that STEP uses (see above) may be able to rely on this interpretation release from the SEC. However, where an ABCP transaction includes a simultaneous offering in US and Euro denominated securities, it may not be possible to post transaction marketing materials in a freely accessible website in Europe in relation to the Euro-denominated notes.

(b) Insider dealing concerns for certain ABCP transactions

From an inside information perspective, the basic rule underlying the Market Abuse Directive (Directive 2003/6/EC) ("**MAD**") is that the issuer of listed instruments must disclose as soon as possible to the public any information relating to it that, if made public, would be likely to have a significant effect on the price of such listed securities.

ABCP is almost always unlisted, and therefore falls outside the scope of the MAD.

However, in some structures the same issuer issues both unlisted ABCP and listed medium-term notes ("**MTNs**") or other listed ABS. For example, some collateralised debt obligations ("**CDOs**") include a "money market tranche" of ABCP as well as senior MTNs and junior ABS. Likewise, structured investment vehicles ("**SIVs**") usually issued ABCP, senior MTNs and junior ABS. While the ABS are typically listed on a stock exchange in order to be eligible for exemption from withholding tax, the ABCP, as short-term paper, does not need that exemption and usually is not listed. These transactions are, then, subject to the insider dealing provisions of the MAD. The parties to SIVs and CDOs (as well as in ABS transactions generally) face two important challenges in relation to the MAD:

- (i) First, the MAD is drafted with simpler legal structures in mind and ignores the more complex features of structured transactions. In these transactions, the potential inside information relates to a pool of assets held by a special purpose an entity and not to the business of an operating company; the securities whose price may be affected are issued in a stratified structure; and parties other than the issuer, such as trustees, servicers or asset managers, are more likely than the issuer to come across inside information. These features make it very

challenging to apply the MAD's insider dealing provisions to structured transactions.

- (ii) Second, the MAD does not contemplate the scenario where the same issuer simultaneously issues listed and unlisted securities which are closely interlinked. In many CDOs, for example, ABCP and senior MTNs are issued on the back of the same pool of assets and are ranked *pari passu* in the priority of payments. Technically, the MAD would only apply to the MTNs, but there may be grounds to argue that market abuse could be committed where an ABCP investor trades on the MTN of the same issuer on the basis of non-public information.

(c) Disclosure of asset level data: Data Protection Directive-related issues

The ABCP Code of Conduct recommends providing monthly pool reports to investors broadly describing current assets in the pool and verifying compliance with programme requirements. These reports normally provide aggregated data on the pool of assets, which does not contradict the Data Protection Directive (Directive 95/46/EC) or the banking secrecy laws, and do not disclose the identity of the sellers. However, the ABCP Code of Conduct further recommends that "if requested and upon signing of a confidentiality agreement (in order to maintain the required seller and receivable confidentiality), issuers may be able to provide detailed asset-by-asset level of portfolio holdings to investors".

In providing asset-level information to investors, ABCP issuers may encounter legal obstacles where there are consumer assets in the pool insofar as the Data Protection Directive does not permit to disclose "personal data" of the borrowers without their prior consent. "Personal data" is very broadly defined by the Directive as *"any information relating to an identified or identifiable natural person ('data subject'); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity"*. This very broad definition makes it challenging to assess in certain circumstances what level of detail may be disclosed to investors without breaching the Data Protection Directive.

A further obstacle to asset-by-asset disclosure would be in relation to banking assets in general, insofar as banks are subject in certain European jurisdictions to banking secrecy laws. In accordance to these, banks cannot disclose customer information without their prior authorisation, although the extent of this restriction will vary from one jurisdiction to another.

(d) Contractual restrictions on disclosure

In ABCP-funded transactions, the originators and sellers of the securitised assets often require the ABCP issuer and its sponsor institution to agree not to disclose confidential information about the originator's assets or customers or even, in many cases, the originator's name or the fact of its entering into the transaction. The ability to obtain funding in the capital markets without such disclosure is an important feature that sometimes leads an originator to choose

an ABCP-funded facility rather than another kind of transaction. Often the confidentiality clause allows the issuer and sponsor to disclose information about the transaction of the types that ABCP investors normally require (such as the originator's industry and ratings, the type of assets securitised, the outstanding and committed facility amounts and the level of transaction credit enhancement), but not the originator's name or any identification of the underlying obligors. The clause may permit disclosure when legally compelled (as pursuant to a subpoena in litigation) or to regulatory bodies when required or requested by them, but the exception may not be broad enough to allow any disclosure to investors that may be legally required from time to time.

While current practice in the ABCP market accommodates investor information demands and originators' confidentiality demands, any new regulatory requirement, for example, to disclose originator names and loan-by-loan receivables data, would require ABCP programme sponsors to alter important terms of their customer relationships and would take away one of the main

(e) Financial promotions and regulated activities

Certain EU Member State laws include restrictions on financial promotional activities and on the performance of certain regulated activities which may be construed as investment advice. ABCP market participants are subject to these rules and should be aware of them and of the exemptions that may apply. The ABS Legal Memo sets out an analysis of and recommendations on these issues, and these apply also to ABCP.

3. Recommended action points

We recommend that European ABCP industry participants consider the following actions points in relation to ABCP:

- (a) In relation to private placement regulations, industry participants may wish to ask the US SEC to confirm that, with appropriate health warnings and other conditions, posting of ABCP marketing materials on freely accessible websites such as STEP could be implemented without disqualifying an offering outside the US to non-US investors from exemption under SEC Regulation S.

More generally, the industry should give further consideration to the restrictive legends and disclaimers that issuers should use when posting investor information materials in freely accessible internet websites such as STEP and otherwise distributing those materials as provided in the ABCP Code of Conduct.

This work should probably be part of a broader initiative that would also encompass ABS as per the recommendations of the ABS Legal Memo.

- (b) In relation to MAD-related issues, the industry should continue engaging in discussions with the Committee of European Securities Regulators

("CESR"), as the ESF did in the past in relation to ABS and CMBS transactions. That dialogue should include discussion of entities that issue both unlisted ABCP and listed ABS. Consider encouraging CESR to issue guidelines to clarify the application of the MAD to structured products.

- (c) The industry could carry out further legal analysis to determine what type of asset information may be subject to data protection and/or bank secrecy/confidentiality laws, the full extent of the issues which arise based on the asset information required by investors, and the extent of any required legislative amendments to the EU and national data protection regimes and/or the national bank secrecy legal regimes. This work should probably be part of a broader initiative which would also encompass ABS pursuant to the recommendations of the ABS Legal Memo.

In particular, the industry should consider the recommendations contained in the Report of the European Commission's Mortgage Funding Expert Group of January 2007. The Report recommends that personal data, excluding the name and address of the underlying borrowers, be permitted to be disclosed to investors for the purpose of investment considerations. This would require amendment of the Data Protection Directive.

Please see below for further details in respect of the legal considerations taken into account in the course of our review.

Main Issues	Description of Main Legal Points
EU private placements regulations	Position in EU Member States is principally governed by the PD, which is maximum harmonisation initiative (so member states may not add to requirements). The PD does not apply in respect of offerings of money-market instruments with a maturity of less than 12 months and refers to national legislation on this matter. Where there is an offer of transferable securities, which are not to be listed on a regulated market, the PD states that the obligation to publish a prospectus shall not apply to: (a) an offer of securities addressed solely to qualified investors; (b) an offer of securities addressed to fewer than 100 natural or legal persons per Member State, other than qualified investors; (c) an offer of securities whose denomination per unit amounts to at least EUR 50,000; (d) an offer of securities addressed to investors who acquire securities for a total consideration of at least EUR 50,000 per investor, for each separate offer; or (e) an offer of securities with a total consideration of less than EUR 100,000, which limit shall be calculated over a period of 12 months. The PD defines "qualified investors" as follows: (a) legal entities which are authorised or regulated to operate in the financial markets, including: credit institutions, investment firms, other authorised or regulated financial institutions, insurance companies, collective investment schemes and their management companies, commodity dealers, as well as entities not so authorised or regulated whose corporate purpose is solely to invest in securities; (b) national and regional governments, central banks, international and supranational institutions such as the International Monetary Fund, the European Central Bank, the European Investment Bank and other similar international organisations;

Main Issues	Description of Main Legal Points
	(c) other legal entities which do not meet two of the three criteria set out in PD Article 2 paragraph (f), which defines small and medium-sized enterprises as "companies which, according to their last annual or consolidated accounts, meet at least two of the following three criteria: an average number of employees during the financial year of less than 250; a total balance sheet not exceeding EUR 43,000,000; and an annual net turnover not exceeding EUR50,000,000." (d) certain natural persons: subject to mutual recognition, a Member State may choose to authorise natural persons who are resident in the Member State and who expressly ask to be considered as qualified investors if these persons meet at least two of the following three criteria set out in PD Article 2 paragraph 2: "(a) the investor has carried out transactions of significant size on securities markets at an average frequency of, at least, 10 per quarter over the previous four quarters; (b) the size of the investor's securities portfolio exceeds EUR 0.5 million; (c) the investor works or has worked for at least one year in the financial sector in a professional position which requires knowledge of securities investment."; or (e) Certain SMEs: subject to mutual recognition, a Member State may choose to authorise SMEs which have their registered office in that Member State and who expressly ask to be considered as qualified investors. If an ABCP offering is made to the public and not privately placed, or is listed, the requirements of the PD in relation to the obligation to publish a prospectus will need to be met. In such cases, we refer to the ABS Legal Memo.

Main Issues	Description of Main Legal Points
US private placement regulations	Securities Act Section 5 generally requires an offering of securities to be registered with the SEC by filing of a registration statement in one of several prescribed forms, setting out information prescribed by regulation and subject to SEC review. Securities so registered may be offered to the public, and the issuer must file annual and quarterly reports with the SEC under the Securities Exchange Act of 1934, as amended. Commercial paper, whether corporate or asset-backed, generally is offered only to institutional investors and not to the general public. In order to avoid the time and expense of registration of a public offering under the Securities Act, commercial paper issuers rely on one or more exemptions from registration. Securities Act Section 3(a)3 provides an exemption from registration for short-term paper with a maturity of not more than 270 days. Corporate commercial paper issuers, who use the proceeds of commercial paper as working capital, often rely on this exemption. Some ABCP programmes also use it, but, because investments in securities make it difficult to meet the "current transactions" requirement of this exemption, most US ABCP programmes rely on the private placement exemption described below. Securities Act Section 4(2) exempts securities offerings that are "transactions by an issuer not involving any public offering". SEC Regulation D provides a "safe harbour" for compliance with this exemption. Among other things, it requires: (a) Generally, each offeree or purchaser of the securities must be an "accredited investor". "Accredited investor" includes a corporation, business trust or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of USD 5,000,000;

Main Issues	Description of Main Legal Points
	(b) "neither the issuer nor any person acting on its behalf shall offer or sell the securities by any form of general solicitation or general advertising, including, but not limited to, the following: (1) Any advertisement, article, notice or other communication published in any newspaper, magazine, or similar media or broadcast over television or radio; and (2) Any seminar or meeting whose attendees have been invited by any general solicitation or general advertising ..." (Rule 502(c)).
	SEC Regulation S allows for offerings to non-US persons outside of the United States, without registration under the Securities Act, even if the same issuer offers similar securities to US persons or in the United States in reliance on the private offering exemption or another exemption from Securities Act registration, subject to various offering restrictions including no "directed selling efforts" in the US. The SEC has published some guidance on making materials available on websites outside the United States as described in paragraph 2(a) of this memorandum. SEC Rule 144A allows for resales of securities to qualified institutional buyers (QIBs) in the United States, without "general solicitation or general advertising". QIBs include, among other things, any corporation or other entity of a kind specified in Rule 144A, acting for its own account or the account of other QIBs, that in aggregate owns and invests on a discretionary basis at least USD 100 million in securities of non-affiliated issuers. These exemptions would be available to ABCP issuers in the appropriate circumstances, i.e. providing the Issuer complies with the relevant sales and marketing restrictions. In that connection, public disclosure of offering materials is a matter of considerable risk to issuers.

Main Issues	Description of Main Legal Points
Other Directives (MAD and Transparency Directive)	The MAD does not apply to securities which are not listed on a regulated market. As ABCP is generally unlisted, therefore, MAD is not a concern for ABCP market participants. However, the legal position under MAD is less clear where an ABCP – issuer has listed MTN tranches which are pari-passu with, or junior to, the unlisted ABCP tranches in the capital structure. The Transparency Directive (Directive 2004/109/EC) (the "TD") specifically does not apply in respect of short-term securities and in any case does not apply in respect of issuers of securities which are unlisted (which would generally include ABCP issuers). The ABCP Code of Conduct, thus, would govern on a voluntary basis the provision of on-going information to investors in ABCP as agreed and set out in the relevant ABCP programme documentation. In line with the unlisted private nature of ABCP, such information would tend not to be publicly disclosed, save for posting of transaction documents on a STEP website.
Bank secrecy	Legal regimes in certain EU member states recognise principles of bank secrecy or duty of confidence; these principles may operate to restrict disclosure of certain customer information; in certain circumstances, such information may form part of the asset level information in an ABCP transaction. In certain jurisdictions, issues are reduced if the information does not (directly or indirectly) identify the underlying debtors (although this may be conditional upon certain other requirements being met, e.g. that the information is necessary for an effective assignment) or if the debtors have approved the disclosure If customer information may form part of the asset level information that may be provided in accordance with the ABCP Code of Conduct, then express confirmation of the acceptability of this practice will be required from the relevant authorities in certain member states (even in circumstances where the relevant information is in anonymous form).

Main Issues	Description of Main Legal Points
Data protection	Position in EU Member States is principally governed by the Data Protection Directive as implemented. Directive includes restrictions on certain activities (including use and/or disclosure) involving personal data in respect of natural persons. Issues are reduced if the information does not (directly or indirectly) identify the underlying debtors; in certain circumstances, issues are reduced if the debtors have approved the disclosure or are notified of the disclosure or if the interest of the transferor outweighs the relevant individual's interest. If "personal data" (as defined by the Directive) in respect of natural persons may form part of the asset level information to be publicly disclosed under the ABCP Code of Conduct, then amendments may be required to the Directive and local implementing laws and/or the consent of the relevant natural persons may be required (and certain other requirements may apply); further consideration should be given to the asset level information required by investors and necessary for ABCP market transparency. If the data protection laws in certain member states restrict the use and/or disclosure of asset level information which does not identify the underlying debtors, then amendments may be required to such laws.

Mayer Brown International LLP
27 May 2008



C. Review of the European ABCP Market, Structures, Reporting Practices and Investor Considerations

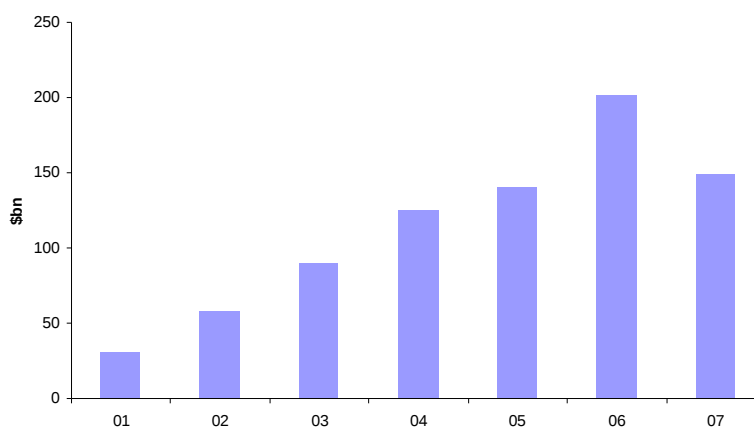
Background and Purpose

The purpose of this report is to review the European asset backed commercial paper (ABCP) market and structures, summarise current issuer disclosure and reporting practices, identify market participant viewpoints about the current state of the ABCP market, and to serve as a discussion paper with ABCP investors as to ways in which current business practices could potentially be enhanced so as to maximise investor participation in the market.

Background - Size of the ABCP Market

The global ABCP market reached \$1.5 trillion in outstandings by the end of June 2007. Of this, asset-backed euro commercial paper (ABECP) reached \$280 billion, while asset-backed Billets de Trésorerie totalled about \$24 billion. European sponsored ABCP programmes issued \$275 billion of the \$1.2 trillion of U.S. ABCP outstanding. Triggered by investor concerns over potential exposure to US subprime mortgages and RMBS and the ensuing ‘credit crunch’, global ABCP has steadily declined, with ABECP and US ABCP outstandings ending 2007 at \$149 billion and \$850 billion, respectively. Activity in some ABCP programmes is returning to more normal issuance levels and pricing, but more work needs to be done.

Asset-Backed ECP Outstanding



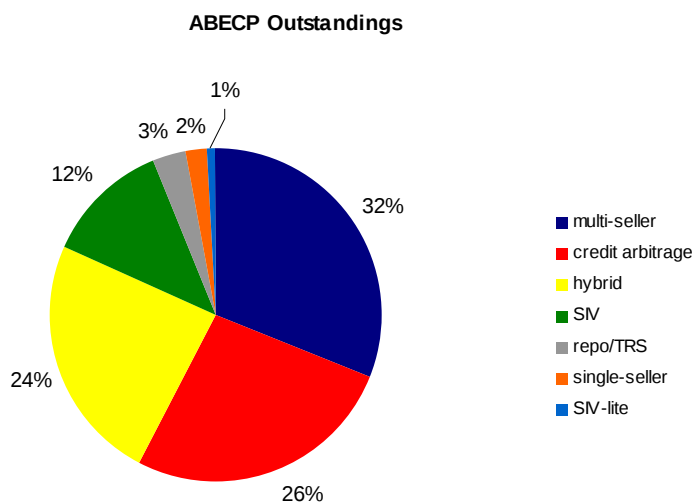
Sources: CPWare, Federal Reserve, Moody's

Rationale and Benefits of the ABCP Market in Europe

ABCP has benefits for both issuers and investors. In terms of benefits for issuers, these include cost-effective financing of both client-driven assets and securities investments; capital relief (in some cases) and capital-efficient financing; flexibility to fund in varying amounts and currencies to match current business volume needs, and also to provide short-term loan or securities warehouse financing prior to ABS term issuance. Issuers also benefit from having access to both European and US ABCP investor markets as well as a diversified investor base with high geographical and type differentiation.

Investor benefits include incremental spread over many corporate CP programmes, a wider investment product offering and diversification; the ability to invest in instruments with a defined purpose, structure, and strategy which can be analysed in detail if desired; a large amount of continuous supply; and flexible maturities. In Europe, more than fifty percent of European ABCP investors are money markets funds.

Types of ABCP Programmes



Data source: CPWare, 30/06/07

For the purposes of this report, we have defined seven basic types of ABCP programmes:

1. *Multi-Seller Conduit*: A Special Purpose Vehicle (SPV) that buys and holds financial assets from a variety of sellers. Multi-seller conduits are typically administered by a large highly rated commercial bank that establishes the vehicle to provide financing for a variety of bank clients. This programme relies on bank liquidity agreements to back-stop its maturing debt, and the liquidity facilities are typically sized to cover 100% of maturing ABCP. The obligation of the liquidity provider to fund is much more robust than in the Canadian market, although generally there is no requirement to fund defaulted assets. Most multi-seller conduits purchase a variety of asset types, but in some cases purchase only a single asset type, such as commercial mortgages. Most conduits have very little capital. Ratings of the ABCP are dependent on the ratings of the liquidity facility provider. Most

programmes include programme-wide credit enhancement facilities to provide additional credit protection;

2. *Single-Seller Conduit*: An SPV that buys and holds financial assets from a single seller. These conduits are typically managed by a highly rated bank or an independent finance company and rely on bank liquidity agreements to back-stop its maturing debt, and the liquidity facilities are typically sized to cover 100% of maturing ABCP;

3. *Credit or Securities Arbitrage Conduit*: An SPV that allows administrators to finance highly rated securities (typically ABS) and other marketable debt. This programme relies on bank liquidity agreements to back-stop its maturing debt, and the liquidity facilities are typically sized to cover 100% of maturing debt. A small subsection of this sector, which is typically less than 1% of the market, is 'black box', whereby the investor receives limited or no information on the assets and must rely on 100% support from a total return swap or other backing provided by a highly rated financial institution;

4. *Hybrid Conduit*: SPV that combines elements of multi-seller and credit arbitrage conduits. Typically these vehicles will own both receivables/loans, as well as securities. The liquidity facilities are typically sized to cover 100% of maturing debt.

5. *Repo/TRS Conduit*: An SPV that funds highly rated financial institution assets through repo and total return swaps. Programme assets must mature before or at the same time as liabilities since there are no bank liquidity backstops.

6. *Structured Investment Vehicle (SIV)*: Unlike conduits, SIVs have significant capital, which are typically called 'capital notes'. This capital is typically leveraged 10-15 times through CP and MTN issuance to buy a diversified portfolio of highly rated debt securities (mostly financial institution and ABS issues). Interest rate and FX risks are hedged. SIVs operate under a capital model, which determines the allowable mix of average asset rating and asset/liability gap. Strict compliance tests must be met weekly and daily. Bank liquidity facilities for the CP are much smaller than for conduits, typically sized at fewer than 15% of assets, due to the ability of the SIV to sell assets, assuming normal market conditions, to fund maturing CP.

7. *CDO Programmes or SIV-lites*: A SIV-lite is a CDO where funding is provided through a combination of term notes and ABCP. These structures are also not fully covered by liquidity facilities.

Primary Causes of Market Retrenchment

As stated earlier, the drop in ABCP outstandings was triggered by investor concerns over potential exposure to US subprime mortgages and RMBS, and the ensuing 'credit crunch'. Over time, specific events and factors were of particular importance:

1. A few conduits had large ABS holdings that experienced large declines. When investors stopped rolling over ABCP, these conduits relied on backstop facilities which were too

large for the banks providing them. While these banks received support to meet their obligations, investor confidence was damaged.

2. SIV-lites suffered declines on their portfolios given unprecedented volatility, which forced them into 'work-out' mode. Similarly, declines in asset values forced a few SIVs into administration. This led to the loss of confidence of investors in 'Market Value' structures, where programs have limited backstops and capital and may need to pay back non-rolling CP through the sale of assets, regardless of market conditions.

3. Structures in other ABCP markets around the world unsettled investors, including different backstop liquidity agreements and single-seller extendible mortgage conduits.

4. Conservative short term investors are concerned with capital preservation more than returns. These investors are not paid to take risk and cannot tolerate losses. Short term investors exit markets in times of uncertainty.

5. Money market funds must be able to meet redemptions at all times. These funds have been concerned that their underlying investors – who are less knowledgeable about ABCP - might pull out funds given market events and headlines. As a result, funds have built large liquidity positions rather invest as usual.

6. As events unfolded, some investors realised their approval process was too rating agency-based, and stopped buying as they reviewed credit procedures and studied disclosure documents more thoroughly.

7. General concerns about the banking sector have caused investors to buy less bank-related product.

The market will confirm over time the structures that can withstand potential market stress, work to 're-calibrate' others, and reject a few altogether.

Current Disclosure Practices and Legal Issues

Investors typically rely primarily on four sources of information - information memorandums, rating agency reports, issuer presentations, and programme sponsor-issued 'pool reports' to make informed investment decisions.

- *Information Memorandums*: the primary marketing document of the programme, which includes issuer description, terms and conditions, form of notes, and selling restrictions. This document is normally made available only to actual and potential investors permitted under the selling restrictions, because the commercial paper is sold to institutional investors in the private placement market and usually is not listed on an exchange.
- *Rating Agency Reports*: Almost all major programmes have top ratings from at least two rating agencies in order to be marketable. To obtain top ratings, issuers must meet

structural and credit standards, satisfy documentation requirements, and be subject to ongoing monitoring and surveillance. Once ratings are obtained, agencies produce 'pre-sale' and 'new issuance' reports describing programmes as well as regular ongoing reports.

- *Investor Presentations:* Most issuers prepare investor presentations outlining the structure of the programme including details on credit enhancement and liquidity facilities. Further, these could include detail on the sponsoring institution that manages the programme.
- *Pool Reports:* These reports, which are typically distributed on a monthly basis, broadly describe current assets and verify compliance with programme requirements. Pool reports are generally only made available to programme investors and potential investors, so as to safeguard sensitive client and competitive information. Typically, pool reports provide a significant amount of disclosure on the characteristics of the portfolio holdings. However, if requested and upon signing of a confidentiality agreement (in order to maintain required seller and receivable confidentiality), issuers may be able to provide detailed asset-by-asset level of portfolio holdings to investors. Pool reports are generally distributed to existing and potential investors by e-mail, but a few issuers utilise password-protected websites.

In addition to this information, most issuers and dealers are available to meet on a one on one basis with investors, and attend a variety of industry and rating agency workshops and conferences.

As ABCP conduits normally do not list their ABCP, they are not subject to the obligation under the Market Abuse Directive (MAD) to disclose price sensitive information to the public. However, the legal position is unclear as to disclosure obligations under the MAD where an ABCP conduit or, more usually, an SIV has listed MTN tranches which are *pari passu* with or junior to the unlisted ABCP tranches in the waterfall of payments.

Study on ABCEP Monthly Pool Report Data Supplied by Sector

The ESF and ICMA analysed the monthly pool reports of a random sample of 56 of the 93 issuers (60%) with ABCEP outstandings on 30 June 2007. These programmes represented \$171 billion of outstandings, or 62% of the European market. The appendix shows the percentage of programmes analysed by outstandings that report the various types of data, by ABCEP sector.

Next page: Table for Asset-Backed Euro Commercial Paper Monthly Pool Report Data Supplied by Sector

**ASSET-BACKED EURO COMMERCIAL PAPER
MONTHLY POOL REPORT DATA SUPPLIED BY SECTOR**

% Supplying Data by Outstandings

Sector		Programme		Liabilities			Liquidity				Asset Breakdown				
	% mkt			market		w avg							some specific	w avg	large
	Analysed by outstanding	Rating (2)	ABCP Outstandings (3)	Type (4)	Leverage (5)	Maturity (6)	Providers (7)	Enhancement (8)	Rating (9)	Sector (10)	Country (11)	Ccy (12)	asset info (13)	Term (14)	exposures to monolines (15)
m+s seller(1)	52	60	90	90	n/a	40	100	80	80	100	90	90	80	30	40
credit arb	64	33	89	67	n/a	33	78	50	78	67	56	78	44	22	56
hybrid	62	80	100	80	n/a	20	100	100	100	100	100	100	80	40	80
SIV	85	0	100	100	100	100	100	0	100	100	100	100	0	100	100
SIV-lite	50	0	100	100	100	100	100	0	100	100	100	100	0	100	100
Repo/TRS	78	0	100	100	n/a	100	n/a	n/a	100	100	25	25	25	25	0

- (1) 'M+S' means multi and single seller conduits
(2) Percentage of the programmes that list the ratings of the programme
(3) Percentage of the programmes that disclose the amount of ABCP outstanding at the end of the period
(4) Breakdown of ABCP borrowing by market type (EU CP/US CP)
(5) Percentage that disclose the leverage ratio of the vehicle (relevant only to SIVs and SIV lites)
(6) Percentage that disclose the weighted average maturity of ABCP liabilities
(7) Percentage that disclose the identity of the bank liquidity provider(s)
(8) Percentage that disclose the type and amount of credit enhancement available to the liquidity provider
(9) Percentage that provide breakdown of assets by rating (%)
(10) Percentage that provide breakdown of assets by sector (%)
(11) Percentage that provide breakdown of assets by country (%)
(12) Percentage that provide breakdown of assets by currency (%)
(13) Percentage that provide some specific information on each asset (e.g. type of asset; type, country, and/or rating of borrower; ISIN (%))
(14) Percentage that disclose the weighted average maturity of assets (%)
(15) Percentage that disclose large exposures (%)

**Analysis of the monthly pool reports of 56 of the 93 issuers (60%) with ABECP outstandings on 30 June 2007. These programmes represented \$171 billion of outstandings, or 62% of the market.

Source: Bank of America

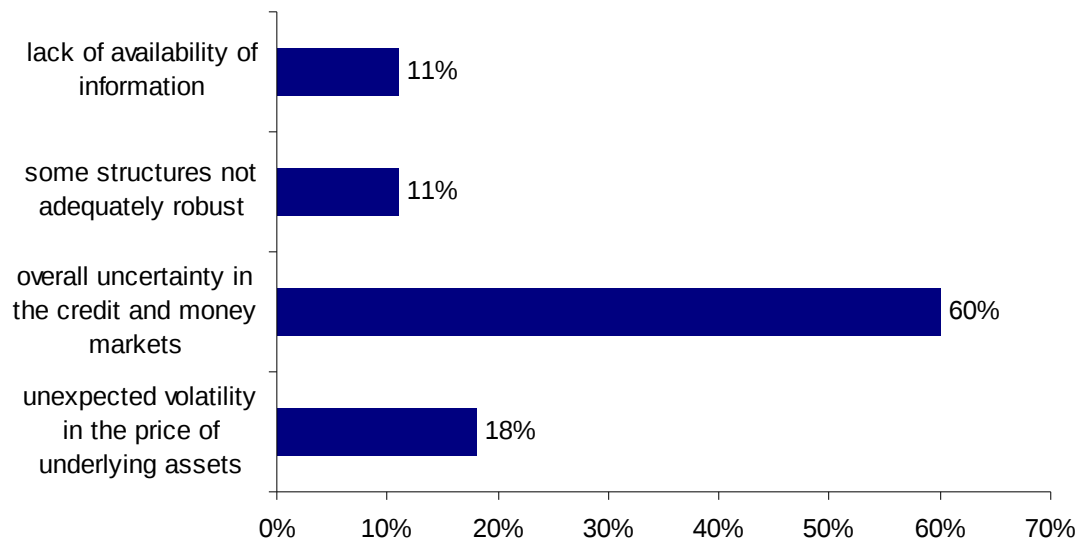
Market Participant Attitudes on Disclosure

The fifth annual Moody's and ICMA ABCP SIVs conference took place on 18 October 2007 in London. The event was attended by almost 500 market participants. The main results of electronic polls of participants conducted at the conference can be summarised as follows:

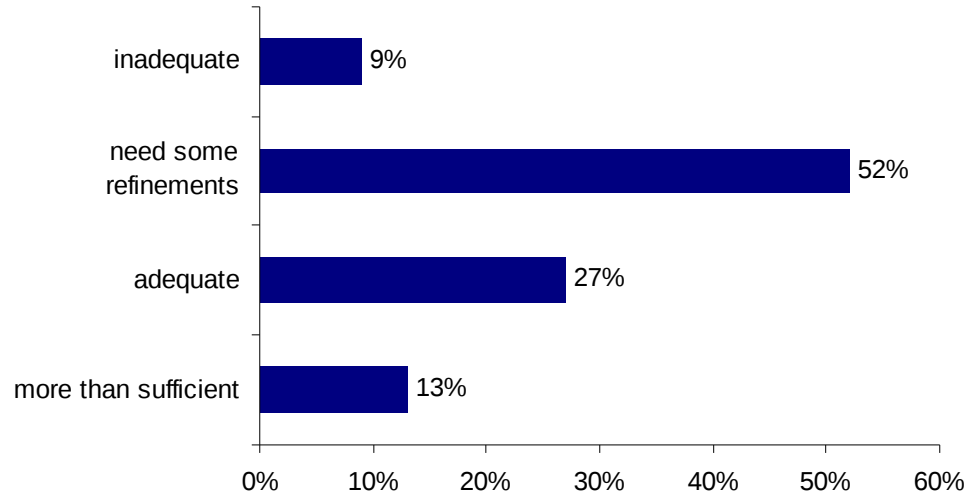
- The decline in ABCP outstanding is mainly due to uncertainty in the credit and money markets;
- Information memos, pool and rating agency reports, investors presentations could use some refinement for investors to make an informed decision on ABCP investments;
- The exit from the market of certain types of ABCP programmes should help restore investor confidence. Issuer disclosure has been thought largely to be adequate, although discussion with investors over enhancements has been and will continue to be welcome;
- Additional regulation is the least likely to assist in the return of investor confidence.

Electronic polls of the audience during the plenary sessions (233 participants: investors 28%, issuers 23%, dealers 18%, other 31%) yielded the following:

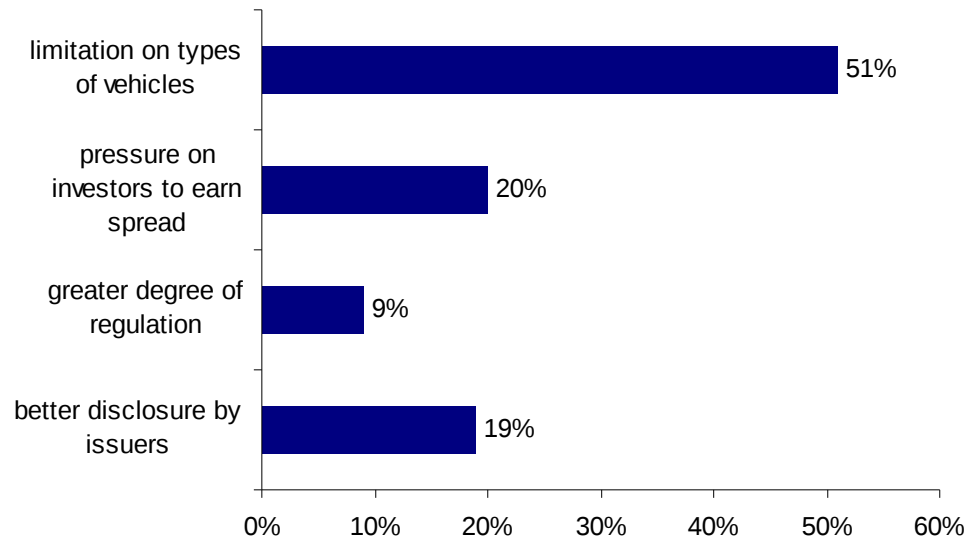
What is the main reason for the decline in ABCP outstandings?



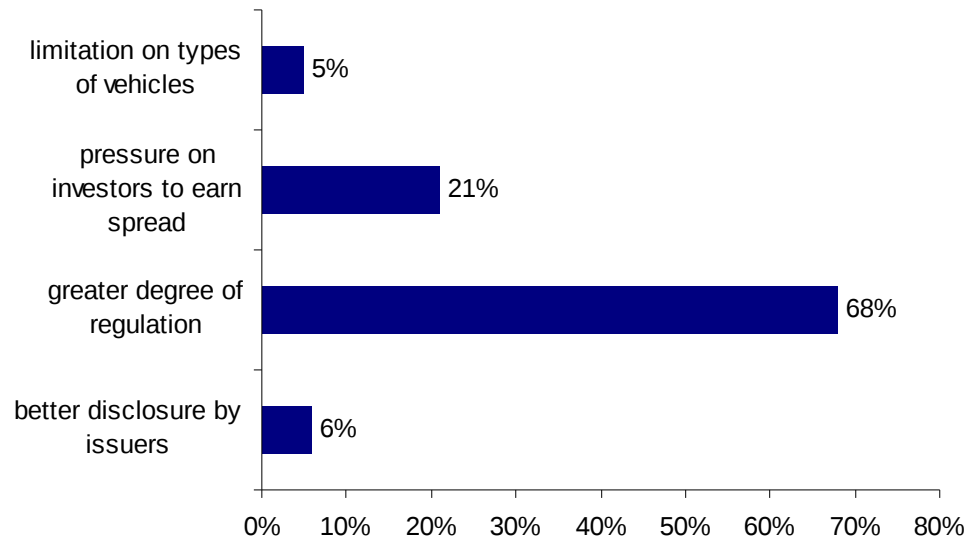
In making decisions to invest in ABCP, info memos, pool reports, rating agency reports, investors presentations, and conferences are



What is most likely to assist in the return of investor confidence and growth in ABCP?



What is least likely to assist in the return of investor confidence and growth in ABCP?



D. Recommendations of Investor Working Group on Pre- and Post-Issuance Disclosure for European RMBS and ABS

Background and Purpose

A group of securitisation investors has prepared specific recommendations as to steps that would help increase transparency and improve information flow in the secondary markets for RMBS and consumer ABS transactions involving securities admitted to trading (i.e. listed) on a regulated EEA market. These recommendations are listed below. For the purposes of these recommendations, 'issuer' means the originator, seller/servicer, or portfolio manager. The significant majority of investors who participate in this market are professional, not retail.

- As a general principle, all information which is necessary to enable investors to make an informed assessment of the issuer and the securities is required to be disclosed in the prospectus. If additional non material information is provided to one or more investors outside of the prospectus, and/or additional information is provided to one or more investors outside of any post-issuance transaction information made available as required, such information should be made publicly available or be made available subject to a confidentiality agreement.
- It is noted that the Prospectus Directive Regulation requires an RMBS and ABS issuer to disclose in the prospectus whether it intends to provide post-issuance transaction information regarding securities to be admitted to trading and the performance of the underlying collateral. In general, it is recommended that issuers should provide such post-issuance transaction information.

In addition, the prospectus should include clear disclosure (possibly in the front part of the prospectus, in a section immediately following the 'transaction overview' section commonly included at the beginning of ABS prospectuses), as to:

- The frequency with which such information will be reported (expressed in terms of the maximum number of days after the end of each reporting period), as required by the Prospectus Directive Regulation; and
- The details of where such information may be obtained and, in general, such information should be publicly available (without password protection) from sources which include one or more websites (subject to all relevant laws and regulations);
- Under the Prospectus Directive Regulation, issuers which have indicated in the prospectus that they intend to report post-issuance transaction information are required to specify in the prospectus what information will be reported. Issuers should include in the prospectus the template form which will be used for the post-issuance transaction information reports. Such template form should also include explanations of the formulas, criteria and underlying assumption to calculate the specific risk factors and deal characteristics of the transaction¹. The

¹ Under the Prospectus Directive Regulation, issuers are required to include (i) confirmation that the securitised assets have characteristics that demonstrate capacity to produce funds to service any payments due and payable on the notes and (ii) an

form should include provision for contact details (including name, email address and telephone number) of the transaction servicer or portfolio manager.

- Under the Market Abuse Directive, an issuer is required to publicly disclose as soon as possible any inside information which directly concerns it. The transaction documents for the relevant deal should make provision for issuer compliance with the requirements (e.g. via contractual agreement with another transaction party). In general, publicly available post-issuance transaction information reports should include any such inside information².

explanation of flow of funds including how the cashflow from the assets will meet the issuer's obligations to holders of the securities, including, if necessary, a financial service table and a description of the assumptions used in developing the table.

² See the ESF/CMSA Market Guidelines in Relation to the Market Abuse Directive for European ABS and CMBS Transactions at <http://www.europeansecuritisation.com/MarketGuidelinesMAD.pdf>.

E. Progress Report on Term RMBS and ABS Issuer/Manager Disclosure and Transparency Principles

As stated in our letter dated 8 February 2008 to the European Commission, the European securitisation and structured credit industry is committed to transparency, including transparency in data provided to investors. Investors who participate in this market are categorised as ‘professional’, not retail. The recommendations below are intended to apply to term securitisation transactions involving securities admitted to trading on a regulated EEA market (i.e. EEA-listed). The intent is for the recommendations to be applied to all new public transactions going forward. However, to increase transparency with respect to access to data on existing transactions, the industry recommends that issuers make public the information referred to below to the extent reasonably practicable and subject to relevant contractual arrangements and all applicable laws and regulations. The industry has spoken to a variety of investors as to their specific suggestions for possible improvement, so specific solutions can be developed. These suggestions broadly fall into three areas:

- *Data Access* – Can investors get access to the data that they need in order to complete their credit assessment procedures?
- *Granularity, Digitisation and Standardisation of Information* – Is the upfront data and ongoing investor remittance report in a sufficiently granular format to enable investors to perform their own credit analysis. Is the data easy to extract from digital sources, and presented in a suitably standardised format so it can be compared to other transactions, and if possible using similar definitions depending on national differences?
- *Clarity of Documentation* – Are prospectuses clear in the way information is presented?

To address the questions identified above and to ensure that investors receive consistent and clear information, the industry is developing comprehensive issuer transparency and reporting principles in order to provide consistent and clear information to investors. For the purposes of this discussion, the ‘issuer’ refers to the originator, seller/servicer or collateral manager of the transaction, and not the management company of the special purpose issuance vehicle. Since the business models, information availability and post-issuance reports vary for different asset classes and jurisdictions, it is expected that asset-class-specific principles will be developed by the ESF in the near-term for RMBS, CDOs, and consumer ABS; and insurance securitisation and other asset classes will follow. Separately, the CMSA will develop issuer principles for CMBS.

1. Improving EEA Investor Data Access

Most European RMBS securitisation and CDO transactions are admitted to trading on a regulated EEA market (i.e. they are EEA listed). The prospectuses for all EEA-listed securitisation and CDO transactions must be provided to the relevant competent authority of that jurisdiction pursuant to the Prospectus Directive. Under the Prospectus Directive, approved prospectuses must be published via certain means. For example, on certain exchanges, prospectuses are published via the stock exchange/competent authority website. These prospectuses are publicly available.

Under the Prospectus Directive Regulation, ABS prospectuses are required to include disclosure as to whether the issuer intends to provide post-issuance transaction information, and if such information is to be provided, what information will be reported, where such information can be obtained and the frequency with which such information will be reported. It is common for ABS issuer to provide post-issuance transaction information and such information is considered by investors to be an important source of current portfolio and transaction performance information. In many but not all cases, these reports are made public by the issuer through the issuer's own websites. In addition, these reports are also made available to commercial data providers, many of whom provide value-added services such as digitising the data (from PDF files) and standardising each report into that commercial data provider's format. As a result, if an investor subscribes to various commercial data providers, they can receive almost all investor remittance reports in an electronic and standardised format, but each provider may use a somewhat different format.

While post-issuance reports are often made publicly available using the methods described above, in certain cases such reports are made available to certain investors only using, for example, password protected websites.

Action Point 5: Open Access to Information

The industry believes that on EEA-listed public term transactions upfront and ongoing information should be openly accessible, whether through the use of websites managed by parties to the particular transaction or through the services of commercial data providers. The Board of Directors of the ESF, which represents a cross-section of dealer, investor, issuer, CRA, law and accounting firms, data providers and other participants, has voted to strongly encourage all issuers to make this information publicly and freely available. In some cases, the websites used for this purpose utilise passwords to monitor access. If the website provider wishes to retain the password restriction on widely marketed transactions, issuers will be encouraged to either i) make sure that the pertinent information is also available from an unrestricted source or ii) 'comply or explain' by including an explanation in the relevant prospectus as to the rationale for retaining password restrictions, and not making the information publicly available through other means. Where information is made available via an issuer's website, it will be acceptable for the issuer to include a disclaimer on their websites, and if desired to also include a certification requirement by site entrants. There are certain considerations which would already apply in this regard under the existing legal regime (e.g. MiFID conduct rules). Commercial data providers should be given access to upfront and ongoing information on EEA-listed public term transactions.

The industry notes that removal of password protections may give rise to legal considerations in certain circumstances. More specifically, to date issuers have retained password restrictions due to legal concerns over potential violations of US securities laws (so-called 144A transactions). The industry asks for the European Commission's assistance in approaching the SEC to issue a no-action letter to remove any legal concerns. Other considerations may apply under other national or other data protection and bank secrecy laws and promotional communication laws.

Another industry-led initiative to improve standardisation and data access is demonstrated through the work of the Pan-European Credit Data Consortium (www.pecdc.org). A group of 32 global banks (Europe, South-Africa, North-America and Australia) has been formed to share historical loss data amongst group members on a variety of non-retail assets on a global basis. While the focus of this group is primarily Basel II Credit Risk and portfolio risk management, the group will be exploring whether this data and on what basis can be also made available to securitisation market participants.

Action Point 6: Development of Industry Data Portals

At the present time, there is no centralised free/low cost point of access for EEA RMBS, CMBS and CDO prospectuses and investor reports, in either non-digitised or standardised form. Access to data would be made easier if one or more centralised data access points (called ‘portals’) could be developed and offered on a free/low cost basis to all market participants. Since January, the dealer community has explored extensively whether it is legally feasible for dealers to provide investor remittance reports to one or more portal providers. A legal analysis by Cadwalader, Wickersham & Taft was prepared and reviewed by the industry. In summary, dealers in their arranger role generally do not have the legal authority to provide this information even if they have the data, nor do they have the ability to provide any representations or warranties as to the accuracy or completeness of such information. Further, dealers in this role cannot force issuers to provide the data in instances where they do not have it. However, if commercial data providers who have access to all investor reports as proposed under Action Item 5, then this will then permit one or more commercial data providers to offer a free or low cost portal product if they so choose to provide it to the marketplace. In early June, an ESF member commercial data provider launched such a portal, which provides free access to over 1,000 EEA-listed securitisation prospectuses and investor reports. The industry is encouraging additional data providers to consider similar initiatives.

Action Point 7: ESF Website Directories

In order to improve transparency, the ESF Board of Directors has voted to develop a page on its website providing links to issuer websites for RMBS issuers and CDO managers. This will be developed immediately for June release.

2. Improving Global Data Granularity, Digitisation and Standardisation of Information

The information technology and data disclosure/protection constraints are different between various jurisdictions. In most jurisdictions, the IT reporting format for mortgage payment processing is typically targeted toward the format required for local bank regulatory reporting, not for securitisation. There can also be differences between institutions within the same jurisdiction. As a result, it has not been possible for many mortgage originators to adopt similar reporting practices.

Action Point 8: Establishment of Standardisation Task Forces

In the RMBS markets, the ESF, American Securitization Forum (ASF), Securities Industry and Financial Markets Association (SIFMA), and Australian Securitisation Forum are in active discussions to enhance transparency and consistency in reporting, to the maximum extent practical allowing for differences in national business practices. For example, the ASF is working with its issuer, investor and credit rating agency members in the US to develop standardised and digitised issuance and surveillance formats for US non-agency RMBS that will incorporate existing data requirements as well as a substantial increase in new loan level data fields. Rather than issuers of US RMBS delivering similar data in different formats to the US CRAs and investors, issuers will be encouraged to deliver data in this single enhanced format. The ESF will be initiating a similar project in Europe soon with its issuer, investor and credit rating agency members to explore development of a similar project for European RMBS. Initially, it is likely that the attempt will either develop single country-specific formats or a single pan-European format to the extent that differences in national regulatory and issuer specific reporting formats can be overcome. In some cases, this could include loan-by-loan reporting to increase the granularity of information provided to investors. In no case will data be provided to investors that would breach the privacy and respect for individual borrower confidentiality.

In Europe, some initiatives to improve standardisation have already been completed. In 2006, the ESF developed standardised RMBS reporting formats. These formats were developed with the input of various RMBS issuers, investors, the rating agencies and trustees. In December 2007, the ESF released a standard reporting format at loan level for UK non-conforming RMBS. There are country-specific reporting formats, such as those for the German True Sale Initiative (TSI). In the case of the TSI, compliance with reporting formats is a condition for certification by the TSI. TSI certification is measured and monitored by TSI staff. In the CMBS area, the CMSA has developed standardised reporting formats for CMBS.

3. Improving Clarity of Documentation

The offering documents used in respect of EEA listed deals are regulated under the Prospectus Directive (PD). The current PD regulations impose both non-ABS specific general disclosure requirements and specific disclosure requirements for ABS as it sets out in the ABS building block annex to the PD. With respect to disclosure, the PD imposes a general disclosure requirement (which is not ABS specific) and also imposes specific disclosure requirements for ABS (as set out in the ABS building block annex to the PD Regulation). In particular, the PD requires ABS prospectuses to include, inter alia, a description of the transaction structure (including, if necessary, a structure diagram) and a description of the transaction entities, underlying assets, cashflows, credit enhancements, etc. See Annex VIII of the PD for details. While ABS prospectuses can be very lengthy, investors have indicated that they do not believe this to be a problem per se, and would not encourage any initiatives that might serve to reduce the amount of disclosure made to them. The industry is exploring if any changes could be made to improve the clarity of information provided in each prospectus. In addition, issuers will work with arrangers and credit rating agencies who also provide information reviewed by investors, to try to improve clarity in order to improve investor understanding of structured products.

Another industry-led initiative to improve standardisation and data access is demonstrated through the work of the Pan-European Credit Data Consortium (www.pecdc.org). A group of 32 global banks (Europe, South-Africa, North-America and Australia) has been formed to share historical loss data amongst group members on a variety of non-retail assets on a global basis. While the focus of this group is primarily Basel II Credit Risk and portfolio risk management, the group will be exploring whether this data and on what basis can be also made available to securitisation market participants.

F. Progress Report on CMBS Issuer Disclosure and Transparency Principles

The CMSA has established two working groups (the Groups) to develop best practice guidelines for issuance and post-issuance. The Groups had representatives of all constituents of the market, including issuers, investors, bankers, servicers, lawyers and trustees. They have produced draft guidelines which are now being reviewed by the CMSA-Europe Executive Committee prior to circulating for comment to the entire membership and the industry generally for comment.

In considering best practices, the CMSA has tried to develop guidelines that will harmonise with the CMBS industry globally. This, however, is very difficult given the differences in property markets, lease structures, legal system and loan product from country to country not only between the US and Europe but among the difference European jurisdictions.

The CMBS market differs from other types of ABS in that, while the features of the loans and the resulting securities and such matters as the priority payments are important, the most critical information for investors is the information relating to the underlying collateral, i.e. the properties that secure the loans. Accordingly, a lot of emphasis has been placed by the Groups on improving the amount and clarity of this information available.

With all of the initiatives, there is an overriding principle that if for some reason an issuer or sponsor of a transaction is not able to comply with the guidelines, then they will include within the Offering Circular an explanation of where the disclosure differs from the guidelines.

Transaction Classification

The first issue is the classification of different types of transactions. The basic terms being developed in the CMBS Questionnaire have been used by the Groups and developed to further segment transactions as they relate to disclosure.

In evaluating the type and extent of disclosure related to the CMBS transactions, it is recommended that the Issuance Group is recommending that the market be segmented into four primary categories:

1. Single Sponsor-Stand Alone: Transactions securitising a single loan on one or more assets with the underlying financing often structured as a single loan or a financing structured specifically for a third party client.
2. Multi-Sponsor-Non-Granular: Transactions secured by a small number of loans to multiple borrowers, typically ranging from two to 20 loans.
3. Multi-Sponsor-Granular: The securitisation of multiple loans where no single loan reflects more than 5% by value of the total transaction.
4. Multi-Sponsor-Fusion: A combination of the Multi-Sponsor-Granular and Multi-Sponsor-Non-Granular securitisations whereby the portfolio comprises a small number of large loans (one to ten) and a large number of smaller loans, none of which representing more than 5% of the total transaction.

The recommendations are that the extent of disclosure for the different categories of transaction should be driven more by the loan concentrations in the securitisation transaction than simply the number of loans. The basic framework would be as follows:

- Loans > 20% of the transaction amount (all categories): Extensive disclosure on each loan should be provided;
- Loans < 20% and are either a) the remaining loans for a Multi-Sponsor-Non-Granular transaction or b) the loans are >5% in a Multi-Sponsor-Fusion transaction: Same general format as for loans representing > 20% of the transaction but in a more abbreviated format;
- Loans representing < 5% (all categories) of the transaction: Stratification tables covering, at a minimum, a core set of data elements.

Reporting at Issuance

The key document for disclosure at issuance is the Offering Circular or Prospectus. The guidelines developed for disclosure and transparency at issuance are all focused on improving the amount, type and clarity of disclosure, subject to the limitations imposed by the laws and regulations under the applicable jurisdictions.

The key areas of focus are as follows:

- Originator Practices and Underwriting Procedures
- Property Level Data
- Tenant Information
- Report Disclosure
- Loan Information
- Transaction Structure

The thread that runs throughout all of the recommendations is to develop standardisation that will improve the investors' ability to compare transactions. There is a focus on the use of standardised terms and standardised definitions by all market participants to allow investors to compare transactions.

Post-Issuance Reporting

This same focus runs through the recommendations for Post-Issuance Reporting. There are two major types of post-issuance reporting, the 'regular' or periodic reporting and the 'Special Notices'. The issue of

special reporting was considered jointly by the ESF and CMSA-Europe in relation to the Market Abuse Directive. We believe that the guidelines proposed in the CMSA/ESF Industry Memo on Issues for Securitisation under the Market Abuse Directive dated December 2006 provide a system for Special Notices that works for investors.

In respect of the Regular Reporting, the emphasis is on the reporting package for CMBS transactions in Europe that has been developed and continues to be refined and that is known as the 'E-IRP'.

The Offering Circular should include information on Post-Issuance Reporting: its format, its content and where it can be found.

Open Access

The CMSA is committed to providing open access for investors to information, particularly the Offering Circular and regular performance reports. The Multi-sponsor transactions make up over 66% of the last three years issuance and almost all of the repeat issuance. Accordingly, the CMSA is seeking commitments from the sponsors of those transactions to make reports available. To date, we have received support of over 50% by deal volume and expect to receive more shortly.

G. Directory of Links to RMBS Issuer Websites

Background and Purpose: In order to increase transparency and make it easier for market participants to find links to websites that contain European RMBS prospectuses and investor remittance reports in a centralised place, the ESF has established a new directory on its website www.europeansecuritisation.com. The following list of links is not intended to exclude any sites, and it is likely that new sites will be added as the ESF is made aware of new sites.

	Entity disclosing RMBS information	Links to websites
Portals	Global ABS Portal	www.globalabsportal.com
	Markit Portal	<i>announced 24 June with September implementation targeted</i>
	Other	-
Commercial Data Providers	ABSnet	http://www.absnet.net/home.asp
	ABSXchange LLP	http://www.absxchange.com/inv215/res/web_main/index.html
	Bloomberg	http://www.bloomberg.com/index.html?Intro=intro3
	Clayton Euro Risk	http://www.claytonerm.com/
	EuroABS	http://www.euroabs.com/
	Europrospectus	http://www.europrospectus.com
	Hypoport	http://www.hypoport.de/home.html
	Markit	http://www.markit.com/information/products/category/structured_finance.html
	Moody's Analytics	www.moodys.com/products
	Interactive Data	http://www.interactivedata.com/
	Intex	www.intex.com
	Other	-
	European issuers by jurisdiction	-
	France	-
See list of management companies	Other	-

below

Germany

Commerzbank
GMAC RFC

https://cbcm.commerzbank.com/de/site/corporates/securitisation_cf_corp/deal_library/cmbs_and_rmbs/CMBS_RMBS.jsp
<http://www.emacinvestors.com/>

Other

-

Ireland

Other

-

Italy

Banca Nazionale
del Lavoro

<http://www.bnl.it/pagina.asp?Page=1872&SubPage=2&chardim=0&a=a&langid=1>

See list of
management
companies
below

UniCredit Banca

<http://www.unicreditbanca.it/it/privati/mutui/?idc=6830>

Other

-

Netherlands

Fortis Bank
GMAC RFC

http://www.fortis.com/debtinvestors/securitization_activity.asp?OK.x=12&OK.y=1

ING Bank

<http://www.emacinvestors.com/>

NIB Capital

<http://www.ingwholesalebanking.com/eCache/ENG/2.html>

Robeco

<http://www.nibcapital.com/clientservices/financialmarkets/structuredfinance.html>

SNS Bank

https://www.robeco.com/com/eng/pw/tools/ps_html.jsp

Other

-

Spain

BBVA

http://inversores.bbva.com/TLBB/tlbb/jsp/rri/Ratings_y_Emissiones/Emissiones/titularizaciones/index.jsp

See list of
management
companies
below

Caja Madrid

<http://www.cajamadrid.com/CajaMadrid/Home/cruce/0,0,84648%24P1%3D401,00.html>

Cedulas Cajas

<http://www.cedulascajas.com/>

GestiCaixa

http://empresa.lacaixa.es/gesticaixa/gesticaixa_en.html?loce=es-empresas-gesticaixa-gesticaixa-07-c03-2-ENGLISH

IM Cédulas

www.imcedulas.com

Other

-

United Kingdom

Alliance &
Leicester
Barclays

<http://www.alliance-leicester-group.co.uk/html/debt/securitisation-legal.asp>

Bradford & Bingley

<http://www.investorrelations.barclays.co.uk/BRC1/jsp/brcontrol?task=articleFWgroup&site=inv&value=1248&menu=450>

Britannia

<http://www.bbg.co.uk/bbg/ir/dis/securitisation/>

Capstone

<http://www.britannia.co.uk/bts/>

GMAC RFC

<http://www.capstonemortgageservices.co.uk/capstone/default.aspx>

HBOS

<https://www.rmacinvestors.com/>

HSBC

http://www.hbosplc.com/investors/Debt/securitisation_and_covered_bonds.asp

<http://www.hsbc.co.uk/1/2/corporate/debt-capital-markets/secritisations.jsessionid=0000pwyfLHqswZcicnUyTd8sijO:12ntf2618>

Stock Exchanges	Kensington	https://www.kensingtonmbs.com/default.aspx
	Lloyds TSB	http://www.investorrelations.lloydstsb.com/ir/securitisation_page.asp
	Morgan Stanley	http://www.morganstanley.com/clientlink/index.html
	Northern Rock	http://companyinfo.northernrock.co.uk/treasury/securitisationIndex.asp
	Paragon	http://www.paragon-group.co.uk/
	Royal Bank of Scotland	http://www.investors.rbs.com/investor_relations/securitisation/general.cfm
	Standard Life	http://ukgroup.standardlife.com/html/investors/securitisation_legal_popup.html
	Other	-
	AIAF	http://www.aiaf.es/aiaf/index.home
	Borsa Italiana	www.borsaitaliana.it
	Bolsa Madrid	http://www.bolsamadrid.es/ing/portada.htm
	Deutsche Börse	http://deutsche-boerse.com/dbag/dispatch/en/kir/gdb_navigation/home
	Euronext	http://www.euronext.com/landing/indexMarket-18812-EN.html
	Irish Stock Exchange	http://www.ise.ie/
	London Stock Exchange	http://www.londonstockexchange.com/en-gb/
	Luxembourg Stock Exchange	http://www.bourse.lu/Accueil.jsp
	Other	-
Trustees, Custodians and Management Companies	ABS perpetual	http://absperpetual.com/Welcome.aspx
	Ahorro y Titulización , S.G.F.T., S.A.	http://www.ahorroytitulizacion.com/EvolucionFondosI/EvolucionFondos.asp
	Assetbacked.nl	http://www.assetbacked.nl/default.aspx
	Assetsecuritisation .nl	http://www.assetsecuritisation.nl/
	ATC Capital Markets	www.atccapitalmarkets.com
	Bank of New York	www.bnyinvestorreporting.com
	BNP Paribas Securities Services	https://absmaster.bnpparibas.com
	Citigroup	https://sf.citidirect.com/
		-

Deutsche Bank Trust & Securities Services Europea de Titulización Euro Titrisation	https://www.tss.db.com/invr/Investor.aspx http://www.edt-sg.com/i/index.asp?section=1 http://www.eurotitrisation.fr
Fortis France Titrisation	http://www.fortis.com/Debtinvestors/assetbackedfinancing.asp?OK.x=34&OK.y=3 https://www.france-titrisation.com
Gesticaixa Intermoney Titulización	http://portal1.lacaixa.es/Channel/Ch_Redirect_Tx?dest=3-47-10-90000000 http://www.imtitulizacion.com
LaSalle Global Trust Services Law Debenture	- http://www.etrustee.net/ http://www.lawdeb.co.uk/asset-backed/contact/ http://www.gruposantander.es/particulares/prod/fon/par_fon_tituliz2.html?x=2
Santander SGFT Securitisation Services	http://www.securitisation-services.com/
Securitisation.pt Structured Finance Management	http://www.securitisation.pt/en/home/default.asp http://www.sfmlimited.com
The Bank of New York Mellon Titulización de Activos	https://sfr.bankofny.com/SFR/ www.tda-sgft.com
True Sale Initiative	http://www.true-sale-international.de/
Unión de Créditos Inmobiliarios	http://www.uci.com/bienvenetitulizacioni.asp
Wells Fargo Wilmington Trust	http://www.ctslink.com/ http://www.wilmingtontrust.com/wtcom/index.jsp?section=Corp&fileid=1178901318040
Zenith Service Other	www.zenithservice.it

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H. Directory of Links to European CDO Collateral Manager Websites

Portals	Links to websites
Global ABS Portal	www.globalabsportal.com
Other	
Commercial Data Providers	
ABSnet	http://www.absnet.net/home.asp
ABSXchange LLP	http://www.absxchange.com/inv215/res/web_main/index.html
Bloomberg	http://www.bloomberg.com/index.html?Intro=intro3
EuroABS	http://www.euroabs.com/
Europrospectus	http://www.europrospectus.com
Hypoport	http://www.hypoport.de/home.html
Markit	http://www.markit.com/information/products/category/structured_finance.html
Moody's Wall Street Analytics	www.wsainc.com
Interactive Data	http://www.interactivedata.com/
Intex	www.intex.com
Other	
Stock Exchanges	
AIAF	http://www.aiaf.es/aiaf/index.home
Borsa Italiana	www.borsaitaliana.it
Bolsa Madrid	http://www.bolsamadrid.es/ing/portada.htm
Deutsche Börse	http://deutsche-boerse.com/dbag/dispatch/en/kir/gdb_navigation/home
Euronext	http://www.euronext.com/landing/indexMarket-18812-EN.html
Irish Stock Exchange	http://www.ise.ie/
London Stock Exchange	http://www.londonstockexchange.com/en-gb/
Luxembourg Stock Exchange	http://www.bourse.lu/Accueil.jsp
Other	-
Trustees, Custodians and Management Companies	
Ahorro y Titulización , S.G.F.T., S.A.	http://www.ahorroytitulizacion.com/EvolucionFondos/EvolucionFondos.asp
ATC Capital Markets	www.atccapitalmarkets.com
BNP Paribas Securities Services	http://securities-services.bnpparibas.com/jahia/Jahia/site/bp2sportal/lang/en/pid/84
Deutsche Bank Trust & Securities Services	https://tss.sfs.db.com/investpublic/
Euro Titrisation	http://www.eurotitrisation.fr
France Titrisation	https://www.france-titrisation.com
Imtitulizacion	http://www.imtitulizacion.com/
LaSalle Global Trust Services	http://www.etrustee.net/
Law Debenture	http://www.lawdeb.co.uk/asset-backed/contact/
Securitisation Services	http://www.securitisation-services.com/
The Bank of New York	https://sfr.bankofny.com/SFR/

Mellon	
Titulización de Activos	www.tda-sgft.com
True Sale Initiative	http://www.true-sale-international.de/
Unión de Créditos Inmobiliarios	http://www.uci.com/bienve_titulizacioni.asp
Wells Fargo	http://www.ctslink.com/
Wilmington Trust	https://www.wilmingtontrust.com/wtcom/index.jsp?section=Corp&fileid=1146063255234
Zenith Service	www.zenithservice.it
Other	
CDO Asset Managers	
ACA Capital Management (U.K.) Pte. Limited	http://www.aca.com/legal/terms-conditions.asp
AE Global Investment Solutions Ltd	http://www.ae-gis.com/
AIB Capital Markets Plc	http://www.aibcm.com/servlet/ContentServer?pagename=AIB_CapitalMarkets/CMHP_Homepage&channel=CMHP
AIG Global Investment NA	http://www.aiginvestments.com/
Aladdin Capital Management UK LLP	http://www.aladdincapital.com
Alcentra	http://www.alcentra.com/
Allegra	http://www.allegra.co.uk/
Allianz Alternative Asset Management	http://www.allianzhfp.com/tools_e/legal_e.aspx
Alpstar Management Limited	http://www.alpstarmgmt.com/
Ares Management Limited	http://www.aresmgmt.com
Aurelius	http://www.aurelius-cm.com/
Avoca Capital	http://www.avocacapital.ie/
AXA IM	http://www.axa-im.com/
Babson Capital	http://www.babsoncapitaleurope.com/
Bank of Ireland	http://www.bankofireland.ie/html/gws/capital_markets/products_services/structured_products/
Bankinvest	http://www.bankinvest.com/
BGI	http://www.barclaysglobal.com/
BlackRock	http://www.blackrock.co.uk/uksite/index.htm
Blackstone Debt Advisors	http://www.blackstone.com/index.html
BNP Paribas Leveraged Funds Group	http://bnpparibas.co.uk/en/home/default.asp
Cairn Financial Products	http://www.cairncapital.com/assetmanagement.php
Caja Madrid	http://www.cajamadrid.es/CajaMadrid/Home/puente?pagina=0
Calyon CLO Management Europe	http://www.calyon.com/financing/structured-finance
Cambridge Place Investment Management	http://www.cpim.co.uk/
Carlyle Group	http://www.carlyle.com/
Cheyne Capital	http://www.cheynecapital.com/index.php
Cohen & Company	http://www.cohenandcompany.com

Collineo Asset Management	http://www.hyporealestate.com/eng/5754.php
Commerzbank AG	https://www.commerzbank.com/
CQS Management Ltd.	http://www.cqs.ch/disclaimer/
Credaris	http://www.credaris.com/
Credit Suisse International	http://www.creditsuisseinternational.com/
CVC Cordatus	http://www.cvccordatus.com/Content/En/CordatusGeneral/Home.aspx
Declaration Asset Management	www.declaration.com
Deerfield Capital Management	www.deerfieldcapital.com
Deutsche AM	http://www.dbadvisors.com
DWS Finanz	http://www.dws.com/EN/showpage.aspx?pageid=1
Eaton Vance	http://www.eatonvance.com/
Egret Capital, LLP	http://www.egretcapital.com/
Elgin Capital	http://www.elgincap.com/
Eurohypo	http://www.eurohypo.com/en/site/website/index.php
Faxtor Securities	http://www.faxtor.nl/content/home.asp
Fortis IM	http://www.fortis.com/
Fortress Investment Group	http://www.fortressinv.com/
GE Asset Management	http://www.geam.com/us/investment/sa/strategies/html/structured_products.html
Golden Tree Asset Management	http://www.goldentree.com/index.cfm
GSC Partners	http://www.gscpartners.com
Guggenheim	http://www.guggenheimpartners.com
Gulf International Bank (UK) Ltd.	http://www.gibonline.com/
Halcyon Structured Asset Management LP	https://www.halcyonllc.com/HALCYON/WEB/me.get?web.home
Harbourmaster Capital Management Ltd	www.harbourmaster.com
Henderson Global Investors	http://www.henderson.com/sites/henderson/institutional/productsandcapabilities/fixedincome.aspx
Highland Capital Management	https://www.hcmlp.com/
IKB Fund Management	http://www.ikb.de/content/en/index.jsp
Indicus Advisors	http://www.indicusadvisors.com
ING Clarion Capital	http://www.ingclarion.com
Intermediate Capital Group	http://www.icgplc.com
Invesco Senior Secured Management	http://www.institutional.invesco.com/portal/site/invescoinst
Investec Bank (UK) Ltd	http://www.investec.com/
J.E. Robert Company	http://www.jer.com
KBC Financial Products UK Limited	http://www.kbcfp.com/
LightPoint Capital Management	http://lightpointcapital.com/home1024.html
LRI Landesbank	http://www.lri.lu

Marathon Asset Management	http://www.marathonfund.com
Mizuho Investment Management UK	http://www.mizuho-im.com/en/
Montana Capital	http://www.montanacapital.at/
Morgan Stanley Investment Management	http://www.morganstanley.com/im/
N M Rothschild & Sons Limited	http://www.rothschild.com/
Natixis Asset Management	http://cdo.am.natixis.fr
NIB Capital	http://www.nibc.com/ar2002/
NIBC Credit Management	http://www.nibccm.com
Oakhill	http://www.oakhillcapital.com/
Octagon Credit Investors (UK) Ltd	http://www.octagoncredit.com
Ofivalmo	http://www.ofi-am.com/oficredit/indexUK.php
Omicron Investment Management	http://www.omicron-im.com/
P&G SGR	http://www.pgalternative.com/
Partners Group	http://www.partnersgroup.net/
Pemba	https://www.pembacreditadvisers.com/
Permira Debt Managers Group Holdings Limited	http://www.permira.com/en/index.html
PIMCO Europe	http://europe.pimco.com/TopNav/Home/default.htm
Prudential M&G	http://www.mandg.co.uk/institutions/Home/index.jsp
Prytania Investment Advisors	http://www.prytania.uk.com/
Rabobank Nederland	www.rabobank.com
RCG Helm	www.ramius.com
Resource Europe Management Limited	http://www.resourceamerica.com/resource_europe.html
RMF	https://www.rmfc.ch/home/index.jhtml?_requestid=32270
Robeco Institutional Asset Management B.V.	http://www.robeco.com/rfm/
Sankaty Advisors	https://www.sankaty.com/
Schroders	http://www.schroders.com/schroders/home
SGAM AI	http://www.sgam-ai.com/portal/site/sgam-aicom/
Solent Capital	http://www.solentcapital.com/
SWIP	http://www.scottishwidows.co.uk/
UBS Global AM	http://www.ubs.com/1/e/globalam.html
UNIQA AI	http://www.uniqagroup.com/uniqagroup/cms/eng/index.jsp
Washington Square	http://www.wsqim.com/
Western Asset Management	www.westernasset.com
WestLB-London	http://www.westlbcareers.com/
ZAIS Group LLC	http://www.zaisgroup.com/
Other	

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I. Term Securitisation Disclosure Practices - Legal Survey **Schematic of Public Disclosure Practices for Various Asset Classes in Europe**

Background and Purpose: Although all EU securitisation transactions are subject to relevant Directives, there can be differences in disclosure practices across various jurisdictions. The following tables summarizes some of the key differences:

MAIN JURISDICTION OF ORIGINATOR	BELGIUM	GERMANY	GREECE	FRANCE	ITALY	NETHERLANDS	SPAIN	UNITED KINGDOM
A. NATURE OF LISTED TRANSACTION								
1. Main exchanges for listing ABS and CDOs * Conotes PD compliant	Luxembourg*	Ireland* Luxembourg*	London*	Ireland* Luxembourg* France*	Luxembourg* Ireland*	Amsterdam* Ireland* Luxembourg*	Spain*	London* Ireland* Luxembourg*
2. Main types of Originator/Asset Manager: Financial Institution/non-Financial Institution	Both	Both	Financial Institutions	Both	Financial Institutions	Mainly Financial Institutions	Financial Institutions	Both
3. Main Asset Classes: - RMBS - CMBS - ABS - CDOs	All	All	RMBS : Yes CMBS : N/A ABS : Yes CDOs : N/A	All	RMBS: Yes CMBS: Yes ABS: Yes CDOs: No	All	RMBS: Yes CMBS: No ABS: No CDOs: No	All
4. Stand-alone bond issues or MTN Programmes	RMBS: stand alone CMBS: stand-alone ABS: both CDOs: stand alone	RMBS : stand alone CMBS : stand-alone ABS : both CDOs : both	RMBS : Yes CMBS : N/A ABS : Yes CDOs : N/A	RMBS: Both CMBS: Stand-alone ABS: Both CDOs: Both	RMBS: Stand-alone CMBS: Stand-alone ABS: Both	RMBS: Both ABS: Mainly Stand-alone CMS/CDOs: Stand-alone	RMBS: Stand-alone	RMBS : both CMBS : stand-alone ABS : both CDOs : stand-alone
5. US Placement : Yes/No Rule 144A or SEC registered i.e. US disclosure standards applied	No	RMBS : No CMBS : Yes Rule 144A ABS : No CDOs : No	RMBS : No CMBS : N/A ABS : No CDOs : N/A	Yes, if US placement generally 144a	RMBS: No CMBS: No ABS: No	No	RMBS: No	RMBS : Yes. Both CMBS : No ABS : Yes. Both CDOs : Yes. Rule 144A

MAIN JURISDICTION OF ORIGINATOR	BELGIUM	GERMANY	GREECE	FRANCE	ITALY	NETHERLANDS	SPAIN	UNITED KINGDOM
B. STRUCTURE OF OFFERING CIRCULAR								
1. Transaction overview with structure diagram	Yes	All - Yes	All - Yes	Yes	RMBS: Sometimes CMBS: Sometimes ABS: Sometimes	RMBS: Yes CMBS: Yes ABS: Yes	RMBS: Yes (but not initial pages)	RMBS : Yes CMBS : Yes ABS : Yes CDOs : Transaction Overview Only
2. Summary Information including names of key transaction parties, asset summary and key structural features	Yes	All - Yes	All - Yes	Yes	RMBS: Yes CMBS: Yes ABS: Yes	Yes	RMBS: No	RMBS : Yes CMBS : Yes ABS : Yes CDOs : Yes
3. Inclusion of Risk Factors (or equivalent) in prominent position : on grade 1-5 from 1-very light to 5-very extensive (see C. below for more detail)	All - Yes at 5	All - Yes at 5	All - Yes at 5	All - Yes at 5	RMBS: Yes at 5 CMBS: Yes at 5 ABS: Yes at 5	All - Yes at 5	RMBS: Yes - 4	All - Yes at 5
4. Non-originator specific industry information	Yes	RMBS : Yes CMBS : Yes ABS : Yes CDOs : No	RMBS : Yes CMBS : N/A ABS : Yes CDOs : N/A	Yes	RMBS: No CMBS: Sometimes ABS: Depends on asset	Yes ABS: Sometimes	RMBS: Not significant	RMBS : Yes Mostly CMBS : Yes ABS : No CDOs : Yes
5. Detailed description of Asset origination and on-going servicing	Yes	All - Yes	RMBS : Yes CMBS : N/A ABS : Yes CDOs : N/A	Yes	RMBS: Yes CMBS: Yes ABS: Yes	Yes	RMBS: Yes	RMBS : Yes CMBS : Yes ABS : Yes CDOs : Not usually

C L I F F O R D
C H A N C E

MAIN JURISDICTION OF ORIGINATOR		BELGIUM	GERMANY	GREECE	FRANCE	ITALY	NETHERLANDS	SPAIN	UNITED KINGDOM
6.	Description of Assets in listed Portfolio including Main Eligibility Features (see D below for more detail)	Yes	All - Yes	RMBS : Yes CMBS : N/A ABS : Yes CDOs : N/A	Yes	RMBS: Yes CMBS: Yes ABS: Yes	Yes	RMBS: Yes	All - Yes
7.	Analysis of key structural features of issuance	Yes	All - Yes	RMBS : Yes CMBS : N/A ABS : Yes CDOs : N/A	Yes	RMBS: Yes CMBS: Yes ABS: Yes	Yes	RMBS: Yes	RMBS : Yes CMBS : Yes ABS : Yes CDOs : Yes
8.	Description of terms and conditions of bonds/notes and rights of investors	Yes	All - Yes	RMBS : Yes CMBS : N/A ABS : Yes CDOs : N/A	Yes	RMBS: Yes CMBS: Yes ABS: Yes	Conditions are typically included	RMBS: Yes	All - Yes
C. NATURE OF RISK FACTORS (nb format and details may differ from jurisdiction to jurisdiction not withstanding same areas covered)									
1.	General Market Conditions (e.g. lack of secondary markets)	Yes	All - Yes	RMBS : Yes CMBS : N/A ABS : Yes CDOs : N/A	Yes	RMBS: Yes CMBS: Yes ABS: Yes	Yes	RMBS: Yes	All - Yes
2.	Limits on rights of Noteholders	Yes	All - Yes	RMBS : Yes CMBS : N/A ABS : Yes CDOs : N/A	Yes	RMBS: Yes CMBS: Yes ABS: Yes	Yes	RMBS: Yes	All - Yes
3.	Asset Specific (credit and legal)	Yes	All - Yes	RMBS : Yes CMBS : N/A ABS : Yes CDOs : N/A	Yes	RMBS: Yes CMBS: Yes ABS: Yes	Yes	RMBS: Yes	All - Yes
4.	Macro-economic factors affecting assets	Yes	All - Yes	RMBS : Yes CMBS : N/A ABS : Yes CDOs : N/A	Yes	RMBS: Yes CMBS: Yes ABS: Yes	Yes	RMBS: Yes	All - Yes

C L I F F O R D
C H A N C E

MAIN JURISDICTION OF ORIGINATOR	BELGIUM	GERMANY	GREECE	FRANCE	ITALY	NETHERLANDS	SPAIN	UNITED KINGDOM
5. Local Insolvency Laws	Yes	All - Yes	RMBS : Yes CMBS : N/A ABS : Yes CDOs : N/A	Yes	RMBS: Yes CMBS: Yes ABS: Yes	Yes	RMBS: Yes	All - Yes
6. Limitation of Credit Ratings	Yes	All - Yes	RMBS : Yes CMBS : N/A ABS : Yes CDOs : Yes	Yes	RMBS: Yes CMBS: Yes ABS: Yes	Yes	RMBS: Yes	All - Yes
7. Change of Law, Regulation or Tax	Yes	All - Yes	RMBS : Yes CMBS : N/A ABS : Yes CDOs : N/A	Yes	RMBS: Yes CMBS: Yes ABS: Yes	Yes	RMBS: No	All - Yes
D. DESCRIPTION OF ASSETS								
1. Nature of Information in Offering Circular : Individual Asset specific (Granular) or Aggregated	RMBS: Aggregated CMBS: both ABS: Aggregated CDOs: Aggregated	RMBS : Aggregated CMBS - Both ABS - Aggregated CDOs - Aggregated	RMBS: Aggregated CMBS: N/A ABS: Aggregated CDO: N/A	RMBS: Aggregated CMBS: Both ABS: Aggregated CDO: Aggregated	RMBS: Aggregated CMBS: Both ABS: Aggregated or specific (asset dependent)	RMBS : Aggregated CMBS - Both ABS - Aggregated CDOs - Aggregated	RMBS: Aggregated	RMBS : Aggregated CMBS - Both ABS - Aggregated CDOs - Aggregated
2. Static Pool Data Available	Some issues	RMBS - Some Issues CMBS - No ABS - Some Issues CDOs - No	RMBS - Some Issues CMBS - N/A ABS - Some Issues CDOs - N/A	Some issues	RMBS: Yes CMBS: Yes ABS: Yes	RMBS: Yes CMBS: No ABS: Both	RMBS: Yes	RMBS - Some Issues CMBS - No ABS - Some Issues CDOs - No

MAIN JURISDICTION OF ORIGINATOR	BELGIUM	GERMANY	GREECE	FRANCE	ITALY	NETHERLANDS	SPAIN	UNITED KINGDOM
3. Updated Portfolio Information Available: - Yes/No - Servicer Report Yes/No - Password Protected Yes/No - on RNS Yes/No	Yes	RMBS : Yes, Yes, Yes, Yes CMBS : Yes, Yes, Yes ABS : Both, Both, Both CDOs : Both Both, Both, Both	RMBS : Yes, Yes, Yes, Yes CMBS : N/A ABS : Both Both, Both, Both CDOs : N/A	CMBS/RMBS: Yes ABS/CDOs: Both	RMBS: Yes, Yes, Sometimes, NA CMBS: Yes, Yes, Yes, NA ABS: Yes, Yes, Sometimes, NA	RMBS : Yes, Yes, Yes, Yes CMBS : Yes, Yes Yes, Yes ABS : Both Both, Both, Both CDOs : Both Both, Both	RMBS: Yes (although very limited) No No	RMBS : Yes, Yes, Yes, Yes CMBS : Yes, Yes Yes, Yes ABS : Both Both, Both, Both CDOs : Both Both, Both, Both
4. Further Information Available: - via public website - via password protected website - through differing rights for investors	All are used but in some issues only	RMBS : Some, Some, No CMBS : Some, Some, No ABS : Some, Some, No CDOs : N/A	All are used but in some issues only	Some issues for all asset classes	RMBS: Some, Some, No CMBS: Some, Some, No ABS: Some, Some, No	RMBS : Some, Some, No CMBS : Some, Some, No ABS : Some, Some, No CDOs : No, Some, Some	RMBS: Yes No No	RMBS : Some, Some, No CMBS : Some, Some, No ABS : Some, Some, No CDOs : No, Some, Some
5. Enforceable Obligation in favour of Trustee or Noteholder for originator/servicer to provide on-going information	Yes	RMBS : Yes CMBS : N/A ABS : Yes CDOs : N/A	RMBS : Yes CMBS : N/A ABS : Yes CDOs : N/A	Some issues in all asset classes	RMBS: Some CMBS: Some ABS: Some	Yes	RMBS: Yes (on the Managing Company)	RMBS : Yes CMBS : Yes ABS : Yes CDOs : Yes
6. Compliant with ESF Guidelines	Some issues in all asset classes	RMBS : Some CMBS : N/A ABS : No CDOs : N/A	No	Some issues in all asset classes	No	No	No	RMBS : Some CMBS : No ABS : No CDOs : Some

C L I F F O R D
C H A N C E

J. Term Securitisation Disclosure Practices – Business Survey

Snapshot of Public Reporting and Credit Disclosure in European Structured Finance

Background and Purpose: In addition to the differences in legal disclosure practices presented in Section K, there are differences in business practices across various jurisdictions. Following is a summary of some of the broad-based differences for various asset classes based on a subjective ranking system for public reporting and credit disclosure:

RANK					
Typical Public Reporting	1	2	3	4	5
	Little or no deal coverage	Partial deal coverage, incl some benchmarks	Some deals covered, incl most benchmarks	Most deals covered, incl all benchmarks	Substantially all deals covered
Typical Credit Disclosure	1	2	3	4	5
	Headline data provided in offering circular only, generally no updates	Headline, portfolio-level credit data updates	Relatively comprehensive credit data, but no portfolio strats updates typically	Comprehensive credit data, portfolio strats sometimes updated	Comprehensive credit data and portfolio strats. Loan-by-loan may be available (confi agreement normally required)

ASSET CLASS RANKING

Rank Public Reporting , Rank Credit Disclosure

Sector	Country									
	Europe	UK	Spain	Netherlands	Germany	France	Italy	Ireland	Portugal	Greece
Prime RMBS		5 , 4	4 , 4	4 , 4	5 , 4	4 , 4	4 , 4	4 , 3	4 , 4	4 , 3
Non-Conforming RMBS		5 , 5		5 , 5	5 , 5					
Conduit CMBS*	3 , 4	4 , 5			4 , 5					
SME CLOs		3 , 2	4 , 4	4 , 3	5 , 4		5 , 4		4 , 3	
Leveraged Loan CLOs**	1 , 5									
Credit Card ABS		5 , 4								5 , 4
Auto ABS		4 , 3	3 , 3		4 , 3	4 , 3	4 , 3		4 , 3	
Synthetic (Traded) CDOs	1 , 1									

Notes: * Credit disclosure varies, but deals adhering to CMSA standard provide very comprehensive data. ** Loan-by-loan pricing and any internal credit measures (for non-rated loans) not available.

Additional Commentary

Sector	Source of investor reports and credit data*	Accessibility	Comments
Prime RMBS	Bloomberg, industry and issuer-specific websites	Public	Comprehensive updated portfolio credit data widely available, strats provided in some cases. PDFs mainly
Non-Conforming RMBS	Bloomberg, issuer-specific websites	Public	Comprehensive updated portfolio credit data and strats widely available. PDFs mainly, some issuers provide tamper-friendly data
Conduit CMBS	Bloomberg	Public	Comprehensive updated portfolio and loan-by-loan credit data generally available under standard Bloomberg function. CMSA-standard PDFs and Bloomberg-based functionality
SME CLOs	Bloomberg	Public	Portfolio-level updated credit data sometimes available. PDFs mainly
Leveraged Loan CLOs	Issuer-specific websites	Private mostly	Comprehensive updated credit data, portfolio starts and loan-by-loan info, but seldom publicly available. Password-protected (subject to evidence of being securities holder). PDFs mainly
Credit Card ABS	Bloomberg, issuer-specific websites	Public	Comprehensive updated portfolio-level credit data widely available under standard Bloomberg function. PDFs and Bloomberg-based functionality

Auto ABS	Bloomberg, issuer-specific websites	Public	Portfolio-level updated credit data often available. PDFs mainly
Synthetic (Traded) CDOs	None	Private	Updated portfolio compositions of single-names very seldom publicly available, provided only from manager or trading desk subject normally to non-public distribution restrictions

Notes: * Excludes data availability from subscription-based rating agency databases.

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K. Term Credit Card Disclosure Practices – Business Survey: Reporting Standards in European Credit Card ABS Transactions

Background and Purpose: The issuance of credit card-backed securities began to appear in 1995 in Europe. All the recent deals have been issued from master trusts, instead of being structured as standalone transactions. The high level of structural consistency in the Credit Card ABS market make it one of the most transparent of all ABS markets, generally enabling investors to make fair comparisons among the deals.

Due to the structural similarities, investor reports available for the public to trace how the deals are performing also show a high degree of standardisation both in terms of the indicators published and the calculation methodology behind them. The aim of this report is to show where and how easily these reports are available, what type and how detailed information they provide to investors, pointing out similarities and inconsistencies. We review the data pointing out factors that have an influence on the interpretation of the figures, but might not be immediately obvious.

We have examined the programmes, which have been most active in recent years and still have transactions outstanding. We based our findings on the reporting of the Arran, Chester, Gracechurch, Pillar and Sherwood master trust programmes, and Turquoise and Karta APC Ltd programmes.

Investor Reporting

Summary Reports

The simplest and in many ways most convenient investor reporting information is available under the CLP function on Bloomberg. This gives the headline percentage rates for the most commonly tracked performance parameters (3-month average and monthly excess spread, current spread, MPR, portfolio yield, charge offs, delinquency data and the current percentage of seller's share) as indicated in Figure 4. This function also includes historic data stretching back to the launch of the transactions.

1. High Level Credit Card Reporting on Bloomberg									
	Excess spread				Charge	Delinquencies			Seller's
	3m avg	Cur	PR	ld	Offs	-59	1-89	)+	terest
Arran	✓	✓	✓	✓	✓	✓	✓	✓	x
Chester	✓	✓	✓	✓	✓	✓	✓	✓	✓
Gracechurch	✓	✓	✓	✓	✓	✓	✓	✓	✓
Pillar	✓	✓	✓	✓	✓	✓	✓	✓	x
Sherwood	✓	✓	✓	✓	✓	✓	✓	✓	✓
Turquoise	✓	✓	✓	✓	✓	✓	✓	✓	✓
Karta	x	x	x	x	x	x	x	x	x

The main gaps in this table (apart from Karta, which does not report any figures under the CLP function) are that the Arran and Pillar master trusts do not report the seller's share.

Detailed Investor Reports

In addition to the summary information there are also monthly investor reports available on Bloomberg for most of the issues except for Chester, Pillar and Sherwood, which publish the reports – or some parts of it – on the trustee or company websites. These reports vary in scope, level of detail and types of information reported, from reports with large quantities of data enabling tracking of cash flows through the payment waterfall, to reports with little more than the summary information described above.

Pillar

Of the investor reports, Pillar's monthly investor publications comprise the most data. The reports are broken down to three parts – Exhibit A, B and C. Exhibit A details information like current monthly distributions and accumulations, current quarterly distributions (for payment dates during the revolving period and the controlled accumulation period only), collateral performance data, current Libor and Euribor rates and the payment of additional funds. The collateral performance data includes: principal collections, delinquent balances, investor default amounts, investor charge-offs, investor servicing fee, available and required spread account amount, available funds, finance charge receivable collections, investor acquired interchange and recoveries amounts and portfolio yield.

The report continues with Exhibit B and Exhibit C, which each include further detail on the sources (including finance charge collections, annual fees, acquired interchange and acquired recoveries) and allocation of the cash within the trust to the various ledgers in the transaction.

Arran

Arran also publishes a special supplement to its investor report describing the sources and uses of funds in addition to the standard performance figures. This section of the report gives detailed information about the application of principal and finance charge collections, gives a breakdown of the payments in respect of the securities and describes the transaction accounts and ledgers. The report also shows historic data for the most basic, but also the most important performance measures – a feature very

rarely found in other reports.

Other Programmes

Reports for Karta, Sherwood and the Turquoise transactions also mention the collections and allocations of monies briefly, while Gracechurch only releases a summary report discussing the 'musts' (note balance, yield, expense rate, charge-offs, excess spread, delinquent balances, payment rate and seller's interest) on one page. At the end of the scale is the information provided about the Chester (CARDS) programme, only a summary of basic data appeared on the company website.

Performance Analysis

In normal circumstances where the majority of credit card transactions in the trusts are performing well, the standard performance statistics should give a reasonable indication of the relative merits of different transactions, at least in most cases. However, there are situations where statistics are not strictly comparable so care needs to be taken in interpreting the results. In the following sections we highlight some of the key features that should be taken into account when analysing credit card transactions together with some of the potential pitfalls. In a less favourable economic environment, or when the performance of the collateral deteriorates, the additional data provided in the full investor reports is likely to become increasingly important, and in later sections we give some suggestions for possible further improvements to these reports. (Please see Figure 6 for available performance details of the examined deals).

Excess Spread

One of the most important metrics to look at would be the current level of excess spread of the transactions, as it incorporates the net impact of the yield, charge-off and expense rates and represents the first line of protection for the noteholders. As long as the level of excess spread is sufficient, we probably would not even need to worry further about the disclosure of any other performance indicators.

Delinquencies and Charge-Offs

Delinquencies tend to be the most closely watched of the performance measures, as an indicator of possible future losses. The reports reflect this degree of focus, reporting the proportion of delinquent accounts in a number of buckets (up to eight) depending on how many payments the borrower has missed. Accounts are generally recorded as being delinquent until they either make payments to bring the account current again, or are charged-off.

Trust Charge-Off Policies, Days	
Arran	65
Chester	80
Gracechurch	80
Pillar	60
Sherwood	80
Turquoise	80
Karta	60

Source: Rating Agency
Reports, RBS Global
Banking & Markets

Accounts are usually charged-off after being delinquent for a specified time, but there is some variation in the policies between originators, as shown above. These differences can cause dramatic inconsistencies in the reported headline delinquency rates – all things being equal we would expect the 3-month-plus arrears rate to be three times larger in a transaction with a 360 day charge-off policy (i.e. 90-360 days) compared to a trust with charge-offs at 180 days (i.e. 90-180 days). The companies with the longer charge-off policies provide sufficient detail in their reports for investors to calculate comparable figures.

A longer charge-off period will mean that delinquent accounts will take correspondingly longer to be charged-off and regarded as losses. As a result the charge-off rate will be slower to respond to changes in collateral performance, but any impact on the equilibrium level should be small. However, the more important factor for the levels is whether charge-off rates are reported gross or net of recoveries.

Given the investor sensitivity to delinquency and charge-off data, the key factor for transparency, in our view, is that the headline data presented should be consistent and comparable. For example, there was a situation a few years ago when an originator, quite legitimately, introduced payment arrangements for certain borrowers in difficulties. This initially had the ‘unfortunate’ effect of artificially decreasing arrears rates (where borrowers were up-to-date with their reduced payments under the arrangement) and charge-offs. The reduction in charge-offs allowed excess spread to flow back to the originator when under the original procedures, some would have been trapped to cover the losses.

Monthly Payment Rate (MPR) and Yield

Yields (and by consequence excess spread) can be affected by differences in the behaviour of the underlying customers. Revolving users should, for example, provide higher yields due to the higher level of finance charges, than convenience users, who should generate more revenue through interchange fees. We believe it would be difficult for companies to report customer profile information on a consistent basis. However, the monthly payment rate does provide a simple quantitative measure of customer behaviour (with higher MPRs tending to indicate a greater proportion of convenience users) and thus should be looked at in conjunction with yields.

Possible reporting enhancements

We believe that, although the standard reporting framework is sufficient in times when the collateral is performing well, the investor reporting could be improved by inclusion of additional details, and that some of these additions could become highly significant if the collateral performance was to become stressed.

Sources of Excess Spread

There have been times when it would have been very useful for investors to see a clear breakdown of the sources of excess spread. For example, a few years ago in the UK there were proposals to limit the amount of interchange fees that could be charged by the credit card companies. The possible negative impact on the level of excess spread caused by such a change in legislation could only be ascertained if interchange amounts were detailed in investor reports.

Cash Collateralisation Account

Credit card transactions usually also contain structural features such as the cash collateralisation account, which traps excess spread in the event that certain performance triggers are breached. Disclosing these triggers and tracking the current values of the accounts would give a better understanding about the use of excess spread and so the real level of support available to the junior notes.

Seasoning

The difference in the seasoning of accounts is a factor that has the potential to introduce distortions into performance statistics, but that is normally only reported at the time of a new issue. A lower-than-

average yield for example, could simply be explained by the low seasoning of the accounts – the high proportion of new customers benefiting from teaser rates in the first periods would artificially decrease yields, but as the accounts age and cardholders move out of this period, yields would organically increase – without the collateral performing any better.

Delinquencies

For an account to become delinquent, the cardholder needs to miss a minimum payment for a certain time. Specifying this amount and time frame would give a better insight to the credit quality of borrowers. It would also be very interesting to see how account holders behave once delinquent.

Substitution

The addition of new accounts to the pool of receivables could also result in similar distortions (for example adding young, well performing accounts, could result in artificially lower delinquency or charge-off numbers).

Specific Products

For non-homogeneous portfolios, where there are significant differences between the client profiles or credit characteristics of specific card products it could be useful for further information to be provided on the breakdown in the collateral pool.

Account Balances and Credit Limits

The balance of accounts, particularly if it could be related to available credit limits could also prove a useful indicator of trends within the collateral. Increasing balances could be an indication of deteriorating credit quality of the borrowers, whereas changes in credit limits, such as has been reported over the past year would indicate measures to contain the risk profile of the portfolio.

Accounting Periods/Collection Days

There are significant fluctuations in most performance measures month over month which are partly the result of the differing number of days in the collection period. Providing the data to allow corrections to be calculated for this effect could greatly ease the interpretation of monthly data.

Conclusions

The Credit Card ABS market benefits from a high degree of consistency across transaction structures and as a result is one of the most transparent of all ABS markets. The summary reports allow easy, timely and relatively fair comparisons to be made between issues of different trusts. However, we believe that in more stressed or changing market conditions certain additional data only found in the full investor reports (where available) may become vital to an assessment of a security. In certain cases we think that reports could be improved by providing a more complete set of relevant data, including the transaction performance relative to any trigger levels, but it is most important that the critical figures are calculated on a consistent basis. The possible improvements suggested above are by no means exhaustive. For example, many investors have enquired after delinquency roll rates, which could provide additional colour on the collateral performance. However, the complicated nature of such data would make it more difficult for companies to report on a consistent basis.

Available Trust Performance Metrics

		Gracechurch	Arran	Chester (MBNA)	Pillar	Sherwood	Karta	Turquoise Card Backed Sec's
Reports Issued	Monthly Quarterly	X	X	X	X	X	X	X
Pool Balance	Beginning Ending Average	X	X	X		X	X	X
Outstanding Note Balance		X	X	X				X
Number of Accounts			X				X	X
Pool Factor		X	X	X	X	X	X	X
Coupon		X	X	X	X	X	X	X
Spread		X	X	X	X	X	X	X
Charge Offs		X	X	X	X	X	X	X
Excess Spread	1MO 3MO 6MO 12MO 3MO AVE	X	X	X	X	X	X	X
Delinquency	1-29 30+ 30-59 60-89 90+ 90-179 180+ 90-119 120-149 150-179 180-209 210+ Total	X	X	X	X	X	X	X
MPR	1MO 3MO 6MO 12MO	X	X	X	X	X	X	X
Principal Payment	Amount Rate		X		X		X	X
Yield		X	X	X	X	X		X
Expense Rate		X	X	X	X	X	X	X
Defaulted amount	Gross Net					X		
Sellers Interest	Current Minimum	X	X	X		X		X
Reserve Account	Required Balance carried fwd						X	X
Spread account	Required amount Required Percentage Available amount Balance brought fwd Balance carried fwd		X		X		X	X
Cash Collateral Account	Required Available		X		X		X	X

Source: Investor Reports

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L. Term Securitisation Summary of Legal Considerations on Disclosure

Background and Purpose:

We refer to the included progress reports which set out certain intended principles with respect to transparency and disclosure in the listed term asset-backed securities (ABS) market. Among other things, the note includes recommendations that:³

- Certain pre-closing market communications including final prospectuses are made publicly available (without password protections) as a matter of course via a designated third party website or industry data portals; and
- Asset performance reports are further standardised with respect to certain content and frequency of distribution and such reports (and certain other post-closing investor communications) are made publicly available (without password protections) as a matter of course via a designated third party website or industry data portals.

This memorandum examines certain legal considerations in respect of which further analysis may be necessary. For preliminary analysis of certain legal considerations in respect of the recommendations made in connection with the asset-backed commercial paper (ABCP) market, we refer to the note entitled 'Code of Conduct on Disclosure in the ABCP Market – Legal Considerations' prepared by Mayer Brown dated 28 May 2008.

This memorandum is a summary of our preliminary findings and is intended to provide general guidance only. It does not constitute definitive advice.

Conclusions

Legal considerations

The legal considerations in connection with the adoption of the best practice recommendations include:

- *EU and/or U.S. securities laws*: in certain circumstances, public disclosure of certain information may contravene or give rise to other requirements under EU and/or U.S. securities laws;
- *Data protection and bank secrecy laws*: in certain circumstances, public disclosure of certain asset information may contravene data protection and/or bank secrecy/confidentiality laws;
- *Promotional communication laws*: in certain circumstances, public disclosure of certain information may contravene restrictions on promotional communications (although the relevant issues may be able to be addressed via disclaimers and certain other practices); and

³ To be confirmed once the recommendations being developed for term securitisation are finalised.

We note that questions remain as to how the continuing disclosure obligations under the Market Abuse Directive should operate in respect of ABS issuers. While such obligations should not create issues *per se* in respect of the recommendations (as both the obligations and the recommendations are aimed at improving market transparency), it would seem sensible that the recommendations should be considered by the European Commission within the context of the Directive obligations by the Commission with a view to developing some certainty as to how compliance with the obligations should be achieved in an ABS context.

Action points

In connection with the recommendations, further legal analysis is necessary in respect of certain legal considerations including:

- Whether any public offer issues may arise under the Prospectus Directive;
- Whether comfort would be required (via a ‘no action letter’ or other means) from the Securities and Exchange Commission (SEC) to ensure that issues do not arise under U.S. securities laws;
- Whether issues may arise under laws which restrict promotional communications and whether any such issues may be addressed via use of disclaimers and compliance with certain other requirements;
- What types of asset information may be subject to data protection and/or bank secrecy/confidentiality laws (possibly obtaining clarification from EU authorities as to the scope of the definition of ‘personal data’ and/or clarifying exemptions for anonymised information) and any issues which may arise under such laws based on the asset information required by investors (and which may be made publicly available under the recommendations); and
- Whether any particular procedures⁴ and/or disclaimers should be used in respect of information published in accordance with the recommendations.

In addition, as noted above, the recommendations should be considered within the context of the continuing disclosure obligations contemplated by the Market Abuse Directive.

Please see below for further details in respect of the legal considerations taken into account in the course of our preliminary review.

⁴ For example, it should be considered whether (a) the text and format of the published documents should be the same as any corresponding approved document, (b) the information should be published in a format that cannot be modified, (c) the published documents should be easily accessible on the website, (d) it should be possible to download and print published documents, etc.

Preliminary summary analysis
Key general consideration

Consideration	Points to note
EEA Securities laws, public offers	- Position in EEA states is principally governed by the Prospectus Directive (PD); maximum harmonisation initiative (so member states may not add to requirements) - PD does not apply in respect of short term securities (which would generally include ABCP) - Under the PD, it is unlawful for securities to be offered to the public in an EEA state unless an approved prospectus has been made available to the public before the offer is made; subsequent re-sales are regarded as separate offers⁵ - Public offer is widely defined to include ‘a communication to any person which presents sufficient information on (a) the transferable securities to be offered and (b) the terms on which they are offered, to enable an investor to decide to buy or subscribe for the securities in question’; thought to include communications which include current price information (e.g. the final prospectus, but not the preliminary prospectus, roadshow materials and/or post-closing asset performance reports (taken on their own)) - Unless passported, an approved prospectus in one member state does not prevent public disclosure from constituting a breach of the public offer restriction in other member states; not a significant issue in respect of wholesale debt securities because offerings of such securities are exempt from the public offer prospectus requirement but more complicated issues may arise in respect of retail debt securities, particularly in circumstances where (current) price/trading information is included in or provided with the relevant communication⁶ - Certain potential public offer issues may be reduced depending on how information is published and, in this regard, we note that Article 29 of the PD sets out certain requirements for prospectus publication in electronic form (certain of which it may be prudent to apply in a general context) and that CESR confirmed in February 2007 (in the context of prospectuses published as required under the PD) that it does not consider there to be a public offer in circumstances where a prospectus is published on the website of a competent authority⁷ - If the recommendations are to be followed, it may be desirable to obtain some comfort from the relevant authorities that all information disclosed in accordance with such recommendations will not constitute a PD public offer - In a pre-closing context, it should be noted that under the PD information which is material to investors is required to be disclosed in the prospectus. As such, as a general point, the PD prospectus disclosure obligation will not be met by disclosure of material information in documents made publicly available along with the prospectus (e.g. documents comprised of detailed modelling and/or asset information), as such information should be included in the prospectus itself if it is commercially significant to investors

⁵ It is also unlawful under the PD for securities to be admitted to trading on a regulated market in an EEA state without a prospectus being made public prior to such admission; however, this isn't relevant for the purposes of this note.

Consideration	Points to note
U.S. securities laws	• Position varies depending on whether the relevant offering is SEC-registered or exempt and whether the information is publicly disclosed during the offering period and/or the distribution compliance period (i.e. 40 days after the closing of the offering) (in the case of SEC-registered offerings) or the prospectus delivery period (i.e. 90 days after the closing of the offering) • Registered offerings • Restrictions on types of offer communications during a registered public offering; any information that is disclosed that has the effect of conditioning the market for an offering of securities could be deemed to be an offer • Nature of restrictions depends on period during which the offer communications occur, for example (i) before the registration document is filed, all offers are prohibited, (ii) between the filing of the registration statement and its effectiveness, oral offers may be made but written offers (including materials posted on the Internet) are limited (with some exceptions for preliminary statutory prospectuses and free writing prospectuses) and (iii) after the registration statement is declared effective, written offers may be made through a statutory prospectus and free writing prospectuses and additional written materials may be used if a final prospectus that meets certain requirements is sent or given prior to or with those materials (which would include a hyperlink to the final prospectus if the prospectus is available on the Internet); limited safe harbours and exemptions apply in respect of certain information during certain periods • Prospectuses and (in some cases) free writing prospectuses and ABS informational and computational material must be filed with the SEC before they can be posted to a website. • Factual information and forward-looking information regularly released by or on behalf of an ABS issuer will not be considered an offer in connection with an SEC-registered transaction • Exempt offerings • Restrictions on communications in connection with a Regulation S offering to non-U.S. persons outside the United States and/or a Rule 144A offering to ‘qualified institutional buyers’ (QIBs) in the United States • Issues arise in respect of disclosures that may constitute ‘directed selling efforts’ (Regulation S) or ‘general solicitation or general advertising’ (Rule 144A); • Rule 144A - public disclosure of offer related documents is generally considered to be problematic and current practice (based on SEC guidance) is to ensure that such

⁶ [Communications which may need to be considered carefully in respect of retail debt securities would include (a) final prospectuses during the initial offering period and/or (b) post-closing asset performance reports or other deal materials, if such documents are provided with current trading price information.]

⁷ See answer 4 to CESR’s FAQs dated February 2007.

Consideration	Points to note
	documents are password protected during the offering period • Regulation S – public disclosure of offer related document may be problematic unless SEC guidance is followed (e.g. disclaimers should be used, documents should not appear to target U.S. persons, website should incorporate procedures that are reasonably designed to guard against sales to U.S. persons, etc.) • Placing an advertisement will not constitute ‘directed selling efforts’ for purposes of Regulation S if the advertisement is required by law or the rules and regulations of a regulatory or self-regulatory authority. However, there is no similar exception to ‘general solicitation or general advertising’ for purposes of Rule 144A • We note that, at present, prospectuses prepared in connection with admission to trading on an EEA regulated market or an EEA public offer are required to be published in accordance with the PD. The publication methods contemplated by the PD include publication via certain websites. We understand that disclaimers are used to mitigate certain potential U.S. law securities issues in respect of these communications, but that certain issues may remain relevant particularly in respect of documents published during the offering period in respect of deals involving a Rule 144A offering • If the recommendations are to be followed, it may be desirable to obtain comfort from the SEC that all information disclosed in accordance with such recommendations would not breach U.S. securities laws
Market abuse	• Position in EEA states is principally governed by the Market Abuse Directive (MAD); minimum harmonisation initiative (so member states may add to requirements) • In general, the MAD applies in respect of listed securities (or securities in respect of which an application for listing has been made) (which would generally exclude ABCP)⁸ • Under the MAD, certain disclosure related and other activities may be abusive and therefore unlawful (e.g. disclosure by an insider of inside information to another person and/or dissemination of misleading information to the public) but these provisions are unlikely to pose a legal obstacle <i>per se</i> in respect of the recommendations • In general, making information publicly available is significant for issuers and investors from a general market abuse and insider dealing perspective, as information which has been made public is not inside information and so a transaction made on the basis of information which is generally available will not be a transaction made using inside information
Continuing disclosure	• Position in EEA states is principally governed by the MAD as implemented; minimum harmonisation initiative (so member states may add to requirements); PD (Annex VIII) requires

⁸

Additional considerations may apply in circumstances where an investor holds unlisted and listed securities issued by an issuer and potential sensitive information in respect of the listed securities is provided to it as an investor in the unlisted securities.

Consideration	Points to note
obligations and post-issuance reporting obligations	prospectus to disclosure of certain details regarding post-issuance reporting (e.g. whether information will be provided and, if so, what information it will include, where the information will be available and the reporting frequency) but does not require post-issuance reporting • MAD disclosure obligations apply in respect of issuers of listed securities (or securities in respect of which an application for listing has been made) (which would generally exclude ABCP issuers, although more complicated issues may arise in respect of issuers of listed and unlisted securities); local member state implementing provisions apply if securities listed in that state (so position in London, Luxembourg and Ireland is most relevant for ABS) • Under the MAD, an issuer of notes listed on certain markets must publicly disclose as soon as possible any ‘inside information’ which directly concerns the issuer, unless a limited exemption applies; certain common deal information may be or include inside information (e.g. post-closing asset performance reports) • Obligations create awkward issues for ABS generally due to the nature and limited resources and expertise of securitisation SPV issuers and their agents and the inherent difficulties in assessing and disclosing inside information in an ABS context⁹ • Local member state implementing provisions will refer to required method of dissemination, e.g. the UK and Irish rules require disclosures to be made through certain approved information providers/a regulatory information service (RIS), so disclosure of potential inside information via a public website without corresponding disclosure via the required method may result in a technical breach of the relevant provisions (but, as noted above, making information publicly available is in itself significant for issuers and investors from a general market abuse and insider dealing perspective, as information which has been made public is not inside information and so a transaction made on the basis of information which is generally available will not be a transaction made using inside information) • With respect to the requirement to disseminate information via an RIS, we note that such information providers do not include certain core information providers and sources commonly referred to by the industry (such as Bloomberg); as a result, it is not clear that information disseminated via a current RIS is effectively communicated to market participants • While the recommendations of the ESF working group and the transparency objectives of the MAD disclosure obligations are generally consistent, it would seem sensible that the recommendations should be considered within the context of the obligations with a view to developing some certainty as to how meaningful compliance with the obligations can be achieved in an ABS context • [TBC, whether asset performance reports might be deemed to be an offer]
Other	• The Transparency Directive (TD) also includes certain continuing obligations; minimum

⁹ For further details, please see the joint market guidelines on the MAD published by the ESF and CMSA-Europe on 15 December 2006. It should be noted that CESR has acknowledged the issues which arise in respect of ABS issuers and has indicated that it is further considering the guidance (if any) which should apply in this context.

Consideration	Points to note
transparency related continuing obligations	harmonisation initiative (so member states may add to requirements) • TD does not apply in respect of short-term securities (which would generally include ABCP) and does not apply in respect of issuers of securities which are unlisted (which would generally include ABCP issuers); local member state implementing provisions apply if securities listed in that state (so position in London, Luxembourg and Ireland is most relevant for ABS) • Under the TD, certain disclosures may be required (e.g. disclosures of new issues, changes in guarantors, security and/or rights, requirements with respect to the equal treatment of holders of securities ranking <i>pari passu</i> with respect to all rights attaching to the securities)¹⁰ but these provisions are unlikely to pose an obstacle <i>per se</i> in respect of the recommendations • We are aware of arguments that all investors should receive the same information (including non-material information) on the basis of the equal treatment obligation; while it is not clear that there is an information ‘right’ in respect of securities <i>per se</i>, this should not be an issue in the context of the recommendations as such recommendations support general public (rather than selective) disclosure of information¹¹
Financial promotions/marketing communications	• Certain EU member states laws include restrictions on promotional communications (including the UK); e.g. in the UK, the FSMA prohibits certain promotional communications unless they are made or approved by an approved person, or (in the case of an unauthorised person) an exemption applies • While it is not clear, public disclosure of certain deal information may be construed as being promotional • Analysis of the relevant local laws will be necessary to determine the scope/application (i.e. whether applicable to ABCP, necessary connection to relevant member state, etc) • Local laws may require certain conduct rules to also be factored in where the communication is made by an authorised firm and/or require disclaimers, terms and conditions of use and/or screening systems
Bank secrecy/confidence	• Legal regimes in certain EU member states recognise principles of bank secrecy or duty of confidence; these principles may operate to restrict disclosure of certain customer information; in certain circumstances, such information may form part of the asset level information in a securitisation • In certain jurisdictions, issues are reduced if the information does not (directly or indirectly) identify the underlying debtors (although this may be conditional upon certain other requirements being met, e.g. that the information is necessary for an effective assignment) or if the debtors

¹⁰ The TD also contemplates certain periodic financial reporting requirements; however, these are not relevant for the purposes of this note.

¹¹ [We note that, as a general principle, UK authorised firms are required to treat customers fairly (see PRIN 6 in the FSA Handbook). There are good arguments based on this principle to support the view that the same information should be provided by UK authorised firms to all investors/firm customers.]

Consideration	Points to note
	have approved the disclosure - Further analysis will be necessary if customer information may form part of the asset level information to be publicly disclosed under the recommendations [TBC – whether US privacy laws would be relevant in certain circumstances as well]
Data protection	- Position in EEA states is principally governed by the Data Protection Directive as implemented - Directive includes restrictions on certain activities (including use and/or disclosure) involving personal data in respect of natural persons - Issues are reduced if the information does not (directly or indirectly) identify the underlying debtors; in certain circumstances, issues are reduced if the debtors have approved the disclosure or are notified of the disclosure or if the interest of the transferor outweighs the relevant individual's interest - Further analysis will be necessary if personal data in respect of natural persons may form part of the asset level information to be publicly disclosed (and processed) under the recommendations; further consideration should be given to the asset level information required by investors and necessary for term ABS market transparency¹²
Regulated activities	- Certain EU member state laws include restrictions on the performance of specified regulated activities unless the person is authorised or exempt[, TBC – whether there are any US law considerations which may be relevant] - Regulated activities may include activities which may be construed as bringing about transactions in certain investments - Under certain regimes, disclosure of deal information on its own should not create issues but considerations may arise in circumstances where certain information is provided (e.g. market maker information) and (i) transaction advice is provided or (ii) remuneration is received in respect of the transaction (which seems unlikely given the nature and intent of the recommendations) - Further analysis will be necessary if the services/activities undertaken in respect of the recommendations may fall within the regulated activities regime in certain member states; based on our preliminary findings, this does not appear to be an issue and, in any event, this consideration is of primary relevance to the website provider/communicator of the information

¹²

In this regard, we note that the Report of the Mortgage Funding Expert Group to the Commission dated January 2007 includes a recommendation that personal data, excluding the name and address of the underlying borrowers, be permitted to be disclosed to investors for the purposes of investment decisions.

Consideration	Points to note
Inaccurate and/or misleading information	• Certain EU Directives (including the PD and the MAD), certain other member state laws and US securities laws provide for offences related to the disclosure of inaccurate and/or misleading information • As a general principle, care should be taken to ensure any information which is publicly disclosed is accurate and not misleading (however we note that the relevant provisions already apply in respect of current disclosures/disclosure practices and the provisions are unlikely to pose a legal obstacle <i>per se</i> in respect of the recommendations)
Contractual restrictions on disclosure	• Certain relevant information (e.g. asset information included in certain additional investor materials) may be confidential/subject to contractual restrictions on disclosure • As a general principle, care should be taken to ensure any contractual restrictions on disclosure are complied with

Jurisdiction level analysis for key ABS EU jurisdictions

Country	Summary of key considerations
England	• PD, MAD and TD implemented • Financial promotion regime applies to restrict promotional communications unless the communication is made by an authorised person (in which case certain conduct rules are required to be taken into account) or an exemption applies (may be dependent upon certain conditions being met) • Principle of bank secrecy/duty of confidence is recognised in respect of certain customer information if the information is sufficient for customers to be identified; certain issues may be addressed via (express or implied) consent • Data protection regime applies in relation to certain personal data if the information is sufficient for natural persons to be identified; certain issues may be addressed via consent and disclosure
France	• PD, MAD and TD implemented • Confidentiality rules imposed by French banking laws in respect of customer information; restrictions apply to information disclosure or transfer (even if information is in anonymous or codified form); certain issues may be addressed via consent • Data protection regime applies in relation to certain personal data if the information is sufficient for natural persons to be identified
Germany	• PD, MAD and TD implemented • Principle of bank secrecy is recognised in respect of customer information; restrictions apply to information disclosure or data transfer (on a person or entity level, even if information is in anonymous or codified form; other than permissible anonymous pool data disclosure or data transfer); generally, prior to any data transfer or disclosure of such protected information, unless it is required under applicable law, written consent should be obtained • Data protection regime applies in relation to certain personal data if the information is sufficient for natural persons to be identified; data trust used in certain transactions which precludes the issuer from disclosing personal data to investors
Ireland	• PD, MAD and TD implemented

	• Primarily a relevant jurisdiction due to popularity as a SPV location and listing jurisdiction • Pre-marketing activities will need to comply with the investment advertisement provisions of the PD as implemented in Ireland • Banks have a duty of confidentiality in respect of certain customer information where the information is sufficient for customers to be identified, there are certain exceptions to this duty, including (express or implied) customer consent • Data protection regime applies in relation to certain personal data if the information is sufficient for nature persons to be identified; certain issues may be addressed via consent and disclosure
Italy	• PD and MAD implemented • TD will be implemented by means of a legislative decree to be issued by the Government in accordance with article 1 of Law No. 29 of 25 January 2006 • Although bank secrecy does not have a specific discipline under Italian law, it is considered to exist as either as a corollary of the parties' general obligation to act in good faith (<i>buona fede</i>) or as a custom right (<i>diritto consuetudinario</i>); the disclosure or transfer of information can take place with the customer's consent or in accordance with Legislative Decree No. 196 of 30 June 2003 (the 'Privacy Code', <i>Codice in Materia di Protezione dei Dati Personali</i>) • Data protection regime under the Privacy Code applies in relation to any data if the information is sufficient for the natural or artificial persons to be identified; in each case, data can be disclosed with the consent of the interested person (consent is not necessary if, inter alia, the disclosure takes place to comply with an applicable law or regulation, either national or European) • Depending on the content of the communication/disclosure, its unrestricted publication may fall within the scope of the financial promotion regime and/or give raise to certain requirements (in principle, several issues may be able to be addressed via disclaimers and certain other practices)
Luxembourg	• PD, TD and MAD implemented; Provisions implementing the TD not yet in force • Primarily a relevant jurisdiction due to popularity as a listing jurisdiction • Although marketing activities are not expressly regulated under the Luxembourg act dated 5 April 1993 relating to the financial sector, as amended (the Banking Act 1993), the Luxembourg financial sector regulator, the <i>Commission de surveillance du secteur financier</i> (the CSSF) generally considers that marketing activities may be freely carried out by a Luxembourg entity or by a foreign entity in Luxembourg (though applicable conduct of business rules need to be observed); Marketing materials no longer have to be approved by the CSSF

	• Principle of bank secrecy/duty of confidence is recognised in respect of certain customer information if the information is sufficient for customers to be identified; Luxembourg banking secrecy is public order and, accordingly, it cannot be waived. It is however generally accepted that a client may (if it is in his/her interest), under certain circumstances and provided certain requirements are met, authorise his/her bank to disclose information to a third party • Data protection regime applies in relation to the processing of personal data (i.e. information sufficient to allow a natural person to be identified); Any personal data processing must be notified to the Luxembourg Data Protection Authority (exemptions apply to certain standard processing)
Portugal	• PD, MAD and TD implemented • Financial intermediary activity regime applies to restrict promotional communications, unless the communication is made by an authorised financial intermediary or in the context of an approved public offering of securities • Principle of bank secrecy is recognised in respect of customer information; bank secrecy rules do not apply to information which is anonymised, provided that it will not be possible to identify the client, bank account or a particular transaction; restrictions apply to information disclosure or transfer • Data protection regime applies in relation to certain personal data if the information is sufficient for natural persons to be identified
Spain	• PD, MAD and TD implemented • Principle of bank secrecy is recognised in respect of customer information; regime is derived directly from the Spanish Constitution and the data protection regime, but there is no specific legislation dealing with the regime and/or the obligation of financial entities • Data protection regime applies in relation to certain personal data if the information is sufficient for natural persons to be identified
The Netherlands	• PD and MAD implemented; [TD not yet fully implemented] • Principle of bank secrecy is recognised in respect of customer information; restrictions apply to information disclosure or transfer but not if information is in anonymous form • Data protection regime applies in relation to certain personal data of natural persons (and probably sole proprietors) if the information is sufficient for such natural persons to be identified



M. Questionnaire for Development of Standardised Definitions for RMBS

Background and Purpose

The purpose of this questionnaire is to obtain feedback on market perceptions of what the meaning of various definitions are in the RMBS market, and how these definitions could be made more consistent. This draft questionnaire attempts to clarify the meaning of “subprime,” “non-conforming” and other terms, with an aim to develop standardised definitions to enhance global investor understanding and transparency.

Dear RMBS market participant,

The European securitisation industry has agreed to develop standardised definitions which can be used in various countries for various products, in order to improve market transparency and consistency of terms. The purpose of the survey is to help promoting investor understanding about common terms and improved clarity in the global residential mortgage-backed securitisation (RMBS) market. The overarching aim is going forward to have common understanding of terms that are used with different meaning across jurisdictions in RMBS documentation (including offering documents and ongoing reports).

The survey is divided into two main parts:
Part I dealing with general sector definitions;
Part II dealing with sub sector definitions for RMBS.

This survey is a very important part of the industry commitment to the European Commission to improve transparency, consistency and information circulation on securitised products. Similar surveys are being conducted for other assets classes.

We kindly ask you to complete the questionnaire below which will take approximately 30 minutes. We have included some proposed definitions which may help completing the questionnaire. We look forward to your response as soon as possible and at the latest by 2008 in either word or pdf format. The information requested is very important and will be treated with the highest confidentiality. The ESF will keep individual responses to this survey in strict confidence. Only aggregate results will be shared with ESF members, respondents to the survey and with other market constituents.

Content:

About You

Part I - Sector Definitions for Securitisation and RMBS

Part II - Sub Sector Definitions for RMBS

General Comments and Suggestions
Annex 1: Definitions from Existing Glossaries
Annex 2: Summary of Global Definitions for Residential Mortgages
Sources

About You

A. Name of person completing

B. Name of department

C. Name of organisation

D. Category of your organisation, please underline one that best describes your company:

Insurer
Investment Bank
Investor
Issuer
Rating Agency
Servicer
Trade Organisation
Trustee
Other (please specify).....

E. Regional area, please underline one of the following that best describes the majority of your work focus:

Asia-Pacific
Continental Europe
UK
US
Other (please specify).....

Part I - General Definitions for Securitisation

What definitions would you give for the following general terms?

1.1 Structured Finance

A type of financing in which the credit quality of the debt is assumed to be based on a direct guarantee from a creditworthy entity or on the credit quality of the debtor's assets, with or without credit enhancement, rather than on the financial strength of the debtor itself.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

1.2 Structured Credit

Structured credit is a sector of the finance industry that uses legal and credit techniques to transfer risks between parties.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

1.3 Synthetic Transactions

Transactions in which the payments by the issuer reference interest and principal payments on a pool of loans or other financial aspects but are not funded by the cash flows from the reference loans.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

1.4 Residential Mortgage-Backed Securities (RMBS)

RMBS are securities where the primary source of payments is a mortgage loan or a pool of mortgage loans secured on residential real property. Investors receive payments of interest and principal that are derived from payments received on the underlying mortgage loans.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

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Part II - Sub Sector Definitions for RMBS

Usage of the following terms are not intended to be mutually exclusive and only apply to one sector of the market. For example, 'non-conforming' or 'subprime' could be included in various national definitions. What definitions would you give for the following RMBS sub-sectors?

2.1 US Conforming

A mortgage loan that meets all requirements (size, type, and age) to be eligible for purchase or securitisation by US federal agencies, such as Fannie Mae, Freddie Mac and Ginnie Mae.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

2.2 US Prime

A loan made to a borrower with the highest credit classification, which is broadly evidenced by: loan-to-value up to 80%, FICO¹³ score higher than 710, debt-to-income ratio up to 45%, a mortgage history existing of no 30-day late mortgage payments in last 12 months, and a loan balance that is greater than Fannie Mae and Freddie Mac limit.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

2.3 US Jumbo

A loan with a balance higher than the maximum (the 'conforming loan limit') that is eligible for purchase by the US federal agencies, such as Fannie Mae, Freddie Mac and Ginnie Mae. Jumbo loans may be originated in prime, alt-a, or subprime markets, and by definition are non-conforming.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

2.4 European Conforming or Prime

¹³ In the United States, a credit score is a number that is based on a statistical analysis of a person's credit report, and is used to represent the creditworthiness of that person—the likelihood that the person will pay his or her debts. A credit score is primarily based on credit report information, typically from the major credit bureaus.

UK mortgage loans: no CCJ¹⁴s last 3 years, no mortgage arrears last 3 years, no other defaults or arrears last 3 years, IVA¹⁵ satisfactorily conducted last 3 years, no bankruptcy discharge last 3 years.

German mortgage loans: Schufa¹⁶ = 538 -1000

Dutch mortgage loans: BKR¹⁷ = 0

French mortgage loans: Debt service coverage up to 33%, LTV up to 80% and clear payment history.

Italian mortgage loans: TBD

Spanish mortgage loans: TBD

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

2.5 US Near Prime (including Alt-A)

A first lien mortgage loan made to a borrower whose credit history is broadly evidenced by: increase in % of loan-to-value above 80%, FICO score of 660 - 710, debt-to-income ratio up to 50%, a mortgage history existing of max one 30-day late mortgage payments in last 12 months, a loan balance that is a mix of greater and less than Fannie Mae and Freddie Mac limit and a higher percentage of reduced documentation requirements.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

2.6 European Near Prime

¹⁴ In England and Wales, County Court Judgments (CCJs) are legal decisions handed down by County Courts. Judgments for monetary sums are entered on the Register of County Court Judgments, which is checked by credit reference agencies to assess the credit-worthiness of individuals.

¹⁵ In the UK, Individual Voluntary Arrangements (IVAs) are a formal alternative for individuals wishing to avoid bankruptcy. The IVA was established by the Insolvency Act 1986 and constitutes a formal repayment proposal presented to a debtor's creditors via an Insolvency Practitioner. Usually the IVA compromises only the claims of unsecured creditors, leaving the rights of secured creditors largely unchanged. An IVA is a contractual arrangement with creditors and can be as flexible as an individual's own circumstances; they can therefore be based on capital, income, third party payments or a combination of these.

¹⁶ In Germany, the Schufa coding is used to categorise mortgage loans. The Schufa coding is a mathematic model and gives mortgage borrowers a number from 0 to 1000 based on the probability that a borrower would fall behind in payment, which probability is based on the credit history of the borrower (1000: the probability is zero; 0 there is a high probability).

¹⁷ In the Netherlands the Bureau Krediet Registratie (BKR) coding is used to categorise mortgage loans. The BKR coding gives mortgage borrowers a number from 0 to 1000 based on credit history (0 shows a very good credit history, 1000 shows a very bad credit history). The specific BKR number assigned to each borrower is based on the following elements: continuous and expiring credit loans, existing mortgage for own residential property, debt controlling, telecommunication debts and other arrears.

UK mortgage loans: no CCJs last 3 years, no mortgage arrears last 12 months, max 2 other defaults or arrears last 12 months, IVA satisfactorily conducted last 3 years, no bankruptcy discharge last 3 years.

German mortgage loans: TBD

Dutch mortgage loans: TBD

French mortgage loans: TBD

Italian mortgage loans: TBD

Spanish mortgage loans: TBD

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

2.7 US Non-Conforming

A mortgage loan that does not meet all requirements (size, type, and age) to be eligible for purchase or securitisation by US federal agencies, such as Fannie Mae, Freddie Mac and Ginnie Mae.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

2.8 US Non-Conforming Prime

A mortgage loan that does not meet all requirements (size, type, and age) to be eligible for purchase or securitisation by US federal agencies, such as Fannie Mae, Freddie Mac and Ginnie Mae, but that at the same time is made to a borrower with the highest credit classification, which is broadly evidenced by: loan-to-value of 70% - 75%, FICO¹⁸ score higher than 710, debt-to-income ratio up to 45%, a mortgage history existing of no 30-day late mortgage payments in last 12 months, and a loan balance that is greater than Fannie Mae and Freddie Mac limit.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

2.9 European Non-Conforming

Any mortgage loan that is not Conforming or Prime.

UK mortgage loans: CCJs last 3 years, one or more mortgage arrears last 12 months, IVA satisfactorily conducted, bankruptcy discharged.

¹⁸ In the United States, a credit score is a number that is based on a statistical analysis of a person's credit report, and is used to represent the creditworthiness of that person—the likelihood that the person will pay his or her debts. A credit score is primarily based on credit report information, typically from the major credit bureaus.

German mortgage loans: Schufa = < 538

Dutch mortgage loans: BKR = >0

French mortgage loans: TBD

Italian mortgage loans: TBD

Spanish mortgage loans: TBD

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

2.10 US Subprime or Adverse

A loan made to a borrower that typically has a weakened credit history, which is broadly defined by: loan-to-value higher than 80%, FICO score lower than 660, debt-to-income ratio up to 55%, a mortgage history existing of no 30-day late mortgage payments to multiple 60-day late mortgage payments in last 12 months, and a loan balance that is generally lower than Fannie Mae and Freddie Mac limit.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

2.11 European Subprime

European subprime is a smaller universe of European non-conforming. This is because subprime does not generally include Buy-to-Let and other European specific mortgage types.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

2.12 European Adverse

European Adverse is divided into six categories:

1. Ultra-light adverse

UK mortgage loans: CCJs: max GBP500 last 3 years; mortgage arrears: max 1 last 12 months (0 last 3 months); IVA: satisfactorily conducted last 3 years; Bankruptcy: discharged 3 years.

German mortgage loans: Schufa = 471 - 537

Dutch mortgage loans: BKR = 0 - 26

French mortgage loans: TBD

Italian mortgage loans: TBD

Spanish mortgage loans: TBD

2. Light adverse

Spanish mortgage loans: TBD

Spanish mortgage loans: TBD

Spanish mortgage loans: TBD

Spanish mortgage loans: TBD

Spanish mortgage loans: TBD

If you would like to improve it, please enter your suggested definition below.

2.13 European Buy-to-Let

A mortgage loan that is advanced to purchase a residential property as an investment by a private or semi-professional landlord.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

2.14 European Right-to-Buy

A mortgage on a public property typically owned by the local council offered to the tenant/s under specific conditions.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

2.15 US / European Equity release

A mortgage given to owners of al older age to release a certain amount of equity from their property in a lump sum or regular instalments.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

2.16 US / European Non Performing Loans

Transactions where the underlying collateral is a portfolio of loans usually comprising loans to borrowers that are secured on real estate, unsecured loans to borrowers who have other secured loans and unsecured loans to non connected borrowers and where the borrowers have typically missed one or more loan repayments on a debt obligation.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

Comments /Suggestions

1. Are there any missing terms you see relevant for RMBS? Please specify each and provide a definition.

2. Are there other sub-sectors which you would view as RMBS which do not fit within the sub-sectors outlined above? Please specify each and provide a definition.

3. Please specify any further suggestions you have to improve transparency by using standardised definitions at this level.

Annex 1
Definitions from Existing Glossaries

Structured Finance	Asset Securitization Report /Structured finance; structured products: Usually synonymous with ‘securitization,’ sometimes used in a broader sense to include project finance (i.e., financing of roads, airports, and other major public projects that will generate tolls or user fees to repay bonds) and certain types of non-ABS equipment financing such as equipment trust certificates (ETCs). Moody’s Investors Service / Structured finance: Financial instruments that are customized, or structured, to meet the specific needs of investors, typically by dividing pools of other financial instruments into various tranches with unique credit and payment characteristics. Structured finance instruments can involve highly complex transactions. Examples include collateralized debt obligations, collateralized loan obligations, collateralized mortgage obligations, mortgage-backed securities, and asset-backed securities. Standard & Poor’s / Structured Finance: A type of financing in which the credit quality of the debt is assumed to be based on a direct guarantee from a creditworthy entity or on the credit quality of the debtor’s assets, with or without credit enhancement, rather than on the financial strength of the debtor itself. Thacher Proffitt / Structured Finance: A broad term that refers to the sale and financing of financial assets using techniques that isolate the assets from the seller. ‘Financial assets’ typically include mortgage loans, auto and other consumer loans, credit card accounts, HELOCs, business and commercial loans, leases, and other assets that convert to cash.

Structured Credit	
RMBS	GMAC RFC Industry Glossary / Mortgage-backed security (MBS): An investment instrument backed by mortgage loans as security. Ownership is evidenced by an undivided interest in a pool of mortgages or trust deeds. Income from the underlying mortgages is used to pay interest and principal on the securities. Asset Securitization Report / Mortgage backed security; MBS: Securities backed by specific mortgage loans and the payments on which are tied to or derived from the cash flows produced by the underlying mortgage loans. The term ‘MBS’ sometimes refers specifically to mortgage pass-through certificates issued or guaranteed by Ginnie Mae, Fannie Mae, or Freddie Mac. In other contexts, the term is used more broadly to include CMOs/REMICs as well as MBS issued by private sector entities (i.e., private label MBS). Ambac Global Structured Finance / Residential Mortgages: Residential mortgages are loans made to borrowers, secured by a first mortgage on the property. These mortgages may be made for purchase of a residence or for refinancing of an existing mortgage. These loans require regular scheduled payments of principal and interest. Some of the loans in residential mortgage pools may have an interest only period prior to the beginning of principal amortisation. The balance of a securitization of residential mortgage loans will amortise as the loans are repaid, whether on schedule or by prepayment. Moody’s Investors Service / Mortgage-backed security (MBS): A type of bond that is ‘backed by’ mortgages. The cash flow on the bond is derived from the underlying mortgage payments. Essentially, the investor is lending money to a group of homeowners, with the principal and interest from the individual mortgages being ‘passed through’ to the investor by the bank issuing the security (the originator). The bank, in other words, is a middle man between homebuyers and investors, ‘packaging’ various mortgages into a single, diversified financial instrument. A distinction is made between residential mortgage-backed securities (RMBS), which are backed by personal mortgages, and commercial mortgage backed securities (CMBS), which are backed by commercial real estate loans. Euro ABS / Residential Mortgages: Issuance backed by a portfolio of Residential Mortgages. Standard & Poor’s / Mortgage-Backed Securities (MBS): MBS include all securities whose security for repayment consists of a mortgage loan or a pool of mortgage loans secured on real property. Investors receive payments of interest and principal

	that are derived from payments received on the underlying mortgage loans. Standard & Poor's / Residential Mortgage-Backed Securities (RMBS): RMBS are securities that involve the issuance of debt that is secured by a pool of mortgage loans that have a lien over on residential properties. SIFMA Standard Formulas / Mortgage-Backed Securities (MBS): The term mortgage-backed securities is a generic term that, for purposes of these <i>Uniform Practices</i>, refers to securities backed by mortgages, pass-through securities, mortgage-backed bonds, mortgage pay-through securities and CMOs. The term also includes all commitments or arrangements to purchase or sell such securities, including stand-by contracts, but, for purposes of these <i>Uniform Practices</i>, does not include repurchase agreements, reverse repurchase agreements, transactions for future delivery or options on mortgage-backed securities executed on a contract market or an exchange.
Conforming	GMAC RFC Industry Glossary / Conforming mortgage loan: A mortgage loan that meets all requirements (size, type, and age) to be eligible for purchase or securitization by federal agencies. Asset Securitization Report / Conforming mortgage loan: Mortgage loan that satisfies the guidelines of Fannie Mae or Freddie Mac. In general, a conforming loan must be of prime quality and its principal amount must be below a threshold level established each year by the federal government. Prime-quality loans that exceed the threshold (but which otherwise satisfy the guidelines) are called 'jumbo mortgage loans.'
Prime	Euro ABS / Prime: Only applies to residential mortgage issuance, which conforms to a conservative lending policy: adequate lender documentation, acceptable LTV, good credit history for all mortgagees. Standard & Poor's / Prime Loan: A mortgage loan where both the underwriting criteria applied to the loan (loan-to-value, debt-to-income, etc.) and the credit history of the borrower (lack of previous arrears, bankruptcies, etc.) are sufficiently conservative for it to be considered a higher-quality and lower-risk loan. Thacher Proffitt / Prime Loan: A loan made to a borrower with the highest credit classification ('A' credit).
Near-Prime	GMAC RFC Industry Glossary / Non-prime: A mortgage granted to a borrower considered non-prime, that is, a person with a less-than-perfect credit report. Non-prime borrowers have either missed payments on a debt or have been late with payments. Lenders charge a higher interest rate to compensate for potential losses from customers who may run into trouble or default.

Non-Conforming	GMAC RFC Industry Glossary / Non-conforming mortgage loans: A mortgage loan in which the loan amount, the loan-to-value ratio, the term, or some other aspect of the loan exceeds permissible limits as specified in agency regulations. Euro ABS / Non-Conforming: Non-conforming loan, which is a loan that fails to meet the usual banking criteria for funding. These NON-CL's can include: borrowers with CCJ's; self-employed with limited credit history; former bankruptees, high LTVs. Standard & Poor's / Nonconforming Mortgage: A residential mortgage loan that does not fully conform to traditional 'prime' underwriting criteria. This is generally because the borrower has a limited or imperfect credit history, or the provision of income documentation is either incomplete or self-certified. SIFMA Standard Formulas / Nonconforming Loan: A loan that does not meet the size limits mandated by Congress for loans that Fannie Mae and Freddie Mac can buy. Also called a jumbo loan.
Subprime	GMAC RFC Industry Glossary / Non-prime: A mortgage granted to a borrower considered non-prime, that is, a person with a less-than-perfect credit report. Non-prime borrowers have either missed payments on a debt or have been late with payments. Lenders charge a higher interest rate to compensate for potential losses from customers who may run into trouble or default. Euro ABS / Subprime: Only applies to residential mortgage issuance, one or more mortgagors has a certified bad credit history. Standard & Poor's / Subprime Mortgage Loan: A first- or second-lien residential mortgage loan made to a borrower who has a history of delinquency or other credit problems. Thacher Proffitt / Sub-prime Receivable: A loan made to a borrower with the lowest credit classification ('B' or 'C' credit). Sub-prime Loans are typically characterized by high rates of interest, points and fees at origination.
Buy-to-let	Euro ABS / Buy-to-let: The issue includes at least some BTL mortgage loans. Standard & Poor's / Buy-to-Let Loan: A mortgage loan that is advanced to purchase a residential property as an investment by a private or semiprofessional landlord.

Right-to-buy	
Equity release	
Net interest margin / residual repack	Standard & Poor's / Net Interest Margin Security (NIM): A type of security whereby noteholders receive excess cash flows from an underlying pool of securitized assets (for instance, mortgages) after other payments and obligations have already been met. Thacher Proffitt / Net Interest Margin Security or NIM: A bond which has a principal component and an interest component which is collateralized by a subordinate excess interest bond or bonds from a prior transaction. Typically a NIM securitization converts a portion of the unrated subordinate cash flow into a rated bond.
Second charge	GMAC RFC Industry Glossary / Second mortgages: A mortgage that has rights secondary to the first mortgage. Standard & Poor's / Second-Lien Mortgage Loan: A loan secured by a mortgage or trust deed, the lien of which is junior to the lien of another mortgage or trust deed.
Non-Performing	GMAC RFC Industry Glossary / Non-performing loan: A loan that has not fulfilled one or more of the terms, covenants, conditions or obligations required under the mortgage. Asset Securitization Report / Non-performing mortgage loan: A residential mortgage loan that is in default and on which the borrower has ceased making payments. In essence, a non-performing loan represents the right to the eventual proceeds of the foreclosure on or other disposition of the underlying mortgaged property. Sometimes a servicer can resolve a non-performing loan with techniques other than foreclosure. Examples include taking a deed in lieu of foreclosure or helping the borrower to sell the property. In any such case, the servicer's objective is the same: to maximize the recovery on the loan as quickly as possible. In choosing the best strategy, a servicer must be able to accurately assess both the value of the underlying property and the time required for the whole foreclosure/liquidation process. Standard & Poor's / Nonperforming Loan: A term used to describe a loan or other receivable with respect to which the obligor has failed to make a certain number of (for instance, three) scheduled payments.
Pass	Asset Securitization Report / Pass-through: A security that provides for the distribution of collections or proceeds from specific underlying assets to investors. The collections or proceeds are said to be 'passed through' to the investors. Basic MBS

through	(i.e., not CMOs) generally are described as pass-throughs because monthly distributions to investors exactly reflect collections on the underlying mortgage pool, less the servicing fee. Pass-through securities represent ownership interests in the underlying assets. Pass-through securities typically are issued by ‘grantor trust’ SPEs. Pass-through structures can provide for the creation of distinct senior and subordinate interests for the disproportionate allocation of credit risk. However, pass-through structures cannot accommodate time tranching in the manner of CMOs. Securities that involve elaborate allocations of cash-flows among multiple classes or tranches generally are not pass-throughs. See ‘collateralized mortgage obligation’ and ‘tranche.’ SIFMA Glossary of Bond Terms / Mortgage pass-through security: A security representing a direct interest in a pool of mortgage loans. The pass-through issuer or servicer collects the payments on the loans in the pool and ‘passes through’ the principal and interest to the security holders on a pro rata basis. Mortgage pass-through securities are also known as mortgage-backed securities (MBS) and participation certificates (PC). Standard & Poor’s / Pass Through: This term is used in the priority of payments where all principal payments are passed through to noteholders, as received in the order of priority, until the notes are redeemed. Thacher Proffitt / Pass-Through: A pass-through certificate is generally issued by a grantor trust or other entity which is not considered to be a taxable entity. The certificates evidence ownership of the underlying assets of the trust. Typically, pass-through certificates are issued in a single class with each holder having a pro rata interest in the assets of the trust.
Synthetic	Euro Abs / Synthetic: The owner of the assets has transferred the credit risk to the capital markets via the bond issue. However, actual ownership of the reference obligations (which can be static, or be replenished) remains with the protection buyer. Standard & Poor’s / Synthetic Securities: Securities that are designed to modify the cash flows generated by underlying asset securities and that are rated based primarily on the creditworthiness of the asset securities and currency or interest rate swaps, or other similar agreements. Thacher Proffitt / Synthetic CDO: A CDO transaction in which the pool of ‘assets’ are primarily credit derivatives entered into by the related SPE, and not assets purchased for cash, and the ‘liabilities’ are portfolio credit derivatives and/or cash securities referencing such asset pool.
red loan	Asset Securitization Report / Secured debt; secured loan: Debt supported by collateral that the lender can seize and sell if the borrower fails to repay the debt. Secured debt is generally viewed as safer than unsecured debt, which lacks the benefit of collateral. In making a secured loan, a lender generally considers (1) whether the borrower historically has paid his debts on time, (2) the borrower's financial capacity to repay the debt, and (3) the value of the assets serving as collateral for the debt. If

	the value of collateral equals or exceeds the amount of the secured obligation, the debt is said to be ‘fully secured.’ Moody’s Investors Service / Secured bond: A bond backed by collateral which, in the event of default, would be transferred to the bondholders for liquidation. The most common form of collateral is real estate or equipment, but bonds may also be secured by revenue from a project or operation that the bond has been issued to finance. Secured bonds are usually safer, investment-grade instruments, and are paid off first if an issuer is in default and has both secured and unsecured bonds outstanding. Because they carry less risk, they usually pay a lower yield. Standard & Poor’s / Secured Loan: A type of secured debt in the form of a loan. Secured Debt: Borrowing that is made, in part, on the basis of security pledged by the borrower to the lender.
Master trust	Asset Securitization Report / Master trust: A type of SPE that issues multiple series of securities (at different times), all of which are backed by a common pool of collateral. Master trust SPEs are most often seen in the context of credit card securitizations. Standard & Poor’s / Master Trust: An SPE that issues multiple series of securities backed by a single pool of assets, with the cash flow generated by the assets being allocated between the series according to a predetermined formula. Thacher Proffitt / Master Trust: A type of Securitization trust, most often used with credit card structures, which allows revolving assets to be sold into a Master Trust. The Master Trust then either issues certificates directly to investors or, more commonly, issues series certificates to series trusts formed for the purpose of acquiring the series certificates and then issuing notes backed by those series certificates to investors.

Annex 2
Summary of Global Definitions for Residential Mortgages

	Euro Zone	United Kingdom¹⁹	United States²⁰
Conforming		CCJs: 0 last 3 years; mortgage arrears: 0 last 3 years; other defaults and arrears: 0 last 3 years; IVA: satisfactorily conducted last 3 years; Bankruptcy: discharged more than 3 years. Same as 'Prime'.	A mortgage loan that meets all eligibility requirements set by the GSEs (Government Sponsored Enterprises – Fannie Mae and Freddie Mac).
Jumbo		'Jumbo' is not used in the UK RMBS sector.	A loan with a balance higher than the maximum (the 'conforming loan limit') that is eligible for purchase by the GSEs. Jumbo loans may be originated in prime, alt-a, or subprime markets, and by definition are non-conforming.
Prime	Germany: Schufa = 538 - 1000 The Netherlands: BKR = 0	CCJs: 0 last 3 years; mortgage arrears: 0 last 3 years; other defaults and arrears: 0 last 3 years; IVA: satisfactorily conducted last 3 years; Bankruptcy: discharged more than 3 years. Same as 'Conforming'.	A mortgage loan to a borrower with relatively higher credit quality as evidenced by high FICO scores (>720), relatively lower DTI, consistent repayment performance on previous loans, or other criteria. LTV = 70% - 75% FICO = > 710 Debt-to-Income = up to 45%

¹⁹ The United Kingdom illustrative mortgage definitions are based on a combination of county court judgements (CCJ) in the last three years with a specific maximum value, number of arrears in the last twelve months, individual voluntary arrangements (IVA), and bankruptcy discharged years before application. The numbers are ESF estimates and based on data from Fitch Ratings, GMAC RFC, Barclays Capital, and illustrative data provided by UK Council of Mortgage Lenders.

²⁰ The numbers are ESF estimates and based on data from the American Securitization Forum, Fitch Ratings, GMAC RFC, and Barclays Capital.

			Mortgage history = 0 x 30-day late mortgage payments in last 12 months Loan balance = greater than Fannie and Freddie Mac limit
“Near Prime”		CCJs: 0 last 3 years; mortgage arrears: 0 last 12 months; other defaults and arrears: max 2 last 12 months; IVA satisfactorily conducted last 3 years; Bankruptcy: discharge more than 3 years.	
Alt-A		‘Alt-A’ is not used in the UK RMBS sector.	A first lien mortgage loan made to a borrower whose credit is generally within typical Fannie Mae or Freddie Mac guidelines, but with other loan characteristics that do not conform to those guidelines. An Alt-A Loan may have a higher Loan to Value or may have excluded certain documentation or verifications required by Fannie Mae or Freddie Mac. Lenders in Alt A loans typically rely more on a borrower’s credit score than on the adequacy of the underlying collateral when making their lending decisions. LTV = 75% - 80% FICO = 660 - 710 Debt-to-Income = up to 50% Mortgage history = max 1 x 30-day late mortgage payments in last 12 months

			Loan balance = mix of greater and less than Fannie and Freddie Mac limit S&P = The Alt-A market, in contrast, combines various collateral types, including pay- option ARM loans that allow the borrower to negatively amortize, fixed-rate loans, and both short- and long-reset (5/1, 7/1, or 10/1) ARM loans. In generally three categories fall into Alt-A: · Fixed-rate and longer-dated hybrid ARM loans; · Negative amortization (pay-option) ARM loans; and · Short-reset hybrid ARM (2/28 and 3/27) loans.
Subprime			The term subprime refers to the credit characteristics of individual borrowers. Subprime borrowers typically have weakened credit histories that include payment delinquencies and possibly more severe problems such as charge-offs, judgments, and bankruptcies. They may also display reduced repayment capacity as measured by credit scores, debt-to-income ratios, or other criteria that may encompass borrowers with incomplete credit histories. Subprime loans are loans to borrowers displaying one or more of these characteristics at the time of origination or purchase. Such loans have a higher risk of default than loans to prime borrowers

			LTV = > 80% FICO = < 660 Debt-to-Income = up to 55% Mortgage history = 0 x 30-day late mortgage payments to multiple 60-day late mortgage payments in last 12 months Loan balance = generally lower than Fannie and Freddie Mac limit
Adverse or Conforming	Germany: Schufa = <538 The Netherlands: BKR = >0	Anything that is not 'Prime' / 'Conforming'.	Non conforming loans are loans which are not eligible for purchase by the GSEs due to credit, loan size, or other criteria.
Ultra-light adverse	Netherlands: BKR = 0 -26 Germany: Schufa = 471 - 537	CCJs: max GBP500 last 3 years; mortgage arrears: max 1 last 12 months (0 last 3 months); IVA: satisfactorily conducted last 3 years; Bankruptcy: discharged 3 years	
Light adverse	Netherlands: BKR = 26-35 Germany: Schufa = 398 -	CCJs: max GBP1,500 last 3 years; mortgage arrears: max 1 last 12 months (0 last 3 months); IVA: satisfactorily conducted last 1 year; Bankruptcy: discharged 1 year	

	470		
Medium adverse	Netherlands: BKR = 36-65 Germany: Schufa = 315 - 397	CCJs: max GBP4,000 last 3 years; mortgage arrears: max 2 last 12 months (max 1 in last 3 months); IVA: satisfactorily conducted 1 year; Bankruptcy: discharged 1 year	
Heavy adverse	Netherlands: BKR = 66-115 Germany: Schufa = 204 - 314	CCJs: max GBP7,500 last 3 years; mortgage arrears: max 3 last 12 months (max 1 last 3 months); IVA: satisfactorily conducted; Bankruptcy: Discharged	
Heavy-plus adverse	Netherlands: BKR = 116-255 Germany: Schufa = 128 - 203	CCJs: max GBP10,000 last 3 years; mortgage arrears: max 4 last 12 months; IVA: Satisfactorily conducted; Bankruptcy: Discharged	
Unlimited adverse	Netherlands: BKR = 256-1000 Germany: Schufa = 90-127	CCJs: unlimited; mortgage arrears: unlimited; IVA: Satisfactorily conducted; Bankruptcy: Discharged	

Unclassified adverse		A mortgage that could not be classified into the previous adverse categories.	
Buy-to-let²¹		A mortgage on a property that is not the borrower's primary residence, but that the borrower has purchased in order to obtain an investment return.	
Right-to-buy		A mortgage on a public property typically owned by the local council offered to the tenant/s under specific conditions.	
Equity release		A mortgage given to owners of an older age to release a certain amount of equity from their property in a lump sum or regular instalments.	

²¹ Both buy-to-let and right-to-buy are identified as non-conforming in the UK as these types of mortgages they do not hinge on the borrower's credit quality.

Sources

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UK Council of Mortgage Lenders, draft UK Credit Segments Review (unpublished illustrative information, in draft form)

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SIFMA 'Glossary of Bond Terms': <http://www.investinginbonds.com/story.asp?id=52#M>

Ambac 'Global Structured Finance': http://www.ambac.com/CABS_glossary.html#MB

Moody's Investors Service 'A Glossary of Capital Market Terms for Non-Finance Professionals': http://www.elcinfo.com/pdf/Moody%20SP2913_Glossary%20of%20Credit%20Terms.pdf

Euro ABS 'Issue Categorisation Glossary': <http://www.euroabs.com/Categorisation.aspx>

Standard & Poor's 'Structured Finance - Glossary of Securitization Terms': http://www2.standardandpoors.com/spf/pdf/media/SF_English_Glossary.pdf

Thacher Proffitt 'Common Terms in Structured Finance': http://www.tpw.com/resources/documents/Thacher_Proffitt_SF_Common_Terms_Nov_07.qxd.pdf

SIFMA, Standard Formulas, Chapter 2, 'Definitions of Common Terms'

Fitch 'Adverse Credit Labels in UK Non-Conforming RMBS': http://www.fitchratings.com/corporate/login/login.cfm?script_name=%2Fcorporate%2Freports%2Freport%5Fframe%2Ecfm&query_string=rpt%5Fid%3D312782%26sector%5Fflag%3D5%26marketsector%3D2%26detail%3D1

Standard & Poor's Revised Default and Loss Curves for U.S. Alt-A RMBS Transactions: http://www2.standardandpoors.com/spf/pdf/fixedincome/Dec_19_AltA_methodology.pdf

GMAC RFC General Prime and Subprime Characteristics: www.gmacrfc.com/investors

O. (1) Questionnaire for Development of Standardised Definitions for CMBS

Background and Purpose

The purpose of this questionnaire is to obtain feedback from the CMBS market on the development of standardised definitions for CMBS.

Dear CMBS Market Participant,

The European securitisation industry has been asked by the European Commission to develop standardised definitions which can be used in various European countries for various products, in order to improve market transparency and consistency of terms. The purpose of the survey is to help promote better investor understanding about common terms and improved clarity of transaction structures in the global securitisation market. CMSA-Europe is joining with our colleagues at the European Securitisation Forum as part of an all industry effort.

Our members in Europe will be aware that the European Commission has put considerable pressure on the securitisation industry to rapidly improve transparency and information on securitised products. Whilst we have achieved much in CMBS, there remains work to be done. Clearly European investors have also invested in CMBS products outside of Europe so views of market participants in those areas are also very welcome.

Definitions may seem like an unusual issue to include in the initial work, but the European Commission is concerned about the a la carte way securitisation definitions are used by arrangers, issuers and investors. It has proved difficult for example to even agree a definition of subprime in RMBS, let alone work out the exposure of European financial institutions to that sub sector. Consequently, the final definitions we propose are likely to be in widespread use in Europe for arrangers, issuers and investors either voluntarily or perhaps with coercion. It is worth spending time in our view to get the definitions correct and, if possible avoid the latter.

The survey is divided into three parts:
Part I deals with general definitions for securitisation;
Part II deals with CMBS definitions; and
Part III asks for comments and suggestions.

We kindly ask you to spend some time to complete the questionnaire below which will take approximately 30 minutes. To help, we have suggested a definition in italics and given space below in each case for any improvement you may suggest.

We look forward to your response as soon as possible and at the latest by 18 April 2008. The information requested is very important and will be treated with the highest confidentiality. CMSA-Europe and the ESF will keep individual responses to this survey in strict confidence. Only aggregate results will be shared with CMSA-Europe and ESF members, respondents to the survey and with other market constituents.

Should you have any questions on the questionnaire, please do not hesitate to contact carol@cmbs.org.

Please return this questionnaire in either word or pdf form to Carol at the above email address.

Yours truly,

Cecilia Tarrant
Chair, CMSA Europe

CMSA-Europe/ESF Definitions Questionnaire, April 2008

**Please complete by typing in the box and returning a word document or pdf to
carol@cmbs.org**

About You

A. Name of person completing

B. Name of department

C. Name of organisation

D. Category of your organisation, please underline one that best describes your company:

- Insurer
- Investment Bank
- Investor
- Issuer
- Rating Agency
- Servicer
- Trade Organisation
- Trustee
- Other (please specify).....

E. Regional area, please underline one of the following that best describes the majority of your work focus:

- Asia-Pacific
- Continental Europe
- UK
- US
- Other (please specify).....

Part I - General Definitions for Securitisation

What definitions would you give for the following general terms?

1.1 Structured Finance

A type of financing in which the credit quality of the debt is assumed to be based on a direct guarantee from a creditworthy entity or on the credit quality of the debtor's assets, with or without credit enhancement, rather than on the financial strength of the debtor itself.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

1.2 Structured Credit

Structured credit is a sector of the finance industry that uses legal and credit techniques to transfer risks between parties.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

1.3 Synthetic Transactions

Debt issuance in which the payments by the issuer reference interest and principal payments on a pool of loans or other financial aspects but are not funded by the cash flows from the reference loans.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

Part II: Sector Definitions for Commercial Mortgage Backed Securitisation

2.1 Commercial Mortgage-Backed Securities (CMBS)

Commercial Mortgage Backed Securities are securities where the primary source of securities payments are interest and principal payments made by borrowers on loans secured on commercial real estate and entities owning commercial real estate. Typically the security for such loans is in the form of first ranking mortgages over commercial real estate.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

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2.2 Commercial Real Estate

Commercial real estate includes all types of land and buildings with the exception of homes occupied by home owners. Commercial real estate loans are typically secured on income producing real estate including office, retail, commercial, industrial, warehousing, healthcare, residential multi family properties and leisure assets.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

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2.3 Fixed Rate Securities

Securities where coupons are fixed.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

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2.4 Floating Rate Securities

Securities where coupons are floating.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

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2.5 Non Performing Loans

Transactions where the underlying collateral is a portfolio of loans usually comprising loans to borrowers that are secured on real estate, unsecured loans to borrowers who have other secured loans and unsecured loans to non connected borrowers and where the borrowers have typically missed one or more loan repayments on a debt obligation.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

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2.6 Single Sponsor CMBS

Transactions where a loan or loans is made to entities controlled by a single sponsor and secured on commercial real estate. Single sponsor CMBS transactions can include transactions with more than one building or a group of buildings.

If you agree with the suggested definition above, please put a **X** here _____
If you would like to improve it, please enter your suggested definition below.

2.7 Multi Sponsor CMBS

Transactions where loans are made to entities controlled by more than one sponsor and are secured on commercial real estate.

If you agree with the suggested definition above, please put a **X** here _____
If you would like to improve it, please enter your suggested definition below.

Part III – Comments and Suggestions

3.1. Are there other transaction structures which do not fit within Q2.3, 2.4 or 2.5? Please specify each and provide a definition.

3.2. Are there any other sub divisions of CMBS which do not readily fit within the two definitions outlined in Q2.6 and 2.7? Please specify each and provide a definition.

3.3. Please specify any further suggestions you have to improve transparency by using standardised definitions.

3.4. Any other comments please ?

Thank you completing the questionnaire. Please return to carol@cmbs.org.

O. (2) Proposed CMBS Specialist Core Definitions
(edited to reflect comments received from members of CMSA Europe)

The feedback on the more general industry wide definitions in Part I of the Questionnaire will be forwarded to the ESF for incorporation into the completed RMBS questionnaire once feedback has been received.

Part II: Sector Definitions for Commercial Mortgage Backed Securitisation

2.1 Commercial Mortgage-Backed Securities (CMBS)

Commercial Mortgage Backed Securities are securities where the primary source of payments for the securities are (or in the case of synthetic CMBS, are referenced to) interest and principal payments made by borrowers on loans secured on commercial real estate and entities owning commercial real estate.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

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2.2 Commercial Real Estate

Commercial real estate includes all types of land and buildings with the exception of owner-occupied homes. Commercial real estate loans are typically secured on income producing real estate including office, retail, commercial, industrial, warehousing, healthcare, residential multi family properties and leisure assets.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

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2.3 Fixed Rate Securities

Securities which accrue interest at a fixed rate

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

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2.4 Floating Rate Securities

Securities which accrue interest at a floating rate.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

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2.5 Non Performing Loan Financing

A financing transaction for which the primary sources of payment are payments and recoveries on loans secured on commercial real estate, unsecured loans to borrowers who have other secured loans and/or unsecured loans to unrelated borrowers, as to which typically the borrowers have missed one or more scheduled loan payments.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

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2.6 Single Sponsor CMBS

Transactions where a loan is or loans are made to entities controlled by a single sponsor and secured on commercial real estate. Single sponsor CMBS transactions can include transactions with more than one building or a group of buildings.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

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2.7 Multi Sponsor CMBS

Transactions consisting of more than one loan where loans are made to entities controlled by more than one unrelated sponsor and are secured on commercial real estate.

If you agree with the suggested definition above, please put a **X** here _____

If you would like to improve it, please enter your suggested definition below.

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P. Progress Report on Investment Industry Principles for Structured Credit Assessment and Credit Valuations

The goal of these structured credit investor industry principles (the ‘Principles’) currently being developed is to promote, among other things, the consistent application of a set of policies and procedures relating to two aspects of all types of securitisation and structured credit transactions: a) credit assessment, in addition to the use of ratings from a credit rating agency, and b) valuations for those investors or portfolios subject to mark to market and/or mark to model requirements. The Principles are applicable across a wide range of securitisation and structured credit products, including but not limited to RMBS, CMBS, ABS, CDOs, whole business securitisations, insurance linked securities and credit linked notes. The Principles are also applicable to a number of jurisdictions (Europe, initially).

Early work on this action point involved adapting the IOSCO hedge fund valuation principles to structured credit and then using this model to address credit assessment. More recently, and following discussion with the Commission, a wider group of European buy-side associations have indicated a willingness to increase their engagement with, or join up to, the working group and have proposed, as a priority, a principles-based model to address over-reliance upon credit ratings (credit assessment) by asset managers. The industry has begun a process to determine which model to use. It is envisaged that the response to over-reliance upon credit ratings will take priority given the absence to date of other meaningful initiatives in this area.

Credit Assessment

This part of the document will, as a priority, explore principles to address weaknesses in the investment processes which come from over-reliance upon credit ratings. Other aspects to be further explored could relate to documented policies and procedures, credit assessment methodologies, consistency of assessments and review procedures.

Valuations

This part of the document will deal with principles relating to valuations of securitisation and structured credit transactions. The issues being explored could include aspects such as roles and responsibilities of the parties involved, aspects of materiality, liquidity as well as consistency of processes/policies, independence and transparency of valuation.