IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

NATIONAL CREDIT UNION ADMINISTRATION BOARD, as Liquidating Agent of Southwest Corporate Federal Credit Union and Members United Corporate Federal Credit Union,	)	Case No.
Plaintiff,	)	**JURY TRIAL DEMANDED**
v.	)	
RBS SECURITIES, INC., f/k/a GREENWICH CAPITAL MARKETS, INC., and RBS ACCEPTANCE, INC., f/k/a GREENWICH CAPITAL ACCEPTANCE INC.,	)	
Defendants.	)	

COMPLAINT

TABLE OF CONTENTS

I. NATURE OF THE ACTION 1

Table 1 2

II. PARTIES AND RELEVANT NON-PARTIES 3

III. JURISDICTION AND VENUE 6

IV. MORTGAGE ORIGINATION AND THE PROCESS OF SECURITIZATION 6

Figure 1
Illustration of the Securitization Process 9

V. RMBS CREDIT RATINGS AND CREDIT ENHANCEMENT 9

Table 2
Credit Ratings 10

VI. THE CREDIT UNIONS' PURCHASES 12

Table 3
Credit Ratings for the Credit Unions' RMBS Purchases 12

VII. THE ORIGINATORS SYSTEMATICALLY DISREGARDED THE UNDERWRITING GUIDELINES STATED IN THE OFFERING DOCUMENTS 14

A. The Surge in Mortgage Delinquency and Defaults Shortly After the Offerings and the High OTD Practices of the Originators Demonstrate Systematic Disregard of Underwriting Standards 15

Table 4
Delinquency and Default Rates for the Credit Unions' RMBS Purchases 16

Table 5
Originator "Originate-to-Distribute" Percentages 22

B. The Surge in Actual Versus Expected Cumulative Gross Losses is Evidence of the Originators' Systematic Disregard of Underwriting Standards 23

Figure 2
Illustration of Expected Gross Losses v. Actual Gross Losses for The Credit Unions' RMBS Purchases....26

C. The Collapse of the Certificates' Credit Ratings is Evidence of Systematic Disregard of Underwriting Guidelines....32

D. Revelations Subsequent to the Offerings Show That the Originators Systematically Disregarded Underwriting Standards....33

1. The Systematic Disregard of Underwriting Standards Was Pervasive as Revealed After the Collapse....33

2. American Home's Systematic Disregard of Underwriting Standards....37

3. BankUnited's Systematic Disregard of Underwriting Standards....41

4. Countrywide's Systematic Disregard of Underwriting Standards....45

5. First National Bank of Nevada's Systematic Disregard of Underwriting Standards....53

6. GMAC's Systematic Disregard of Underwriting Standards....58

7. IndyMac Bank F.S.B.'s Systematic Disregard of Underwriting Standards....61

8. MortgageIT's Systematic Disregard of Underwriting Standards....65

9. Option One Mortgage Corporation's Systematic Disregard of Underwriting Standards....69

10. Silver State Mortgage Company's Systematic Disregard of Underwriting Standards....70

11. WaMu's and Long Beach's Systematic Disregard of Underwriting Standards....72

12. Wells Fargo's Systematic Disregard of Underwriting Standards....83

E. Loans That Did Not Comply with the Underwriting Guidelines Were Routinely Collateral for RBS-Underwritten RMBS 87

F. Additional Evidence Confirms That Defective Loans Were Routinely Packaged into RBS's RMBS....89

VIII. THE OFFERING DOCUMENTS CONTAINED UNTRUE STATEMENTS OF MATERIAL FACT....90

Table 6
Originators Supplying Loans for Each RMBS at Issue 91

A. Untrue Statements Concerning Adherence to Underwriting Guidelines....92

B. Untrue Statements Concerning Adherence to Reduced Documentation Program Underwriting Guidelines 110

C. Untrue Statements Concerning Loan-to-Value Ratios, and DTI Ratios....120

IX. THE CLAIMS ARE TIMELY....124

Table 7
Purchases Subject to Tolling Under American Pipe 126

X. CLAIMS FOR RELIEF 128

COUNT ONE
Violation of the Texas Securities Act
Tex. Rev. Civ. Stat. Ann. art. 581, § 33
(GMACM Home Equity Loan Trust 2006-HE5, Long Beach Mortgage Loan Trust 2006-8, MortgageIT Mortgage Loan Trust 2006-1) 128

COUNT TWO
Section 11 of the Securities Act of 1933
(HarborView Mortgage Loan Trust 2006-10, HarborView Mortgage Loan Trust 2007-2, HarborView Mortgage Loan Trust 2007-1) 129

COUNT THREE
Section 11 of the Securities Act of 1933
(Nomura Asset Acceptance Corporation, Alternative Loan Trust, Series 2006-AR4) 130

COUNT FOUR
Section 12(a)(2) of the Securities Act of 1933
(Nomura Asset Acceptance Corporation, Alternative Loan Trust, Series 2006-AR4) 131

COUNT FIVE
Section 12(a)(2) of the Securities Act of 1933
(HarborView Mortgage Loan Trust 2006-10, HarborView Mortgage Loan Trust 2007-1) 133

COUNT SIX
Violation of the Illinois Securities Law of 1953
815 Ill. Comp. Stat. Ann. 5/12
(HarborView Mortgage Loan Trust 2006-10, HarborView Mortgage Loan Trust 2007-1, HarborView Mortgage Loan Trust 2007-2, HarborView Mortgage Loan Trust 2007-3, IndyMac INDX Mortgage Loan Trust 2006-AR6, Long Beach Mortgage Loan Trust 2006-2, MortgageIT Mortgage Loan Trust 2006-1, Nomura Asset Acceptance Corporation, Alternative Loan Trust, Series 2006-AR4, Nomura Home Equity Loan Inc., Home Equity Loan Trust, Series 2007-1, Option One Mortgage Loan Trust 2007-2, Soundview Home Loan Trust 2006-WF1) 134

Plaintiff, the National Credit Union Administration Board ("NCUA Board"), brings this action in its capacity as Liquidating Agent of Southwest Corporate Federal Credit Union ("Southwest") and Members United Corporate Federal Credit Union ("Members United") (collectively "the Credit Unions") against RBS Securities, Inc. f/k/a Greenwich Capital Markets, Inc. ("RBS"), as underwriter and seller, and against RBS Acceptance, Inc. f/k/a RBS Acceptance Inc. (the "Issuer Defendant"), as issuer, of certain residential mortgage-backed securities ("RMBS") purchased by the Credit Unions, and alleges as follows:

I. NATURE OF THE ACTION

1. This action arises out of the sale of RMBS to the Credit Unions where RBS acted as underwriter and/or seller of the RMBS.

2. All of the RMBS sold to the Credit Unions were rated as triple-A (the same rating as U.S. Treasury bonds) at the time of issuance.

3. The Issuer Defendant issued and RBS underwrote and sold the RMBS pursuant to registration statements, prospectuses, prospectus supplements, term sheets, free writing prospectuses, and other written materials (collectively, the "Offering Documents"). These Offering Documents contained untrue statements of material fact or omitted to state material facts in violation of Sections 11 and 12(a)(2) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. §§ 77k, 77*l*(a)(2) ("Section 11" and "Section 12(a)(2)," respectively), the Texas Securities Act, Tex. Rev. Civ. Stat. Ann. art. 581, § 33 ("Texas Blue Sky Law"), and the Illinois Securities Law of 1953, 815 Ill. Comp. Stat. Ann. 5/12 & 13 ("Illinois Blue Sky Law").

4. The Offering Documents described, among other things, the mortgage underwriting standards of the originators who made the mortgages that were pooled and served as the collateral for the RMBS purchased by the Credit Unions ("the Originators").

5. The Offering Documents represented that the Originators adhered to the underwriting guidelines set out in the Offering Documents for the mortgages in the pools collateralizing the RMBS.

6. In fact, the Originators had systematically abandoned the stated underwriting guidelines in the Offering Documents. Because the mortgages in the pools collateralizing the RMBS were largely underwritten without adherence to the underwriting standards in the Offering Documents, the RMBS were significantly riskier than represented.

7. These untrue statements and omissions were material because the value of RMBS is largely a function of the cash flow from the principal and interest payments on the mortgage loans collateralizing the RMBS. Thus, the performance of the RMBS is tied to the borrower's ability to repay the loan.

8. The Credit Unions purchased certain RMBS issued by the Issuer Defendant and underwritten and/or sold by RBS as indicated in Table 1 (*infra*). Defendants are therefore liable for material untrue statements and omissions of fact in the Offering Documents for these RMBS under Section 11, Section 12(a)(2) and/or the Texas Blue Sky Law and Illinois Blue Sky Law as indicated in Table 1 (*infra*).

Table 1

CUSIP[1]	Issuing Entity	Depositor	Purchaser	Trade Date	Price Paid	Claims
38012EAC9	GMACM Home Equity Loan Trust 2006-HE5	Residential Asset Mortgage Products, Inc.	Southwest	11/21/2006	$15,000,000	Texas Blue Sky
41162CAE1	HarborView Mortgage Loan Trust 2006-10	RBS Acceptance, Inc.	Members United	10/18/2006	$20,000,000	§ 11, § 12(a)(2) Illinois Blue Sky
41164MAC1	HarborView Mortgage Loan Trust 2007-1	RBS Acceptance, Inc.	Members United	7/26/2007	$39,894,068	§ 11 and Illinois Blue Sky

[1] "CUSIP" stands for "Committee on Uniform Securities Identification Procedures." A CUSIP number is used to identify most securities, including certificates of RMBS. See CUSIP Number, http://www.sec.gov/answers/cusip.htm.

CUSIP[1]	Issuing Entity	Depositor	Purchaser	Trade Date	Price Paid	Claims
41164MAD9	HarborView Mortgage Loan Trust 2007-1	RBS Acceptance, Inc.	Members United	2/14/2007	$20,000,000	§ 11, § 12(a)(2) and Illinois Blue Sky
41164LAD1	HarborView Mortgage Loan Trust 2007-2	RBS Acceptance, Inc.	Members United	6/20/2007	$19,944,195	§ 11 and Illinois Blue Sky
41164UAB5	HarborView Mortgage Loan Trust 2007-3	RBS Acceptance, Inc.	Members United	4/3/2007	$20,000,000	Illinois Blue Sky
456612AE0	IndyMac INDX Mortgage Loan Trust 2006-AR6	IndyMac MBS, Inc.	Members United	4/21/2006	$21,994,000	Illinois Blue Sky
542514TT1	Long Beach Mortgage Loan Trust 2006-2	Long Beach Securities Corp.	Members United	2/24/2006	$20,000,000	Illinois Blue Sky
54251UAD8	Long Beach Mortgage Loan Trust 2006-8	Long Beach Securities Corp.	Southwest	9/14/2006	$10,000,000	Texas Blue Sky
61915RBZ8	MortgageIT Mortgage Loan Trust 2006-1	RBS Acceptance, Inc.	Southwest	2/17/2006	$15,000,000	Texas Blue Sky
61915RCJ3	MortgageIT Mortgage Loan Trust 2006-1	RBS Acceptance, Inc.	Members United	2/17/2006	$20,000,000	Illinois Blue Sky
65538DAA3	Nomura Asset Acceptance Corporation, Alternative Loan Trust, Series 2006-AR4	Nomura Asset Acceptance Corp.	Members United	11/15/2006	$30,000,000	§ 11, § 12(a)(2) and Illinois Blue Sky
65537KAB6	Nomura Home Equity Loan, Inc., Home Equity Loan Trust, Series 2007-1	Nomura Home Equity Loan, Inc.	Members United	1/23/2007	$30,000,000	Illinois Blue Sky
68401TAE8	Option One Mortgage Loan Trust 2007-2	Option One Mortgage Acceptance, Corp.	Members United	3/2/2007	$20,000,000	Illinois Blue Sky
83612LAD1	Soundview Home Loan Trust 2006-WF1	Financial Asset Securities, Corp.	Members United	10/26/2006	$10,045,554	Illinois Blue Sky

9. The RMBS the Credit Unions purchased suffered a significant drop in market value. The Credit Unions have suffered significant losses from those RMBS purchased despite the NCUA Board's mitigation efforts.

II. PARTIES AND RELEVANT NON-PARTIES

10. The National Credit Union Administration ("NCUA") is an independent agency of the Executive Branch of the United States Government that, among other things, charters and regulates federal credit unions, and operates and manages the National Credit Union Share Insurance Fund ("NCUSIF") and the Temporary Corporate Credit Union Stabilization Fund ("TCCUSF"). The TCCUSF was created in 2009 to allow the NCUA to borrow funds from the

United States Department of the Treasury ("Treasury Department") for the purposes of stabilizing corporate credit unions under conservatorship or liquidation, or corporate credit unions threatened with conservatorship or liquidation. The NCUA must repay all monies borrowed from the Treasury Department for the purposes of the TCCUSF by 2021 through assessments against all federally insured credit unions in the country. The NCUSIF insures the deposits of account holders in all federal credit unions and the majority of state-chartered credit unions. The NCUA has regulatory authority over state-chartered credit unions that have their deposits insured by the NCUSIF. The NCUA is under the management of the NCUA Board. *See* Federal Credit Union Act, 12 U.S.C. §§ 1751, 1752a(a) ("FCU Act").

11. Southwest was a federally chartered corporate credit union with its offices and principal place of business in Plano, Texas. As a corporate credit union, Southwest provided investment and financial services to other credit unions.

12. Members United was a federally chartered corporate credit union with its offices and principal place of business in Warrenville, Illinois. Members United was created in mid-2006 by the merger of Empire and Mid-States Corporate Federal Credit Unions. As a corporate credit union, Members United provided investment and financial services to other credit unions.

13. On September 24, 2010, the NCUA Board placed the Credit Unions into conservatorship pursuant to the FCUA, 12 U.S.C. § 1751, *et seq*. On October 31, 2010, the NCUA Board placed the Credit Unions into involuntary liquidation, appointing itself Liquidating Agent.

14. Pursuant to 12 U.S.C. § 1787(b)(2)(A), the NCUA Board as Liquidating Agent has succeeded to all rights, titles, powers, and privileges of the Credit Unions and of any member, account holder, officer or director of the Credit Unions, with respect to the Credit

Unions and their assets, including the right to bring the claims asserted in this action. As Liquidating Agent, the NCUA Board has all the powers of the members, directors, officers, and committees of the Credit Unions, and succeeds to all rights, titles, powers, and privileges of the Credit Unions. *See* 12 U.S.C. §1787(b)(2)(A). The NCUA Board may also sue on the Credit Unions' behalf. *See* 12 U.S.C. §§ 1766(b)(3)(A), 1787(b)(2), 1789(a)(2).

15. Prior to being placed into conservatorship and involuntary liquidation, the Credit Unions were two of the largest corporate credit unions in the United States.

16. Any recoveries from this legal action will reduce the total losses resulting from the failure of the Credit Unions. Losses from the Credit Unions' failures must be paid from the NCUSIF or the TCCUSF. Expenditures from these funds must be repaid through assessments against all federally insured credit unions. Because of the expenditures resulting from the Credit Unions' failures, federally insured credit unions will experience larger assessments, thereby reducing federally insured credit unions' net worth. Reductions in net worth can adversely affect the dividends that individual members of credit unions receive for the savings on deposit at their credit union. Reductions in net worth can also make loans for home mortgages and automobile purchases more expensive and difficult to obtain. Any recoveries from this action will help to reduce the amount of any future assessments on credit unions throughout the system, reducing the negative impact on federally insured credit unions' net worth. Recoveries from this action will benefit credit unions and their individual members by increasing net worth resulting in more efficient and lower-cost lending practices.

17. RBS is an SEC registered broker-dealer. RBS is a wholly-owned subsidiary of The Royal Bank of Scotland Group. Prior to 2009, RBS was known as "RBS Greenwich Capital Markets, Inc." In 2000, The Royal Bank of Scotland acquired Greenwich Capital Markets, Inc.,

renaming it "RBS Greenwich Capital Markets, Inc." RBS acted as an underwriter of certain RMBS that are the subject of this Complaint as indicated in Table 1 (*supra*). RBS is a Delaware corporation with its principal place of business in Connecticut.

18. RBS Acceptance, Inc. is the depositor and issuer of certain RMBS that are the subject of this Complaint as indicated in Table 1 (*supra*). RBS Acceptance, Inc. is a Delaware corporation with its principal place of business in Maryland.

III. JURISDICTION AND VENUE

19. This Court has subject matter jurisdiction pursuant to: (a) 12 U.S.C. § 1789(a)(2), which provides that "[a]ll suits of a civil nature at common law or in equity to which the [NCUA Board] shall be a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction thereof, without regard to the amount in controversy"; and (b) 28 U.S.C. § 1345, which provides that "the district courts shall have original jurisdiction of all civil actions, suits or proceedings commenced by the United States, or by any agency or officer thereof expressly authorized to sue by Act of Congress."

20. Venue is proper in this District under Section 22 of the Securities Act, 15 U.S.C. § 77v(a) and/or 28 U.S.C. §1391(b)(1), because each Defendant is a resident of/conducts business in this District. This Court has personal jurisdiction over each Defendant they are residents of/conduct business in this District.

IV. MORTGAGE ORIGINATION AND THE PROCESS OF SECURITIZATION

21. RMBS are asset-backed securities. A pool or pools of residential mortgages are the assets that back or collateralize the RMBS certificates purchased by investors.

22. Because residential mortgages are the assets collateralizing RMBS, the origination of mortgages commences the process that leads to the creation of RMBS. Originators decide whether to loan potential borrowers money to purchase residential real estate

through a process called mortgage underwriting. The originator applies its underwriting standards or guidelines to determine whether a particular borrower is qualified to receive a mortgage for a particular property. The underwriting guidelines consist of a variety of metrics, including: the borrower's debt, income, savings, credit history and credit score; whether the property will be owner-occupied; and the loan-to-value ("LTV") ratio, among other things. Loan underwriting guidelines are designed to ensure that: (1) the borrower has the means to repay the loan, (2) the borrower will likely repay the loan, and (3) the loan is secured by sufficient collateral in the event of default.

23. Historically, originators made mortgage loans to borrowers and held the loans on their own books for the duration of the loan. Originators profited as they collected monthly principal and interest payments directly from the borrower. Originators also retained the risk that the borrower would default on the loan.

24. This changed in the 1970s when the Government National Mortgage Association ("Ginnie Mae"), the Federal National Mortgage Association ("Fannie Mae"), and the Federal Home Loan Mortgage Corporation ("Freddie Mac") (collectively government sponsored enterprises or "GSEs") began purchasing "conforming" or "prime" loans —so-called because they conformed to guidelines set by the GSEs. The GSEs either sponsored the RMBS issuance (Ginnie Mae) or issued the RMBS themselves after purchasing the conforming loans (Fannie Mae and Freddie Mac). The GSEs securitized the mortgage loans by grouping mortgages into "loan pools," then repackaging the loan pools into RMBS where investors received the cash flow from the mortgage payments. The GSEs guarantee the monthly cash flow to investors on the agency RMBS.

25. More recently, originators, usually working with investment banks, began

securitizing "non-conforming loans"—loans originated (in theory) according to private underwriting guidelines adopted by the originators. Non-conforming loans are also known as "nonprime loans" or "private label" and include "Alt-A" and "subprime" loans. Despite the non-conforming nature of the underlying mortgages, the securitizers of such RMBS were able to obtain triple-A credit ratings by using "credit enhancement" (explained *infra*) when they securitized the non-conforming loans.

26. All of the loans collateralizing the RMBS at issue in this Complaint are non-conforming mortgage loans.

27. The issuance of RMBS collateralized by non-conforming loans peaked in 2006. The securitization process shifted the originators' focus from ensuring the ability of borrowers to repay their mortgages, to ensuring that the originator could process (and obtain fees from) an ever-larger loan volume for distribution as RMBS. This practice is known as "originate-to-distribute" ("OTD").

28. Securitization begins with a "sponsor" who purchases loans in bulk from one or more originators. The sponsor transfers title of the loans to an entity called the "depositor."

29. The depositor transfers the loans to a trust called the "issuing entity."

30. The issuing entity issues "notes" and/or "certificates," representing an ownership interest in the cash flow from the mortgage pool underlying the securities (*i.e.*, the principal and interest generated as borrowers make monthly payments on the mortgages in the pool).

31. The depositor files required documents (such as registration statements and prospectuses) with the SEC so that the certificates can be offered to the public.

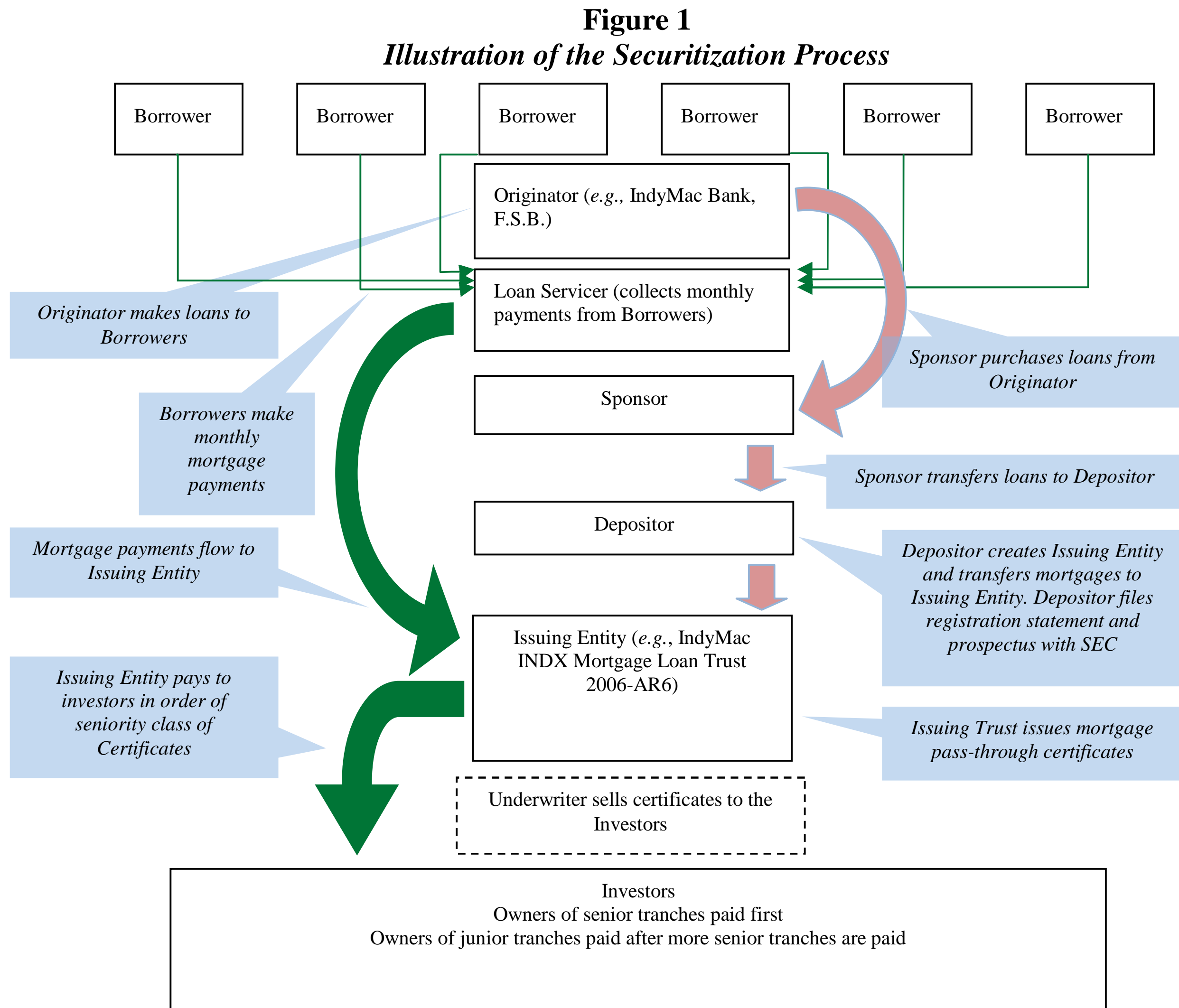
32. One or more "underwriters" then sell the notes or certificates to investors.

33. A loan "servicer" collects payments from borrowers on individual mortgages as

part of a pool of mortgages, and the issuing entity allocates and distributes the income stream generated from the mortgage loan payments to the RMBS investors.

34. Figure 1 (*infra*) depicts a typical securitization process.

Figure 1
Illustration of the Securitization Process



35. Because securitization, as a practical matter, shifts the risk of default on the mortgage loans from the originator of the loan to the RMBS investor, the originator's adherence to mortgage underwriting guidelines as represented in the offering documents with respect to the underlying mortgage loans is critical to the investors' ability to evaluate the expected performance of the RMBS.

V. RMBS CREDIT RATINGS AND CREDIT ENHANCEMENT

36. RMBS offerings are generally divided into slices or "tranches," each of which represents a different level of risk. RMBS certificates denote the particular tranches of the security purchased by the investor.

37. The credit rating for an RMBS reflects an assessment of the creditworthiness of that RMBS and indicates the level of risk associated with that RMBS. Standard & Poor's ("S&P") and Moody's Investors Service, Inc. ("Moody's") are the credit rating agencies that assigned credit ratings to the RMBS in this case.

38. The credit rating agencies use letter-grade rating systems as shown in Table 2 (*infra*).

Table 2
Credit Ratings

Moody's	S&P	Definitions	Grade Type
Aaa	AAA	**Prime (Maximum Safety)**	**INVESTMENT GRADE**
Aa1 Aa2 Aa3	AA+ AA AA-	**High Grade, High Quality**	
A1 A2 A3	A+ A A-	**Upper Medium Grade**	
Baa1 Baa2 Baa3	BBB+ BBB BBB-	**Medium Grade**	
Ba2 Ba3	BB BB-	**Non-Investment Grade, or Speculative**	**SPECULATIVE GRADE**
B1 B2 B3	B+ B B-	**Highly Speculative, or Substantial Risk**	
Caa2 Caa3	CCC+	**In Poor Standing**	
Ca	CCC CCC-	**Extremely Speculative**	
C	-	**May be in Default**	
-	D	**Default**	

39. Moody's purportedly awards the coveted "Aaa" rating to structured finance products that are "of the highest quality, with minimal credit risk." Moody's Investors Services,

Inc., Moody's Rating Symbols & Definitions at 6 (August 2003), *available at* http://www.rbcpa.com/Moody's_ratings_and_definitions.pdf. Likewise, S&P rates a product "AAA" when the "obligor's capacity to meet its financial commitment on the obligation is extremely strong." Standard & Poor's, Ratings Definitions, *available at* https://www.globalcreditportal.com/ratingsdirect/renderArticle.do?articleId=1019442&SctArtId=147045&from=CM&nsl_code=LIME.

40. In fact, RMBS could not be sold unless they received one of the highest "investment grade" ratings on most tranches from one or more credit rating agencies, because the primary market for RMBS is institutional investors, such as the Credit Unions, which are generally limited to buying only securities with the highest credit ratings. *See*, *e.g.*, NCUA Credit Risk Management Rule, 12 C.F.R. § 704.6(d)(2) (2010) (prohibiting corporate credit unions from investing in securities rated below AA-); *but see*, *e.g.*, Alternatives to the Use of Credit Ratings, 77 Fed. Reg. 74,103 (Dec. 13, 2012) (to be codified at 12 C.F.R. pts. 703, 704, 709, and 742).

41. While the pool of mortgages underlying the RMBS may not have been sufficient to warrant a triple-A credit rating, various forms of "credit enhancement" were used to obtain a triple-A credit rating on the higher tranches of RMBS.

42. One form of credit enhancement is "structural subordination." The tranches, and their risk characteristics relative to each other, are often analogized to a waterfall. Investors in the higher or "senior" tranches are the first to be paid as income is generated when borrowers make their monthly payments. After investors in the most senior tranche are paid, investors in the next subordinate or "junior" tranche are paid, and so on down to the most subordinate or lowest tranche.

43. In the event mortgages in the pool default, the resulting loss is absorbed by the subordinated tranches first.

44. Accordingly, senior tranches are deemed less risky than subordinate tranches and therefore receive higher credit ratings.

45. Another form of credit enhancement is overcollateralization. Overcollateralization is the inclusion of a higher dollar amount of mortgages in the pool than the par value of the security. The spread between the value of the pool and the par value of the security acts as a cushion in the event of a shortfall in expected cash flow.

46. Other forms of credit enhancement include "excess spread," monoline insurance, obtaining a letter of credit, and "cross-collateralization." "Excess spread" involves increasing the interest rate paid to the purchasers of the RMBS relative to the interest rate received on the cash flow from the underlying mortgages. Monoline insurance, also known as "wrapping" the deal, involves purchasing insurance to cover losses from any defaults. Finally, some RMBS are "cross-collateralized," *i.e.*, when a loan group in an RMBS experiences rapid prepayments or disproportionately high realized losses, principal and interest collected from another tranche is applied to pay principal or interest, or both, to the senior certificates in the loan group experiencing rapid prepayment or disproportionate losses.

VI. THE CREDIT UNIONS' PURCHASES

47. The Credit Unions purchased only the highest-rated tranches of RMBS. All were rated triple-A at the time of issuance. These securities have since been downgraded below investment grade just a few years after they were sold (*see infra* Table 3).

Table 3
Credit Ratings for the Credit Unions' RMBS Purchases

CUSIP	ISSUING ENTITY	PURCHASER	Original Rating S&P	Original Rating Moody's	First Downgrade Below Investment Grade S&P	First Downgrade Below Investment Grade Moody's	Recent Rating S&P	Recent Rating Moody's
38012EAC9	GMACM Home Equity Loan Trust 2006-HE5	Southwest	AAA 12/4/2006	Aaa 12/19/2006	BB 3/19/2010	B1 10/29/2008	BB*- 3/29/2013	Caa1 5/21/2010
41162CAE1	HarborView Mortgage Loan Trust 2006-10	Members United	AAA 11/22/2006	Aaa 11/21/2006	N/A	N/A	AA- 1/12/2012	A2 1/18/2013
41164MAC1	HarborView Mortgage Loan Trust 2007-1	Members United	AAA 3/22/2007	Aaa 2/26/2007	B- 8/14/2009	Ba1 2/20/2009	CCC 3/2/2010	Caa3 12/5/2010
41164MAD9	HarborView Mortgage Loan Trust 2007-1	Members United	AAA 3/22/2007	Aaa 2/26/2007	CCC 8/14/2009	Caa1 2/20/2009	CC 8/11/2011	C 12/5/2010
41164LAD1	HarborView Mortgage Loan Trust 2007-2	Members United	AAA 4/3/2007	Aaa 4/9/2007	B-*- 8/4/2009	Ba3 4/13/2009	D 8/25/2010	C 12/5/2010
41164UAB5	HarborView Mortgage Loan Trust 2007-3	Members United	AAA 5/1/2007	Aaa 4/27/2007	BB 4/14/2009	Ba2 2/20/2009	CCC 2/16/2010	Caa3 12/5/2010
456612AE0	IndyMac INDX Mortgage Loan Trust 2006-AR6	Members United	AAA 5/2/2006	Aaa 4/28/2006	B 10/27/2008	Ba1 9/12/2008	D 1/25/2010	C 11/8/2012
542514TT1	Long Beach Mortgage Loan Trust 2006-2	Members United	AAA 3/7/2006	Aaa 3/7/2006	CCC 8/4/2009	Caa1 10/16/2008	CCC 8/4/2009	Ca 4/30/2010
54251UAD8	Long Beach Mortgage Loan Trust 2006-8	Southwest	AAA 9/27/2006	Aaa 9/21/2006	BB 4/2/2008	B1 4/7/2008	CCC 1/26/2009	Ca 8/13/2010
61915RBZ8	MortgageIT Mortgage Loan Trust 2006-1	Southwest	AAA 3/2/2006	Aaa 2/22/2006	B 12/15/2008	Ba3 8/4/2008	D 8/19/2009	Ca 12/9/2010
61915RCJ3	MortgageIT Mortgage Loan Trust 2006-1	Members United	AAA 3/2/2006	Aaa 2/22/2006	B 3/11/2010	Ba2 2/19/2009	CCC 12/14/2012	Caa3 12/9/2010
65538DAA3	Nomura Asset Acceptance Corporation, Alternative Loan Trust, Series 2006-AR4	Members United	AAA 12/4/2006	Aaa 11/30/2006	B 1/8/2009	Ba3 7/25/2008	NR 12/10/2012	Ca 9/2/2010
65537KAB6	Nomura Home Equity Loan, Inc., Home Equity Loan Trust, Series 2007-1	Members United	AAA 2/2/2007	Aaa 1/31/2007	B+ 10/6/2008	Ba3 7/25/2008	D 11/25/2009	Ca 9/2/2010
68401TAE8	Option One Mortgage Loan Trust 2007-2	Members United	AAA 3/19/2007	Aaa 3/28/2007	BB 5/1/2008	B3 10/30/2008	CCC 3/26/2010	Ca 8/6/2010
83612LAD1	Soundview Home Loan Trust 2006-WF1	Members United	AAA 10/31/2006	Aaa 11/14/2006	CCC 8/4/2009	Caa1 2/2/2009	CCC 8/4/2009	Caa3 11/5/2010

48. At the time of purchase, the Credit Unions were not aware of the untrue

statements or omissions of material facts in the Offering Documents of the RMBS. If the Credit Unions had known about the Originators' pervasive disregard of underwriting standards—contrary to the representations in the Offering Documents—they would not have purchased the certificates.

49. The securities' substantial loss of market value has injured the Credit Unions and the NCUA Board.

VII. THE ORIGINATORS SYSTEMATICALLY DISREGARDED THE UNDERWRITING GUIDELINES STATED IN THE OFFERING DOCUMENTS

50. The performance and value of RMBS are largely contingent upon borrowers repaying their mortgages. The loan underwriting guidelines ensure that the borrower has the means to repay the mortgage and that the RMBS is secured by sufficient collateral in the event of reasonably anticipated defaults on the underlying mortgage loans.

51. With respect to RMBS collateralized by loans written by originators who systematically disregarded their stated underwriting standards, the following pattern is present:

a. a surge in borrower delinquencies and defaults on the mortgages in the pools (*see infra* Section VII.A and Table 4);

b. actual gross losses to the underlying mortgage pools within the first 12 months after the offerings exceeded expected gross losses (*see infra* Section VII.B and Figure 2);

c. a high percentage of the underlying mortgage loans were originated for distribution, as explained below (*see infra* Table 5 and accompanying allegations); and

d. downgrades of the RMBS by credit rating agencies from high, investment-grade ratings when purchased to much lower ratings, including numerous

"junk" ratings (*see infra* Section VII.C and *supra* Table 3).

52. These factors support a finding that the Originators failed to originate the mortgages in accordance with the underwriting standards stated in the Offering Documents.

53. This conclusion is corroborated by reports that the Originators who contributed mortgage loans to the RMBS at issue in this Complaint abandoned the underwriting standards described in the Offering Documents (*see infra* Section VII.D).

54. This conclusion is further corroborated by evidence from RBS's due diligence process that RMBS underwritten by RBS were collateralized by a substantial number of loans that were originated contrary to the applicable underwriting standards (*see infra* Section VII.E-F).

A. The Surge in Mortgage Delinquency and Defaults Shortly After the Offerings and the High OTD Practices of the Originators Demonstrate Systematic Disregard of Underwriting Standards

55. Residential mortgages are generally considered delinquent if no payment has been received for more than 30 days after payment is due. Residential mortgages where no payment has been received for more than 90 days (or three payment cycles) are generally considered to be in default.

56. The surge of delinquencies and defaults following the offerings evidences the systematic flaws in the Originators' underwriting process (*see infra* Table 4).

57. The Offering Documents reported zero or near zero delinquencies and defaults at the time of the Offerings (*see infra* Table 4).

58. The pools of mortgages collateralizing the RMBS experienced delinquency and default rates up to 7% within the first three months, up to 14.25% at six months, and up to 30.23% at one year (*see infra* Table 4).

59. As of June 2013, 34.08% of the mortgage collateral across all the RMBS that the

Credit Unions purchased was in delinquency, bankruptcy, foreclosure, or real estate owned ("REO"), which means that a bank or lending institution owns the property after a failed sale at a foreclosure auction (*see infra* Table 4).

60. Table 4 (*infra*) reflects the delinquency, foreclosure, bankruptcy, and REO rates on the RMBS as to which claims are asserted in this Complaint. The data presented in the last five columns are from the trustee reports (dates and page references are indicated in the parentheticals). The shadowed rows reflect the group of mortgages in the pool underlying the specific tranches purchased by the Credit Unions; however, some trustee reports include only the aggregate data. For RMBS with multiple groups, aggregate information on all the groups is included because the tranches are cross-collateralized.

Table 4
Delinquency and Default Rates for the Credit Unions' RMBS Purchases

CUSIP	ISSUING ENTITY	RATE AT CUT-OFF DATE FOR OFFERING	1 MO.	3 MOS.	6 MOS.	12 MOS.	RECENT
38012EAC9	GMACM Home Equity Loan Trust 2006-HE5		Not Reported				
	HarborView Mortgage Loan Trust 2006-10: Aggregate (P.S. dated Nov.10, 2006)	0.15% of the mortgage loans were 30-59 days delinquent. (S-25)	0.14% (Nov., p.10)	0.67% (Jan., p.10)	1.12% (Apr., p.10)	5.47% (Oct., p.10)	24.10% (June 2013, p.10)
	HarborView Mortgage Loan Trust 2006-10: Group 1	0.07% of the mortgage loans were 30-59 days delinquent. (S-25)	0.07% (Nov., p.11)	0.55% (Jan., p.101)	0.56% (Apr., p.11)	5.38% (Oct., p.11)	27.97% (June 2013, p.11)
41162CAE1	HarborView Mortgage Loan Trust 2006-10: Group 2 *Class 2A-1C in Group 2 (S-6)	0.20% of the mortgage loans were 30-59 days delinquent. (S-25)	0.19% (Nov., p.11)	0.74% (Jan., p.11)	1.44% (Apr., p.11)	5.52% (Oct., p.11)	21.93% (June 2013, p.11)
	HarborView Mortgage Loan Trust 2007-1: Aggregate (P.S. dated Mar. 7, 2007)	0.04% of the mortgage loans were at least 30 days but less than 60 days delinquent and 0.03% of the mortage loans were 60 days or more delinquent (S-24)	0.32% (Mar., p.10)	1.08% (May, p.10)	2.88% (Aug, p.10)	12.85% (Feb., p.10)	44.17% (June 2013, p.01)

CUSIP	ISSUING ENTITY	RATE AT CUT-OFF DATE FOR OFFERING	1 MO.	3 MOS.	6 MOS.	12 MOS.	RECENT
	HarborView Mortgage Loan Trust 2007-1: Group 1	0.04% of the mortgage loans were at least 30 days but less than 60 days delinquent and 0.03% of the mortgage loans were 60 days or more delinquent (S-24)	0.25% (Mar., p.11)	1.05% (May, p.11)	2.32% (Aug, p.11)	10.83% (Feb., p.11)	41.33% (June 2013, p.11)
41164MAC1 41164MAD9	HarborView Mortgage Loan Trust 2007-1: Group 2 *Classes 2A-1A and 2A-1B in Group 2 (S-6)	0.04% of the mortgage loans were at least 30 days but less than 60 days delinquent and 0.03% of the mortgage loans were 60 days or more delinquent (S-24)	0.37% (Mar., p.11)	1.1% (May, p.11)	3.29% (Aug, p.11)	14.29% (Feb., p.11)	46.16% (June 2013, p.11)
	HarborView Mortgage Loan Trust 2007-2: Aggregate (P.S. dated Mar. 29, 2007)	0.64% of the initial mortgage loans were at least 30 days but less than 60 days delinquent in payment (S-25)	1.40% (Apr., p.10)	2.84% (June, p.10)	6.45% (Sep., p.10)	16.0% (Mar., p.10)	31.45% (June 2013, p.10)
	HarborView Mortgage Loan Trust 2007-2: Group 1	0.64% of the initial mortgage loans were at least 30 days but less than 60 days delinquent in payment (S-25)	0.84% (Apr., p.11)	1.18% (June, p.11)	3.15% (Sep., p.11)	10.63% (Mar., p.11)	28.64% (June 2013, p.11)
41164LAD1	HarborView Mortgage Loan Trust 2007-2: Group 2 *Class 2A-1C in Group 2 (S-7)	0.64% of the initial mortgage loans were at least 30 days but less than 60 days delinquent in payment (S-25)	1.63% (Apr., p.11)	3.45% (June, p.11)	7.66% (Sep., p.11)	17.93% (Mar., p.11)	32.58% (June 2013, p.1)
	HarborView Mortgage Loan Trust 2007-3: Aggregate (P.S. dated Apr. 26, 2007)	0.93% of the initial mortgage loans were at least 30 days but less than 60 days delinquent in payment (S-24)	0.17% (May, p.11)	2.26% (July, p.11)	3.95% (Oct., p.11)	13.45% (Apr., p.11)	23.45% (June 2013, p.11)
	HarborView Mortgage Loan Trust 2007-3: Group 1	0.93% of the initial mortgage loans were at least 30 days but less than 60 days delinquent in payment (S-24)	0% (May, p.12)	1.14% (July, p.12)	2.85% (Oct., p.12)	11.56% (Apr., p.12)	25.95% (June 2013, p.12)
41164UAB5	HarborView Mortgage Loan Trust 2007-3: Group 2 *Class 2A-1A in Group 2 (S-7)	0.93% of the initial mortgage loans were at least 30 days but less than 60 days delinquent in payment (S-24)	0.24% (May, p.12)	2.97% (July, p.12)	4.66% (Oct., p.12)	14.65% (Apr., p.12)	21.9% (June 2013, p.12)

CUSIP	ISSUING ENTITY	RATE AT CUT-OFF DATE FOR OFFERING	1 MO.	3 MOS.	6 MOS.	12 MOS.	RECENT
	IndyMac INDX Mortgage Loan Trust 2006-AR6: Aggregate (P.S. dated Apr. 27, 2006)	Zero. (S-32)	2.16% (May, p.10)	2.20% (July, p.10)	2.89% (Oct, p.10)	5.39% (Apr, p.10)	32.56% (June 2013, p.10)
	IndyMac INDX Mortgage Loan Trust 2006-AR6: Group 1	Zero. (The Mortgage Pool)	1.81% (May, p.11)	2.21% (July, p.11)	2.76% (Oct, p.11)	5.03% (Apr, p.11)	31.90% (June 2013, p.15)
456612AE0	IndyMac INDX Mortgage Loan Trust 2006-AR6: Group 2 *Class 2-A-1C in Group 2 (S-9)	Zero. (The Mortgage Pool)	2.46% (May, p.12)	2.19% (July, p.12)	3.01% (Oct, p.12)	5.69% (Apr, p.12)	33.15% (June 2013, p.21)
	Long Beach Mortgage Loan Trust 2006-2: Aggregate (P.S. dated Feb. 28, 2006)	Zero. (S-67)	0.09% (Apr, p.11)	3.33% (June, p.11)	10.41% (Sept, p.11)	25.67% (Mar, p.11)	36.64% (June 2013, p.11)
	Long Beach Mortgage Loan Trust 2006-2: Group 1	Zero. (S-67)	0.04% (Apr, p.12)	2.45% (June, p.12)	7.84% (Sept, p.12)	20.13% (Mar, p.12)	34.03% (June 2013, p.16)
542514TT1	Long Beach Mortgage Loan Trust 2006-2: Group 2 *Class II-A3 in Group 2 (S-3)	Zero. (S-67)	0.13% (Apr, p.13)	4.07% (June, p.13)	12.61% (Sept, p.13)	30.23% (Mar, p.13)	40.13% (June 2013, p.22)
	Long Beach Mortgage Loan Trust 2006-8: Aggregate (P.S. dated Sep. 15, 2006)	Zero. (S-69)	0.00% (Oct, p.11)	3.18% (Dec, p.11)	10.98% (Mar, p.11)	25.515 (Sept, p.11)	31.89% (June 2013, p.12)
	Long Beach Mortgage Loan Trust 2006-8: Group 1	Zero. (S-69)	0.00% (Oct, p.12)	2.79% (Dec, p.12)	7.69% (Mar, p.12)	18.43% (Sept, p.12)	29.21% (June 2013, p.17)
54251UAD8	Long Beach Mortgage Loan Trust 2006-8: Group 2 *Class II-A3 in Group 2 (S-3)	Zero. (S-69)	0.00% (Oct, p.13)	3.37% (Dec, p.13)	12.57% (Mar, p.13)	28.89% (Sept, p.13)	33.90% (June 2013, p.23)
	MortgageIT Mortgage Loan Trust 2006-1: Aggregate (P.S. dated Feb. 17, 2006)		0.17% (Mar., p.12)	1.89% (May, p.12)	3.03% (Aug., p.12)	5.75% (Feb., p.12)	20.16% (June 2013, p.13)
	MortgageIT Mortgage Loan Trust 2006-1: Group 1-A1	0.27% of the group 1 mortgage loans were 30-59 days delinquent (S-39)	0% (Mar., p.13)	1.37% (May, p.13)	1.33% (Aug., p.13)	2.18% (Feb., p.13)	12.96% (June 2013, p.15)

CUSIP	ISSUING ENTITY	RATE AT CUT-OFF DATE FOR OFFERING	1 MO.	3 MOS.	6 MOS.	12 MOS.	RECENT
61915RBZ8	MortgageIT Mortgage Loan Trust 2006-1: Group 1-A2 *Class 1-A2 in Group 1-A2 (S-4)	0.26% of the group 1 mortgage loans were 30-59 days delinquent (S-47)	0.27% (Mar., p.13)	2.74% (May, p.13)	4.35% (Aug., p.13)	8.05% (Feb., p.13)	17.7% (June 2013, p.15)
61915RCJ3	MortgageIT Mortgage Loan Trust 2006-1: Group 2 *Class 2-A1A in Group 2 (S-8)	0.34% of the group 2 mortgage loans were 30-59 days delinquent (S-53)	0.19% (Mar., p.14)	1.3% (May, p.14)	2.8% (Aug., p.14)	5.91% (Feb., p.14)	30.18% (June 2013, p.14)
65538DAA3	Nomura Asset Acceptance Corporation, Alternative Loan Trust, Series 2006-AR4 (P.S. dated Nov. 30, 2006)	Zero. (S-34)	0.26% (Dec., p.9)	2.69% (Feb., p.9)	7.32% (May, p.9)	22.82% (Jan., p.9)	38.13% (June 2013, p.9)
	Nomura Home Equity Loan, Inc., Home Equity Loan Trust, Series 2007-1: Aggregate (P.S. dated Jan. 29, 2007)	Zero. (S-57)	0.16% (Feb., p.13)	5.05% (Apr., p.13)	11.9% (July, p.13)	24.01% (Jan., p.13)	44.58% (June 2013, p.13)
	Nomura Home Equity Loan, Inc., Home Equity Loan Trust, Series 2007-1: Group I-OTS	Zero. (S-57)	0.11% (Feb., p.14)	2.21% (Apr., p.15)	8.49% (July, p.15)	18.8% (Jan., p.15)	45.76% (June 2013, p.14)
65537KAB6	Nomura Home Equity Loan, Inc., Home Equity Loan Trust, Series 2007-1: Group II-OTS	Zero. (S-57)	0.19% (Feb., p.14)	7.0% (Apr., p.15)	14.25% (July, p.15)	27.54% (Jan., p.15)	43.29% (June 2013, p.14)
	Nomura Home Equity Loan, Inc., Home Equity Loan Trust, Series 2007-1: II-1-OTS	Zero. (S-57)	0% (Feb., p.15)	4.28% (Apr., p.16)	7.88% (July, p.16)	20.99% (Jan., p.16)	42.86% (June 2013, p.15)
	Option One Mortgage Loan Trust 2007-2: Aggregate (P.S. dated Mar. 2, 2007)		1.04% (Mar., p.10)	5.26% (May, p.10)	13.22% (Oct., p.11)	28.98% (Feb., p.11)	45.91% (June 2013, p.10)
	Option One Mortgage Loan Trust 2007-2: Group 1	0.28% of the Group I loans are 30-59 day delinquent. (S-17)	1.3% (Mar., p.11)	3.78% (Mar., p.12)	9.53% (Oct., p.13)	23.85% (Feb., p.13)	47.63% (June 2013, p.11)

CUSIP	ISSUING ENTITY	RATE AT CUT-OFF DATE FOR OFFERING	1 MO.	3 MOS.	6 MOS.	12 MOS.	RECENT
	Option One Mortgage Loan Trust 2007-2: Group 2	0.23% of the Group I loans are 30-59 day delinquent. (S-17)	1.29% (Mar., p.11)	5.43% (Mar., p.12)	10.82% (Oct., p.13)	21.54% (Feb., p.13)	12.9% (June 2013, p.11)
68401TAE8	Option One Mortgage Loan Trust 2007-2: Group 3 *Class III-A-3 in Group 3 (S-6)	0.41% of the Group I loans are 30-59 day delinquent. (S-17)	0.54% (Mar., p.12)	4.4% (Mar., p.13)	11.93% (Oct., p.14)	27.86% (Feb., p.14)	39.16% (June 2013, p.12)
	Option One Mortgage Loan Trust 2007-2: Group 4		1.79% (Mar., p.12)	10.15% (Mar., p.13)	22.58% (Oct., p.14)	31.59% (Feb., p.14)	25.19% (June 2013, p.12)
	Option One Mortgage Loan Trust 2007-2: Group 5		0.97% (Mar., p.13)	6.12% (Mar., p.14)	15.13% (Oct., p.15)	31.82% (Feb., p.15)	48.95% (June 2013, p.13)
	Option One Mortgage Loan Trust 2007-2: Group 6		4.28% (Mar., p.13)	9.92% (Mar., p.14)	22.4% (Oct., p.15)	31.93% (Feb., p.15)	26.7% (June 2013, p.13)
83612LAD1	Soundview Home Loan Trust 2006-WF1	0.01% of the Mortgage Loans are 30-59 days delinquent	1.54% (Nov, p.11)	1.56% (Jan, p.11)	4.55% (Apr, p.11)	13.93% (Oct, p.11)	32.77% (June 2013, p.11)

61. This early spike in delinquencies and defaults, which occurred almost immediately after these RMBS were purchased by the Credit Unions, was later discovered to be indicative of the Originators' systematic disregard of their stated underwriting guidelines.

62. The phenomenon of borrower default shortly after origination of the loans is known as "Early Payment Default." Early Payment Default evidences borrower misrepresentations and other misinformation in the origination process, resulting from the systematic failure of the Originators to apply the underwriting guidelines described in the Offering Documents.

63. In January 2011, the Financial Stability Oversight Council ("FSOC"), chaired by United States Treasury Secretary Timothy Geithner, issued a report analyzing the effects of risk retention requirements in mortgage lending on the broader economy. *See* FIN. STABILITY

OVERSIGHT COUNCIL, MACROECONOMIC EFFECTS OF RISK RETENTION REQUIREMENTS (2011) ("FSOC Risk Retention Report"). The FSOC Risk Retention Report focused on stabilizing the mortgage lending industry through larger risk retention requirements in the industry that can "incent better lending decisions" and "help to mitigate some of the pro-cyclical effects securitization may have on the economy." *Id*. at 2.

64. The FSOC Risk Retention Report observed that the securitization process often incentivizes poor underwriting by shifting the risk of default from the originators to the investors, while obscuring critical information concerning the actual nature of the risk. The FSOC Risk Retention Report stated:

> The securitization process involves multiple parties with varying incentives and information, thereby breaking down the traditional direct relationship between borrower and lender. The party setting underwriting standards and making lending decisions (the originator) and the party making structuring decisions (the securitizer) are often exposed to minimal or no credit risk. By contrast, the party that is most exposed to credit risk (the investor) often has less influence over underwriting standards and may have less information about the borrower. As a result, originators and securitizers that do not retain risk can, at least in the short run, maximize their own returns by lowering underwriting standards in ways that investors may have difficulty detecting. The originate-to-distribute model, as it was conducted, exacerbated this weakness by compensating originators and securitizers based on volume, rather than on quality.

Id. at 3.

65. Indeed, originators that wrote a high percentage of their loans for distribution were more likely to disregard underwriting standards, resulting in poorly performing mortgages, in contrast to originators that originated and then held most of their loans.

66. High OTD originators profited from mortgage origination fees without bearing the risks of borrower default or insufficient collateral in the event of default. Divorced from these risks, high OTD originators were incentivized to push loan quantity over quality.

67. Table 5 (*infra*) shows the percentage of loans originated for distribution relative to

all the loans made by the Originators for the years 2005, 2006 and 2007, for those Originators in this Complaint with high OTD percentages. The data was obtained from the Home Mortgage Disclosure Act database.

Table 5
Originator "Originate-to-Distribute" Percentages

Originator Name	OTD % 2005	OTD% 2006	OTD % 2007
American Home Mortgage Corp.	91.9	62.4	
Bank United, FSB	23	26.1	31.3
ComUnity Lending, Inc.	85.2	100	
Countrywide Home Loans, Inc.	98.5	96.5	98.4
First Federal Bank of California	0	20.6	54.3
First National Bank of Nevada	88	79.9	89.4
GMAC Bank		81	85
GMAC Mortgage, LLC	89.4	85.1	91.8
IndyMac Bank, F.S.B.	81.1	87.7	82.8
Kay-Co Investment Inc. dba Pro30 Funding		99.4	
Loan Center of California, Inc.	99.4	99.9	99.4
Long Beach Mortgage Company		80.2	
MortgageIT, Inc.	55.1	98.8	100
Option One Mortgage Corp.	92.2	72.7	58.2
Paul Financial, LLC	85.2	83.4	99.1
SunTrust Mortgage, Inc.	62.6	71.1	74.4
Wells Fargo Bank, N.A.	73.5	67.1	61.6

B. The Surge in Actual Versus Expected Cumulative Gross Losses is Evidence of the Originators' Systematic Disregard of Underwriting Standards

68. The actual defaults in the mortgage pools underlying the RMBS the Credit Unions purchased exceeded expected defaults so quickly and by so wide a margin that a significant portion of the mortgages could not have been underwritten as represented in the Offering Documents.

69. Every month, the RMBS trustee reports the number and outstanding balance of all loans in the mortgage pools that have defaulted. The running total of this cumulative default balance is referred to as the "gross loss."

70. When defaulted loans are foreclosed upon, the proceeds from the foreclosures are distributed to the investors and any shortfall on the defaulted loan balances is realized as a loss. The running total of this cumulative realized loss (defaulted loan balance minus recovery in foreclosure) is referred to as the "net loss."

71. "Actual loss" is the economic loss the mortgage pool experiences *in fact*. So "actual gross loss" is the *actual* cumulative sum of the balance of the loans in default for a particular security. Likewise, "actual net loss" is the *actual* cumulative realized loss on defaulted loans after foreclosure.

72. At the time a security is rated, the rating agency calculates an amount of "expected loss" using a model based on historical performance of similar securities. So "expected gross loss" is the *expected* cumulative sum of the balance of the loans in default for a particular security. Likewise, "expected net loss" is the *expected* cumulative realized loss on defaulted loans after foreclosure. The amount of expected net loss drives the credit ratings assigned to the various tranches of RMBS.

73. Each credit rating has a "rating factor," which can be expressed in multiples of the

amount of credit enhancement over expected net loss (in equation form: CE/ENL = RF). Thus, the rating factor expresses how many times the expected net loss is covered by credit enhancement. A "triple-A" rated security would have a rating factor of "5," so would require credit enhancement of five times the amount of the expected net loss. A "double-A rating" would have a rating factor of "4," and thus would require credit enhancement equaling four times the expected net loss. A "single-A" rating would have a rating factor of "3" and would require credit enhancement of three times expected net loss. A "Baa" rating would require credit enhancement of 2—1.5 times expected net loss, and a "Ba" rating or lower requires some amount of credit enhancement less than 1.5 times expected net loss.

74. Accordingly, by working backwards from this equation, one can infer expected net loss in an already-issued offering. For example, assume there is a $100 million offering backed by $100 million of assets, with a triple-A rated senior tranche with a principal balance of $75 million. This means the non-senior tranches, in aggregate, have a principal balance of $25 million. The $25 million amount of the non-senior tranches in this hypothetical offering serves as the credit enhancement for the senior tranche. Therefore, on our hypothetical $100 million offering, the expected net loss would be $5 million, which is the amount of the credit enhancement on the triple-A rated senior tranche—$25 million—divided by the rating factor for triple-A rated securities—5. The following equation illustrates: $25,000,000/5 = $5,000,000.

75. Expected gross loss can be then mathematically derived by applying an "expected recovery rate" to the expected net loss (EGL = ENL/(1 – ERR)).

76. A comparison of actual gross losses to expected gross losses for a particular security can be made graphically by plotting the actual versus expected loss data on a line graph. Figure 2 (*infra*) is a series of such line graphs. Figure 2 illustrates the actual gross loss (again,

actual defaults) the pools backing the RMBS purchased by the Credit Unions experienced in the first twelve months after issuance compared to the expected gross loss (again, expected defaults) for those pools during the same time period.

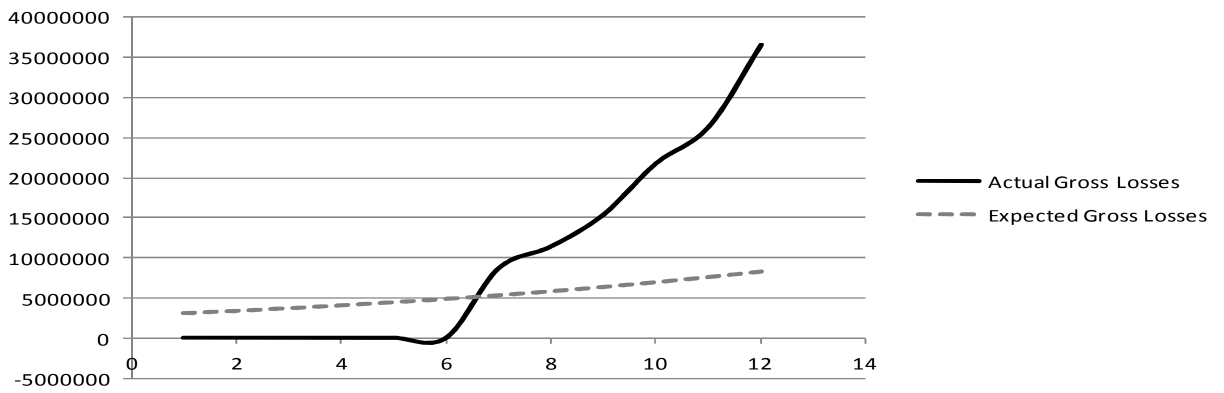
77. The actual gross loss data in Figure 2 (*infra*) was obtained from ABSNet, a resource for asset-backed securities related data. The expected gross losses were calculated by "grossing up" the rating-implied expected net losses using an expected recovery rate of 85%.

78. As the graphs show, the actual gross losses (the solid lines) far exceeded the expected gross losses (the dotted lines) for the period analyzed. That means that the actual balance of defaulted loans in the first twelve months following issuance far exceeded the expected balance of defaulted loans based on historical performance.

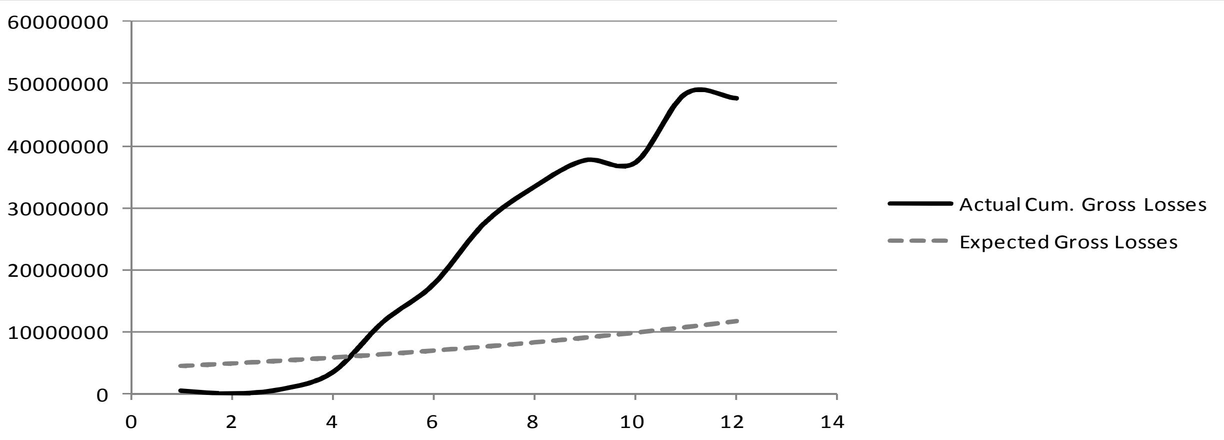
Figure 2

Illustration of Expected Gross Losses v. Actual Gross Losses for The Credit Unions' RMBS Purchases

Issuing Entity	ABSNet Deal Id	Month	Actual Gross Losses	Expected Gross Losses
HarborView Mortgage Loan Trust 2006-10	39466	1	$ -	$ 3,181,472
HarborView Mortgage Loan Trust 2006-10	39466	2	$ -	$ 3,474,963
HarborView Mortgage Loan Trust 2006-10	39466	3	$ -	$ 3,794,913
HarborView Mortgage Loan Trust 2006-10	39466	4	$ -	$ 4,143,589
HarborView Mortgage Loan Trust 2006-10	39466	5	$ -	$ 4,523,430
HarborView Mortgage Loan Trust 2006-10	39466	6	$ -	$ 4,937,055
HarborView Mortgage Loan Trust 2006-10	39466	7	$ 8,680,070	$ 5,387,271
HarborView Mortgage Loan Trust 2006-10	39466	8	$ 11,414,529	$ 5,877,081
HarborView Mortgage Loan Trust 2006-10	39466	9	$ 15,410,951	$ 6,409,692
HarborView Mortgage Loan Trust 2006-10	39466	10	$ 21,799,292	$ 6,988,517
HarborView Mortgage Loan Trust 2006-10	39466	11	$ 26,355,108	$ 7,617,179
HarborView Mortgage Loan Trust 2006-10	39466	12	$ 36,615,307	$ 8,299,515

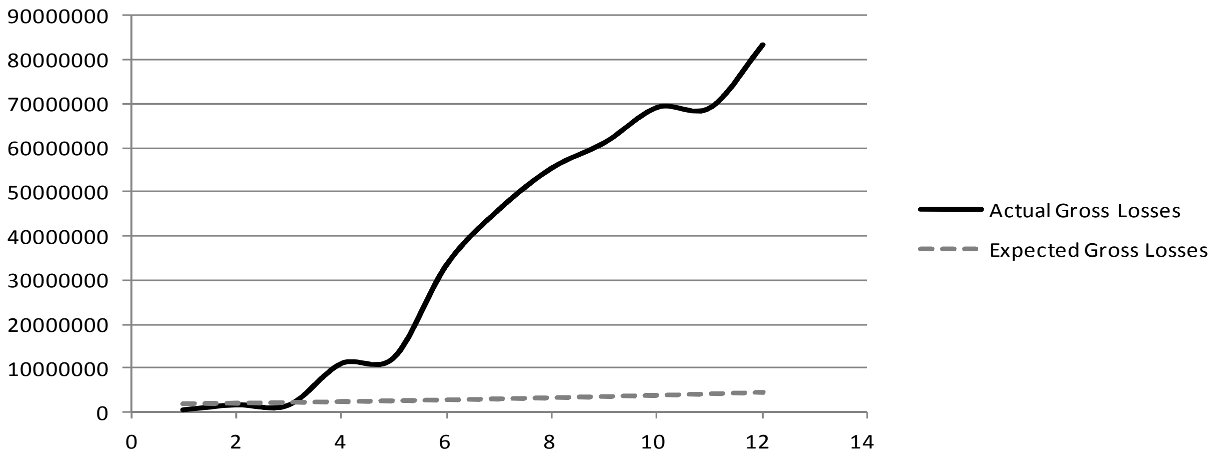


Issuing Entity	ABSNet Deal Id	Month	Actual Gross Losses	Expected Gross Losses
HarborView Mortgage Loan Trust 2007-1	40906	1	$ 470,016	$ 4,486,867
HarborView Mortgage Loan Trust 2007-1	40906	2	$ -	$ 4,900,781
HarborView Mortgage Loan Trust 2007-1	40906	3	$ 740,974	$ 5,352,010
HarborView Mortgage Loan Trust 2007-1	40906	4	$ 3,422,669	$ 5,843,752
HarborView Mortgage Loan Trust 2007-1	40906	5	$ 11,572,487	$ 6,379,446
HarborView Mortgage Loan Trust 2007-1	40906	6	$ 17,645,257	$ 6,962,786
HarborView Mortgage Loan Trust 2007-1	40906	7	$ 27,455,285	$ 7,597,731
HarborView Mortgage Loan Trust 2007-1	40906	8	$ 33,429,089	$ 8,288,517
HarborView Mortgage Loan Trust 2007-1	40906	9	$ 37,706,844	$ 9,039,664
HarborView Mortgage Loan Trust 2007-1	40906	10	$ 37,339,557	$ 9,855,987
HarborView Mortgage Loan Trust 2007-1	40906	11	$ 48,483,984	$ 10,742,596
HarborView Mortgage Loan Trust 2007-1	40906	12	$ 47,750,914	$ 11,704,903

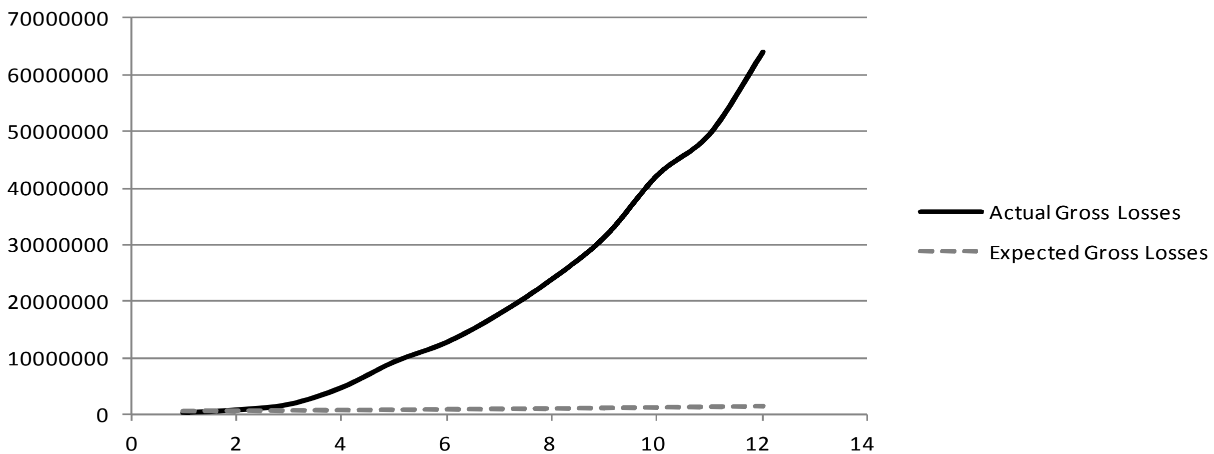


4226195.1

Issuing Entity	ABSNet Deal Id	Month	Actual Gross Losses	Expected Gross Losses
HarborView Mortgage Loan Trust 2007-2	40907	1	$ 647,551	$ 1,785,903
HarborView Mortgage Loan Trust 2007-2	40907	2	$ 1,783,440	$ 1,950,652
HarborView Mortgage Loan Trust 2007-2	40907	3	$ 1,699,532	$ 2,130,255
HarborView Mortgage Loan Trust 2007-2	40907	4	$ 11,140,763	$ 2,325,982
HarborView Mortgage Loan Trust 2007-2	40907	5	$ 12,498,521	$ 2,539,204
HarborView Mortgage Loan Trust 2007-2	40907	6	$ 33,584,483	$ 2,771,390
HarborView Mortgage Loan Trust 2007-2	40907	7	$ 46,188,913	$ 3,024,116
HarborView Mortgage Loan Trust 2007-2	40907	8	$ 55,536,048	$ 3,299,069
HarborView Mortgage Loan Trust 2007-2	40907	9	$ 61,318,518	$ 3,598,047
HarborView Mortgage Loan Trust 2007-2	40907	10	$ 69,284,016	$ 3,922,967
HarborView Mortgage Loan Trust 2007-2	40907	11	$ 69,215,449	$ 4,275,863
HarborView Mortgage Loan Trust 2007-2	40907	12	$ 83,515,196	$ 4,658,889

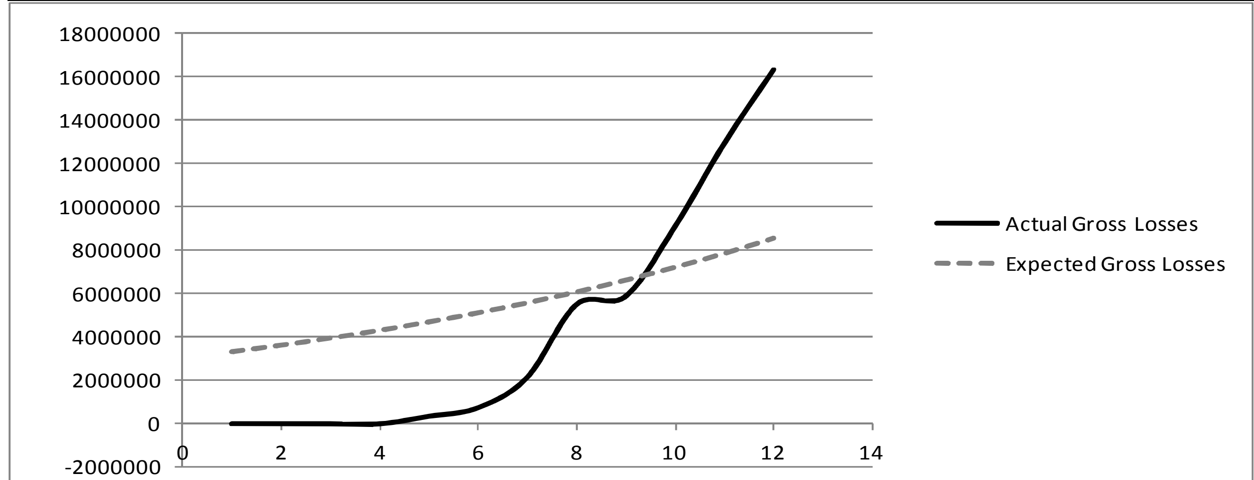


Issuing Entity	ABSNet Deal Id	Month	Actual Gross Losses	Expected Gross Losses
HarborView Mortgage Loan Trust 2007-3	40911	1	$ 304,880	$ 587,070
HarborView Mortgage Loan Trust 2007-3	40911	2	$ 801,629	$ 641,227
HarborView Mortgage Loan Trust 2007-3	40911	3	$ 1,769,959	$ 700,267
HarborView Mortgage Loan Trust 2007-3	40911	4	$ 4,731,061	$ 764,607
HarborView Mortgage Loan Trust 2007-3	40911	5	$ 9,271,125	$ 834,698
HarborView Mortgage Loan Trust 2007-3	40911	6	$ 12,764,033	$ 911,024
HarborView Mortgage Loan Trust 2007-3	40911	7	$ 17,785,731	$ 994,101
HarborView Mortgage Loan Trust 2007-3	40911	8	$ 23,923,816	$ 1,084,485
HarborView Mortgage Loan Trust 2007-3	40911	9	$ 31,380,485	$ 1,182,766
HarborView Mortgage Loan Trust 2007-3	40911	10	$ 42,296,686	$ 1,289,575
HarborView Mortgage Loan Trust 2007-3	40911	11	$ 49,663,984	$ 1,405,581
HarborView Mortgage Loan Trust 2007-3	40911	12	$ 64,052,857	$ 1,531,491

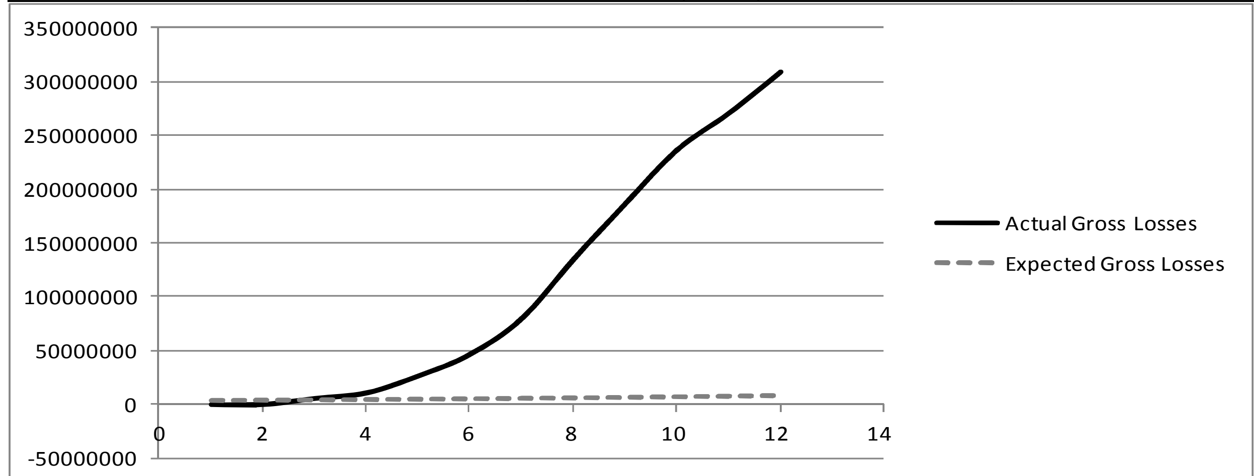


4226195.1

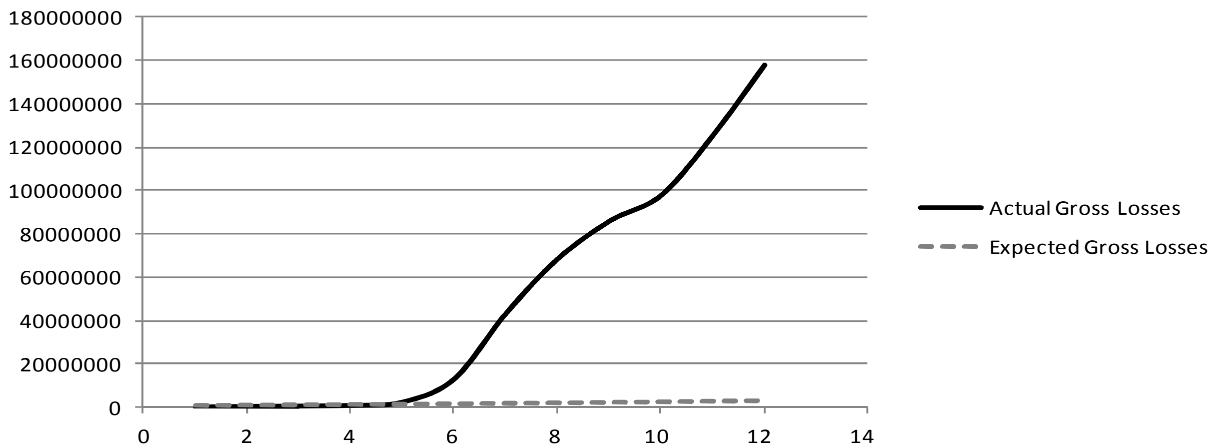
Issuing Entity	ABSNet Deal Id	Month	Actual Gross Losses	Expected Gross Losses
IndyMac INDX Mortgage Loan Trust 2006-AR6	37740	1	$ -	$ 3,273,303
IndyMac INDX Mortgage Loan Trust 2006-AR6	37740	2	$ -	$ 3,575,265
IndyMac INDX Mortgage Loan Trust 2006-AR6	37740	3	$ -	$ 3,904,451
IndyMac INDX Mortgage Loan Trust 2006-AR6	37740	4	$ -	$ 4,263,191
IndyMac INDX Mortgage Loan Trust 2006-AR6	37740	5	$ 346,709	$ 4,653,996
IndyMac INDX Mortgage Loan Trust 2006-AR6	37740	6	$ 743,047	$ 5,079,559
IndyMac INDX Mortgage Loan Trust 2006-AR6	37740	7	$ 2,146,440	$ 5,542,771
IndyMac INDX Mortgage Loan Trust 2006-AR6	37740	8	$ 5,500,716	$ 6,046,719
IndyMac INDX Mortgage Loan Trust 2006-AR6	37740	9	$ 5,884,436	$ 6,594,703
IndyMac INDX Mortgage Loan Trust 2006-AR6	37740	10	$ 9,091,102	$ 7,190,235
IndyMac INDX Mortgage Loan Trust 2006-AR6	37740	11	$ 12,924,144	$ 7,837,043
IndyMac INDX Mortgage Loan Trust 2006-AR6	37740	12	$ 16,320,490	$ 8,539,074



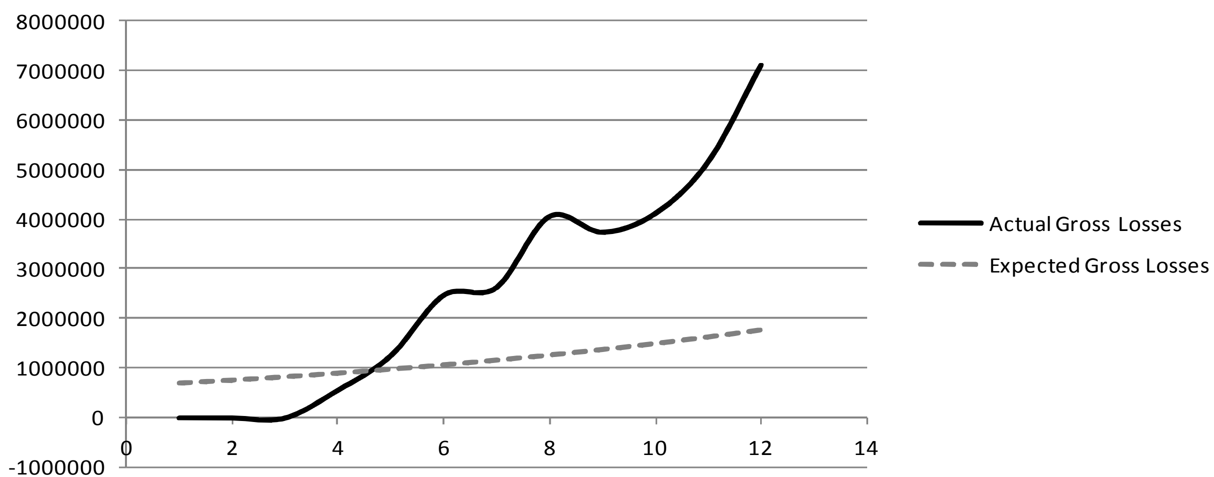
Issuing Entity	ABSNet Deal Id	Month	Actual Gross Losses	Expected Gross Losses
Long Beach Mortgage Loan Trust 2006-2	37096	1	$ -	$ 2,881,417
Long Beach Mortgage Loan Trust 2006-2	37096	2	$ 147,451	$ 3,147,228
Long Beach Mortgage Loan Trust 2006-2	37096	3	$ 5,730,329	$ 3,437,003
Long Beach Mortgage Loan Trust 2006-2	37096	4	$ 10,960,988	$ 3,752,794
Long Beach Mortgage Loan Trust 2006-2	37096	5	$ 26,683,727	$ 4,096,811
Long Beach Mortgage Loan Trust 2006-2	37096	6	$ 46,863,814	$ 4,471,425
Long Beach Mortgage Loan Trust 2006-2	37096	7	$ 80,242,406	$ 4,879,180
Long Beach Mortgage Loan Trust 2006-2	37096	8	$ 135,297,922	$ 5,322,795
Long Beach Mortgage Loan Trust 2006-2	37096	9	$ 187,019,582	$ 5,805,173
Long Beach Mortgage Loan Trust 2006-2	37096	10	$ 236,903,192	$ 6,329,407
Long Beach Mortgage Loan Trust 2006-2	37096	11	$ 271,018,151	$ 6,898,778
Long Beach Mortgage Loan Trust 2006-2	37096	12	$ 309,420,134	$ 7,516,761



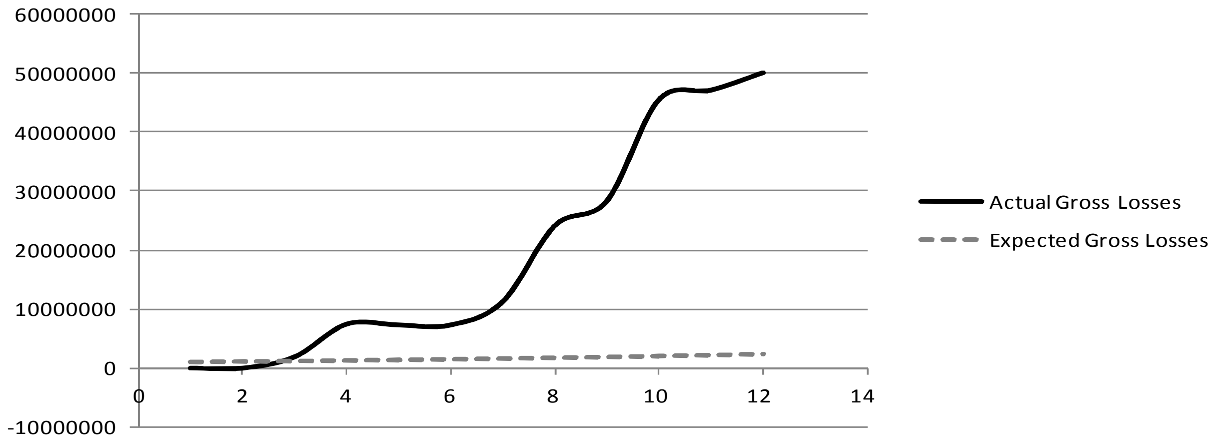
Issuing Entity	ABSNet Deal Id	Month	Actual Gross Losses	Expected Gross Losses
Long Beach Mortgage Loan Trust 2006-8	39174	1	$ -	$ 1,189,806
Long Beach Mortgage Loan Trust 2006-8	39174	2	$ 271,808	$ 1,299,566
Long Beach Mortgage Loan Trust 2006-8	39174	3	$ 467,509	$ 1,419,221
Long Beach Mortgage Loan Trust 2006-8	39174	4	$ 729,616	$ 1,549,619
Long Beach Mortgage Loan Trust 2006-8	39174	5	$ 2,305,431	$ 1,691,672
Long Beach Mortgage Loan Trust 2006-8	39174	6	$ 13,054,653	$ 1,846,359
Long Beach Mortgage Loan Trust 2006-8	39174	7	$ 43,335,939	$ 2,014,731
Long Beach Mortgage Loan Trust 2006-8	39174	8	$ 68,513,823	$ 2,197,910
Long Beach Mortgage Loan Trust 2006-8	39174	9	$ 85,968,656	$ 2,397,096
Long Beach Mortgage Loan Trust 2006-8	39174	10	$ 97,911,079	$ 2,613,564
Long Beach Mortgage Loan Trust 2006-8	39174	11	$ 125,565,885	$ 2,848,671
Long Beach Mortgage Loan Trust 2006-8	39174	12	$ 158,128,341	$ 3,103,851



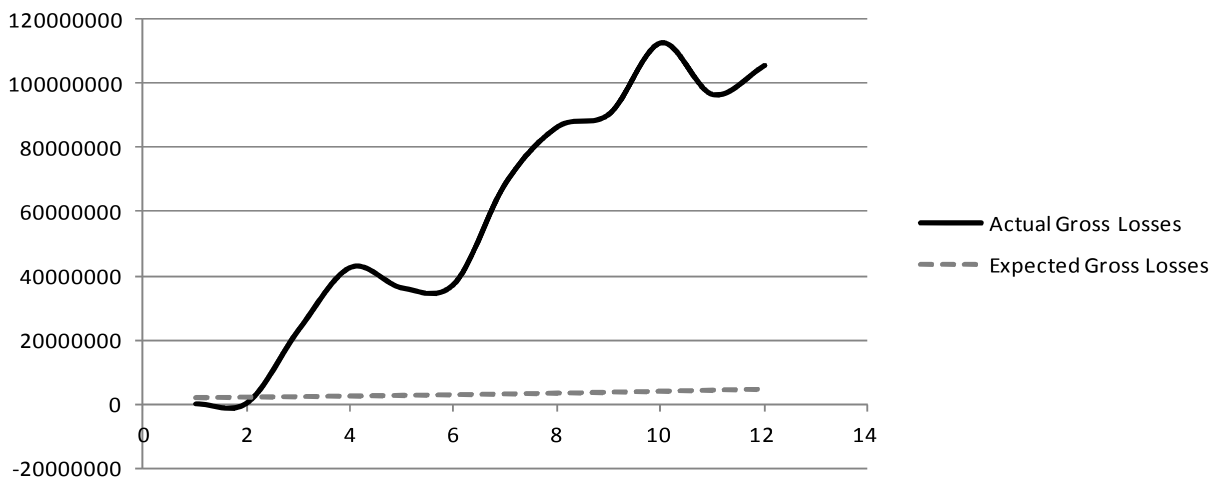
Issuing Entity	ABSNet Deal Id	Month	Actual Gross Losses	Expected Gross Losses
MortgageIT Mortgage Loan Trust 2006-1	36837	1	$ -	$ 676,065.76
MortgageIT Mortgage Loan Trust 2006-1	36837	2	$ -	$ 738,432.90
MortgageIT Mortgage Loan Trust 2006-1	36837	3	$ -	$ 806,422.58
MortgageIT Mortgage Loan Trust 2006-1	36837	4	$ 560,000.00	$ 880,516.57
MortgageIT Mortgage Loan Trust 2006-1	36837	5	$ 1,254,257.17	$ 961,233.11
MortgageIT Mortgage Loan Trust 2006-1	36837	6	$ 2,470,257.89	$ 1,049,128.74
MortgageIT Mortgage Loan Trust 2006-1	36837	7	$ 2,628,457.17	$ 1,144,800.05
MortgageIT Mortgage Loan Trust 2006-1	36837	8	$ 4,055,807.17	$ 1,248,885.24
MortgageIT Mortgage Loan Trust 2006-1	36837	9	$ 3,738,676.18	$ 1,362,065.53
MortgageIT Mortgage Loan Trust 2006-1	36837	10	$ 4,116,310.48	$ 1,485,066.24
MortgageIT Mortgage Loan Trust 2006-1	36837	11	$ 5,153,808.11	$ 1,618,657.50
MortgageIT Mortgage Loan Trust 2006-1	36837	12	$ 7,103,777.17	$ 1,763,654.58



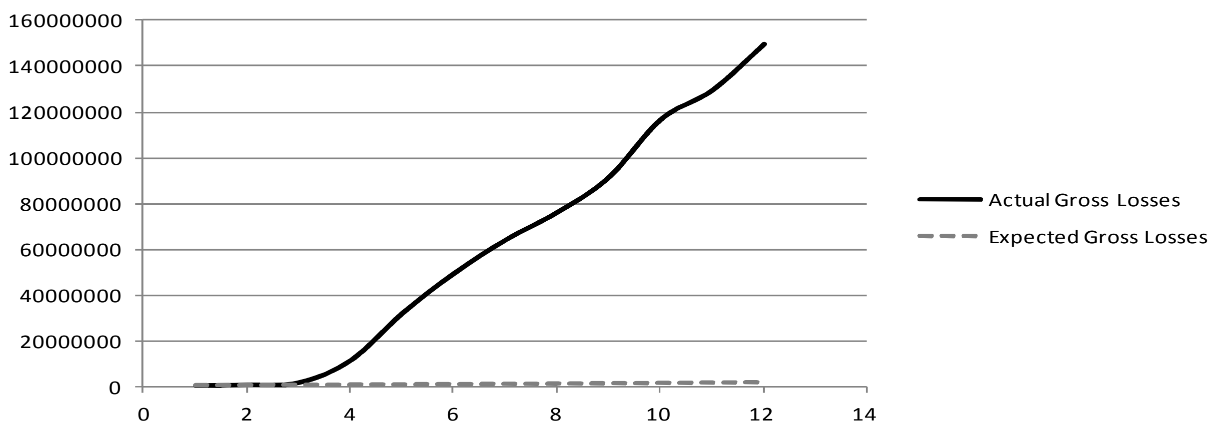
Issuing Entity	ABSNet Deal Id	Month	Actual Gross Losses	Expected Gross Losses
Nomura Asset Acceptance Corp., Alt. Loan Trust 2006-AR4	39723	1	$ -	$ 881,637
Nomura Asset Acceptance Corp., Alt. Loan Trust 2006-AR4	39723	2	$ -	$ 962,968
Nomura Asset Acceptance Corp., Alt. Loan Trust 2006-AR4	39723	3	$ 1,901,772	$ 1,051,631
Nomura Asset Acceptance Corp., Alt. Loan Trust 2006-AR4	39723	4	$ 7,464,605	$ 1,148,255
Nomura Asset Acceptance Corp., Alt. Loan Trust 2006-AR4	39723	5	$ 7,310,855	$ 1,253,515
Nomura Asset Acceptance Corp., Alt. Loan Trust 2006-AR4	39723	6	$ 7,310,855	$ 1,368,137
Nomura Asset Acceptance Corp., Alt. Loan Trust 2006-AR4	39723	7	$ 11,290,671	$ 1,492,899
Nomura Asset Acceptance Corp., Alt. Loan Trust 2006-AR4	39723	8	$ 24,181,875	$ 1,628,633
Nomura Asset Acceptance Corp., Alt. Loan Trust 2006-AR4	39723	9	$ 28,385,840	$ 1,776,228
Nomura Asset Acceptance Corp., Alt. Loan Trust 2006-AR4	39723	10	$ 45,560,714	$ 1,936,629
Nomura Asset Acceptance Corp., Alt. Loan Trust 2006-AR4	39723	11	$ 47,163,113	$ 2,110,842
Nomura Asset Acceptance Corp., Alt. Loan Trust 2006-AR4	39723	12	$ 50,115,861	$ 2,299,928



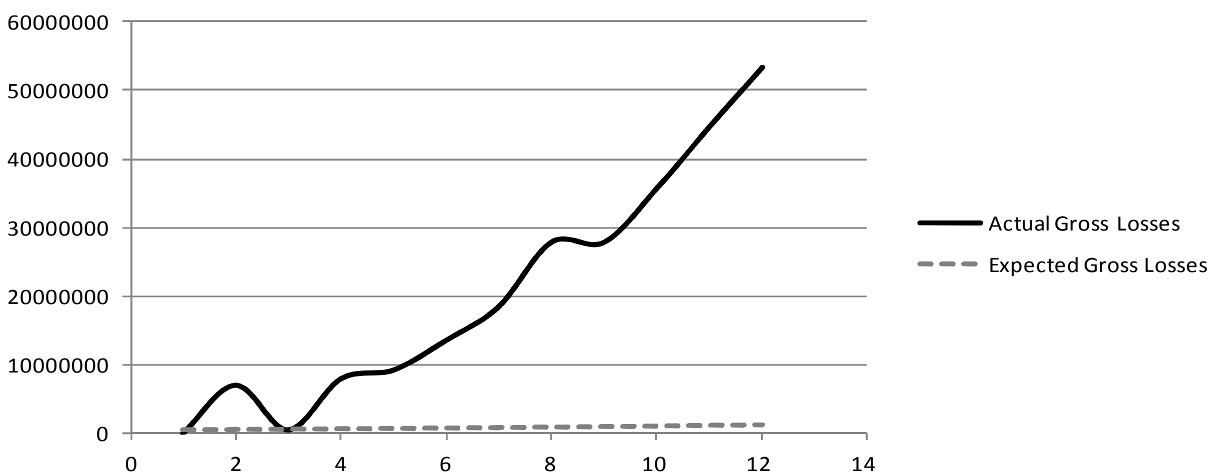
Issuing Entity	ABSNet Deal Id	Month	Actual Gross Losses	Expected Gross Losses
Nomura Home Equity Loan Trust 2007-1	40291	1	$ 159,200	$ 1,737,954
Nomura Home Equity Loan Trust 2007-1	40291	2	$ 619,200	$ 1,898,280
Nomura Home Equity Loan Trust 2007-1	40291	3	$ 23,542,962	$ 2,073,060
Nomura Home Equity Loan Trust 2007-1	40291	4	$ 42,794,130	$ 2,263,533
Nomura Home Equity Loan Trust 2007-1	40291	5	$ 36,287,162	$ 2,471,030
Nomura Home Equity Loan Trust 2007-1	40291	6	$ 37,717,522	$ 2,696,982
Nomura Home Equity Loan Trust 2007-1	40291	7	$ 69,224,811	$ 2,942,923
Nomura Home Equity Loan Trust 2007-1	40291	8	$ 86,609,785	$ 3,210,493
Nomura Home Equity Loan Trust 2007-1	40291	9	$ 90,655,311	$ 3,501,444
Nomura Home Equity Loan Trust 2007-1	40291	10	$ 112,784,673	$ 3,817,641
Nomura Home Equity Loan Trust 2007-1	40291	11	$ 96,635,919	$ 4,161,062
Nomura Home Equity Loan Trust 2007-1	40291	12	$ 105,724,469	$ 4,533,804



Issuing Entity	ABSNet Deal Id	Month	Actual Gross Losses	Expected Gross Losses
Option One Mortgage Loan Trust 2007-2	40647	1	$ 770,303	$ 845,534
Option One Mortgage Loan Trust 2007-2	40647	2	$ 1,056,503	$ 923,535
Option One Mortgage Loan Trust 2007-2	40647	3	$ 2,045,023	$ 1,008,567
Option One Mortgage Loan Trust 2007-2	40647	4	$ 11,763,935	$ 1,101,234
Option One Mortgage Loan Trust 2007-2	40647	5	$ 32,259,776	$ 1,202,184
Option One Mortgage Loan Trust 2007-2	40647	6	$ 49,663,164	$ 1,312,112
Option One Mortgage Loan Trust 2007-2	40647	7	$ 64,252,018	$ 1,431,766
Option One Mortgage Loan Trust 2007-2	40647	8	$ 76,248,593	$ 1,561,942
Option One Mortgage Loan Trust 2007-2	40647	9	$ 91,554,408	$ 1,703,493
Option One Mortgage Loan Trust 2007-2	40647	10	$ 116,675,251	$ 1,857,326
Option One Mortgage Loan Trust 2007-2	40647	11	$ 129,476,334	$ 2,024,404
Option One Mortgage Loan Trust 2007-2	40647	12	$ 149,518,108	$ 2,205,747



Issuing Entity	ABSNet Deal Id	Month	Actual Gross Losses	Expected Gross Losses
Soundview Home Loan Trust 2006-WF1	39116	1	$ -	$ 530,944
Soundview Home Loan Trust 2006-WF1	39116	2	$ 7,001,637	$ 579,923
Soundview Home Loan Trust 2006-WF1	39116	3	$ 478,598	$ 633,319
Soundview Home Loan Trust 2006-WF1	39116	4	$ 7,947,595	$ 691,508
Soundview Home Loan Trust 2006-WF1	39116	5	$ 9,226,811	$ 754,898
Soundview Home Loan Trust 2006-WF1	39116	6	$ 13,575,289	$ 823,926
Soundview Home Loan Trust 2006-WF1	39116	7	$ 18,508,024	$ 899,061
Soundview Home Loan Trust 2006-WF1	39116	8	$ 27,890,962	$ 980,804
Soundview Home Loan Trust 2006-WF1	39116	9	$ 27,885,458	$ 1,069,689
Soundview Home Loan Trust 2006-WF1	39116	10	$ 35,760,927	$ 1,166,287
Soundview Home Loan Trust 2006-WF1	39116	11	$ 44,729,510	$ 1,271,202
Soundview Home Loan Trust 2006-WF1	39116	12	$ 53,412,136	$ 1,385,074



79. As clearly shown in Figure 2 (*supra*), actual gross losses spiked almost immediately after issuance of the RMBS. Borrowers defaulted on the underlying mortgages soon after loan origination, rapidly eliminating the RMBS's credit enhancement. For example, in the Option One Mortgage Loan Trust 2007-2 offering, actual gross losses at month 12 exceeded $149 million, or more than 67 times the expected gross losses of approximately $2.2 million. (*See supra* Figure 2).

80. This immediate increase in actual losses—at a rate far greater than expected losses—is strong evidence that the Originators systematically disregarded the underwriting standards in the Offering Documents.

81. Because credit enhancement is designed to ensure triple-A performance of triple-A rated RMBS, the evidence that credit enhancement has failed (*i.e.*, actual losses swiftly surged past expected losses shortly after the offering) substantiates that a critical number of mortgages in the pool were not written in accordance with the underwriting guidelines stated in the Offering Documents.

C. The Collapse of the Certificates' Credit Ratings is Evidence of Systematic Disregard of Underwriting Guidelines

82. All of the RMBS certificates the Credit Unions purchased were rated triple-A at issuance.

83. Moody's and S&P have since downgraded the RMBS certificates the Credit Unions purchased to well below investment grade (*see supra* Table 3).

84. Triple-A rated product "should be able to withstand an extreme level of stress and still meet its financial obligations. A historical example of such a scenario is the Great Depression in the U.S." Understanding Standard & Poor's Rating Definitions, June 3, 2009, at 14.

85. A rating downgrade is material. The total collapse in the credit ratings of the RMBS certificates the Credit Unions purchased, typically from triple-A to non-investment speculative grade, is evidence of the Originators' systematic disregard of underwriting guidelines, amplifying that these RMBS were impaired from the outset.

D. Revelations Subsequent to the Offerings Show That the Originators Systematically Disregarded Underwriting Standards

86. Public disclosures subsequent to the issuance of the RMBS reinforce the allegation that the Originators systematically abandoned their stated underwriting guidelines.

1. The Systematic Disregard of Underwriting Standards Was Pervasive as Revealed After the Collapse

87. Mortgage originators experienced unprecedented success during the mortgage boom. Yet, their success was illusory. As the loans they originated began to significantly underperform, the demand for their products subsided. It became evident that originators had systematically disregarded their underwriting standards.

88. The Office of the Comptroller of the Currency (the "OCC"), an office within the Treasury Department, published a report in November 2008 listing the "Worst Ten" metropolitan areas with the highest rates of foreclosures and the "Worst Ten" originators with the largest numbers of foreclosures in those areas ("2008 'Worst Ten in the Worst Ten' Report"). In this report the OCC emphasized the importance of adherence to underwriting standards in mortgage loan origination:

> The quality of the underwriting process—that is, determining through analysis of the borrower and market conditions that a borrower is highly likely to be able to repay the loan as promised—is a major determinant of subsequent loan performance. The quality of underwriting varies across lenders, a factor that is evident through comparisons of rates of delinquency, foreclosure, or other loan performance measures across loan originators.

89. Government reports and investigations and newspaper reports have uncovered the

extent of pervasive abandonment of underwriting standards. The Permanent Subcommittee on Investigations in the United States Senate ("PSI") recently released its report detailing the causes of the financial crisis. Using Washington Mutual Bank as a case study, the PSI concluded through its investigation:

> Washington Mutual was far from the only lender that sold poor quality mortgages and mortgage backed securities that undermined U.S. financial markets. The Subcommittee investigation indicates that Washington Mutual was emblematic of a host of financial institutions that knowingly originated, sold, and securitized billions of dollars in high risk, poor quality home loans. These lenders were not the victims of the financial crisis; the high risk loans they issued became the fuel that ignited the financial crisis.

STAFF OF S. PERMANENT SUBCOMM. ON INVESTIGATIONS, 112TH CONG., WALL STREET AND THE FINANCIAL CRISIS: ANATOMY OF A FINANCIAL COLLAPSE 50 (Subcomm. Print 2011).

90. Indeed, the Financial Crisis Inquiry Commission ("FCIC") issued its final report in January 2011 that detailed, among other things, the collapse of mortgage underwriting standards and subsequent collapse of the mortgage market and wider economy. *See* FIN. CRISIS INQUIRY COMM'N, FINAL REPORT OF THE NATIONAL COMMISSION ON THE CAUSES OF THE FINANCIAL AND ECONOMIC CRISIS IN THE UNITED STATES (2011) ("FCIC Report").

91. The FCIC Report concluded that there was a "systemic breakdown in accountability and ethics." "Unfortunately—as has been the case in past speculative booms and busts—we witnessed an erosion of standards of responsibility and ethics that exacerbated the financial crisis." *Id*. at xxii. The FCIC found:

> [I]t was the collapse of the housing bubble—fueled by low interest rates, easy and available credit, scant regulation, and toxic mortgages—that was the spark that ignited a string of events, which led to a full-blown crises in the fall of 2008. Trillions of dollars in risky mortgages had become embedded throughout the financial system, as mortgage-related securities were packaged, repackaged, and sold to investors around the world.

Id. at xvi.

92. During the housing boom, mortgage lenders focused on quantity rather than quality, originating loans for borrowers who had no realistic capacity to repay the loan. The FCIC Report found "that the percentage of borrowers who defaulted on their mortgages within just a matter of months after taking a loan nearly doubled from the summer of 2006 to late 2007." *Id*. at xxii. Early Payment Default is a significant indicator of pervasive disregard for underwriting standards. The FCIC Report noted that mortgage fraud "flourished in an environment of collapsing lending standards…." *Id*.

93. In this lax lending environment, mortgage lenders went unchecked, originating mortgages for borrowers in spite of underwriting standards:

> Lenders made loans that they knew borrowers could not afford and that could cause massive losses to investors in mortgage securities. As early as September 2004, Countrywide executives recognized that many of the loans they were originating could result in "catastrophic consequences." Less than a year later, they noted that certain high-risk loans they were making could result not only in foreclosures but also in "financial and reputational catastrophe" for the firm. But they did not stop.

Id.

94. Lenders and borrowers took advantage of this climate, with borrowers willing to take on loans and lenders anxious to get those borrowers into the loans, ignoring even loosened underwriting standards. The FCIC Report observed: "Many mortgage lenders set the bar so low that lenders simply took eager borrowers' qualifications on faith, often with a willful disregard for a borrower's ability to pay." *Id*. at xxiii.

95. In an interview with the FCIC, Alphonso Jackson, the Secretary of the Department of Housing and Urban Affairs ("HUD") from 2004 to 2008, related that HUD had heard about mortgage lenders "running wild, taking applications over the Internet, not verifying people's income or their ability to have a job." *Id*. at 12-13 (internal quotation marks omitted).

96. Chairman of the Federal Reserve Board, Benjamin Bernanke, spoke to the decline of underwriting standards in his speech before the World Affairs Council of Greater Richmond on April 10, 2008:

> First, at the point of origination, underwriting standards became increasingly compromised. The best-known and most serious case is that of subprime mortgages, mortgages extended to borrowers with weaker credit histories. To a degree that increased over time, these mortgages were often poorly documented and extended with insufficient attention to the borrower's ability to repay. In retrospect, the breakdown in underwriting can be linked to the incentives that the originate-to-distribute model, as implemented in this case, created for the originators. Notably, the incentive structures often tied originator revenue to loan volume, rather than to the quality of the loans being passed up the chain. Investors normally have the right to put loans that default quickly back to the originator, which should tend to apply some discipline to the underwriting process. However, in the recent episode, some originators had little capital at stake, reducing their exposure to the risk that the loans would perform poorly.

Benjamin Bernanke, Chairman, Federal Reserve Board, Speech to the World Affairs Council of Greater Richmond, *Addressing Weaknesses in the Global Financial Markets: The Report of the President's Working Group on Financial Markets*, Apr. 10, 2008.

97. Investment banks securitized loans that were not originated in accordance with underwriting guidelines and failed to disclose this fact in RMBS offering documents. As the FCIC Report noted:

> The Commission concludes that firms securitizing mortgages failed to perform adequate due diligence on the mortgages they purchased and at times knowingly waived compliance with underwriting standards. Potential investors were not fully informed or were misled about the poor quality of the mortgages contained in some mortgage-related securities. These problems appear to have been significant.

FCIC Report at 187.

98. Because investors had limited or no access to information concerning the actual quality of loans underlying the RMBS, the OTD model created a situation where the origination of low quality mortgages through poor underwriting thrived. The FSOC found:

> In the originate-to-distribute model, originators receive significant compensation upfront without retaining a material ongoing economic interest in the performance of the loan. This reduces the economic incentive of originators and securitizers to evaluate the credit quality of the underlying loans carefully. Some research indicates that securitization was associated with lower quality loans in the financial crisis. For instance, one study found that subprime borrowers with credit scores just above a threshold commonly used by securitizers to determine which loans to purchase defaulted at significantly higher rates than those with credit scores below the threshold. By lower underwriting standards, securitization may have increased the amount of credit extended, resulting in riskier and unsustainable loans that otherwise may not have been originated.

FSOC Risk Retention Report at 11 (footnote omitted).

99. The FSOC reported that as the OTD model became more pervasive in the mortgage industry, underwriting practices weakened across the industry. The FSOC Risk Retention Report found "[t]his deterioration was particularly prevalent with respect to the verification of the borrower's income, assets, and employment for residential real estate loans… ." *Id.*

100. In sum, the disregard of underwriting standards was pervasive across originators. The failure to adhere to underwriting standards directly contributed to the sharp decline in the quality of mortgages that became part of mortgage pools collateralizing RMBS. The lack of adherence to underwriting standards for the loans underlying RMBS was not disclosed to investors in the offering materials. The nature of the securitization process, with the investor several steps removed from the origination of the mortgages underlying the RMBS, made it difficult for investors to ascertain how the RMBS would perform.

101. As discussed below, facts have recently come to light that show many of the Originators who contributed to the loan pools underlying the RMBS at issue in this Complaint engaged in these underwriting practices.

2. American Home's Systematic Disregard of Underwriting Standards

102. American Home Mortgage Investment Corp. was a real estate investment trust that invested in RMBS consisting of loans originated and serviced by its subsidiaries. It was the parent of American Home Mortgage Holdings, Inc., which in turn was the parent of American Home Mortgage Corp., a retail lender of mortgage loans. Collectively, these entities are referred to herein as "American Home."

103. American Home originated or contributed a critical number of loans to the mortgage pools underlying the HarborView Mortgage Loan Trust 2007-2 offering. *See infra* Table 6.

104. Edmund Andrews, an economics reporter for the New York Times, recounted his own experience using American Home as a lender. According to Andrews, he was looking to purchase a home in 2004, and his real estate agent referred him to a loan officer at American Home. The American Home loan officer began the ordeal by asking Andrews how large of a loan he needed. Andrews, who had a monthly take home pay of $2,777, advised the loan officer that he had hefty child support and alimony payments to an ex-wife. Andrews would be relying on his then-unemployed fiancée to earn enough money to meet his monthly obligations—including the mortgage. Andrews reported:

> As I quickly found out, American Home Mortgage had become one of the fastest-growing mortgage lenders in the country. One of its specialties was serving people just like me: borrowers with good credit scores who wanted to stretch their finances far beyond what our incomes could justify. In industry jargon, we were "Alt-A" customers, and we usually paid slightly higher rates for the privilege of concealing our financial weaknesses.
>
> I thought I knew a lot about go-go mortgages. I had already written several articles about the explosive growth of liar's loans, no-money-down loans, interest-only loans and other even more exotic mortgages. I had interviewed people with very modest incomes who had taken out big loans. Yet for all that, I was stunned at how much money people were willing to throw at me.

> [The American Home loan officer] called back the next morning. "Your credit scores are almost perfect," he said happily. "Based on your income, you can qualify for a mortgage of about $500,000."
>
> What about my alimony and child-support obligations? No need to mention them. What would happen when they saw the automatic withholdings in my paycheck? No need to show them. If I wanted to buy a house, [the American Home loan officer] figured, it was my job to decide whether I could afford it. His job was to make it happen.
>
> "I am here to enable dreams," he explained to me long afterward. [The American Home loan officer]'s view was that if I'd been unemployed for seven years and didn't have a dime to my name but I wanted a house, he wouldn't question my prudence. "Who am I to tell you that you shouldn't do what you want to do? I am here to sell money and to help you do what you want to do. At the end of the day, it's your signature on the mortgage—not mine."

Edmund L. Andrews, *My Personal Credit Crisis*, N.Y. TIMES, May 17, 2009, at MM46.

105. The American Home loan officer steered Andrews to a stated-income loan so that he would not have to produce paychecks or tax returns that would reveal his alimony and child support obligations. The loan officer wanted to limit disclosure of Andrews's alimony and child support payments when an existing mortgage showed up under Andrews's name. Although his ex-wife was solely responsible for that mortgage under the terms of the couple's separation agreement, the only way Andrews could explain that fact would be to produce the agreement, which would also reveal his alimony and child support obligations. According to Andrews:

> [The American Home loan officer] didn't get flustered. If Plan A didn't work, he would simply move down another step on the ladder of credibility. Instead of "stating" my income without documenting it, I would take out a "no ratio" mortgage and not state my income at all. For the price of a slightly higher interest rate, American Home would verify my assets, but that was it. Because I wasn't stating my income, I couldn't have a debt-to-income ratio, and therefore, I couldn't have too much debt. I could have had four other mortgages, and it wouldn't have mattered. American Home was practically begging me to take the money.

Id.

106. American Home ultimately approved Andrews's application. Not surprisingly,

Andrews was unable to afford his monthly mortgage payments.

107. American Home's lack of adherence to underwriting guidelines was set forth in detail in a 165-page amended class action complaint filed June 4, 2008, in *In re American Home Mortgage Sec Litig.*, No. 07-md-1898 (TCP) (E.D.N.Y.). Investors in American Home common/preferred stock alleged that the company misrepresented itself as a conservative lender, when, based on statements from more than 33 confidential witnesses and internal company documents, American Home in reality was a high risk lender, promoting quantity of loans over quality by targeting borrowers with poor credit, violating company underwriting guidelines, and providing incentives for employees to sell risky loans, regardless of the borrowers' creditworthiness. *See* Am. Class Action Compl., *In re American Home Mortgage Sec. Litig.*, No. 07-md-1898 (E.D.N.Y. filed June 4, 2008) ("American Home ACC").

108. According to the American Home ACC, former American Home employees recounted that underwriters were consistently bullied by sales staff when underwriters challenged questionable loans, while exceptions to American Home's underwriting guidelines were routinely applied. *See id.* ¶¶ 120-121.

109. The American Home ACC cited to witnesses who were former American Home employees. These witnesses reported that American Home management told underwriters not to decline a loan, regardless of whether the loan application included fraud. *See id.*

110. Another former American Home employee stated that American Home routinely made exceptions to its underwriting guidelines to be able to close loans. When American Home mortgage underwriters raised concerns to the sales department about the pervasive use of exceptions to American Home's mortgage underwriting practices, the sales department contacted American Home headquarters to get approval for the use of exceptions. Indeed, it was

commonplace to overrule mortgage underwriters' objections to approving a loan to facilitate loan approval. *See id.* ¶ 123.

111. A former American Home auditor confirmed this account that American Home mortgage underwriters were regularly overruled when they objected to loan originations. *See id.* ¶ 124.

112. The parties settled the litigation on January 14, 2010, for $37.25 million.

113. American Home's lending practices landed it in the 2008 "Worst Ten in the Worst Ten" Report. American Home came in 8th in Las Vegas, Nevada, and 9th in both Detroit, Michigan, and Miami, Florida. *See* 2008 "Worst Ten in the Worst Ten" Report. When the OCC issued the 2009 "Worst Ten in the Worst Ten" Report, American Home again featured prominently, appearing in the top ten in six of the ten worst metropolitan areas (4th in both Fort Pierce-Port St. Lucie, Florida, and Fort Myers-Cape Coral, Florida; 7th in Vallejo-Fairfield-Napa, California; 8th in Las Vegas, Nevada; 9th in Stockton-Lodi, California; and 10th in Bakersfield, California). *See* 2009 "Worst Ten in the Worst Ten" Report.

3. BankUnited's Systematic Disregard of Underwriting Standards

114. BankUnited FSB was a federal savings bank headquartered in Coral Gables, Florida. BankUnited FSB became BankUnited in 2009 after being seized by the FDIC and sold to a group of investors.

115. BankUnited originated or contributed a material number of the loans in the mortgage pools underlying the HarborView Mortgage Loan Trust 2006-10 offering. *See infra* Table 6.

116. BankUnited actively participated in the nonprime and option ARM mortgage lending boom from 2005 to 2007. In its 10-Q quarterly report filed with the SEC on August 25,

2008, BankUnited acknowledged that it had been advised by the [Office of Thrift Supervision ("OTS")] of certain concerns that BankUnited has agreed to address. Several of the measures addressing these concerns were already in progress at the time the Company and the Bank entered into agreements with the OTS to address the concerns.

> At this time, some of the measures have been completed and others are in progress. These measures include efforts to seek to raise at least $400 million of capital and to submit an alternative capital plan to be applicable if the Company is unable to raise the $400 million; termination of the option ARM loan program (other than in the wealth management area and, in certain limited circumstances, for loan modifications); termination of reduced and no documentation loan programs; reduction of the portfolio of negative amortization loans; and enhanced monitoring and internal reporting, as well as reporting to regulators on option ARM loan reduction efforts, preservation and enhancement of capital, mortgage insurance and liquidity strength. The Bank also agreed to enhance its policies and procedures regarding the Bank's allowance for loan losses, including increasing the allowance to a level which has already been attained. The Bank has also agreed to maintain capital ratios substantially in excess of the minimum required ratios to be deemed well-capitalized upon raising the agreed upon amount of capital.

BankUnited Form 10-Q Quarterly Report for the SEC, Aug. 25, 2008, at 22.

117. On September 19, 2008, OTS, the agency that regulates banks focusing on mortgage lending, issued a cease and desist order to BankUnited that prohibited BankUnited from issuing new loans under its reduced documentation and pay-option ARM programs. OTS also required BankUnited to enhance its monitoring and internal reporting.

118. An April 16, 2009 article in the South Florida Business Journal reported:

> [Payment option adjustable-rate mortgages], which are the main source of BankUnited's problems, allow borrowers to pay less than the monthly interest accruing on their mortgages so that the balance grows. At a time when home values have declined, that can leave borrowers with high payments on a home that's worth less than they owe on their mortgage.
>
> BankUnited's $5.89 billion in option ARMs accounted for 51 percent of its loan portfolio on Dec. 31.

> "I wouldn't be surprised to see the institution shut down tomorrow, but I have said that so many times about BankUnited coming into a Friday – that it's no sure thing," [said a senior banking analyst].

Brian Bandell, *BankUnited Given 20 Days to Strike Deal*, S. Fla. Bus. J., Apr. 16, 2009, *available at* www.bizjournals.com/southflorida/stories/2009/04/13/daily53.html.

119. The FDIC reprimanded BankUnited in a November 2009 letter, according to this Dec. 11, 2009 article in the Palm Beach Post:

> In a scathing letter, the Federal Deposit Insurance Corp. accuses former Chairman Alfred Camner, former Chief Executive Ramiro Ortiz and 13 others of "negligence, gross negligence and/or breach of fiduciary duties related to certain residential loans."
>
> The FDIC letter focuses on BankUnited's fatal attraction to Option ARMs, the risky mortgages that gave boom-time borrowers three choices each month: Make a full payment of principal and interest, make a minimum payment that results in the loan balance growing, or pay some amount in between. As South Florida home prices plummeted and jobless rates soared, Option ARMs have gone bad in droves.
>
> In a Nov. 5 letter that's now part of the BankUnited bankruptcy court file, the FDIC lambastes the bankers for their "loose lending policies" and demands civil damages. Among other things, the FDIC accuses the bankers of:
>
> - "Encouraging an extremely liberal and aggressive lending mentality to 'make the loan as long as the borrower has a pulse.'
> - "Engaging in reckless, high-risk, and limited-scrutiny lending to fuel the bank's aggressive and rapid growth — in direct contradiction to public representations of the bank's conservative lending and strict underwriting policies.
> - "Approving and putting in place a compensation structure that drove the bank's directors and officers to pursue recklessly risky lending and business practices."
>
> The FDIC says those practices caused $227 million in loan losses in addition to the $4 billion hit the FDIC took.

Jeff Ostrowski, *FDIC Moves Against BankUnited Execs*, The Palm Beach Post, Dec. 11, 2009, *available at* http://www.palmbeachpost.com/news/business/fdic-moves-against-bankunited-execs/nLn6H/.

120. After OTS placed BankUnited into receivership, the Office of the Inspector General ("OIG") of the Department of Treasury released a Material Loss Review of BankUnited in June 2010. The Material Loss Review concluded:

> The primary cause of BankUnited's failure was a high-risk growth strategy with excessive concentration in option adjustable-rate mortgages (option ARM) without implementing adequate controls to manage the associated risks. Option ARMs are high-risk loans that feature, among other things, the possibility of negative amortization and payment shock as rates reset. Deficient underwriting and credit administration, combined with the rapid decline in the real estate market, resulted in the deterioration of the thrift's asset quality, including a substantial volume of problem loans and significant loan losses.

OIG, Audit Report: Safety and Soundness, Material Loss Review of BankUnited, FSB (OIG-10-042), at 2 (June 22, 2010), *available at* http://www.treasury.gov/about/ organizational-structure/ig/Documents/OIG10042%20(BankUnited%20MLR).pdf.

121. The BankUnited Material Loss Review found that BankUnited did not have any instructions on how to determine whether a stated income was reasonable:

> Additionally, until October 2007 BankUnited did not have any formal guidelines to document its reasonableness tests of borrowers' reported income for stated income loans. This was a significant deficiency in that more than 65 percent of BankUnited's option ARMs were made based on (1) stated income or (2) stated income and stated assets. Therefore, approximately 75 percent of BankUnited's option ARMs originated between 2006 and 2007 were not prudently underwritten in a safe and sound manner based on existing OTS guidance.

Id. at 16.

122. The Material Loss Review further found that:

> BankUnited marketed its option ARM loan products through a network of third-party mortgage brokers (more than 4,000 in 2006, when the thrift's production of these loans was at its peak). According to OTS examination documentation,

> BankUnited evaluated the brokers' performance primarily in terms of productivity or volume. Other criteria, such as credit quality and adherence to loan policy with respect to the loans they placed, were secondary. BankUnited also granted mortgage brokers wide discretion in setting the margins for the option ARMs. Loans with higher margins resulted in greater broker compensation. The brokers therefore had a financial incentive to place borrowers in large loans with high margins, with only secondary regard if any for credit quality. These factors, coupled with the already reduced underwriting standards, led to the very poor asset quality of the option ARMs.

Id. at 9-10 (footnote omitted).

123. A confidential witness in the Amended Complaint filed in *In re BankUnited Sec. Litig.*, No. 08-22572 (S.D. Fla. filed June 30, 2009) described BankUnited systematic disregard of its underwriting guidelines. According to that confidential witness, who worked at BankUnited as an in-house appraiser from August 2005 through December 2007, there was "extreme pressure to hit numbers" and "pressure to pass on deals without diligent review" from the loan production staff. The confidential witness stated that BankUnited's CEO was personally involved in loosening the appraisal review process, stating that when reviewing inappropriate appraisals, "cut them, but not too many." This employee documented approximately 500 incidents of overstated property values. *Id.* ¶¶ 28-32.

4. Countrywide's Systematic Disregard of Underwriting Standards

124. Countrywide Home Loans, Inc. ("Countrywide") was one of the largest originators of residential mortgages in the United States during the time period at issue in this Complaint. Countrywide originated or contributed a material portion of the loans in the mortgage pool underlying the HarborView Mortgage Loan Trust 2007-1 offering. *See infra* Table 6.

125. In October 2009, the House Committee on Oversight and Government Reform launched an investigation into the entire subprime mortgage industry, including Countrywide,

focusing on "whether mortgage companies employed deceptive and predatory lending practices, or improper tactics to thwart regulation, and the impact of those activities on the current crisis." Press Release, Comm. on Oversight & Government Reform, Statement of Chairman Towns on Committee Investigation Into Mortgage Crisis at 1 (Oct. 23, 2009) (internal quotation marks omitted).

126. On May 9, 2008, the New York Times noted that minimal documentation and stated income loans—Countrywide's No Income/No Assets Program and Stated Income/Stated Assets Program—have "bec[o]me known [within the mortgage industry] as 'liars' loans' because many [of the] borrowers falsified their income." Floyd Norris, A Little Pity, Please, for Lenders, N.Y. Times, May 9, 2008, at C1.

127. In a television special titled, "*If You Had a Pulse, We Gave You a Loan*," Dateline NBC reported on March 27, 2009:

> To highlight just how simple it could be to borrow money, Countrywide marketed one of its stated-income products as the "Fast and Easy loan."
>
> As manager of Countrywide's office in Alaska, Kourosh Partow pushed Fast and Easy loans and became one of the company's top producers.
>
> He said the loans were "an invitation to lie" because there was so little scrutiny of lenders. "We told them the income that you are giving us will not be verified. The asset that you are stating will not be verified."
>
> He said they joked about it: "If you had a pulse, we gave you a loan. If you fog the mirror, give you a loan."
>
> But it turned out to be no laughing matter for Partow. Countrywide fired him for processing so-called "liar loans" and federal prosecutors charged him with crimes. On April 20, 2007, he pleaded guilty to two counts of wire fraud involving loans to a real estate speculator; he spent 18 months in prison.
>
> In an interview shortly after he completed his sentence, Partow said that the practice of pushing through loans with false information was common and was known by top company officials. "It's impossible they didn't know."

> …
>
> During the criminal proceedings in federal court, Countrywide executives portrayed Partow as a rogue who violated company standards.
>
> But former senior account executive Bob Feinberg, who was with the company for 12 years, said the problem was not isolated. "I don't buy the rogue. I think it was infested."
>
> He lamented the decline of what he saw as a great place to work, suggesting a push to be number one in the business led Countrywide astray. He blamed Angelo Mozilo, a man he long admired, for taking the company down the wrong path. It was not just the matter of stated income loans, said Feinberg. Countrywide also became a purveyor of loans that many consumer experts contend were a bad deal for borrowers, with low introductory interest rates that later could skyrocket.
>
> In many instances, Feinberg said, that meant borrowers were getting loans that were "guaranteed to fail."

Chris Hansen, *'If You Had a Pulse, We Gave You a Loan,'* NBC Dateline (Mar. 22, 2009) http://www.msnbc.msn.com/id/29827248/ns/dateline_nbc-the_hansen_files_with_chris_hansen.

128. On June 4, 2009, the SEC sued Angelo Mozilo and other Countrywide executives, alleging securities fraud. Specifically, the SEC alleged that Mozilo and the others misled investors about the credit risks that Countrywide created with its mortgage origination business, telling investors that Countrywide was primarily involved in prime mortgage lending, when it was actually heavily involved in risky sub-prime loans with expanded underwriting guidelines. *See* Compl. for Violations of the Federal Securities Laws, *SEC v. Mozilo*, No. CV 09-3994-JFW (C.D. Cal. filed June 4, 2009). Mozilo and the other executives settled the charges with the SEC for $73 million on October 15, 2010. *See* Walter Hamilton & E. Scott Reckard, *Angelo Mozilo, Other Former Countrywide Execs Settle Fraud Charges*, L.A. Times, Oct. 16, 2010, at A1.

129. Internal Countrywide e-mails the SEC released in connection with its lawsuit show the extent to which Countrywide systematically deviated from its underwriting guidelines.

For instance, in an April 13, 2006 e-mail from Mozilo to other top Countrywide executives, Mozilo stated that Countrywide was originating home mortgage loans with "serious disregard for process, compliance with guidelines and irresponsible behavior relative to meeting timelines." E-mail from Angelo Mozilo to Eric Sieracki and other Countrywide Executives (Apr. 13, 2006 7:42 PM PDT). Mozilo also wrote that he had "personally observed a serious lack of compliance within our origination system as it relates to documentation and generally a deterioration in the quality of loans originated versus the pricing of those loan[s]." *Id.* (internal quotation marks omitted).

130. Indeed, in September 2004, Mozilo had voiced his concern over the "clear deterioration in the credit quality of loans being originated," observing that "the trend is getting worse" because of competition in the non-conforming loans market. With this in mind, Mozilo argued that Countrywide should "seriously consider securitizing and selling ([Net Interest Margin Securities]) a substantial portion of [Countrywide's] current and future sub prime [sic] residuals." E-mail from Angelo Mozilo to Stan Kurland & Keith McLaughlin, Managing Directors, Countrywide (Sept. 1, 2004 8:17 PM PDT).

131. To protect themselves against poorly underwritten loans, parties that purchase loans from an originator frequently require the originator to repurchase any loans that suffer Early Payment Default.

132. In the first quarter of 2006, HSBC Holdings plc ("HSBC"), a purchaser of Countrywide's 80/20 subprime loans, began to force Countrywide to repurchase certain loans that HSBC contended were defective under the parties' contract. In an e-mail sent on April 17, 2006, Mozilo asked, "[w]here were the breakdowns in our system that caused the HSBC debacle including the creation of the contract all the way through the massive disregard for guidelines set

forth by both the contract and corporate." E-mail from Angelo Mozilo to Dave Sambol, former Executive Managing Director and Chief of Mortgage Banking and Capital Markets at Countrywide Financial (Apr. 17, 2006 5:55 PM PST). Mozilo continued:

> In all my years in the business I have never seen a more toxic prduct. [sic] It's not only subordinated to the first, but the first is subprime. In addition, the [FICOs] are below 600, below 500 and some below 400 . . . . With real estate values coming down . . . the product will become increasingly worse. There has [sic] to be major changes in this program, including substantial increases in the minimum [FICO].

Id.

133. Countrywide sold a product called the "Pay Option ARM." This loan was a 30-year adjustable rate mortgage that allowed the borrower to choose between various monthly payment options, including a set minimum payment. In a June 1, 2006 e-mail, Mozilo noted that most of Countrywide's Pay Option ARMs were based on stated income and admitted that "[t]here is also some evidence that the information that the borrower is providing us relative to their income does not match up with IRS records." E-mail from Angelo Mozilo to Carlos Garcia, former CFO of Countrywide Financial and Jim Furash, former President of Countrywide Bank (June 1, 2006 10:38 PM PST).

134. An internal quality control report e-mailed on June 2, 2006, showed that for stated income loans, 50.3% of loans indicated a variance of 10% or more from the stated income in the loan application. *See* E-mail from Clifford Rossi, Chief Risk Officer, Countrywide, to Jim Furash, Executive, CEO, Countrywide Bank, N.A., among others (June 2, 2006 12:28 PM PDT).

135. Countrywide, apparently, was "flying blind" on how one of its popular loan products, the Pay Option ARM loan, would perform, and admittedly, had "no way, with any reasonable certainty, to assess the real risk of holding these loans on [its] balance sheet." E-mail from Angelo Mozilo to Dave Sambol, Managing Director Countrywide (Sept. 26, 2006 10:15

AM PDT). Yet such loans were securitized and passed on to unsuspecting investors such as the Credit Unions.

136. With growing concern over the performance of Pay Option ARM loans in the waning months of 2007, Mozilo advised that he "d[id]n't want any more Pay Options originated for the Bank." E-mail from Angelo Mozilo Countrywide to Carlos Garcia, former Managing Director, Countrywide (Nov. 3, 2007 5:33 PM PST). In other words, if Countrywide was to continue to originate Pay Option ARM loans, it was not to hold onto the loans. Mozilo's concerns about Pay Option ARM loans were rooted in "[Countrywide's] inability to underwrite [Pay Option ARM loans] combined with the fact that these loans [we]re inherently unsound unless they are full doc, no more than 75% LTV and no piggys." *Id.*

137. In a March 27, 2006 e-mail, Mozilo reaffirmed the need to "oversee all of the corrective processes that will be put into effect to permanently avoid the errors of both judgement [sic] and protocol that have led to the issues that we face today" and that "the people responsible for the origination process understand the necessity for adhering to the guidelines for 100% LTV sub-prime product. This is the most dangerous product in existence and there can be nothing more toxic and therefore requires that no deviation from guidelines be permitted irrespective of the circumstances." E-mail from Angelo Mozilo to the former Countrywide Managing Directors (Mar. 27, 2006 8:53 PM PST).

138. Yet Countrywide routinely found exceptions to its underwriting guidelines without sufficient compensating factors. In an April 14, 2005 e-mail, Frank Aguilera, a Countrywide managing director, explained that the "spirit" of Countrywide's exception policy was not being followed. He noted a "significant concentration of similar exceptions" that "denote[d] a divisional or branch exception policy that is out side [sic] the spirit of the policy."

E-mail from Frank Aguilera, Managing Director, Countrywide, to John McMurray, Managing Director, Countrywide (Apr. 14, 2005 12:14 PM PDT). Aguilera continued: "The continued concentration in these same categories indicates either a) inadequate controls in place to mange [sic] rogue production units or b) general disregard for corporate program policies and guidelines." *Id.* Aguilera observed that pervasive use of the exceptions policy was an industry-wide practice:

> It appears that [Countrywide Home Loans]' loan exception policy is more loosely interpreted at [Specialty Lending Group] than at the other divisions. I understand that [Correspondent Lending Division] has decided to proceed with a similar strategy to appease their complaint customers. . . . [Specialty Lending Group] has clearly made a market in this unauthorized product by employing a strategy that Blackwell has suggested is prevalent in the industry. . . .

Id.

139. Internal reports months after an initial push to rein in the excessive use of exceptions with a "zero tolerance" policy showed the use of exceptions remained excessive. E-mail from Frank Aguilera, Managing Director, Countrywide, to Brian Kuelbs, Managing Director, Countrywide, among others (June 12, 2006 10:13 AM PDT).

140. In February 2007, nearly a year after pressing for a reduction in the overuse of exceptions and as Countrywide claimed to be tightening lending standards, Countrywide executives found that exceptions continued to be used at an unacceptably high rate. Frank Aguilera stated that any "[g]uideline tightening should be considered purely optics with little change in overall execution unless these exceptions can be contained." E-mail from Frank Aguilera, Managing Director, Countrywide, to Mark Elbuam, Managing Director, Countrywide, among others (Feb. 21, 2007 4:58 PM PST).

141. John McMurray, a former Countrywide managing director, expressed his opinion in a September 2007 e-mail that "the exception process has never worked properly." E-mail

from John McMurray, Managing Director, to Jess Lederman, Managing Director, Countrywide (Sept. 7, 2007 10:12 AM PDT).

142. Countrywide conceded that the poor performance of loans it originated was, in many cases, due to poor underwriting. In April 2007, Countrywide noticed that its high CLTV ratio stated income loans were performing worse than those of its competitors. After reviewing many of the loans that went bad, a Countrywide executive stated that "in most cases [poor performance was] due to poor underwriting related to reserves and verification of assets to support reasonable income." E-mail from Russ Smith, Countrywide to Andrew Gissinger, Managing Director, Countrywide (Apr. 11, 2007 7:58 AM PDT).

143. On October 6, 2008, 39 states announced that Countrywide agreed to pay up to $8 billion in relief to homeowners nationwide to settle lawsuits and investigations regarding Countrywide's deceptive lending practices.

144. On July 1, 2008, NBC Nightly News aired the story of a former Countrywide regional Vice President, Mark Zachary, who sued Countrywide after he was fired for questioning his supervisors about Countrywide's poor underwriting practices.

145. According to Zachary, Countrywide pressured employees to approve unqualified borrowers. Countrywide's mentality, he said, was "what do we do to get one more deal done. It doesn't matter how you get there [i.e., how the employee closes the deal] . . . ." NBC Nightly News, Countrywide Whistleblower Reports "Liar Loans" (July 1, 2008) ("July 1, 2008 NBC Nightly News"). Zachary also stated that the practices were not the work of a few bad apples, but rather: "It comes down, I think from the very top that you get a loan done at any cost." *Id.*

146. Zachary also told of a pattern of: 1) inflating home appraisals so buyers could borrow enough to cover closing costs, but leaving the borrower owing more than the house was

truly worth; 2) employees steering borrowers who did not qualify for a conventional loan into riskier mortgages requiring little or no documentation, knowing they could not afford it; and 3) employees coaching borrowers to overstate their income in order to qualify for loans.

147. NBC News interviewed six other former Countrywide employees from different parts of the country, who confirmed Zachary's description of Countrywide's corrupt culture and practices. Some said that Countrywide employees falsified documents intended to verify borrowers' debt and income to clear loans. NBC News quoted a former loan officer: "'I've seen supervisors stand over employees' shoulders and watch them . . . change incomes and things like that to make the loan work.'" July 1, 2008 NBC Nightly News.

148. Not surprisingly, Countrywide's default rates reflected its approach to underwriting. *See* 2008 "Worst Ten in the Worst Ten" Report. Countrywide appeared on the top ten list in six of the ten markets: 4th in Las Vegas, Nevada; 8th in Sacramento, California; 9th in Stockton, California and Riverside, California; and 10th in Bakersfield, California and Miami, Florida. When the OCC issued its updated 2009 "Worst Ten in the Worst Ten" Report, Countrywide appeared on the top ten list in every market, holding 1st place in Las Vegas, Nevada; 2nd in Reno, Nevada; 3rd in Merced, California; 6th in Fort Myers-Cape Coral, Florida, Modesto, California, and Stockton-Lodi, California; 7th in Riverside-San Bernardino, California and Fort Pierce-Port St. Lucie, Florida; 8th in Vallejo-Fairfield-Napa, California; and 9th in Bakersfield, California. *See* 2009 "Worst Ten in the Worst Ten" Report.

5. First National Bank of Nevada's Systematic Disregard of Underwriting Standards

149. First National Bank of Nevada ("FNB Nevada") was a large subprime mortgage lender. It originated or contributed a material portion of the loans in the mortgage pool underlying the Nomura Asset Acceptance Corporation Alternative Loan Trust Series 2006-AR4,

offering. *See infra* Table 6.

150. First National Bank Arizona ("FNB Arizona"), FNB Nevada, and First Heritage Bank were controlled by First National Bank Holding Company ("FNB Holding"), collectively ("FNB Group"). All were under common management. *See* Department of the Treasury, Office of the Inspector General, *Audit Report: Safety and Soundness: Material Loss Review of First National Bank of Nevada and First Heritage Bank, National Association* at 4 (Feb. 27, 2009) ("FNB Nevada OIG Report"), *available at* http://www.treasury.gov/about/organizational-structure/ig/Documents/ oig09033.pdf; David Enrich and Damian Paletta, *Failed Lender Played Regulatory Angles*, Wall St. J. (Oct. 3, 2008), *available at* http://online.wsj.com/article/ SB122298993937000343.html.

151. FNB Arizona ran the FNB Group's residential mortgage lending operation. *See* FNB Nevada OIG Report at 4.

152. The amount of mortgage loans originated by FNB Arizona grew from $1.5 billion in 2001 to $7 billion in 2006. *See* Enrich and Paletta, *Failed Lender Played Regulatory Angles*. FNB Arizona was an OTD lender; in 2006, $6.9 billion of its loans were packaged into RMBS. *See* FNB Nevada OIG Report at 5.

153. A series of investigations by the OCC detail how FNB Arizona achieved its rapid growth by pervasively disregarding its underwriting guidelines.

154. In 2004, the OCC inspected FNB Arizona and determined that it needed better "[p]rocedures to reduce underwriting exceptions" and better "[p]olicies and internal controls over the use of appraisers." FNB Nevada OIG Report at 44.

155. A 2005 OCC investigation found that "[c]redit underwriting and administration need improvement. The quickness of loan production has had priority over quality. Issues

include loan appraisal violations (repeat issue) and inadequate practices over standby letters of credit." It recommended FNB Arizona "develop and implement procedures and accountability that are effective in reducing the high level of underwriting exceptions (repeat issue)" and reduce the number of employee and vendor errors in loan origination. It also cited FNB Arizona for two regulatory violations—failing to appraise properties prior to closing and failing to use independent appraisers. *Id.* at 44-46.

156. A 2006 investigation found that FNB Arizona still had not implemented "effective procedures and processes to reduce the level and number of underwriting exceptions." The OCC also noted that appraisers' reports were often missing or incomplete. *Id.* at 47

157. In 2007, FNB Arizona's liquidity problems prompted the OCC to initiate an informal enforcement action. It cited several matters requiring the direct attention of the bank's board, including internal loan review that lacked independence due to executive management influence, understaffed internal loan review, staffing levels and expertise that were not commensurate with the complexities of the bank's operations, and (yet again) the need to reduce underwriting exceptions. *See id.* at 48-50.

158. FNB Arizona's underwriting practices became so poor that in 2007 it was unable to sell $683 million of residential mortgages to securitizers. It was also forced to repurchase a number of its poorly underwritten mortgages. This contributed to a liquidity crisis for the entire FNB Group. *See id.* at 2, 6.

159. On June 30, 2008 FNB Arizona merged into FNB Nevada. Shortly thereafter, the OCC closed FNB Nevada and appointed the FDIC as its receiver. Press Release, *OCC Closes First National Bank of Nevada and Appoints FDIC Receiver* (July 25, 2008), *available at* http://www.occ.gov/news-issuances/news-releases/2008/nr-occ-2008-87.html.

160. In its capacity as receiver for FNB Nevada, the FDIC sued the former directors and officers of the FNB Group. Compl., *FDIC v. Dorris*, No. 11-1652 (D. Ariz. filed Aug. 23, 2011). The FDIC alleged the same pervasive disregard of underwriting guidelines described above. *See id.* ¶¶ 38-42.

161. That complaint detailed how the bank's compensation structure was tied to the volume of loans originated, creating an incentive for bank employees to disregard the underwriting guidelines. *See id.* ¶ 30. FNB Arizona also used many mortgage brokers who had the same volume-based incentive to disregard underwriting guidelines and to inflate appraisals. *See id.* ¶¶ 33-34.

162. The suit settled less than two months after it was filed. Final Judgment Order, *FDIC v. Dorris*, Doc. 15., No 11-1652 (D. Ariz. Oct. 13, 2011).

163. Evidence uncovered in *Plumbers' Union Local No. 12 Pension Fund v. Nomura Asset Acceptance Corp.*, No. 08-10446 (D. Mass. filed Oct. 1, 2012) further highlights FNB Arizona's disregard of its underwriting guidelines. There, the Court allowed the Plumber's Union to engage in limited discovery, which uncovered four pertinent pieces of evidence:

- "[T]hree 'representative' no-document loans that [FNB Nevada] originated. In each of these 'No Doc' loans, the borrower's income was either unknown or unverified, or inadequate to make payments on the underlying mortgage, or if not, the borrower's debt to income ratio (DTI) belied any realistic probability that the borrower could keep up with mortgage payments over the life of the loan."
- "[T]he declaration of Susan Wright, who underwrote loans at [FNB Nevada] in 2006 and 2007 and generally corroborates the Complaint's allegations about [FNB Nevada]'s underwriting practices." "Wright describes [FNB Nevada]'s business model as trying to 'make as many loans as possible and then sell them as quickly as possible' and explains that their underwriting practices instructed underwriters to remove income and asset information already in the possession of [FNB Nevada] from 'No Doc' loans.

> She states that [FNB Nevada] regularly made loans to borrowers whom '[FNB Nevada] knowingly qualified on the basis of what appeared to be obviously false information [and] [FNB Nevada] did not appear to reasonably expect that the borrowers would be able to repay these loans.'"
>
> - "[S]everal emails generated by [FNB Nevada] employees, including Mortgage Division President Pat Lamb; Vice President of Risk Management Renea Aderhold; 'SVP Ops/Communication Manager' Beth Rothmuller; Senior Vice President Lisa Sleeper; and Senior Vice President and Risk Officer Eric Meschen, which collectively paint a picture of a devil-may-care underwriting culture."
>
> - "[T]he expert report of Ira Holt, an accountant who performed a forensic analysis of 408 of the Trusts' loans using the [FNB Nevada] guidelines that were in place when they were originated. Holt found that 108 (26.5%) had material defects that violated even [FNB Nevada]'s slack underwriting standards." "According to Holt, he was unable to 're-underwrite' some of the 408 loans because of the lack of documentation, as well as the 'scrubbing' of the applicant's disqualifying data by [FNB Nevada]. According to plaintiffs, the number of loans in the sample with material defects may be considerably higher than Holt's estimates."

Plumbers' Union Local No. 12 Pension Fund v. Nomura Asset Acceptance Corp., 08-10446-RGS, 2012 WL 4480735, at *3 & nn. 6, 8 (D. Mass. Oct. 1, 2012).

164. The court held allegations based on that evidence were sufficient to survive a motion to dismiss. *See id.* at *3 ("[D]efendants' efforts to impugn plaintiffs' evidence is largely factual in nature and better fitted to a summary judgment motion than the relaxed pleading standard that attaches to a Rule 12(b)(6) motion.").

165. Lehman Brothers has also sued FNB Arizona for selling mortgages containing misrepresentations about borrowers' finances, employment, and the nature of the property. That case settled for an undisclosed amount. *See* Philip Shiskin, *Bankers Escape Big Penalties in FDIC Failed Bank Case* (Feb. 23, 2012), *available at* http://www.reuters.com/article/2012/02/23/us-bankers-fdic-idUSTRE81M1UH20120223;

Compl., *Lehman Mortg. Trust Mortg. v. First Nat'l Bank of Nev.*, Nos. CV2006-018929 (AZ Super. Ct., Maricopa Cnty. filed Dec. 12, 2006).

6. GMAC's Systematic Disregard of Underwriting Standards

166. GMAC Bank n/k/a Ally Bank and GMAC Mortgage originated or contributed a material portion of the loans in the mortgage pool underlying the GMACM Home Equity Loan Trust 2006-HE5 offering. *See infra* Table 6.

167. GMAC's abandonment of its underwriting guidelines is at issue in suits filed by MBIA, Inc. MBIA was a monoline insurer for loans in RMBS. *See* Compl., *MBIA Ins. Corp. v. Ally Fin., Inc.*, No. 12-18889 (MN Ct., Hennepin Cnty. filed Sept. 17, 2012) ("*MBIA v. Ally* Compl."); Compl., *MBIA Ins. Corp. v. GMAC Mortg., LLC*, No. 600837/2010 (N.Y. Sup. Ct. filed Apr. 1, 2010) ("*MBIA v. GMAC* Compl.").

168. MBIA's suits concern loans underlying the GMACM 2004-HE4, GMACM 2006-HE4, and GMACM 2007-HE1. Ally Bank f/k/a GMAC Bank and GMAC Mortgage were the principal originators for the loans in these offerings. *MBIA v. Ally* Compl. ¶¶ 7, 45; *MBIA v. GMAC* Compl. ¶¶ 2, 44.

169. After sustaining large losses, MBIA conducted forensic analyses of loans underlying these offerings. MBIA found material breaches of representations and warranties in more than 89% of the loans from GMAC Mortgage. These breaches included:

- GMAC Mortgage egregiously and routinely breached its representation and warranty that the mortgage loans were underwritten generally in compliance with GMAC Mortgage's underwriting standards.
- A significant number of mortgage loans were made on the basis of "stated incomes" that were grossly unreasonable or were approved despite DTI or CLTV ratios in excess of the cut-offs stated in GMAC Mortgage's Underwriting Guidelines or the Purchase Agreements or Prospectus Supplements.

- Moreover, contrary to its Underwriting Guidelines, GMAC Mortgage failed in many cases to verify the borrower's employment when required to do so or to verify prior rental or mortgage payment history, approved mortgage loans with ineligible collateral, approved mortgage loans to borrowers with ineligible credit scores, and approved loans without verifying that the borrower had sufficient funds or reserves.

- GMAC Mortgage used its proprietary automated electronic loan underwriting program, known as "Assetwise," to approve loans that did not comply with its Underwriting Guidelines. Assetwise assisted in the underwriting of mortgage loans by automating the process of determining whether a loan met prespecified underwriting criteria set up in the program. GMAC Mortgage used the program itself and also made the program available to its affiliates. Assetwise, however, failed to analyze proposed mortgage loans using the criteria set forth in GMAC Mortgage's Underwriting Guidelines. As a result, GMAC Mortgage routinely contributed loans to the Transactions that failed to comply with its own underwriting standards.

MBIA v. GMAC Compl. ¶ 76; *see MBIA v. Ally* Compl. ¶¶ 76-83; *MBIA v. GMAC* Compl. ¶¶ 70-79.

170. Representative examples of the breaches encountered by the MBIA include:

- On January 25, 2006, a loan in the amount of $210,000 was made to a borrower in Vacaville, California on a property with an original appraisal value of $460,000 and a senior loan balance of $368,150. The borrower was employed as a correctional officer by the State of California. The loan was approved based on a DTI that was calculated using the borrower's highest reported monthly income, rather than his average income over a 33-month period, as is required by the Underwriting Guidelines. As a result, the true DTI on the loan was 65.56%, which exceeded the maximum ratio of 50% permitted under the applicable loan program. The CLTV ratio of 125.68% also exceeded the maximum CLTV ratio of 100% permitted under the Guidelines. The loan has been charged-off (Loan # 8601487693 — 2004 Transaction.)

- On April 20, 2007, a loan in the amount of $40,000 was made to co-borrowers in Vernon, New Jersey on a property with an original appraisal value of $305,000 and a senior loan balance of $244,000. The loan file is incomplete and lacks, among other documents, verbal verification of either borrower's employment, evidence of

sufficient closing funds and reserves, an appraisal, a copy of the note from the senior lien, and the borrowers' credit reports. Further, the loan was approved even though the income stated by each borrower was unreasonable. One claimed to earn $4,583 per month as a counter manager at a discount tire store though, for example, salary.com, a website which maintains a national salary database based on job title and zip code, reports that the income at the 90th percentile for such a position is only $2,801 per month. The second borrower claimed to earn $59,592 annually as a sales associate at a home improvement store, but an income verification database showed that the borrower earned only $28,092 in 2006 and $32,977 in 2007. The loan has been charged-off (Loan # 1000117685 — 2006 Transaction.)

- On December 15, 2006, a loan in the amount of $22,000 was made to a borrower in Medford, Oregon on a property with an original appraisal value of $220,000 and a senior loan balance of $176,000. The loan file is missing many documents that bear upon the borrower's ability to repay and are required to be included in the file, including: verification of down payment funds, a CPA letter, an appraisal, a twelve-month housing history, a copy of the first mortgage, a preliminary title commitment, a credit report, and the final loan application. Moreover, although the borrower, an operator at a drywall company, had declared bankruptcy prior to applying for the loan, the loan file lacks documentation that the bankruptcy had been discharged for at least three years, as required by the Guidelines. The loan has been charged off. (Loan # 8254682837 – 2007 Transaction.)

- On January 23, 2007, a loan with a principal balance of $100,000 was made to a borrower in Yuma, Arizona on a property with an original appraisal value of $298,000 and a senior loan balance of $129,035. The borrowers claimed on their loan application that their combined income was $113,520 per year. However, on May 12, 2009, the borrowers jointly filed for bankruptcy under Chapter 7, and their court filings indicated that they earned only $13,085 in 2007 and $17,650 in 2008. Moreover, no record of the borrower's claimed employer can be located on websites commonly used to verify the existence of a business: manta.com or yellowpages.com. The loan has been charged-off. (Loan # 8254730412 – 2007 Transaction.)

MBIA v. GMAC Compl. ¶ 78.

171. Both suits are still pending. The Court in *MBIA v. GMAC* denied a motion to

dismiss; there have been no rulings in *MBIA v. Ally*. *See MBIA v. GMAC*, 914 N.Y.S.2d 604 (N.Y. Sup. Ct. 2010); *MBIA v. RFC*, Order, No. 603552/08 (N.Y. Sup. Ct. Dec. 22, 2009).

172. GMAC's disregard of its underwriting guidelines has led to the repurchase of loans it had sold to Fannie Mae. As of September 10, 2010, Fannie Mae had required GMAC to repurchase 2,887 loans because of violations of representations and warranties regarding those loans. They had a total unpaid principal balance of $544 million. *See* Letter to Gary Cohen, FCIC (Sept. 21, 2010), Attach. "Total Aggregate Recovery, Data as of 8/31/2010," at 1, *available at* http://fcic-static.law.stanford.edu/cdn_media/fcic-docs/2010-09-21%20Fannie%20Mae%20Counsel%20letter%20to%20the%20FCIC.pdf.

7. IndyMac Bank F.S.B.'s Systematic Disregard of Underwriting Standards

173. IndyMac Bank F.S.B. ("IndyMac") originated or contributed a material portion of the loans in the mortgage pool underlying the IndyMac INDX Mortgage Loan Trust 2006-AR6 offering. *See infra* Table 6.

174. On July 11, 2008, just four months after IndyMac filed its 2007 Annual Report, federal regulators seized IndyMac in what was among the largest bank failures in U.S. history. IndyMac's parent, IndyMac Bancorp, Inc., filed for bankruptcy on July 31, 2008.

175. On March 4, 2009, the Office of the Inspector General of the United States Department of the Treasury ("Treasury OIG") issued Audit Report No. OIG-09-032, titled "Safety and Soundness: Material Loss Review of IndyMac Bank, FSB" (the "IndyMac OIG Report") reporting the results of Treasury OIG's review of the failure of IndyMac. The IndyMac OIG Report portrays IndyMac as a company determined to originate as many loans as possible, as quickly as possible, without regard for the quality of the loans, the creditworthiness of the borrowers, or the value of the underlying collateral.

176. According to the IndyMac OIG Report, "[t]he primary causes of IndyMac's failure were . . . associated with its" "aggressive growth strategy" of "originating and securitizing Alt-A loans on a large scale." IndyMac OIG Report at 2. The report found, "IndyMac often made loans without verification of the borrower's income or assets, and to borrowers with poor credit histories. Appraisals obtained by IndyMac on underlying collateral were often questionable as well." *Id.*

177. IndyMac "encouraged the use of nontraditional loans," engaged in "unsound underwriting practices" and "did not perform adequate underwriting," in an effort to "produce as many loans as possible and sell them in the secondary market." *Id.* at 11, 21. The IndyMac OIG Report reviewed a sampling of loans in default and found "little, if any, review of borrower qualifications, including income, assets, and employment." *Id.* at 11.

178. IndyMac was not concerned by the poor quality of the loans or the fact that borrowers simply "could not afford to make their payments" because, "as long as it was able to sell those loans in the secondary mortgage market," IndyMac could remain profitable. *Id.* at 2-3.

179. IndyMac's "risk from its loan products. . .was not sufficiently offset by other underwriting parameters, primarily higher FICO scores and lower LTV ratios." *Id.* at 31.

180. Unprepared for the downturn in the mortgage market and the sharp decrease in demand for poorly underwritten loans, IndyMac found itself "hold[ing] $10.7 billion of loans it could not sell in the secondary market." *Id.* at 3. This proved to be a weight it could not bear, and IndyMac ultimately failed. *See id.*

181. In June 2008, the Center for Responsible Lending ("CRL") published a report entitled IndyMac: What Went Wrong? How an 'Alt-A' Leader Fueled its Growth with Unsound and Abusive Mortgage Lending (June 30, 2008) ("CRL Report"), *available at*

http://www.responsiblelending.org/mortgage-lending/research-analysis/indymac_what_went_wrong.pdf. The CRL Report detailed the results of the CRL's investigation into IndyMac's lending practices. CRL based its report on interviews with former IndyMac employees and reviewed numerous lawsuits filed against IndyMac. The CRL Report summarized the results of its investigation as follows:

> IndyMac's story offers a body of evidence that discredits the notion that the mortgage crisis was caused by rogue brokers or by borrowers who lied to bankroll the purchase of bigger homes or investment properties. CRL's investigation indicates many of the problems at IndyMac were spawned by top-down pressures that valued short-term growth over protecting borrowers and shareholders' interests over the long haul.

CRL Report at 1.

182. CRL reported that its investigation "uncovered substantial evidence that [IndyMac] engaged in unsound and abusive lending during the mortgage boom, routinely making loans without regard to borrowers' ability to repay [the mortgage loans]." *Id*. at 2.

183. The CRL Report stated that "IndyMac pushed through loans with fudged or falsified information or simply lowered standards so dramatically that shaky loans were easy to approve." *Id*.

184. The CRL Report noted that "[a]s IndyMac lowered standards and pushed for more volume," "the quality of [IndyMac's] loans became a running joke among its employees." *Id*. at 3.

185. Former IndyMac mortgage underwriters explained that "loans that required no documentation of the borrowers' wages" were "[a] big problem" because "these loans allowed outside mortgage brokers and in-house sales staffers to inflate applicants' [financial information] . . . and make them look like better credit risks." *Id*. at 8. These "shoddily documented loans were known inside the company as 'Disneyland loans'—in honor of a mortgage issued to a

Disneyland cashier whose loan application claimed an income of $90,000 a year." *Id*. at 3.

186. The CRL also found evidence that: (1) managers pressured underwriters to approve shaky loans in disregard of IndyMac's underwriting guidelines; and (2) managers overruled underwriters' decisions to deny loans that were based upon falsified paperwork and inflated appraisals. For instance, Wesley E. Miller, who worked as a mortgage underwriter for IndyMac in California from 2005 to 2007, told the CRL:

> [W]hen he rejected a loan, sales managers screamed at him and then went up the line to a senior vice president and got it okayed. "There's a lot of pressure when you're doing a deal and you know it's wrong from the get-go – that the guy can't afford it," Miller told CRL. "And then they pressure you to approve it."
>
> The refrain from managers, Miller recalls, was simple: "Find a way to make this work."

Id. at 9 (footnote omitted).

187. Likewise, Audrey Streater, a former IndyMac mortgage underwriting team leader, stated: "I would reject a loan and the insanity would begin. It would go to upper management and the next thing you know it's going to closing." *Id*. at 1, 3. Streater also said the "prevailing attitude" at IndyMac was that underwriting was "window dressing – a procedural annoyance that was tolerated because loans needed an underwriter's stamp of approval if they were going to be sold to investors." *Id*. at 8.

188. Scott Montilla, who was an IndyMac mortgage loan underwriter in Arizona during the same time period, told the CRL that IndyMac management would override his decision to reject loans about 50% of the time. See id. at 9. According to Montilla:

> "I would tell them: 'If you want to approve this, let another underwriter do it, I won't touch it – I'm not putting my name on it,'" Montilla says. "There were some loans that were just blatantly overstated. . . . Some of these loans are very questionable. They're not going to perform."

Id. at 10.

189. Montilla and another IndyMac mortgage underwriter told the CRL that borrowers did not know their stated incomes were being inflated as part of the application process. *See id*. at 14.

190. On July 2, 2010, the FDIC sued certain former officers of IndyMac's Homebuilder Division ("HBD"), alleging that IndyMac disregarded its underwriting practices, among other things, and approved loans to borrowers who were not creditworthy or for projects with insufficient collateral. *See* Compl. ¶ 6, *FDIC v. Van Dellen*, No. 2:10-cv-04915-DSF (C.D. Cal. filed July 2, 2010). The case was tried in late 2012, and the jury entered verdict in favor of the FDIC.

191. IndyMac currently faces a class action lawsuit alleging disregard of underwriting standards that adversely affected the value of the purchased RMBS. *See* Class Action Compl., *In re IndyMac Mortgage-Backed Sec. Litig*., No. 09-4583 (S.D.N.Y. filed May 14, 2009). On June 21, 2010, the class action lawsuit survived a motion to dismiss.

192. IndyMac's failure to abide by its underwriting standards left investors holding severely downgraded junk securities. As a result of IndyMac's systematic disregard of its underwriting standards, the OCC included IndyMac in the OCC's 2008 "Worst Ten in the Worst Ten" Report. IndyMac ranked 10th in Las Vegas, Nevada in both 2008 and 2009, while coming in at 10th in Merced, California, Riverside-San Bernardino, California, and Modesto, California in 2009. *See* 2008 "Worst Ten in the Worst Ten" Report; 2009 "Worst Ten in the Worst Ten" Report.

8. MortgageIT's Systematic Disregard of Underwriting Standards

193. MortgageIT, Inc. ("MortgageIT") originated or contributed a material portion of the loans in the mortgage pool backing the MortgageIT Mortgage Loan Trust 2006-1 offering.

See infra Table 6.

194. MortgageIT is a residential mortgage banking company headquartered in New York, New York. On January 3, 2007, MortgageIT was acquired by Deutsche Bank Structured Products. Less than a year after the acquisition, MortgageIT began its precipitous decline from one of the largest mortgage originators in the country, laying off hundreds of employees and closing multiple branches.

195. MortgageIT faces a civil mortgage fraud lawsuit brought in May 2011 by the United States Department of Justice ("DOJ") that alleges MortgageIT made repeated false certifications to the U.S. Department of Housing and Urban Development ("HUD") in connection with its residential mortgage origination and sponsorship practices. *See United States v. Deutsche Bank AG and MortgageIT, Inc.*, No. 11-cv-02976 (S.D.N.Y.). An amended complaint was filed on August 22, 2011 ("DOJ Complaint").

196. The United States alleges that "MortgageIT repeatedly lied to be included in a Government program to select mortgages for insurance by the Government. Once in that program, they recklessly selected mortgages that violated program rules in blatant disregard of whether borrowers could make mortgage payments." DOJ Complaint ¶ 1.

197. According to the DOJ Complaint, "As of June 2011, HUD has paid more than $368 million in FHA insurance claims and related costs arising out of MortgageIT's approval of mortgages for FHA insurance. Many of those claims arose out of FHA mortgage insurance provided by HUD based on MortgageIT's false certifications of due diligence." *Id.* ¶ 233.

198. The complaint also alleges that MortgageIT chronically understaffed quality control: "Between 2006 and 2009, the sole employee at Deutsche Bank or MortgageIT conducting quality control reviews of closed FHA-insured mortgages was the Government Loan

Auditor. His review of closed FHA-insured mortgages continually declined during that period, and declined most significantly after Deutsche Bank acquired MortgageIT. By the end of 2007, the Government Loan Auditor was no longer spending any time conducting quality control reviews of closed mortgage files. To increase sales, Deutsche Bank and MortgageIT shifted his work from quality control reviews of closed mortgages (i.e., quality control audits) to assistance with production. By the end of 2007, not a single person at Deutsche Bank or MortgageIT was conducting quality control reviews of closed FHA-insured mortgages, as required by HUD rules." *Id.* ¶ 143-144.

199. MortgageIT allegedly also ignored quality control measures. For example, MortgageIT contracted with an outside vendor to conduct quality control reviews of FHA-insured loans. The vendor provided the reviews in letters detailing underwriting violations found in FHA-insured mortgages to MortgageIT. The findings included identification of serious underwriting violations. Instead of reading the letters, MortgageIT employees "stuffed the letters, unopened and unread, in a closet at MortgageIT's Manhattan headquarters." It was not until MortgageIT hired its first quality control manager that these letters were taken out of the closet and read. Accordingly, "MortgageIT's failure to read the audit reports from its outside vendor prevented MortgageIT from taking appropriate actions to address patterns of ongoing underwriting violations." *Id.* ¶ 111-124.

200. The Amended DOJ Complaint further alleges that "Deutsche Bank's and MortgageIT's failure to implement the required quality control systems rendered them unable to prevent patterns of mortgage underwriting violations and mortgage fraud." *Id.* ¶ 145.

201. Additionally, the complaint alleges that "contrary to the certifications appearing on each and every mortgage endorsed by MortgageIT, MortgageIT engaged in a nationwide

pattern of failing to conduct due diligence in accordance with HUD rules and with sound and prudent underwriting principles." *Id.* ¶ 162.

202. The complaint cites many examples of MortgageIT's failure to perform due diligence. These examples, all violations of HUD rules, include the following:

- failure to develop a credit score for borrowers who had no credit score;
- failure to verify a borrower's cash investment in a property;
- failure to verify employment by telephone, and to record the name and telephone number of the person who verified employment on behalf of the employer;
- failure to verify the source of earnest money deposits that appear excessive in relation to the borrower's savings by completing a verification of deposit, or by collecting bank statements, to document that the borrower had sufficient funds to cover the deposit;
- failure to ensure that gift funds are not provided by a party to the sales transaction;
- failure to examine irregularities in mortgage applications such as conflicting records of employment in the same file;
- failure to obtain the required documentation to verify the borrower's mortgage payment history and income;
- failure to obtain the required documentation to verify the borrower's employment, income, and depositary assets;
- failure to verify a borrower's current employment and obtain the borrower's most recent pay stub, along with failure to obtain income tax returns for a self-employed borrower or borrower paid on commission; and
- and failure to obtain a credit report on all borrowers who will be obligated on the mortgage note.

See id. ¶¶ 162-230.

203. On May 9, 2012, the parties settled the case for $202.3 million.

9. Option One Mortgage Corporation's Systematic Disregard of Underwriting Standards

204. Option One Mortgage Corporation ("Option One") was a California corporation headquartered in Irvine, California. Option One originated, serviced, acquired, and sold non-prime residential mortgages. The company was founded in 1992 and, from June 1997 until April 2008, was a subsidiary of Block Financial Corporation. In April 2008, Option One's assets were sold to American Home Mortgage Servicing, Inc. Option One originated or contributed loans in the mortgage pool underlying the Option One Mortgage Loan Trust 2007-2 offerings. *See infra* Table 6.

205. The Massachusetts Attorney General sued Option One, alleging, among other things, that Option One failed to follow its own underwriting standards in processing mortgage loan applications. *See Massachusetts v. H&R Block, Inc.*, No. 08-2474-BLS (Mass. Super. Ct. filed June 3, 2008); *see also* Tim McLaughlin, Caturano Being Acquired by RSM McGladrey, Boston Bus. J., June 24, 2010. Trial is set for 2011.

206. Based on statements from confidential witnesses, the FHLB Chicago Complaint alleges that Option One systematically disregarded its underwriting guidelines when originating mortgages that were subsequently securitized into RMBS. *See* FHLB Chicago Complaint.

207. According to one confidential witness in the complaint, Option One "watered down" the appraisal process, allowing loans with inflated appraisals to be approved. *See id.* ¶ 298.

208. The same confidential witness explained how Option One told its employees to "be more aggressive"; it was made clear that the main objective of the company was to generate loans— "[a]s long as they could sell it, that's what mattered." *See id.* ¶ 296.

209. Another confidential witness stated that one particular broker who worked with Option One "was given preferential treatment and his loans were always pushed through" because he provided the company with "lots and lots of loans"; loans that this confidential witness said were often absent the necessary documentation. *See id.* ¶ 297

10. Silver State Mortgage Company's Systematic Disregard of Underwriting Standards

210. Silver State Mortgage Company ("Silver State") was a national wholesale and residential mortgage lender headquartered in Las Vegas, Nevada. Silver State originated or contributed a material portion of the loans in the mortgage pool underlying the Nomura Asset Acceptance Corporation, Alternative Loan Trust Series 2006-AR4 and the Nomura Home Equity Loan, Inc., Home Equity Loan Trust, Series 2007-1 NAA 2007-1 offerings. *See infra* Table 6.

211. Silver State ceased operations in February 2007 amid the turmoil of the subprime mortgage crisis. The details of Silver State's mortgage lending practices slowly emerged after it ceased operations.

212. A former Silver State employee recounted his experiences as a loan officer with Silver State in a May 9, 2008 This American Life story on NPR entitled "The Giant Pool of Money." Mike Garner, the former Silver State employee, related how Silver State did not adequately assess whether the income of borrowers under Silver State's "stated income" product was reasonable compared to the borrowers' line of work:

> Garner: The next guideline lower is just stated income, stated assets. Then you state what you make and state what's in your bank account. They call and make sure you work where you say you work. Then an accountant has to say for your field it is possible to make what you said you make. But they don't say what you make, they just say it's possible that they could make that.

Alex Blumberg & Adam Davidson, *The Giant Pool of Money* (National Public Radio broadcast May 9, 2008), *transcript available at* http://www.thisamericanlife.org/sites/default/files/355_transcript.pdf.

213. Alex Blumberg, one of the NPR interviewers, commented on how easy it could have been to simply provide a W-2. Garner responded by describing the means by which loan officers would determine whether the income was reasonable for the occupation:

> Blumberg: It's just so funny that instead of just asking people to prove what they make, there's this theater in place of you have to find an accountant sitting right in front of me who could very easily provide a W2, but we're not asking for a W2 form, but we do want this accountant to say yeah, what they're saying is plausible in some universe.
>
> Garner: Yeah, and loan officers would have an accountant they could call up and say "Can you write a statement saying a truck driver can make this much money?" Then the next one, came along, and it was no income, verified assets. So you don't have to tell the people what you do for a living. You don't have to tell the people what you do for work. All you have to do is state you have a certain amount of money in your bank account. And then, the next one, is just no income, no asset. You don't have to state anything. Just have to have a credit score and a pulse.

Id.

214. Garner recounted how his boss at Silver State despised these types of loan products that permitted such wanton disregard of underwriting standards. Garner concluded:

> Garner: Yeah. And my boss was in the business for 25 years. He hated those loans. He hated them and used to rant and say, "It makes me sick to my stomach the kind of loans that we do." He fought the owners and sales force tooth and neck about these guidelines. He got [the] same answer. Nope, other people are offering it. We're going to offer them too. We're going to get more market share this way. House prices are booming, everything's gonna [sic] be good. And . . . the company was just rolling in the cash. The owners and the production staff were just raking it in.

Id.

215. Instead, Silver State, like many other originators, focused on keeping up with the competition, sacrificing adherence to underwriting guidelines. This quixotic quest for higher

profits and more market share ultimately failed as Silver State ceased operations in 2007, no longer maintaining any share of the mortgage market.

11. WaMu's and Long Beach's Systematic Disregard of Underwriting Standards

216. WaMu or its affiliate Long Beach was the primary originator of loans in the Long Beach Mortgage Loan Trust 2006-2 and Long Beach Mortgage Loan Trust 2006-8 offerings. *See infra* Table 6.

217. WaMu was a Seattle-based bank that rapidly grew from a regional to a national mortgage lender during the period from 1991 to 2006. At over $300 billion in total assets, WaMu was at one time the largest institution regulated by the Office of Thrift Supervision ("OTS"). On September 25, 2008, however, federal regulators closed WaMu when loan losses, borrowing capacity limitations, a plummeting stock price, and rumors of WaMu's problems led to a run on the bank by depositors. Federal regulators facilitated the sale of WaMu to J.P. Morgan Chase & Co., in September 2008.

218. In April 2010, the Treasury OIG, issued a report titled "Evaluation of Federal Regulatory Oversight of Washington Mutual Bank," Report No. EVAL-10-002 (the "WaMu OIG Report"), discussing the reasons for WaMu's meteoric rise and consequent collapse. The WaMu OIG Report found, "WaMu failed primarily because of management's pursuit of a high-risk lending strategy that included liberal underwriting standards and inadequate risk controls." WaMu OIG Report at 2. The report elaborated on how WaMu adopted this new strategy to compete with Countrywide and maximize profits:

> In 2005, WaMu management made a decision to shift its business strategy away from originating traditional fixed-rate and conforming single family residential loans, towards riskier nontraditional loan products and subprime loans. WaMu pursued the new strategy in anticipation of increased earnings and to compete with Countrywide….

. . .

> WaMu estimated in 2006 that its internal profit margin from subprime loans could be more than 10 times the amount for a government-backed loan product and more than 7 times the amount for a fixed-rate loan product.

Id. at 8 (footnote omitted).

219. As previously noted in this Complaint, the PSI issued its report on the causes of the economic crisis. The PSI Wall Street Report used WaMu as its case study into lending practices of the mortgage industry during the housing bubble. Citing internal e-mails and correspondence the PSI obtained as part of its investigation, the PSI made the following factual findings:

> (1) High Risk Lending Strategy. [WaMu] executives embarked upon a High Risk Lending Strategy and increased sales of high risk home loans to Wall Street, because they projected that high risk home loans, which generally charged higher rates of interest, would be more profitable for the bank than low risk home loans.
>
> (2) Shoddy Lending Practices. WaMu and its affiliate, [Long Beach], used shoddy lending practices riddled with credit, compliance, and operational deficiencies to make tens of thousands of high risk home loans that too often contained excessive risk, fraudulent information, or errors.
>
> (3) Steering Borrowers to High Risk Loans. WaMu and Long Beach too often steered borrowers into home loans they could not afford, allowing and encouraging them to make low initial payments that would be followed by much higher payments, and presumed that rising home prices would enable those borrowers to refinance their loans or sell their homes before the payments shot up.
>
> (4) Polluting the Financial System. WaMu and Long Beach securitized over $77 billion in subprime home loans and billions more in other high risk home loans, used Wall Street firms to sell the securities to investors worldwide, and polluted the financial system with mortgage backed securities which later incurred high rates of delinquency and loss.
>
> (5) Securitizing Delinquency-Prone and Fraudulent Loans. At times, WaMu selected and securitized loans that it had identified as likely to go delinquent, without disclosing its analysis to investors who bought the securities, and also securitized loans tainted by fraudulent information, without notifying purchasers of the fraud that was discovered.

> (6) Destructive Compensation. WaMu's compensation system rewarded loan officers and loan processors for originating large volumes of high risk loans, paid extra to loan officers who overcharged borrowers or added stiff prepayment penalties, and gave executives millions of dollars even when its High Risk Lending Strategy placed the bank in financial jeopardy.

PSI Wall Street Report at 50-51.

220. In particular, the PSI Wall Street Report noted that WaMu had engaged in internal reviews of its lending practices and the lending practices of its subsidiary, Long Beach. WaMu's Chief Risk Officer, Ron Cathcart commissioned a study to look into the quality of loans originated by Long Beach. The review found that the "top five priority issues" were as follows:

> "Appraisal deficiencies that could impact value and were not addressed[:]
> Material misrepresentations relating to credit evaluation were confirmed[;]
> Legal documents were missing or contained errors or discrepancies[;]
> Credit evaluation or loan decision errors[; and]
> Required credit documentation was insufficient or missing from the file."

Id. at 82 (quoting e-mail from Ron Cathcart, Chief Risk Officer, WaMu, to Cory Gunderson (Dec. 11, 2006 9:21 AM PST)).

221. Pushing "Option ARMs" was a major part of WaMu's new "high risk" lending strategy. In a bipartisan memorandum from Senators Carl Levin and Tom Coburn to the Members of the PSI, dated April 13, 2010, Option ARMS are labeled WaMu's "flagship" product. *Wall Street and the Financial Crisis: The Role of High Risk Home Loans, Hearing Before S. Permanent Subcomm. on Investigations*, 112th Cong. (2010) ("PSI High Risk Home Loans Hearing"), Senate Exhibit 1.a, at 3. The WaMu OIG Report describes the inherently dangerous nature of WaMu's Option ARMs:

> WaMu's Option ARMs provided borrowers with the choice to pay their monthly mortgages in amounts equal to monthly principal and interest, interest-only, or a minimum monthly payment. Borrowers selected the minimum monthly payment option for 56 percent of the Option ARM portfolio in 2005.

> The minimum monthly payment was based on an introductory rate, also known as a teaser rate, which was significantly below the market interest rate and was usually in place for only 1 month. After the introductory rate expired, the minimum monthly payment feature introduced two significant risks to WaMu's portfolio: payment shock and negative amortization. WaMu projected that, on average, payment shock increased monthly mortgage amounts by 60 percent. At the end of 2007, 84 percent of the total value of Option ARMs on WaMu's financial statements was negatively amortizing.

WaMu OIG Report at 9.

222. The WaMu OIG Report notes that "Option ARMs represented as much as half of all loan originations from 2003 to 2007 and approximately $59 billion, or 47 percent, of the home loans on WaMu's balance sheet at the end of 2007." *Id.*

223. The OIG also notes that WaMu's "new strategy included underwriting subprime loans, home equity loans, and home equity lines of credit to high-risk borrowers. In line with that strategy, WaMu purchased and originated subprime loans, which represented approximately $16 billion, or 13 percent, of WaMu's 2007 home loan portfolio." *Id* at 10.

224. WaMu's careless underwriting practices rendered these already high risk loan products even more risky. *See Id.* The WaMu OIG Report stated that the OTS and the FDIC repeatedly "identified concerns with WaMu's high-risk lending strategy" and loan underwriting, weaknesses in management and "inadequate internal controls." *Id.* at 3-4. Those concerns included "questions about the reasonableness of stated incomes contained in loan documents, numerous underwriting exceptions, miscalculations of loan-to-value ratios, and missing or inadequate documentation." *Hearing on Wall Street & the Fin. Crisis: The Role of Bank Regulators Before the United States S. Homeland Security and Governmental Affairs Comm., Permanent Subcomm. on Investigations*, 111th Cong. 9 (Apr. 16, 2010) (statement of the Hon. Eric M. Thorson, Inspector General, Dep't of the Treasury) ("Thorson Statement").

225. WaMu management began to notice the pattern of "first payment default"

("FPD") for loans its Long Beach subsidiary originated. In June 2007, WaMu closed Long Beach as a separate entity and placed its subprime lending operations in a new division called "Wholesale Specialty Lending."

226. In late 2007, WaMu performed an internal review to determine whether its plans to address its poor underwriting practices were effective. The review focused on 187 loans that experienced FPD, originated from November 2006 to March 2007. As an initial matter, the review found:

> The overall system of credit risk management activities and process has major weaknesses resulting in unacceptable level of credit risk. Exposure is considerable and immediate corrective action is essential in order to limit or avoid considerable losses, reputation damage, or financial statement errors.

PSI High Risk Home Loans Hearing, Senate Ex. 21, "WaMu Corporate Credit Review: Wholesale Specialty Lending-FPD" at 2 (Sept. 28, 2007).

227. Specifically, the WaMu internal review reported the following findings regarding the 187 FPD loans:

- (High) Ineffectiveness of fraud detection tools – 132 of the 187 (71%) files were reviewed by Risk Mitigation for fraud. Risk Mitigation confirmed fraud on 115 files and could not confirm on 17 of the files, but listed them as "highly suspect." This issue is a repeat finding with CCR.

- (High) Weak credit risk infrastructure impacting credit quality. Credit weakness and underwriting deficiencies is a repeat finding with CCR. It was also identified as a repeat finding and Criticism in the OTS Asset Quality memo 3 issued May 17, 2007. Internal Audit in their August 20, 2007 Loan Origination & Underwriting report identified it as a repeat issue. Findings from the CCR FPD review in relation to credit quality:

    - 132 of the 187 loans sampled were identified with red flags that were not addressed by the business unit
    - 80 of the 112 (71%) stated income loans were identified for lack of reasonableness of income
    - 87 files (47%) exceeded program parameters in place at the time of approval
    - 133 (71%) had credit evaluation or loan decision errors present

- 25 (13%) had the title report issues that were not addressed
- 28 (14%) had income calculation errors and 35 (19%) had income documentation errors
- 58 (31%) had appraisal discrepancies that raised concerns that the value was not supported

Id. at 3.

228. An OTS memorandum on Loan Fraud Investigation, dated June 19, 2008, noted the systematic nature of the problem: "[T]he review defines an origination culture focused more heavily on production volume rather than quality. An example of this was a finding that production personnel were allowed to participate in aspects of the income, employment, or asset verification process, a clear conflict of interest. . . . Prior OTS examinations have raised similar issues including the need to implement incentive compensation programs to place greater emphasis on loan quality." PSI High Risk Home Loans Hearing, Senate Ex. 25, Memorandum from D. Schneider, President Home Loans, to A. Hedger, OTS Examiner and B. Franklin, OTS EIC at 1 (June 19, 2008).

229. A WaMu Significant Incident Notification , Date Incident Reported – 04/01/2008, Loss Type - Mortgage Loan, stated:

> One Sales Associate admitted that during that crunch time some of the Associates would 'manufacture' assets statements from previous loan docs and submit them to the [Loan Fulfillment Center ('LFC')]. She said the pressure was tremendous from the LFC to get them the docs since the loan had already funded and pressure from the Loan Consultants to get the loans funded.

PSI High Risk Home Loans Hearing, Senate Ex. 30, "Significant Incident Notification (SIN)" at 1 (Apr. 1, 2008).

230. A New York Times article described WaMu's underwriting practices as follows: "On a financial landscape littered with wreckage, WaMu, a Seattle-based bank that opened branches at a clip worthy of a fast-food chain, stands out as a singularly brazen case of lax lending." Peter S. Goodman & Gretchen Morgenson, *Saying Yes, WaMu Built Empire on Shaky*

Loans, N.Y. TIMES, Dec. 27, 2008, at A1.

231. Sherri Zaback, a former underwriter at a WaMu branch in San Diego, California, stated that "[m]ost of the loans she … handled merely required borrowers to provide an address and Social Security number, and to state their income and assets." *Id*. On one occasion, Zaback asked a loan officer for verification of a potential borrower's assets. The officer sent her a letter from a bank showing a balance of about $150,000 in the borrower's account. Zaback called the bank to confirm and was told the balance was only $5,000. The loan officer yelled at her, Ms. Zaback recalled. "She said, 'We don't call the bank to verify.'" *Id.*

232. Zaback also recalled that the sheer volume of loans precluded WaMu employees from adhering to underwriting standards. According to Zaback, she would typically spend a maximum of 35 minutes per file: "'Just spit it out and get it done. That's what they wanted us to do. Garbage in, and garbage out.'" *Id*. Another WaMu agent in Irvine, California, told the authors of the New York Times that she "coached brokers to leave parts of applications blank to avoid prompting verification if the borrower's job or income was sketchy." *Id.*

233. WaMu's underwriting also critically failed with respect to appraisals as well. An accurate appraisal of a property's market value is crucial to the underwriting process as the property provides collateral for the loan in case of default.

> WaMu's review of appraisals establishing the value of single family homes did not always follow standard residential appraisal methods because WaMu allowed a homeowner's estimate of the value of the home to be included on the form sent from WaMu to third-party appraisers, thereby biasing the appraiser's evaluation.

WaMu OIG Report at 11.

234. The New York Times reported, "WaMu pressured appraisers to provide inflated property values that made loans appear less risky, enabling Wall Street to bundle them more easily for sale to investors." Goodman & Morgenson, *Saying Yes, WaMu Built Empire on Shaky*

Loans at A1. The article quoted the founder of one appraisal company that did business with WaMu until 2007 as saying, "'It was the Wild West,'. . . . 'If you were alive, they would give you a loan. Actually, I think if you were dead, they would still give you a loan.'" *Id.* (quoting Steven Knoble, founder Mitchell, Maxwell & Jackson).

235. Nor did WaMu adequately monitor non-employee third-party brokers who originated most of WaMu's loans. As Eric Thorson explained before the PSI:

> In addition to originating retail loans with its own employees, WaMu began originating and purchasing wholesale loans through a network of brokers and correspondents. From 2003 to 2007, wholesale loan channels represented 48 to 70 percent of WaMu's total single family residential loan production. WaMu saw the financial incentive to use wholesale loan channels for production as significant. According to an April 2006 internal presentation to the WaMu Board, it cost WaMu about 66 percent less to close a wholesale loan ($1,809 per loan) than it did to close a retail loan ($5,273). So while WaMu profitability increased through the use of third-party originators, it had far less oversight and control over the quality of the originations.

Thorson Statement at 5. According to the WaMu OIG Report, WaMu had only 14 employees monitoring the actions of 34,000 third-party brokers. *See* WaMu OIG Report at 11. This lack of oversight led to WaMu "identif[ying] fraud losses attributable to third-party brokers of $51 million for subprime loans and $27 million for prime loans" in 2007. *Id.*

236. Federal regulators also noted that "WaMu acquired 11 institutions and merged with 2 affiliates" from 1991 to 2006, yet failed to "fully integrate . . . information technology systems, risk controls, and policies and procedures" from its acquisitions and institute "a single enterprise-wide risk management system." Thorson Statement at 5. An integrated risk management system was critically important in light of WaMu's high-risk lending strategy. *See id.*

237. Based on interviews with two dozen former employees, mortgage brokers, real estate agents and appraisers, Goodman and Morgenson of the New York Times noted the

"relentless pressure to churn out loans" while "disregarding borrowers' incomes and assets" came from WaMu's top executives. Goodman & Morgenson, *Saying Yes, WaMu Built Empire on Shaky Loans* at A1. According to Dana Zweibel, a former financial representative at a WaMu branch in Tampa, Florida, even if she doubted whether a borrower could repay the loan, she was told from the top that it was not her concern: her concern was "'just to write the loan.'" *Id.* Said Zweibel, "'[i]t was a disgrace' . . . . 'We were giving loans to people that never should have had loans.'" *Id.*

238. In November 2008 the New York Times, quoting Keysha Cooper, a Senior Mortgage Underwriter at WaMu from 2003 to 2007, recounted "'[a]t WaMu it wasn't about the quality of the loans; it was about the numbers' . . . . 'They didn't care if we were giving loans to people that didn't qualify. Instead, it was how many loans did you guys close and fund?'" Gretchen Morgenson, *Was There a Loan It Didn't Like?*, N.Y. Times, Nov. 1, 2008. According to the article, "[i]n February 2007, . . . the pressure became intense. WaMu executives told employees they were not making enough loans and had to get their numbers up . . . ." Cooper concluded, "'I swear 60 percent of the loans I approved I was made to.' . . . 'If I could get everyone's name, I would write them apology letters.'" *Id.*

239. WaMu blatantly inflated salaries of baby sitters and mariachi singers to the six-figure range. Indeed, the only verification of the mariachi singer's income was a photograph of the mariachi singer in his outfit included in the loan application file. The New York Times reported:

> As a supervisor at a Washington Mutual mortgage processing center, John D. Parsons was accustomed to seeing baby sitters claiming salaries worthy of college presidents, and schoolteachers with incomes rivaling stockbrokers'. He rarely questioned them. A real estate frenzy was under way and WaMu, as his bank was known, was all about saying yes.

> Yet even by WaMu's relaxed standards, one mortgage four years ago raised eyebrows. The borrower was claiming a six-figure income and an unusual profession: mariachi singer.
>
> Mr. Parsons could not verify the singer's income, so he had him photographed in front of his home dressed in his mariachi outfit. The photo went into a WaMu file. Approved.
>
> "I'd lie if I said every piece of documentation was properly signed and dated," said Mr. Parsons.
> …
>
> At WaMu, getting the job done meant lending money to nearly anyone who asked for it — the force behind the bank's meteoric rise and its precipitous collapse this year in the biggest bank failure in American history.
> . . .
>
> Interviews with two dozen former employees, mortgage brokers, real estate agents and appraisers reveal the relentless pressure to churn out loans that produced such results.

Goodman & Morgenson, *Saying Yes, WaMu Built Empire on Shaky Loans* at A1.

240. Long Beach, a WaMu affiliate, specialized in the riskiest of loans—subprime mortgages. Internal WaMu documents reveal a well-documented pattern of underwriting deficiencies at Long Beach. A memorandum to the Washington Mutual, Inc. and WaMu Board of Directors' Audit Committees, dated April 17, 2006, re: *Long Beach Mortgage Company - Repurchase Reserve Root Cause Analysis* states: "[Long Beach] experienced a dramatic increase in EPDs[] during the third quarter of 2005. . . . [R]elaxed credit guidelines, breakdowns in manual underwriting processes, and inexperienced subprime personnel . . . coupled with a push to increase loan volume and the lack of an automated fraud monitoring tool, exacerbated the deterioration in loan quality." Senate Exhibit 10 at 1-2.

241. A WaMu Audit Report titled *Long Beach Mortgage Loan Origination & Underwriting*, dated August 20, 2007, states: "[T]he overall system of risk management and internal controls has deficiencies related to multiple, critical origination and underwriting

processes. . . . These deficiencies require immediate effective corrective action to limit continued exposure to losses." Senate Exhibit 19 at 2. In its "Executive Summary" section, this Audit Report states:

> In response to challenges resulting from the softening housing market, rising interest rates, tightening capital markets, poor portfolio performance and underwriting deficiencies, [Long Beach] continually refines their processes and guidelines. While management has been responsive to these challenges by identifying and implementing corrective actions, actual underwriting practices have not been consistent to achieve the desired levels of improvement. Continued patterns of loans being underwritten outside of established underwriting and documentation guidelines have been previously identified.

Id. at 2. It also identifies the following as the number one high rated "repeat issue" to correct: "Underwriting guidelines established to mitigate the risk of unsound underwriting decisions are not always followed and the decisioning methodology is not always fully documented." *Id.* at 8. The number two "repeat issue" was identified as "[p]olicies and procedures defined to allow and monitor reasonable and appropriate exceptions to underwriting guidelines are not consistently followed." *Id.* at 10. An e-mail from a WaMu executive describes the Long Beach audit report as "the ultimate in bayonetting the wounded, if not the dead." Senate Exhibit 20 at 1.

242. In a WaMu internal report titled "[Long Beach] Post Mortem – Early Findings Read Out," dated November 1, 2005, the authors note the following "common theme" surfacing: "Underwriting guidelines are not consistently followed and conditions are not consistently or effectively met." Senate Exhibit 9 at 1. The report goes on to note that 60% of First Payment Default cases could have been prevented "had current policy, procedures and guidelines been better executed." *Id.* at 2.

243. In Gretchen Morgenson's July 9, 2010, article titled *Mortgage Investors Turn to State Courts for Relief*, Morgenson of THE NEW YORK TIMES reported on a lawsuit filed by Cambridge Place Investment Management, an investment management firm that lost over a

billion dollars in RMBS it bought for clients, against 15 banks, for abetting fraud. The complaint alleges that management at Long Beach directed underwriters to "'approve, approve, approve'" and highlights the "anything-goes" lending practices at Long Beach:

> One Long Beach program made loans to self-employed borrowers based on three letters of reference from past employers. A former worker said some letters amounted to "So-and-so cuts my lawn and does a good job," adding that the company made no attempt to verify the information, the complaint stated.

244. The OTS also reported concerns with subprime underwriting practices by Long Beach from 2006 to 2007. *See* Thorson Statement at 9-10.

245. As a result of its systematic disregard of underwriting standards, Long Beach also appeared in the 2008 "Worst Ten in the Worst Ten" Report. In fact, Long Beach was in the top five in every city other than Las Vegas, Nevada (1st in Stockton, California, Sacramento, California, Denver, Colorado, and Memphis, Tennessee; 2nd in Bakersfield, California and Detroit, Michigan; 3rd in Cleveland, Ohio and Miami, Florida; and 4th in Riverside, California). *See* 2008 "Worst Ten in the Worst Ten" Report. Long Beach again ranked near the top in nearly every city in the 2009 "Worst Ten in the Worst Ten" Report (1st in Stockton-Lodi, California, Merced, California, and Vallejo-Fairfield-Napa, California; 5th in Fort Pierce-Port St. Lucie, Florida; and 6th in Riverside-San Bernardino, California). *See* 2009 "Worst Ten in the Worst Ten" Report.

12. Wells Fargo's Systematic Disregard of Underwriting Standards

246. Wells Fargo originated or contributed a material portion of the loans in the mortgage pool underlying the Soundview Home Loan Trust 2006-WF1offering. *See infra* Table 6.

247. The City of Memphis sued Wells Fargo over their mortgage practices claiming violations of the Fair Housing Act. *See* First Am. Compl., *City of Memphis v. Wells Fargo Bank,*

N.A., No. 09-2857, Doc. 29 (W.D. Tenn. filed Apr. 7, 2010) ("*Memphis* Compl."). The complaint includes sworn declarations from former Wells Fargo employees describing Wells Fargo's abandonment of underwriting guidelines.

248. Camille Thomas was a loan processor at Wells Fargo from January 2004 to January 2008. She was responsible for handling the paperwork involved in the loan, including processing the file for review and approval by the underwriters. In order to do her job, she had to be familiar with Wells Fargo's underwriting guidelines. Ms. Thomas recounted how the bonus structure placed pressure on credit managers to make loans that should not have been made. She stated that managers manipulated LTV ratios by using inflated appraisals that they were not accurate. She also knew that documents were falsified to inflate borrowers' incomes. When she complained, a branch manager told her, "we gotta do what we gotta do." Finally, she stated that borrowers were not informed that their loans were adjustable-rate mortgages with low "teaser rates," or about prepayment penalties, potential violations of lending laws, which would also be violations of the underwriting guidelines. *Memphis* Compl., Doc. 29-4, Thomas Decl. (W.D. Tenn. filed Apr. 7, 2010).

249. Doris Dancy was a credit manager at Wells Fargo from July 2007 to January 2008 in the Memphis area. Her responsibility was to find potential borrowers. She stated that the district manager put pressure on credit managers to convince people to apply for loans even if the person could not afford the loan or did not qualify for it. To her shock, many people with very bad credit scores and high debt-to-income ratios were approved for subprime loans. Ms. Dancy would shake her head in disbelief and ask herself, "how could that happen?" She knew that Wells Fargo violated its underwriting guidelines in order to make those loans. Although she never witnessed it herself, she heard also from other employees that some branch managers

falsified information in order to get customers to qualify for subprime loans. She stated that a bonus system was used to pressure her to make loans that she thought should not be made. *Memphis* Compl., Doc. 29-1, Dancy Decl. (W.D. Tenn. filed Apr. 7, 2010).

250. Michael Simpson was a credit and branch manager at Wells Fargo from 2002 to 2008 in the Memphis area. According to Mr. Simpson, Wells Fargo managers falsified the mileage on car loan applications so that the loan would be approved. He also stated that Wells Fargo was "very aggressive" in mortgage lending. The culture was "completely results driven." According to Mr. Simpson, Wells Fargo employees did not tell customers about the fees and costs associated with closing a loan – again, potential violations of lending laws, and thus also violations of the underwriting guidelines. He also knew managers who falsified information in loan files, such as income documentation, in order to get loans approved. Mr. Simpson further confirmed that Wells Fargo's bonus system was "lucrative" for those employees generating the loans. *Memphis* Compl., Doc. 29-2, Simpson Decl. (W.D. Tenn. filed Apr. 7, 2010).

251. Mario Taylor was a Wells Fargo credit manager from June 2006 to February 2008 in the Memphis area. His job was to find potential borrowers and to get them to apply for loans. His manager pressured him to push loan on borrowers regardless of whether they were qualified for the loan or could pay back the loan. He was also told to mislead borrowers by only telling them the "teaser rate" without disclosing the rate was adjustable and by not telling them about the "fine print." One of his branch managers changed pay stubs and used white-out on documents to alter the borrower's income. Finally, Mr. Taylor confirmed that Wells Fargo employees were heavily incentivized by the bonus structure to generate large volumes of loans. *Memphis* Compl., Doc. 29-3, Taylor Decl. (W.D. Tenn. filed Apr. 7, 2010).

252. Elizabeth Jacobson was a loan officer and sales manager at Wells Fargo from

1998 to December 2007 in the Maryland area. She described the financial incentives to sign borrowers up for loans. In two years, she made more than $1.2 million in sales commissions. She knew loan officers who would lie to potential borrowers about whether they would be able to refinance their loan once the "teaser rate" period expired. Ms. Jacobson also knew loan officers who actually falsified loan applications in order to qualify them for loans that they should not have been given. One loan officer would "cut and paste" the credit report of an approved borrower into other borrowers' applications. She reported this conduct to management but was not aware of any action that was taken to correct the problems. *Memphis* Compl., Doc. 29-7, Jacobson Decl. (W.D. Tenn. filed Apr. 7, 2010).

253. The district court denied a motion to dismiss. *City of Memphis v. Wells Fargo Bank, N.A.*, 2011 WL 1706756 (W.D. Tenn. May 4, 2011). The case subsequently settled.

254. The FCIC's investigation supports the affidavits of these former Wells Fargo employees. The FCIC interviewed Darcy Parmer, a former employee of Wells Fargo, who worked as an underwriter and a quality assurance analyst from 2001 until 2007. According to Ms. Parmer, at least half the loans she flagged as fraudulent were approved nonetheless. She also told the FCIC that "hundreds and hundreds and hundreds of fraud cases" within Wells Fargo were never referred to the Department of Treasury's Financial Crimes Enforcement Network. FCIC Report at 162.

255. In July 2011, the Federal Reserve Board issued a consent cease and desist order, and assessed an $85 million civil money penalty against Wells Fargo & Co. and Wells Fargo Financial, Inc. At the time, this was the largest penalty assessed by the Board in a consumer-protection enforcement action. Among other things, the order addressed allegations that Wells Fargo had falsified income information in mortgage applications. These practices were allegedly

fostered by Wells Fargo's incentive compensation and sales quota programs and the lack of adequate controls to manage the risks resulting from these programs. Press Release, Federal Reserve Board (July 20, 2011), *available at* http://www.federalreserve.gov/newsevents/press/enforcement/20110720a.htm.

E. Loans That Did Not Comply with the Underwriting Guidelines Were Routinely Collateral for RBS-Underwritten RMBS

256. A February 2010 report from J.P. Morgan noted that "[t]he outstanding balance of [private-label] mortgages grew from roughly $600 billion at the end of 2003 to $2.2 trillion at its peak in 2007." Gary J. Madich et al, *Non-Agency Mortgage-Backed Securities: Managing Opportunities and Risks*, J.P. Morgan Asset Management at 2 (Feb. 2010), *available at* http://www.jpmorganinstitutional.com/cm/BlobServer/Non-Agency_Mortgage-Backed_Securities.pdf?blobkey=id&blobwhere=1321504668623&blobheader=application%2Fpdf&blobcol=urldata&blobtable=MungoBlobs&isAMIA=yes. While unknown to reasonable investors at that time, it now is apparent that this massive expansion in the origination of loans over a short period of time was accomplished by ignoring underwriting standards. The J.P. Morgan report also noted that home prices rose, requiring larger loans: "[private-label] mortgage providers initially met this need for larger loans while maintaining stringent qualifications. However, investment banks were willing to buy lower quality mortgages and bundle them for issuance into new and innovative forms of Asset Backed Securities (ABS) and Collateralized Debt Obligations (CDOs)." *Id.*

257. During the FCIC investigation referenced above (*supra* at Section VII.D.1), Clayton Holdings provided evidence that RBS securitized a significant number of loans that did not comply with the stated underwriting guidelines.

258. Clayton was the leading provider of due diligence services for RMBS offerings

during the relevant time period. This gave Clayton "a unique inside view of the underwriting standards that originators were actually applying." FCIC Report at 166.

259. Banks routinely hired Clayton to inspect the mortgage loans that the banks securitized into RMBS. Clayton would determine whether the loans complied with the originators' stated underwriting guidelines, and prepare a report of its findings for the bank. *See* FCIC Testimony of Vicki Beal, Senior Vice President of Clayton Holdings (Sept. 23, 2010), available at http://fcic-static.law.stanford.edu/cdn_media/fcic-testimony/2010-0923-Beal.pdf.

260. From January 1, 2006 through June 30, 2007, Clayton reviewed 911,039 loans. Only 54% of those met the originators' underwriting guidelines. Clayton's former President and CEO, Keith Johnson, testified that the "54% says there [was] a quality control issue in the [originators]." FCIC Report at 166; Audiotape of FCIC Interview with Keith Johnson, former President of Clayton ("Johnson FCIC Interview") (Sept. 2, 2010) ("Even if the guideline was bad, [the loans] didn't adhere to the guideline . . . . To me in hindsight, [the data] just said there was a . . . fundamental breakdown."), available at http://fcic.law.stanford.edu/interviews/view/220. Another 18% of the loans failed the underwriting guidelines but were deemed to have adequate compensating factors. That left a large number – 28% – that did not meet the underwriting guidelines and had no compensating factors. *See* All Clayton Trending Reports, 1st Quarter 2006 – 2nd Quarter 2007, at 1 (2007), available at http://fcic-static.law.stanford.edu/cdn_media/fcic-testimony/2010-0923-Clayton-All-Trending-Report.pdf ("All Clayton Trending Report").

261. Clayton confirmed that the RMBS sold by RBS from the beginning of 2006 through the middle of 2007—which includes all of the certificates listed in Table 1 this Complaint—contained a substantial number of loans that were not originated in conformity with

underwriting guidelines. *See* All Clayton Trending Report at 6.

262. As revealed during the FCIC investigation in 2010, Clayton routinely found large numbers of loans that were not properly originated under the applicable underwriting guidelines. Despite identifying these defectively originated loans, Clayton stated that they often were included into the RMBS that was being sold to investors. *See* FCIC Report at 166-67; All Clayton Trending Report at 1.

263. Clayton reviewed 67,257 loans for RBS. It found that 12,361 (18%) did not comply with the stated underwriting guidelines and did not have compensating factors. RBS waived the defects for 6,593 of the 12,361 (53%).

264. Clayton typically performed due diligence on a small sample of the loans that were being securitized into an RMBS offering – approximately 10%. FCIC Testimony of Vicky Beal at 2. No due diligence was performed on the remaining loans. Thus, of the small sample of loans that Clayton did review, approximately 10% did not comply with the underwriting guidelines and did not have compensating factors, but were nonetheless securitized. Extrapolating Clayton's results shows that for the remaining 90% of loans that were not reviewed, over 15% did not comply with the underwriting guidelines and did not have compensating factors, but were nonetheless securitized. In total, Clayton's data shows that over 15% of the loans RBS securitized were defective. All Clayton Trending Reports at 6.

F. Additional Evidence Confirms That Defective Loans Were Routinely Packaged into RBS's RMBS.

265. Clayton officials offered an explanation for why so many defective loans were packaged into RMBS. When asked what caused the financial crisis, one pointed to the banks belief that they had no liability for loans' compliance with underwriting guidelines: "When it came to the underwriting [guidelines] . . . and [securitizers] could perhaps distribute that risk

quickly, then that wasn't as high on their priorities." Johnson FCIC Interview.

266. A number of loan originators had an express policy of attempting to sell loans that had already been rejected. Because only a small percentage of the pools were reviewed by a due diligence firm like Clayton (or its chief competitor, Bohan), there was a very strong likelihood that those defective loans would enter the pool on the second or third attempt. Clayton referred to this practice as the "three strikes, you're out rule." Transcript, FCIC Hearing, The Financial Crisis at the Community Level—Sacramento, CA at 178 (Sept. 23, 2010) (testimony of D. Keith Johnson, former President of Clayton), available at http://fcic-static.law.stanford.edu/cdn_media/fcic-testimony/2010-0923-transcript.pdf.

267. The FCIC Report also concluded that banks like RBS that securitized loans were reluctant to review or reject loans in greater numbers because doing so would endanger their relationship with originators. FCIC Report at 166 ("[Clayton's former CEO] concluded that his clients often waived in loans to preserve their business relationship with the loan originator—a high number of rejections might lead the originator to sell the loans to a competitor."); Paul Muolo and Matthew Padilla, Chain of Blame 228 (2010) ("There were two reasons the [Wall] Street firms reviewed only a small sample of the loans they were buying . . . . The most important reason was the relationship with the lender. 'The lower the sample you requested [of the lender], the more likely it was that you'd win the bid.'").

VIII. THE OFFERING DOCUMENTS CONTAINED UNTRUE STATEMENTS OF MATERIAL FACT

268. The Offering Documents included material untrue statements or omitted facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading.

269. For purposes of Section 11 liability, the prospectus supplements are part of and

included in the registration statements of the offerings pursuant to 17 C.F.R. §§ 230.158, 230.430B (2008); *see also* Securities Offering Reform, 70 Fed. Reg. 44722-01, 44768-69 (Aug. 3, 2005).

270. Statements in the Offering Documents concerning the following subjects were material and untrue at the time they were made: (1) the loans adhered to the applicable underwriting guidelines, including that exceptions to those guidelines would only be granted when warranted by compensating factors; (2) the loans adhered to certain underwriting standards for reduced documentation programs; and (3) that appraisals were accurate, that loans had certain LTV ratios individually and in the aggregate, and that the borrowers had certain debt-to-income ("DTI") ratios.

271. The following table lists the originators that contributed loans to each RMBS, as identified in the Offering Documents. Under SEC's Regulation AB, the Offering Documents must disclose the originators that contributed more than 10% of the loans underlying the RMBS, and the Offering Documents must include underwriting guidelines for the originators that contributed more than 20% of the loans underlying the RMBS. *See* 17 C.F.R. § 229.1110 (2005). For the RMBS listed below, the Offering Documents included only those underwriting guidelines for the Originators that contributed more than 20% of the loans to the RMBS.

Table 6
Originators Supplying Loans for Each RMBS at Issue

CUSIP	Issuing Entity	Tranche	Originator(s)
38012EAC9	GMACM Home Equity Loan Trust 2006-HE5	2-A-2	GMAC Mortgage, LLC (14%) GMAC Bank (86%)

CUSIP	Issuing Entity	Tranche	Originator(s)
41162CAE1	HarborView Mortgage Loan Trust 2006-10	2-A-1-C	Paul Financial, LLC (17.26%) BankUnited, FSB (16.85%) Residential Mortgage Capital (15.92%) Loan Center of California, Inc. (12.78%) NL Inc. dba Residential Pacific Mortgage (10.89%) First Federal Bank of California (10.77%)
41164MAC1 41164MAD9	HarborView Mortgage Loan Trust 2007-1	2-A-1-A 2-A-1-B	Countrywide Home Loans, Inc. (100%)
41164LAD1	HarborView Mortgage Loan Trust 2007-2	2-A-1-C	American Home Mortgage Corp. (22.52%) Paul Financial, LLC (21.18%) Kay-Co Investment Inc. dba Pro30 Funding (15.91%) Residential Funding Company (10.28%)
41164UAB5	HarborView Mortgage Loan Trust 2007-3	2-A-1-A	Paul Financial, LLC (18.99%) SunTrust Mortgage, Inc. (18.32%) ComUnity Lending,Inc. (15.72%) Just Mortgage, Inc. (10.66%)
456612AE0	IndyMac INDX Mortgage Loan Trust 2006-AR6	2-A-1-C	IndyMac Bank, F.S.B. (100%)
542514TT1	Long Beach Mortgage Loan Trust 2006-2	2-A-3	Long Beach Mortgage Company (100%)
54251UAD8	Long Beach Mortgage Loan Trust 2006-8	2-A-3	Long Beach Mortgage Company (100%)
61915RBZ8 61915RCJ3	MortgageIT Mortgage Loan Trust 2006-1	1-A-2 2-A-1-A	MortgageIT, Inc. (100%)
65538DAA3	Nomura Asset Acceptance Corporation, Alternative Loan Trust, Series 2006-AR4	A-1-A	First National Bank of Nevada (24.81%) Silver State Mortgage (13.69%)
65537KAB6	Nomura Home Equity Loan, Inc., Home Equity Loan Trust, Series 2007-1	2-A-1-A	Silver State Financial Services, Inc., d/b/a Silver State Mortgage (31.67%)
68401TAE8	Option One Mortgage Loan Trust 2007-2	3-A-3	Option One Mortgage Corp. (100%)
83612LAD1	Soundview Home Loan Trust 2006-WF1	A-3	Wells Fargo Bank, N.A. (100%)

272. Examples of material untrue statements and/or omissions of fact in the Offering Documents of the RMBS listed above follow.

A. Untrue Statements Concerning Adherence to Underwriting Guidelines

273. The HarborView Mortgage Loan Trust 2007-1 Prospectus Supplement provided the following description of Countrywide's underwriting guidelines:

As part of its evaluation of potential borrowers, Countrywide Home Loans generally requires a description of income. If required by its underwriting guidelines, Countrywide Home Loans obtains employment verification providing current and historical income information and/or a telephonic employment confirmation. Such employment verification may be obtained, either through analysis of the prospective borrower's recent pay stub and/or W-2 forms for the most recent two years, relevant portions of the most recent two years' tax returns, or from the prospective borrower's employer, wherein the employer reports the length of employment and current salary with that organization. Self-employed prospective borrowers generally are required to submit relevant portions of their federal tax returns for the past two years.

In assessing a prospective borrower's creditworthiness, Countrywide Home Loans may use FICO Credit Scores. "FICO Credit Scores" are statistical credit scores designed to assess a borrower's creditworthiness and likelihood to default on a consumer obligation over a two-year period based on a borrower's credit history. FICO Credit Scores were not developed to predict the likelihood of default on mortgage loans and, accordingly, may not be indicative of the ability of a borrower to repay its mortgage loan. FICO Credit Scores range from approximately 250 to approximately 900, with higher scores indicating an individual with a more favorable credit history compared to an individual with a lower score. Under Countrywide Home Loans' underwriting guidelines, borrowers possessing higher FICO Credit Scores, which indicate a more favorable credit history and who give Countrywide Home Loans the right to obtain the tax returns they filed for the preceding two years, may be eligible for Countrywide Home Loans' processing program (the "Preferred Processing Program").

Periodically the data used by Countrywide Home Loans to complete the underwriting analysis may be obtained by a third party, particularly for mortgage loans originated through a loan correspondent or mortgage broker. In those instances, the initial determination as to whether a mortgage loan complies with Countrywide Home Loans' underwriting guidelines may be made by an independent company hired to perform underwriting services on behalf of Countrywide Home Loans, the loan correspondent or mortgage broker. In addition, Countrywide Home Loans may acquire mortgage loans from approved correspondent lenders under a program pursuant to which Countrywide Home Loans delegates to the correspondent the obligation to underwrite the mortgage loans to Countrywide Home Loans' standards. Under these circumstances, the underwriting of a mortgage loan may not have been reviewed by Countrywide Home Loans before acquisition of the mortgage loan and the correspondent represents that Countrywide Home Loans' underwriting standards have been met. After purchasing mortgage loans under those circumstances, Countrywide Home Loans conducts a quality control review of a sample of the mortgage loans. The number of loans reviewed in the quality control process varies based on a variety of factors, including Countrywide Home Loans' prior experience with the correspondent lender and the results of the quality control review process itself.

> Countrywide Home Loans' underwriting standards are applied by or on behalf of Countrywide Home Loans to evaluate the prospective borrower's credit standing and repayment ability and the value and adequacy of the mortgaged property as collateral. Under those standards, a prospective borrower must generally demonstrate that the ratio of the borrower's monthly housing expenses (including principal and interest on the proposed mortgage loan and, as applicable, the related monthly portion of property taxes, hazard insurance and mortgage insurance) to the borrower's monthly gross income and the ratio of total monthly debt to the monthly gross income (the "debt-to-income" ratios) are within acceptable limits.

HarborView Mortgage Loan Trust 2007-1 Prospectus Supplement at S-29-30.

274. The HarborView Mortgage Loan Trust 2007-1 Prospectus Supplement stated:

> Exceptions to Countrywide Home Loan's underwriting guidelines may be made if compensating factors are demonstrated by a prospective borrower.

HarborView Mortgage Loan Trust 2007-1 Prospectus Supplement at S-30.

275. The Soundview Home Loan Trust 2006-WF1 Prospectus Supplement stated:

> The mortgage loans in loan group I, except for approximately 12.98% of such mortgage loans which Wells Fargo acquired from various other loan sellers, including Mortgage IT, have been underwritten in accordance with one or more of the following: (i) Wells Fargo Bank's "general" underwriting standards, (ii) Wells Fargo Bank's modified underwriting standards that have been applied in the underwriting of mortgage loans under Wells Fargo Bank's "alternative" mortgage loan underwriting program, and (iii) the underwriting standards of participants in Wells Fargo Bank's non-agency conduit program.

Soundview Home Loan Trust 2006-WF1 Prospectus Supplement at the "Mortgage Loan Underwriting" Section.

276. The Soundview Home Loan Trust 2006-WF1 Prospectus Supplement stated:

> Wells Fargo Bank's underwriting standards are applied by or on behalf of Wells Fargo Bank to evaluate the applicant's credit standing and ability to repay the mortgage loan, as well as the value and adequacy of the mortgaged property as collateral. The underwriting standards that guide the determination represent a balancing of several factors that may affect the ultimate recovery of the mortgage loan amount, including, among others, the amount of the mortgage loan, the ratio of the mortgage loan amount to the property value (i.e., the lower of the appraised value of the mortgaged property and the purchase price), the borrower's means of support and the borrower's credit history. Wells Fargo Bank's guidelines for

> underwriting may vary according to the nature of the borrower or the type of loan, since differing characteristics may be perceived as presenting different levels of risk. With respect to certain mortgage loans, the originators of such loans may have contracted with unaffiliated third parties to perform the underwriting process.
>
> Wells Fargo Bank supplements the mortgage loan underwriting process with either its own proprietary scoring system or scoring systems developed by third parties such as Freddie Mac's Loan Prospector, Fannie Mae's Desktop Underwriter or scoring systems developed by private mortgage insurance companies. These scoring systems assist Wells Fargo Bank in the mortgage loan approval process by providing consistent, objective measures of borrower credit and certain loan attributes. Such objective measures are then used to evaluate loan applications and assign each application a "Mortgage Score."
>
> . . . .
>
> The Mortgage Score is used to determine the type of underwriting process and which level of underwriter will review the mortgage loan file. For transactions which are determined to be low-risk transactions, based upon the Mortgage Score and other parameters (including the mortgage loan production source), the lowest underwriting authority is generally required. For moderate and higher risk transactions, higher level underwriters and a full review of the mortgage file are generally required. Borrowers who have a satisfactory Mortgage Score (based upon the mortgage loan production source) are generally subject to streamlined credit review (which relies on the scoring process for various elements of the underwriting assessments). Such borrowers may also be eligible for a reduced documentation program and are generally permitted a greater latitude in the application of borrower debt-to-income ratios.

Soundview Home Loan Trust 2006-WF1 Prospectus Supplement at the "Mortgage Loan Underwriting" Section.

277. The Soundview Home Loan Trust 2006-WF1 Prospectus Supplement stated:

> In comparison to Wells Fargo Bank's "general" underwriting standards described above, the underwriting standards applicable to mortgage loans under Wells Fargo Bank's "alternative" mortgage loan underwriting program permit different underwriting criteria, additional types of mortgaged properties or categories of borrowers such as "foreign nationals" without a FICO Score who hold certain types of visas and have acceptable credit references (such mortgage loans, "Foreign National Loans"), and include certain other less restrictive parameters. Generally, relative to the "general" underwriting standards, these standards include higher loan amounts, higher maximum Loan-to-Value Ratios, higher maximum "combined" Loan-to-Value Ratios (in each case, relative to mortgage

loans with otherwise similar characteristics) in cases of simultaneous primary and secondary financings, less restrictive requirements for "equity take out" refinancings, the removal of limitations on the number of permissible mortgage loans that may be extended to one borrower financing a primary residence and the ability to originate mortgage loans with Loan-to-Value Ratios in excess of 80% without the requirement to obtain primary mortgage insurance if such loans are secured by cooperatives or investment properties.

On July 10, 2006, Wells Fargo Bank implemented new expanded financing solutions for underwriting their "alternative" mortgage loans (the "EFA Program"). Under the EFA Program, mortgage loans are divided into two general categories, "Alt-A Prime" and "Alt-A Minus." Borrower and mortgage loan characteristics will determine whether a mortgage loan falls within the Alt-A Prime or Alt-A Minus category. The differences between these categories are discussed in this prospectus supplement under the heading "The Original Loan Seller." All "alternative" mortgage loans originated by Wells Fargo Bank on and after July 10, 2006, were originated under the EFA Program guidelines.

Soundview Home Loan Trust 2006-WF1 Prospectus Supplement at the "Mortgage Loan Underwriting" Section.

278. The GMACM Home Equity Loan Trust 2006-HE5 Prospectus Supplement stated:

The underwriting standards set forth in the GMAC Mortgage Corporation underwriting guidelines with respect to HELOCs originated under the GMAC Mortgage Corporation Home Equity Program may be varied in appropriate cases. There can be no assurance that every HELOC was originated in conformity with the applicable underwriting standards in all material respects, or that the quality or performance of the HELOCs will be equivalent under all circumstances.

GMAC Mortgage Corporation's underwriting standards include a set of specific criteria pursuant to which the underwriting evaluation is made. However, the application of those underwriting standards does not imply that each specific criterion was satisfied individually. Rather, a HELOC will be considered to be originated in accordance with a given set of underwriting standards if, based on an overall qualitative evaluation, the loan is in substantial compliance with those underwriting standards. For example, a HELOC may be considered to comply with a set of underwriting standards, even if one or more specific criteria included in the underwriting standards were not satisfied, if other factors compensated for the criteria that were not satisfied or if the HELOC is considered to be in substantial compliance with the underwriting standards.

Conformity with the applicable underwriting standards will vary depending on a number of factors relating to the specific HELOC, including the principal amount or credit limit, the CLTV Ratio, the loan type or loan program, and the applicable

> credit score of the related borrower used in connection with the origination of the HELOC, as determined based on a credit scoring model acceptable to GMAC Mortgage Corporation. Credit scores are not used to deny loans. However, credit scores are used as a "tool" to analyze a borrower's credit. Generally, credit scoring models provide a means for evaluating the information about a prospective borrower that is available from a credit reporting agency. The underwriting criteria applicable to any program under which the HELOCs may be originated may provide that qualification for the loan, the level of review of the loan's documentation, or the availability of certain loan features, such as maximum loan amount, maximum CLTV Ratio, property type and use, and documentation level, may depend on the borrower's credit score.

GMACM Home Equity Loan Trust 2006-HE5 Prospectus Supplement at S-36-37.

279. The Harborview Mortgage Loan Trust 2006-10 Prospectus Supplement represented:

> In determining whether a prospective borrower has sufficient monthly income available to meet the monthly housing expenses and other financial obligations on the proposed mortgage loan, BankUnited generally considers, when required by the applicable documentation type, the ratio of such amounts to the proposed borrower's acceptable stable monthly gross income. Such ratio varies depending on a number of underwriting criteria, including loan-to-value ratios, and is determined on a loan-by-loan basis. Under its One Month MTA Guidelines, BankUnited generally permits a debt-to-income ratio based on the borrower's total monthly debt of 42%. Higher debt-to-income ratios may also be acceptable with evidence of specific compensating factors.

Harborview Mortgage Loan Trust 2006-10 Prospectus Supplement at S-64.

280. The Harborview Mortgage Loan Trust 2006-10 Prospectus Supplement represented: "Such underwriting standards are applied to evaluate the prospective borrower's credit standing and repayment ability and the value and adequacy of the mortgaged property as collateral. Exceptions to the underwriting standards are permitted where compensating factors are present." Harborview Mortgage Loan Trust 2006-10 Prospectus Supplement at S-63 (representing BankUnited's underwriting guidelines).

281. The Harborview Mortgage Loan Trust 2007-2 Prospectus Supplement represented:

> The mortgage loans have been purchased or originated, underwritten and documented in accordance with the guidelines of Fannie Mae, Freddie Mac, the Federal Housing Administration (FHA), the U.S. Department of Veterans Affairs (VA), the U.S. Department of Agriculture Guaranteed Rural Housing Program (GRH), Ginnie Mae, the underwriting guidelines of specific private investors, and the nonconforming or Alt-A underwriting guidelines established by American Home.

Harborview Mortgage Loan Trust 2007-2 Prospectus Supplement at S-33.

282. The Harborview Mortgage Loan Trust 2007-2 Prospectus Supplement represented:

> American Home's underwriting philosophy is to weigh all risk factors inherent in the loan file, giving consideration to the individual transaction, borrower profile, the level of documentation provided and the property used to collateralize the debt. These standards are applied in accordance with applicable federal and state laws and regulations. Exceptions to the underwriting standards may be permitted where compensating factors are present. . . . Because each loan is different, American Home expects and encourages underwriters to use professional judgment based on their experience in making a lending decision.

Harborview Mortgage Loan Trust 2007-2 Prospectus Supplement at S-33.

283. The Harborview Mortgage Loan Trust 2007-2 Prospectus Supplement represented:

> American Home underwrites a borrower's creditworthiness based solely on information that American Home believes is indicative of the applicant's willingness and ability to pay the debt they would be incurring.

Harborview Mortgage Loan Trust 2007-2 Prospectus Supplement at S-33.

284. The Harborview Mortgage Loan Trust 2007-2 Prospectus Supplement represented the following with respect to originator Paul Financial:

> An applicant's creditworthiness is determined based on the borrower's ability and willingness to repay the loan. The loan decision is based upon the applicant's financial information, employment and income stability, credit history and collateral value.

Harborview Mortgage Loan Trust 2007-2 Prospectus Supplement at S-35.

285. The Harborview Mortgage Loan Trust 2007-2 Prospectus Supplement represented:

> American Home realizes that there may be some acceptable quality loans that fall outside published guidelines and encourages "common sense" underwriting. Because a multitude of factors are involved in a loan transaction, no set of guidelines can contemplate every potential situation. Therefore, each case is weighed individually on its own merits and exceptions to American Home's underwriting guidelines are allowed if sufficient compensating factors exist to offset any additional risk due to the exception.

Harborview Mortgage Loan Trust 2007-2 Prospectus Supplement at S-35.

286. The Harborview Mortgage Loan Trust 2007-2 Prospectus Supplement stated:

> Paul Financial's underwriting guidelines are applied to evaluate the applicant, the property and the applicant's income, employment and credit history in the context of the loan program and documentation requirements. These are guidelines only and each loan is evaluated based upon its own merits. Exceptions to the guidelines may be acceptable if there are compensating factors.

Harborview Mortgage Loan Trust 2007-2 Prospectus Supplement at S-35.

287. The Harborview Mortgage Loan Trust 2007-2 Prospectus Supplement represented:

> Paul Financial's underwriting standards are applied by or on behalf of Paul Financial to evaluate the prospective borrower's credit standing and repayment ability and the value and adequacy of the mortgaged property as collateral. Except under the No Income programs, a prospective borrower must generally demonstrate that the ratio of the borrower's monthly housing expenses (including interest on the proposed mortgage loan and, as applicable, the related monthly portion of property taxes, hazard insurance and mortgage insurance) to the borrower's monthly gross income and the ratio of total monthly debt to the monthly gross income (the "debt-to-income" ratios) are within acceptable limits.

Harborview Mortgage Loan Trust 2007-2 Prospectus Supplement at S-36.

288. The Harborview Mortgage Loan Trust 2007-3 Prospectus stated:

> Underwriting standards are applied by or on behalf of a lender to evaluate a prospective borrower's credit standing and repayment ability, and the value and adequacy of the mortgaged property as collateral. In general, a prospective borrower applying for a loan is required to fill out a detailed application designed

to provide to the underwriting officer pertinent credit information, including the principal balance and payment history of any senior lien loan on the related mortgaged property. As part of the description of the borrower's financial condition, the borrower generally is required to provide a current list of assets and liabilities and a statement of income and expenses, as well as an authorization to apply for a credit report which summarizes the borrower's credit history with local merchants and lenders and any record of bankruptcy. Generally, an employment verification is obtained from an independent source, which is typically the borrower's employer. The verification reports the borrower's length of employment with its employer, current salary, and expectations of continued employment. If a prospective borrower is self-employed, the borrower may be required to submit copies of signed tax returns. The borrower may also be required to authorize verification of deposits at financial institutions where the borrower has demand or savings accounts.

Harborview Mortgage Loan Trust 2007-3 Prospectus, Mar. 26, 2007, at 62.

289. The Harborview Mortgage Loan Trust 2007-3 Prospectus continued:

Once all applicable employment, credit and property information is received, a determination generally is made as to whether the prospective borrower has sufficient monthly income available

- to meet the borrower's monthly obligations on the proposed loan, generally determined on the basis of the monthly payments due in the year of origination, and other expenses related to the mortgaged property such as property taxes and hazard insurance, and
- to meet monthly housing expenses and other financial obligations and monthly living expenses.

The underwriting standards applied by sellers, particularly with respect to the level of loan documentation and the borrower's income and credit history, may be varied in appropriate cases where factors such as low loan-to-value ratios or other favorable credit exist.

Harborview Mortgage Loan Trust 2007-3 Prospectus, Mar. 26, 2007, at 63.

290. The IndyMac INDX Mortgage Loan Trust 2006-AR6 Prospectus Supplement

stated:

Mortgage loans that are acquired by IndyMac Bank are underwritten by IndyMac Bank according to IndyMac Bank's underwriting guidelines, which also accept mortgage loans meeting Fannie Mae or Freddie Mac guidelines regardless of whether such mortgage loans would otherwise meet IndyMac Bank's guidelines,

> or pursuant to an exception to those guidelines based on IndyMac Bank's procedures for approving such exceptions. Conventional mortgage loans are loans that are not insured by the FHA or partially guaranteed by the VA. Conforming mortgage loans are loans that qualify for sale to Fannie Mae and Freddie Mac, whereas non-conforming mortgage loans are loans that do not so qualify. IndyMac Bank's underwriting standards for mortgage loans are primarily intended to evaluate the borrower's creditworthiness and the value and adequacy of the mortgaged property as collateral for the proposed mortgage loan, as well as the type and intended use of the mortgaged property. Non-conforming mortgage loans originated or purchased by IndyMac Bank pursuant to its underwriting programs typically differ from conforming loans primarily with respect to loan-to-value ratios, borrower income, required documentation, interest rates, borrower occupancy of the mortgaged property and/or property types. To the extent that these programs reflect underwriting standards different from those of Fannie Mae and Freddie Mac, the performance of loans made pursuant to these different underwriting standards may reflect higher delinquency rates and credit losses.

IndyMac INDX Mortgage Loan Trust 2006-AR6 Prospectus Supplement at S-51.

291. The IndyMac INDX Mortgage Loan Trust 2006-AR6 Prospectus Supplement stated:

> IndyMac Bank has two principal underwriting methods designed to be responsive to the needs of its mortgage loan customers: traditional underwriting and e-MITS (Electronic Mortgage Information and Transaction System) underwriting. E MITS is an automated, internet-based underwriting and risk-based pricing system. IndyMac Bank believes that e-MITS generally enables it to estimate expected credit loss, interest rate risk and prepayment risk more objectively than traditional underwriting and also provides consistent underwriting decisions. IndyMac Bank has procedures to override an e-MITS decision to allow for compensating factors.

IndyMac INDX Mortgage Loan Trust 2006-AR6 Prospectus Supplement at S-51.

292. The IndyMac INDX Mortgage Loan Trust 2006-AR6 Prospectus Supplement stated:

> Underwriting procedures vary by channel of origination. Generally, mortgage loans originated through the mortgage professional channel will be submitted to e-MITS for assessment and subjected to a full credit review and analysis. Mortgage loans that do not meet IndyMac Bank's guidelines may be manually re-underwritten and approved under an exception to those underwriting guidelines. Mortgage loans originated through the consumer direct channel are subjected to essentially the same procedures, modified as necessary to reflect the fact that no third-party contributes to the preparation of the credit file.

IndyMac INDX Mortgage Loan Trust 2006-AR6 Prospectus Supplement at S-53.

293. The IndyMac INDX Mortgage Loan Trust 2006-AR6 Prospectus Supplement stated:

> Exceptions to underwriting standards are permitted in situations in which compensating factors exist. Examples of these factors are significant financial reserves, a low loan-to-value ratio, significant decrease in the borrower's monthly payment and long-term employment with the same employer.

IndyMac INDX Mortgage Loan Trust 2006-AR6 Prospectus Supplement at S-53.

294. The IndyMac INDX Mortgage Loan Trust 2006-AR6 Prospectus Supplement stated:

> Additionally, maximum total monthly debt payments-to-income ratios and cash-out limits may be applied. Other factors may be considered in determining loan eligibility such as a borrower's residency and immigration status, whether a non-occupying borrower will be included for qualification purposes, sales or financing concessions included in any purchase contract, the acquisition cost of the property in the case of a refinance transaction, the number of properties owned by the borrower, the type and amount of any subordinate mortgage, the amount of any increase in the borrower's monthly mortgage payment compared to previous mortgage or rent payments and the amount of disposable monthly income after payment of all monthly expenses.

IndyMac INDX Mortgage Loan Trust 2006-AR6 Prospectus Supplement at S-52.

295. The IndyMac INDX Mortgage Loan Trust 2006-AR6 Prospectus Supplement stated:

> IndyMac Bank's underwriting criteria for traditionally underwritten mortgage loans includes an analysis of the borrower's credit history, ability to repay the mortgage loan and the adequacy of the mortgaged property as collateral. Traditional underwriting decisions are made by individuals authorized to consider compensating factors that would allow mortgage loans not otherwise meeting IndyMac Bank's guidelines.

IndyMac INDX Mortgage Loan Trust 2006-AR6 Prospectus Supplement at S-51.

296. The Long Beach Mortgage Trust 2006-2 Trust Prospectus Supplement stated:

> The sponsor's underwriting guidelines are primarily intended to evaluate the applicant's credit standing and repayment ability and the value and adequacy of the mortgaged property as collateral for the mortgage loan.

Long Beach Mortgage Loan Trust 2006-2 Prospectus Supplement at S-11; Long Beach Mortgage Loan Trust 2006-8 Prospectus Supplement at S-12.

297. The Long Beach Mortgage Trust 2006-2 Trust Prospectus Supplement stated:

> During the underwriting or re-underwriting process, the sponsor reviews and verifies the prospective borrower's sources of income (only under the full documentation residential loan program), calculates the amount of income from all such sources indicated on the loan application, reviews the credit history and credit score(s) of the prospective borrower and calculates the debt-to-income ratio to determine the prospective borrower's ability to repay the loan, and determines whether the mortgaged property complies with the sponsor's underwriting guidelines.

Long Beach Mortgage Trust 2006-2 Prospectus Supplement at S-38; Long Beach Mortgage Loan Trust 2006-8 Prospectus Supplement at S-37.

298. The Long Beach Mortgage Trust 2006-2 Trust Prospectus stated:

> Initially, a prospective borrower is required to complete an application with respect to the applicant's liabilities, income and credit history and personal information, as well as an authorization to apply for a credit report that summarizes the borrower's reported credit history with local merchants and lenders and any record of bankruptcy. In addition, an employment verification is obtained that reports the borrower's current salary and may contain information regarding length of employment. If a prospective borrower is self-employed, the borrower is required to submit copies of signed tax returns or other proof of business income. The borrower may also be required to authorize verification of deposits at financial institutions where the borrower has demand or savings accounts. In the case of a multifamily loan, commercial loan or mixed-use loan, the mortgagor will also be required to provide certain information regarding the related mortgaged property, including a current rent roll and operating income statements which may be pro forma and unaudited. In addition, the originator will generally also consider the location of the mortgaged property, the availability of competitive lease space and rental income of comparable properties in the relevant market area, the overall economy and demographic features of the geographic area and the mortgagor's prior experience in owning and operating properties similar to the multifamily properties or commercial properties, as the case may be.

Long Beach Mortgage Trust 2006-2 Prospectus, Feb. 10, 2004, at S-22-23; Long Beach

Mortgage Loan Trust 2006-8 Prospectus, July 21, 2006, at 29.

299. The MortgageIT Mortgage Loan Trust 2006-1 Prospectus Supplement represented:

> MortgageIT's underwriting philosophy is to weigh all risk factors inherent in the loan file, giving consideration to the individual transaction, borrower profile, the level of documentation provided and the property used to collateralize the debt. Because each loan is different, MortgageIT expects and encourages underwriters to use professional judgment based on their experience in making a lending decision.

MortgageIT Mortgage Loan Trust 2006-1 Prospectus Supplement at S-64.

300. The MortgageIT Mortgage Loan Trust 2006-1 Prospectus Supplement represented:

> MortgageIT realizes that there may be some acceptable quality loans that fall outside published guidelines and encourages "common sense" underwriting. Because a multitude of factors are involved in a loan transaction, no set of guidelines can contemplate every potential situation. Therefore, exceptions to these underwriting guidelines are considered, so long as the borrower has other reasonable compensating factors, on a case-by-case basis.

MortgageIT Mortgage Loan Trust 2006-1 Prospectus Supplement at S-66.

301. The MortgageIT Mortgage Loan Trust 2006-1 Prospectus Supplement represented:

> In order to determine if a borrower qualifies for a Pay Option ARM or Alt-A loan, MortgageIT underwriting staff or contract underwriters provided by certain mortgage insurance companies have manually underwritten and approved such loans. For manually underwritten loans, the underwriter must ensure that the borrower's income will support the total housing expense on an ongoing basis. Underwriters may give consideration to borrowers who have demonstrated an ability to carry a similar or greater housing expense for an extended period. In addition to the monthly housing expense the underwriter must evaluate the borrower's ability to manage all recurring payments on all debts, including the monthly housing expense. When evaluating the ratio of all monthly debt payments to the borrower's monthly income (debt-to-income ratio), the underwriter should be aware of the degree and frequency of credit usage and its impact on the borrower's ability to repay the loan. For example, borrowers who lower their total obligations should receive favorable consideration and borrowers

> with a history of heavy usage and a pattern of slow or late payments should receive less flexibility.

MortgageIT Mortgage Loan Trust 2006-1 Prospectus Supplement at S-65-66.

302. The MortgageIT Mortgage Loan Trust 2006-1 Prospectus Supplement represented:

> MortgageIT underwrites a borrower's creditworthiness based solely on information that MortgageIT believes is indicative of the applicant's willingness and ability to pay the debt they would be incurring.

MHL 2006-1 Prospectus Supplement at S-64.

303. The MortgageIT Mortgage Loan Trust 2006-1 Prospectus Supplement represented:

> In addition to reviewing the borrower's credit history and credit score, MortgageIT underwriters closely review the borrower's housing payment history. In general, for non-conforming loans the borrower should not have made any mortgage payments over 30 days after the due date for the most recent 24 months. In general, for Pay Option ARM and Alt-A loans the borrower may have no more than one payment that was made over 30 days after the due date for the most recent 24 months.

MortgageIT Mortgage Loan Trust 2006-1 Prospectus Supplement at S-65.

304. The Nomura Asset Acceptance Corp., Alternative Loan Trust, Series 2006-AR4 Prospectus Supplement stated:

> All of the mortgage loans have been originated either under FNBN's "full" or "alternative" underwriting guidelines (i.e., the underwriting guidelines applicable to the mortgage loans typically are less stringent than the underwriting guidelines established by Fannie Mae or Freddie Mac primarily with respect to the income and/or asset documentation which borrower is required to provide). To the extent the programs reflect underwriting guidelines different from those of Fannie Mae and Freddie Mac, the performance of the mortgage loans there under may reflect relatively higher delinquency rates and/or credit losses. In addition, FNBN may make certain exceptions to the underwriting guidelines described herein if, in FNBN's discretion, compensating factors are demonstrated by a prospective borrower.

Nomura Asset Acceptance Corp., Alternative Loan Trust, Series 2006-AR4 Prospectus Supplement at S-48.

305. The Nomura Asset Acceptance Corp., Alternative Loan Trust, Series 2006-AR4 Prospectus Supplement stated:

> In addition to its originations, FNBN also requires mortgage loans from approved correspondent lenders under a program pursuant to which correspondent agrees to originate the mortgage loans in accordance with the underwriting guidelines of FNBN. . . . FNBN generally conducts a quality control review of a sample of these mortgage loans within 45 (sic) after the origination or purchase of such mortgage loan. The number of loans reviewed in the quality control process varies based on a variety of factors, including FNBN's prior experience with the correspondent lender and the results of the quality control review process itself.

Nomura Asset Acceptance Corp., Alternative Loan Trust, Series 2006-AR4 Prospectus Supplement at S-48.

306. The Nomura Asset Acceptance Corp., Alternative Loan Trust, Series 2006-AR4 Prospectus Supplement stated:

> FNBN's underwriting guidelines are primarily intended to evaluate the prospective borrower's credit standing and ability to repay the loan, as well as the value and adequacy of the proposed Mortgaged Property as collateral. A prospective borrower applying for a mortgage loan is required to complete an application, which elicits pertinent information about the prospective borrower including, depending upon the loan program, the prospective borrower's financial condition (assets, liabilities, income and expenses), the property being financed and the type of loan desired.

Nomura Asset Acceptance Corp., Alternative Loan Trust, Series 2006-AR4 Prospectus Supplement at S-49.

307. The Nomura Asset Acceptance Corp., Alternative Loan Trust, Series 2006-AR4 Prospectus Supplement stated:

> Based on the data provided in the application and certain verifications (if required), a determination will have been made that the borrower's monthly

> income (if required to be stated or verified) should be sufficient to enable the borrower to meet its monthly obligations on the mortgage loan and other expenses related to the Mortgaged Property (such as property taxes, standard hazard insurance and other fixed obligations other than housing expenses). Generally, scheduled payments on a mortgage loan during the first year of its term plus taxes and insurance and other fixed obligations equal no more than a specified percentage of the prospective borrower's gross income. The percentage applied varies on a case-by-case basis depending on a number of underwriting criteria including, but not limited to, the loan-to-value ratio of the mortgage loan or the amount of liquid assets available to the borrower after origination.

Nomura Asset Acceptance Corp., Alternative Loan Trust, Series 2006-AR4 Prospectus Supplement at S-49; *see* Nomura Asset Acceptance Corp., Alternative Loan Trust, Series 2006-AR4 Registration Statement, Feb. 28, 2006, at the "Underwriting Standards of the Sponsor" section.

308. The Nomura Asset Acceptance Corp., Alternative Loan Trust, Series 2006-AR4 Prospectus Supplement stated:

> FNBN's underwriting guidelines are applied in a standard procedure that is intended to comply with applicable federal and state laws and regulations. However, the application of FNBN's underwriting guidelines does not imply that each specific criterion was satisfied individually. FNBN will have considered a mortgage loan to be originated in accordance with a given set of underwriting guidelines if, based on an overall qualitative evaluation, in FNBN's discretion such mortgage loan is in substantial compliance with such underwriting guidelines or if the borrower can document compensating factors. A mortgage loan may be considered to comply with a set of underwriting guidelines, even if one or more specific criteria included in such underwriting guidelines were not satisfied, if other factors compensated for the criteria that were not satisfied or the mortgage loan is considered to be in substantial compliance with the underwriting guidelines.

Nomura Asset Acceptance Corp., Alternative Loan Trust, Series 2006-AR4 Prospectus Supplement at S-49-50.

309. The Nomura Asset Acceptance Corp., Alternative Loan Trust, Series 2006-AR4

Prospectus Supplement stated:

> The underwriting standards applicable to the Mortgage Loans typically differ from, and are, with respect to a substantial number of Mortgage Loans, generally less stringent than, the underwriting standards established by Fannie Mae or Freddie Mac primarily with respect to original principal balances, loan-to-value ratios, borrower income, credit score, required documentation, interest rates, borrower occupancy of the mortgaged property, and/or property types. To the extent the programs reflect underwriting standards different from those of Fannie Mae and Freddie Mac, the performance of the Mortgage Loans thereunder may reflect higher delinquency rates and/or credit losses. In addition, certain exceptions to the underwriting standards described in this prospectus supplement are made in the event that compensating factors are demonstrated by a prospective borrower.

Nomura Asset Acceptance Corp., Alternative Loan Trust, Series 2006-AR4 Prospectus Supplement at S-51.

310. The Nomura Home Equity Loan, Inc., Home Equity Loan Trust, Series 2007-1 Prospectus Supplement represented:

> Silver State's underwriting guidelines are primarily intended to evaluate the prospective borrower's credit standing and ability to repay the loan, as well as the value and adequacy of the proposed mortgage property as collateral. A prospective borrower applying for a mortgage loan is required to complete an application, which elicits pertinent information about the prospective borrower including, depending upon the loan program, the prospective borrower's financial condition (assets, liabilities, income and expenses), the property being financed and the type of loan desired. . . .
>
> Based on the data provided in the application and certain verifications (if required), a determination will have been made that the borrower's monthly income (if required to be stated or verified) should be sufficient to enable the borrower to meet its monthly obligations on the mortgage loan and other expenses related to the mortgaged property (such as property taxes, standard hazard insurance and other fixed obligations other than housing expenses). Generally, scheduled payments on a mortgage loan during the first year of its term plus taxes and insurance and other fixed obligations equal no more than a specified percentage of the prospective borrower's gross income. The percentage applied varies on a case-by-case basis depending on a number of underwriting criteria including, but not limited to, the loan-to-value ratio of the mortgage loan or the amount of liquid assets available to the borrower after origination.

Nomura Home Equity Loan, Inc., Home Equity Loan Trust, Series 2007-1 Prospectus

Supplement at S-79.

311. The Option One Mortgage Loan Trust 2007-2 Prospectus Supplement stated:

> The Mortgage Loans will have been originated generally in accordance with Option One's Non-Prime Guidelines (the "Option One Underwriting Guidelines"). The Option One Underwriting Guidelines are primarily intended to assess the value of the mortgaged property, to evaluate the adequacy of such property as collateral for the mortgage loan and to assess the applicant's ability to repay the mortgage loan. The Mortgage Loans were also generally underwritten with a view toward resale in the secondary market. The Mortgage Loans generally bear higher rates of interest than mortgage loans that are originated in accordance with customary Fannie Mae and Freddie Mac standards.
>
> On a case-by-case basis, exceptions to the Option One Underwriting Guidelines are made where compensating factors exist. Except as specifically stated herein, the Option One Underwriting Guidelines are the same for first lien mortgage loans and second lien mortgage loans.

Option One Mortgage Loan Trust 2007-2 Prospectus Supplement at S-63.

312. The Option One Mortgage Loan Trust Prospectus Supplement stated:

> Option One Underwriting Guidelines require a reasonable determination of an applicant's ability to repay the loan. Such determination is based on a review of the applicant's source of income, calculation of a debt service-to-income ratio based on the amount of income from sources indicated on the loan application or similar documentation, a review of the applicant's credit history and the type and intended use of the property being financed.

Option One Mortgage Loan Trust 2007-2 Prospectus Supplement at S-64.

313. The Soundview Home Loan Trust 2006-WF1 Propsectus Supplement stated:

> On a case-by-case basis, Wells Fargo Bank may make the determination that the prospective borrower warrants loan parameters beyond those shown above based upon the presence of acceptable compensating factors. Examples of compensating factors include, but are not limited to, loan-to-value ratio, debt-to-income ratio, long-term stability of employment and/or residence, statistical credit scores, verified cash reserves or reduction in overall monthly expenses.

Soundview Home Loan Trust 2006-WF1 Propsectus Supplement at the "Mortgage Loan Underwriting" section.

314. UNTRUE STATEMENTS AND OMITTED INFORMATION: The preceding statements were material at the time they were made, because the quality of the loans in the mortgage pool directly affects the riskiness of the RMBS investment, and the quality of the loans is dependent upon the underwriting process employed. The preceding statements were untrue at the time they were made because, among other things, the Originators did not adhere to the stated underwriting guidelines, did not effectively evaluate the borrowers' ability or likelihood to repay the loans, did not properly evaluate whether the borrower's debt-to-income ratio supported a conclusion that the borrower had the means to meet his/her monthly obligations, and did not ensure that adequate compensating factors justified the granting of exceptions to guidelines.

B. Untrue Statements Concerning Adherence to Reduced Documentation Program Underwriting Guidelines

315. The HarborView Mortgage Loan Trust 2007-1 Prospectus Supplement stated:

> In connection with the Standard Underwriting Guidelines, Countrywide Home Loans originates or acquires mortgage loans under the Full Documentation Program, the Alternative Documentation Program, the Reduced Documentation Program, the CLUES Plus Documentation Program or the Streamlined Documentation Program.
>
> The Alternative Documentation Program permits a borrower to provide W-2 forms instead of tax returns covering the most recent two years, permits bank statements in lieu of verification of deposits and permits alternative methods of employment verification.
>
> Under the Reduced Documentation Program, some underwriting documentation concerning income, employment and asset verification is waived. Countrywide Home Loans obtains from a prospective borrower either a verification of deposit or bank statements for the two-month period immediately before the date of the mortgage loan application or verbal verification of employment. Since information relating to a prospective borrower's income and employment is not verified, the borrower's debt-to-income ratios are calculated based on the information provided by the borrower in the mortgage loan application. The maximum Loan-to-Value Ratio ranges up to 95%.
>
> The CLUES Plus Documentation Program permits the verification of employment by alternative means, if necessary, including verbal verification of employment or reviewing paycheck stubs covering the pay period immediately prior to the date of

> the mortgage loan application. To verify the borrower's assets and the sufficiency of the borrower's funds for closing, Countrywide Home Loans obtains deposit or bank account statements from each prospective borrower for the month immediately prior to the date of the mortgage loan application. Under the CLUES Plus Documentation Program, the maximum Loan-to-Value Ratio is 75% and property values may be based on appraisals comprising only interior and exterior inspections. Cash-out refinances and investor properties are not permitted under the CLUES Plus Documentation Program.
>
> The Streamlined Documentation Program is available for borrowers who are refinancing an existing mortgage loan that was originated or acquired by Countrywide Home Loans provided that, among other things, the mortgage loan has not been more than 30 days delinquent in payment during the previous twelve-month period. Under the Streamlined Documentation Program, appraisals are obtained only if the loan amount of the loan being refinanced had a Loan-to-Value Ratio at the time of origination in excess of 80% or if the loan amount of the new loan being originated is greater than $650,000. In addition, under the Streamlined Documentation Program, a credit report is obtained but only a limited credit review is conducted, no income or asset verification is required, and telephonic verification of employment is permitted. The maximum Loan-to-Value Ratio under the Streamlined Documentation Program ranges up to 95%.

HarborView Mortgage Loan Trust 2007-1 Prospectus Supplement at S-32.

316. The HarborView Mortgage Loan Trust 2007-1 Prospectus Supplement also represented:

> In connection with the Expanded Underwriting Guidelines, Countrywide Home Loans originates or acquires mortgage loans under the Full Documentation Program, the Alternative Documentation Program, the Reduced Documentation Loan Program, the No Income/No Asset Documentation Program and the Stated Income/Stated Asset Documentation Program. Neither the No Income/No Asset Documentation Program nor the Stated Income/Stated Asset Documentation Program is available under the Standard Underwriting Guidelines.
>
> The same documentation and verification requirements apply to mortgage loans documented under the Alternative Documentation Program regardless of whether the loan has been underwritten under the Expanded Underwriting Guidelines or the Standard Underwriting Guidelines. However, under the Alternative Documentation Program, mortgage loans that have been underwritten pursuant to the Expanded Underwriting Guidelines may have higher loan balances and Loan-to-Value Ratios than those permitted under the Standard Underwriting Guidelines.
>
> Similarly, the same documentation and verification requirements apply to mortgage loans documented under the Reduced Documentation Program regardless of whether the loan has been underwritten under the Expanded

Underwriting Guidelines or the Standard Underwriting Guidelines. However, under the Reduced Documentation Program, higher loan balances and Loan-to-Value Ratios are permitted for mortgage loans underwritten pursuant to the Expanded Underwriting Guidelines than those permitted under the Standard Underwriting Guidelines. The maximum Loan-to-Value Ratio, including secondary financing, ranges up to 90%. The borrower is not required to disclose any income information for some mortgage loans originated under the Reduced Documentation Program, and accordingly debt-to-income ratios are not calculated or included in the underwriting analysis. The maximum Loan-to-Value Ratio, including secondary financing, for those mortgage loans ranges up to 85%.

Under the No Income/No Asset Documentation Program, no documentation relating to a prospective borrower's income, employment or assets is required and therefore debt-to-income ratios are not calculated or included in the underwriting analysis, or if the documentation or calculations are included in a mortgage loan file, they are not taken into account for purposes of the underwriting analysis. This program is limited to borrowers with excellent credit histories. Under the No Income/No Asset Documentation Program, the maximum Loan-to-Value Ratio, including secondary financing, ranges up to 95%. Mortgage loans originated under the No Income/No Asset Documentation Program are generally eligible for sale to Fannie Mae or Freddie Mac.

Under the Stated Income/Stated Asset Documentation Program, the mortgage loan application is reviewed to determine that the stated income is reasonable for the borrower's employment and that the stated assets are consistent with the borrower's income. The Stated Income/Stated Asset Documentation Program permits maximum Loan-to-Value Ratios up to 90%. Mortgage loans originated under the Stated Income/Stated Asset Documentation Program are generally eligible for sale to Fannie Mae or Freddie Mac.

HarborView Mortgage Loan Trust 2007-1 Prospectus Supplement at S-33-34.

317. The IndyMac INDX Mortgage Loan Trust 2006-AR6 Prospectus Supplement represented:

IndyMac Bank originates and purchases loans that have been originated under one of seven documentation programs: Full/Alternate, FastForward, Bank Statement, Stated Income, No Income/No Asset, No Ratio and No Doc.

IndyMac INDX Mortgage Loan Trust 2006-AR6 Prospectus Supplement at S-52.

318. The IndyMac INDX Mortgage Loan Trust 2006-AR6 Prospectus Supplement also represented:

Under the Full/Alternate Documentation Program, the prospective borrower's

> employment, income and assets are verified through written or telephonic communications. All loans may be submitted under the Full/Alternate Documentation Program. The Full/Alternate Documentation Program also provides for alternative methods of employment verification generally using W-2 forms or pay stubs. Borrowers applying under the Full/Alternate Documentation Program may, based on certain credit and loan characteristics, qualify for IndyMac Bank's FastForward program and be entitled to income and asset documentation relief. Borrowers who qualify for FastForward must state their income, provide a signed Internal Revenue Service Form 4506 (authorizing IndyMac Bank to obtain copies of their tax returns), and state their assets; IndyMac Bank does not require any verification of income or assets under this program.
>
> The Bank Statement Documentation Program is similar to the Full/Alternate Documentation Program except that borrowers generally must document income and employment for six months (rather than two, as required by the Full/Alternate Documentation Program). Borrowers under the Bank Statement Documentation Program may use bank statements to verify their income and employment. If applicable, written verification of a borrower's assets is required under this program.
>
> Under the Stated Income Documentation Program and the No Ratio Program, more emphasis is placed on the prospective borrower's credit score and on the value and adequacy of the mortgaged property as collateral and other assets of the prospective borrower than on income underwriting. The Stated Income Documentation Program requires prospective borrowers to provide information regarding their assets and income. Information regarding assets is verified through written communications. Information regarding income is not verified. The No Ratio Program requires prospective borrowers to provide information regarding their assets, which is then verified through written communications. The No Ratio Program does not require prospective borrowers to provide information regarding their income. Employment is orally verified under both programs.
>
> Under the No Income/No Asset Documentation Program and the No Doc Documentation Program, emphasis is placed on the credit score of the prospective borrower and on the value and adequacy of the mortgaged property as collateral, rather than on the income and the assets of the prospective borrower. Prospective borrowers are not required to provide information regarding their assets or income under either program, although under the No Income/No Asset Documentation Program, employment is orally verified.

IndyMac INDX Mortgage Loan Trust 2006-AR6 Prospectus Supplement at S-52.

319. The GMACM Home Equity Loan Trust 2006-HE5 Prospectus Supplement stated:

> The underwriting standards set forth in the GMAC Mortgage Corporation

underwriting guidelines with respect to HELOCs originated or acquired under the GMAC Mortgage Home Equity Program provide for varying levels of documentation. For fully documented loans, such as the "Standard" program, a prospective borrower is required to fill out a detailed application providing pertinent credit information, including tax returns if they are self employed or received income from dividends and interest, rental properties or other income which can be verified via tax returns. In addition, a borrower may demonstrate income and employment directly by providing alternative documentation in the form of a pay stub and a W-2. For the "Standard" program, the borrower is required to provide an authorization to apply for a credit report which summarizes the borrower's credit history with merchants and lenders and any record of bankruptcy. The borrower generally must show, among other things, a minimum of one year credit history reported on the credit report and that the HELOC is current at the time of application. Borrowers who have less than a 12 month first mortgage payment history may be subject to certain additional lending restrictions. In addition, under the GMAC Mortgage Corporation Home Equity Program, generally borrowers with a previous foreclosure or bankruptcy within the past four years may not be allowed and a borrower generally must satisfy all judgments, liens and other legal actions with an original amount of $1,000 or greater prior to closing. Borrowers with a previous foreclosure or bankruptcy generally do not qualify for a loan unless extenuating credit circumstances beyond their control are documented. These loans require a drive by appraisal or statistical property evaluation for property values of $500,000 or less, and a full appraisal for property values of more than $500,000 and for all three and four unit properties.

Under the GMAC Mortgage Corporation underwriting guidelines, loans may also be originated under the "Stated Income Program," a no income verification program for self employed borrowers and salaried borrowers. For those loans, only a credit check and an appraisal are required. Those loans are generally limited to a loan amount of $25,000 to a high loan amount of $100,000 and are limited to primary residences. In addition, the borrower may be qualified under either the "No Income/No Appraisal" or "Stated Value" programs. Under such programs, a credit check is required, and the CLTV Ratio permitted is dependent upon the borrower's credit score indicator. In the case of GM and GM subsidiary employees under the "Family First Direct" program, the CLTV Ratio is limited to 90%. In addition, under the "Family First Direct" program, the borrower is qualified on his or her stated income in the application and the CLTV Ratio is based on the Stated Value, except that with respect to CLTV Ratios over 80%, the borrower must supply evidence of value. The maximum loan amount under the "Family First Direct" program is generally limited to $250,000. In addition, under the "GM Expanded Family" program, certain extended family members of GM and GM subsidiary employees are eligible for streamlined processing. The maximum CLTV under this program is limited to 90% and the maximum loan amount is generally limited to $250,000. Under the "GM Expanded Family" program, salaried borrowers are required to submit a current paystub reflecting at

> least 30 days of year-to-date earnings. For self-employed borrowers under the "GM Expanded Family" program, a minimum of two years self employment and a copy of the prior year's tax returns are required. In addition, the borrower may be qualified under a "No Income Verification" program. Under that program, a credit check is required. The borrower is qualified based on the income stated on the application. Those loans are generally limited to an amount of $100,000 or less, and are limited to primary residences. Those loans require a drive by appraisal or statistical property evaluation for property values of $500,000 or less, and a full appraisal for property values of more than $500,000. "GoFast" is a no income/no asset verification program that requires a minimum FICO score of 730 for up to a maximum 95% CLTV (a minimum FICO score of 700 for up to a maximum 90% CLTV) and limits the line amount to $100,000. A property valuation is required under the GoFast program.
>
> Under GMAC Mortgage Corporation's underwriting guidelines, loans may also be originated under the "Relocation" or "Relocation-VIP" documentation programs. Under these programs, certain items described above are verified using alternative sources. In the case of "Relocation" documentation, a signed employer relocation verification form is acceptable in lieu of a paystub. The "Relocation-VIP" program does not require income verification, however, eligible borrowers must have a minimum annual base salary of $75,000.

GMACM Home Equity Loan Trust 2006-HE5 Prospectus Supplement at S-34-36.

320. The Harborview Mortgage Loan Trust 2006-10 Prospectus Supplement represented:

> Under the Stated Income Verified Asset Documentation type, the mortgage loan application is reviewed to determine that the stated income is reasonable for the borrower's employment and that the assets are consistent with the borrower's income. BankUnited obtains from a prospective borrower either a verification of deposit or bank statements for the two-month period immediately before the date of the mortgage loan application or verbal verification of employment.

Harborview Mortgage Loan Trust 2006-10 Prospectus Supplement at S-64.

321. The Harborview Mortgage Loan Trust 2007-2 Prospectus Supplement represented:

> Certain non-conforming stated income or stated asset products allow for less verification documentation than Fannie Mae or Freddie Mac require. Certain non-conforming Alt-A products also allow for less verification documentation than Fannie Mae or Freddie Mac require. For these Alt-A products the borrower may not be required to verify employment income, assets required to close or both. For

> some other Alt-A products the borrower is not required to provide any information regarding employment income, assets required to close or both. Alt-A products with less verification documentation generally have other compensating factors such as higher credit score or lower loan-to-value requirements.

Harborview Mortgage Loan Trust 2007-2 Prospectus Supplement at S-33.

322. The Long Beach Mortgage Loan Trust 2006-2 Prospectus Supplement represented:

> The mortgage loans have been, or will be, originated or re-underwritten upon acquisition, generally in accordance with guidelines established by the sponsor under its full documentation, limited documentation or stated income documentation residential loan programs.
>
> Under the full documentation residential loan program, salaried prospective borrowers are generally required to submit their most recent W-2s and pay stubs and self-employed prospective borrowers are generally required to submit their most recent federal income tax return. Under the stated income documentation residential loan program, prospective borrowers are required to state their income on the application but are not required to submit any documents in support. Under the limited documentation residential loan program, salaried prospective borrowers or self-employed prospective borrowers are generally required to submit their most recent six months of personal bank statements or business bank statements. Under the limited documentation and stated income documentation residential loan programs, the prospective borrower's employment and income sources must be stated on the prospective borrower's application. The prospective borrower's income as stated must be reasonable for the related occupation and such determination as to reasonableness is subject to the loan underwriter's discretion. However, the prospective borrower's income as stated on the application is not independently verified. Verification of employment is required for salaried prospective borrowers. Maximum loan-to-value ratios under the stated income documentation residential loan programs are generally lower than those permitted under the full documentation and limited documentation residential loan programs. Generally, the same underwriting guidelines that apply to the full documentation and limited documentation residential loan programs, except as noted in this section, apply to the limited documentation and stated income documentation residential loan programs.

Long Beach Mortgage Loan Trust 2006-2 Prospectus Supplement at S-39-40; Long Beach Mortgage Loan Trust 2006-8 Prospectus Supplement at S-39.

323. The MortgageIT Mortgage Loan Trust 2006-1 Prospectus Supplement

represented:

> Generally, under a "stated income/verified assets" program, no verification of a mortgagor's income is undertaken by the origination; however, verification of the mortgagor's assets is obtained.

MortgageIT Mortgage Loan Trust 2006-1 Prospectus Supplement at S-65.

324. The MortgageIT Mortgage Loan Trust 2006-1 Prospectus Supplement represented:

> Generally, under both "full/alternative" documentation programs, at least one month of income documentation is provided. This documentation is also required to include year-to-date income or prior year income in case the former is not sufficient to establish consistent income.

MortgageIT Mortgage Loan Trust 2006-1 Prospectus Supplement at S-65.

325. The MortgageIT Mortgage Loan Trust 2006-1 Prospectus Supplement represented:

> The Pay Option ARM and Alt-A mortgage loans are generally documented to the requirements of Fannie Mae and Freddie Mac in that the borrower provides the same information on the loan application along with documentation to verify the accuracy of the information on the application such as income, assets, other liabilities, etc. Certain nonconforming stated income or stated asset products allow for less verification documentation than Fannie Mae or Freddie Mac require. Certain Pay Option ARM and Alt-A products also allow for less verification documentation than Fannie Mae or Freddie Mac requires. For these Pay Option ARM and Alt-A products, the borrower may not be required to verify employment income, assets required to close or both. For some other Pay Option ARM and Alt-A products the borrower is not required to provide any information regarding employment income, assets required to close or both. Pay Option ARM and Alt-A products with less verification documentation generally have other compensating factors such as higher credit score or lower loan-to-value requirements.

MortgageIT Mortgage Loan Trust 2006-1 Prospectus Supplement at S-65.

326. The Nomura Asset Acceptance Corporation, Alternative Loan Trust, Series 2006-AR4 Prospectus Supplement stated:

In addition to the "full/alternate" underwriting guidelines, FNBN also originates or purchases loans that have been originated under certain limited documentation programs designed to streamline the loan underwriting process. These "stated income," "no ratio," "no income/no assets," "stated income/stated assets," "no documentation with assets," "no documentation" and "lite documentation" programs may not require income, employment or asset verifications. Generally, in order to be eligible for a limited or no documentation program, the mortgaged property must have a loan-to-value ratio that supports the amount of the mortgage loan and the prospective borrower must have a credit history that demonstrates an established ability to repay indebtedness in a timely fashion.

Under the full/alternate documentation program, the prospective borrower's employment, income and assets are verified through written or telephonic communication. Alternative methods of employment and income verification generally include using copies of federal withholding forms (IRS W-2) or pay stubs. Alternative methods of asset verification generally include using copies of the borrower's recent bank statements. All loans may be submitted under the full/alternate documentation program.

Under the stated income documentation and the no ratio programs, more emphasis is placed on a prospective borrower's credit score and on the value and adequacy of the mortgaged property as collateral and other assets of the prospective borrower rather than on income underwriting. The stated income documentation program requires prospective borrowers to provide information regarding their assets and income. Information regarding assets is verified through written communications or bank statements.
Information regarding income is not verified. The no ratio program requires prospective borrowers to provide information regarding their assets, which is then verified through written communications or bank statements. The no ratio program does not require prospective borrowers to provide information regarding their income. In both the stated income and no ratio programs, the employment history is verified through written or telephonic communication.

Under the no income/no assets program, emphasis is placed on the credit score of the prospective borrower and on the value and adequacy of the mortgaged property as collateral. Income and assets are not stated on the prospective borrower's application. Disclosure of employment is required and verified through written or telephonic communication.

Under the stated income/stated assets program, emphasis is placed on the credit score of the prospective borrower and on the value and adequacy of the mortgaged property as collateral. Income is stated on the prospective borrower's application but is not verified. Assets are also stated on the application but are not verified. Employment is verified through written or telephonic communication.

> Under the no documentation with assets and no documentation programs, emphasis is placed on the credit score of the prospective borrower and on the value and adequacy of the mortgaged property as collateral. Under the no documentation with assets program, a prospective borrower's assets are stated and verified through written communication or bank statements. A prospective borrower is not required to provide information regarding income or employment. Under the no documentation with assets program, a prospective borrower's income and employment are not stated or verified but assets are verified. Under the no documentation program, a prospective borrower's income, assets and employment are not stated or verified.
>
> The lite documentation programs are loan programs for prospective borrowers to obtain mortgage loans that FNBN has determined to be of sub-prime quality. Under these programs, prospective borrowers are generally qualified based on verification of adequate cash flows by means of personal or business bank statements for the previous twelve or twenty-four months.

Nomura Asset Acceptance Corporation, Alternative Loan Trust, Series 2006-AR4 Prospectus Supplement at S-50-51.

327. The Nomura Home Equity Loan, Inc., Home Equity Loan Trust, Series 2007-1 Prospectus Supplement stated:

> Certain of the Mortgage Loans have been originated under reduced documentation, no-documentation or no-ratio programs, which require less documentation and verification than do traditional full documentation programs. Generally, under a reduced documentation program, verification of either a borrower's income or assets, but not both, is undertaken by the originator. Under a no-ratio program, certain borrowers with acceptable compensating factors will not be required to provide any information regarding income and no other investigation regarding the borrower's income will be undertaken. Under a no-documentation program, no verification of a borrower's income or assets is undertaken by the originator. The underwriting for such Mortgage Loans may be based primarily or entirely on an appraisal of the Mortgaged Property, the loan-to-value ratio at origination and/or the borrower's credit score.

Nomura Home Equity Loan, Inc., Home Equity Loan Trust, Series 2007-1 Prospectus Supplement at S-110-111.

328. The Option One Mortgage Loan Trust 2007-2 Prospectus Supplement stated:

> Except with respect to the No Documentation program that is described below, the Option One Underwriting Guidelines require verification or evaluation of the

> income of each applicant and, for purchase transactions, verification of the seasoning or source of funds (in excess of $2,500) required for closing. The income verification required under Option One's various mortgage loan programs is as follows:
>
> Full Documentation, the highest level of income documentation, generally requires applicants to submit one written form of verification from the employer of stable income for at least 12 months. A wage-earner may document income by a current pay stub reflecting year to date income and applicant's most recent W-2 or IRS Form 1040. A self-employed applicant may document income with either the most recent federal tax returns or bank statements.
>
> Lite Documentation is for applicants who otherwise cannot meet the requirements of the Full Documentation program and requires applicants to submit 3 to 6 months' bank statements or a pay stub as verification of income.
>
> Stated Income Documentation applicants are qualified based upon monthly income as stated on the mortgage loan application.
>
> No Documentation, which is only available under the AA+ credit grade, does not require any statement or proof of income, employment or assets. The credit decision is based on the borrower's credit score and credit trade lines.

Option One Mortgage Loan Trust 2007-2 Prospectus Supplement at S-64.

329. UNTRUE STATEMENTS AND OMITTED INFORMATION: The preceding statements were material at the time they were made, because the quality of the loans in the mortgage pool directly affects the riskiness of the RMBS investment, and the quality of the loans is dependent upon the underwriting process employed. The preceding statements were untrue at the time they were made, because regardless of the documentation program purportedly employed, the Originators systematically disregarded their underwriting guidelines.

C. Untrue Statements Concerning Loan-to-Value Ratios, and DTI Ratios

330. The Offering Documents provided statistical descriptions of the collateral, such as LTV ratios, combined LTV ratios, owner-occupancy rates, and DTI ratios. *See*, *e.g.*, HarborView Mortgage Loan Trust 2007-1, Prospectus Supplement, at Annex B.

331. The Offering Documents represented that independent and objective appraisals

were obtained for the properties. *See*, *e.g.*, MortgageIT Mortgage Loan Trust 2006-1, Prospectus Supplement at S-64, ("Every MortgageIT mortgage loan is secured by a property that has been appraised by a licensed appraiser in accordance with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation").

332. The HarborView Mortgage Loan Trust 2007-1 Prospectus Supplement stated:

> Countrywide Home Loan's Standard Underwriting Guidelines for mortgage loans with non-conforming original principal balances generally allow Loan-to-Value Ratios at origination of up to 95% for purchase money or rate and term refinance mortgage loans with original principal balances of up to $400,000, up to 90% for mortgage loans with original principal balances of up to $650,000, up to 75% for mortgage loans with original principal balances of up to $1,000,000, up to 65% for mortgage loans with original principal balances of up to $1,500,000, and up to 60% for mortgage loans with original principal balances of up to $2,000,000.
>
> For cash-out refinance mortgage loans, Countrywide Home Loan's Standard Underwriting Guidelines for mortgage loans with non-conforming original principal balances generally allow Loan-to-Value Ratios at origination of up to 75% and original principal balances ranging up to $650,000. The maximum "cash-out" amount permitted is $200,000 and is based in part on the original Loan-to-Value Ratio of the related mortgage loan. As used in this prospectus supplement, a refinance mortgage loan is classified as a cash-out refinance mortgage loan by Countrywide Home Loans if the borrower retains an amount greater than the lesser of 2% of the entire amount of the proceeds from the refinancing of the existing loan or $2,000.
>
> Countrywide Home Loan's Standard Underwriting Guidelines for conforming balance mortgage loans generally allow Loan-to-Value Ratios at origination on owner occupied properties of up to 95% on 1 unit properties with principal balances up to $417,000 ($625,500 in Alaska and Hawaii) and 2 unit properties with principal balances up to $533,850 ($800,775 in Alaska and Hawaii) and up to 80% on 3 unit properties with principal balances of up to $645,300 ($967,950 in Alaska and Hawaii) and 4 unit properties with principal balances of up to $801,950 ($1,202,925 in Alaska and Hawaii). On second homes, Countrywide Home Loan's Standard Underwriting Guidelines for conforming balance mortgage loans generally allow Loan-to-Value Ratios at origination of up to 95% on 1 unit properties with principal balances up to $417,000 ($625,500 in Alaska and Hawaii). Countrywide Home Loan's Standard Underwriting Guidelines for conforming balance mortgage loans generally allow Loan-to-Value Ratios at origination on investment properties of up to 90% on 1 unit properties with principal balances up to $417,000 ($625,500 in Alaska and Hawaii) and 2 unit properties with principal balances up to $533,850 ($800,775 in Alaska and

> Hawaii) and up to 75% on 3 unit properties with principal balances of up to $645,300 ($967,950 in Alaska and Hawaii) and 4 unit properties with principal balances of up to $801,950 ($1,202,925 in Alaska and Hawaii).

HarborView Mortgage Loan Trust 2007-1 Prospectus Supplement at S-31-32.

333. The HarborView Mortgage Loan Trust 2007-1 Prospectus Supplement continued:

> Countrywide Home Loan's Expanded Underwriting Guidelines for mortgage loans with non-conforming original principal balances generally allow Loan-to-Value Ratios at origination of up to 95% for purchase money or rate and term refinance mortgage loans with original principal balances of up to $400,000, up to 90% for mortgage loans with original principal balances of up to $650,000, up to 80% for mortgage loans with original principal balances of up to $1,000,000, up to 75% for mortgage loans with original principal balances of up to $1,500,000 and up to 70% for mortgage loans with original principal balances of up to $3,000,000. Under certain circumstances, however, Countrywide Home Loan's Expanded Underwriting Guidelines allow for Loan-to-Value Ratios of up to 100% for purchase money mortgage loans with original principal balances of up to $375,000.
>
> For cash-out refinance mortgage loans, Countrywide Home Loan's Expanded Underwriting Guidelines for mortgage loans with non-conforming original principal balances generally allow Loan-to-Value Ratios at origination of up to 90% and original principal balances ranging up to $1,500,000. The maximum "cash-out" amount permitted is $400,000 and is based in part on the original Loan-to-Value Ratio of the related mortgage loan.
>
> Countrywide Home Loan's Expanded Underwriting Guidelines for conforming balance mortgage loans generally allow Loan-to-Value Ratios at origination on owner occupied properties of up to 100% on 1 unit properties with principal balances up to $417,000 ($625,500 in Alaska and Hawaii) and 2 unit properties with principal balances up to $533,850 ($800,775 in Alaska and Hawaii) and up to 85% on 3 unit properties with principal balances of up to $645,300 ($967,950 in Alaska and Hawaii) and 4 unit properties with principal balances of up to $801,950 ($1,202,925 in Alaska and Hawaii). On second homes, Countrywide Home Loan's Expanded Underwriting Guidelines for conforming balance mortgage loans generally allow Loan-to-Value Ratios at origination of up to 95% on 1 unit properties with principal balances up to $417,000 ($625,500 in Alaska and Hawaii). Countrywide Home Loan's Expanded Underwriting Guidelines for conforming balance mortgage loans generally allow Loan-to-Value Ratios at origination on investment properties of up to 90% on 1 unit properties with principal balances up to $417,000 ($625,500 in Alaska and Hawaii) and 2 unit properties with principal balances up to $533,850 ($800,775 in Alaska and Hawaii) and up to 85% on 3 unit properties with principal balances of up to $645,300 ($967,950 in Alaska and Hawaii) and 4 unit properties with principal balances of up to $801,950 ($1,202,925 in Alaska and Hawaii).

HarborView Mortgage Loan Trust 2007-1 Prospectus Supplement at S-33.

334. The IndyMac INDX Mortgage Loan Trust 2006-AR6 Prospectus Supplement stated:

> Maximum loan-to-value and combined loan-to-value ratios and loan amounts are established according to the occupancy type, loan purpose, property type, FICO Credit Score, number of previous late mortgage payments, and the age of any bankruptcy or foreclosure actions. Additionally, maximum total monthly debt payments-to-income ratios and cash-out limits may be applied. Other factors may be considered in determining loan eligibility such as a borrower's residency and immigration status, whether a non-occupying borrower will be included for qualification purposes, sales or financing concessions included in any purchase contract, the acquisition cost of the property in the case of a refinance transaction, the number of properties owned by the borrower, the type and amount of any subordinate mortgage, the amount of any increase in the borrower's monthly mortgage payment compared to previous mortgage or rent payments and the amount of disposable monthly income after payment of all monthly expenses.

IndyMac INDX Mortgage Loan Trust 2006-AR6 Prospectus Supplement at S-52.

335. The Long Beach Mortgage Loan Trust 2006-2 Prospectus Supplement stated:

> The sponsor's underwriting guidelines permit first lien mortgage loans with loan-to-value ratios at origination of up to 100%, or 80% if at the time of origination of the first lien mortgage loan, the originator also originated a second lien mortgage loan. The maximum allowable loan-to-value ratio varies based upon the residential loan program, income documentation, property type, creditworthiness and debt service-to-income ratio of the prospective borrower and the overall risks associated with the loan decision. The maximum combined loan-to-value ratio, including any second lien mortgage subordinate to the sponsor's first lien mortgage, is generally 100% under the "Premium A," "A," "A-," "B+" and "B" risk categories, and 95% under the "C" risk category.

Long Beach Mortgage Loan Trust 2006-2 Prospectus Supplement at S-39; Long Beach Mortgage Loan Trust 2006-8 Prospectus Supplement at S-38.

336. The MortgageIT Mortgage Loan Trust 2006-1 Prospectus Supplement represented:

> The appraiser's value conclusion is used to calculate the ratio (loan-to-value) of the loan amount to the value of the property. For loans made to purchase a property this ratio is based on the lower of the sales price of the property and the

> appraised value. MortgageIT sets various maximum loan-to-value ratios based on the loan amount, property type, loan purpose and occupancy of the subject property securing the loan. In general, MortgageIT requires lower loan-to-value ratios for those loans that are perceived to have a higher risk, such as high loan amounts, loans in which additional cash is being taken out on a refinance transaction or loans on second homes. A lower loan-to-value ratio requires a borrower to have more equity in the property, which is a significant additional incentive to the borrower to avoid default on the loan. In addition, for all conventional loans in which the loan-to-value ratio exceeds 80%, MortgageIT requires that a private mortgage insurance company that is approved by Fannie Mae and Freddie Mac insure the loan. Higher loan-to-value ratios require higher coverage levels.

MortgageIT Mortgage Loan Trust 2006-1 Prospectus Supplement at S-64-65.

337. UNTRUE STATEMENTS AND OMITTED INFORMATION: The preceding statements were material at the time they were made because the riskiness of the RMBS investment is directly dependent on the quality of the collateral and creditworthiness of the borrowers. The preceding statements were untrue at the time they were made because the LTV ratios were higher than represented, and the DTI ratios were higher than represented.

IX. THE CLAIMS ARE TIMELY

338. For actions brought by the NCUA Board as Liquidating Agent, the FCUA extends the statute of limitations for at least three years from the date of the appointment of the NCUA Board as Conservator or Liquidating Agent. *See* 12 U.S.C. § 1787(b)(14)(B)(i).

339. The NCUA Board placed the Credit Unions into conservatorship on September 24, 2010. On October 31, 2010, the NCUA Board placed the Credit Unions into liquidation and appointed itself as Liquidating Agent.

340. Actions brought under Sections 11 and 12(a)(2) of the Securities Act must be:

> brought within one year after the discovery of the untrue statement or the omission, or after such discovery should have been made by the exercise of reasonable diligence . . . . In no event shall any such action be brought to enforce a liability created under section 77k or 77*l*(a)(1) of this title more than three years

> after the security was bona fide offered to the public, or under section 77*l*(a)(2) of this title more than three years after the sale.

15 U.S.C. § 77m.

341. Actions brought under Section 13 of the Illinois Blue Sky Law must be brought within:

> 3 years from the date of sale; provided, that if the party bringing the action neither knew nor in the exercise of reasonable diligence should have known of any alleged violation of subsection E, F, G, H, I or J of Section 12 of this Act which is the basis for the action, the 3 year period provided shall begin to run upon the earlier of:
>
> (1) the date upon which the party bringing the action has actual knowledge of the alleged violation of this Act; or
>
> (2) the date upon which the party bringing the action has notice of facts which in the exercise of reasonable diligence would lead to actual knowledge of the alleged violation of this Act; but in no event shall the period of limitation so extended be more than 2 years beyond the expiration of the 3 year period otherwise applicable.

815 Ill. Comp. Stat. Ann. 5/13(D).

342. Actions brought under Section 581-33 of the Texas Blue Sky Law must be brought no "(a) more than three years after discovery of the untruth or omission, or after discovery should have been made by the exercise of reasonable diligence; or (b) more than five years after the sale." Tex. Rev. Civ. Stat. Ann. art. 581, § 33(H)(2).

343. As the Federal Reserve Board noted in November 2008, the "deteriorating lending standards" and "the surge in early payment defaults suggests that underwriting . . . deteriorated on dimensions that were less readily apparent to investors." Christopher J. Mayer *et al.*, *The Rise in Mortgage Defaults* 15-16 (Fed. Reserve Bd. Fin. & Econ. Discussion Series, Paper No. 2008-59).

344. The FSOC explained that the origination and securitization process contains inherent "information asymmetries" that put investors at a disadvantage regarding critical

information concerning the quality and performance of RMBS. The FSOC Risk Retention Report described the information disadvantage for investors of RMBS:

> One important informational friction highlighted during the recent financial crisis has aspects of a "lemons" problem that exists between the issuer and investor. An originator has more information about the ability of a borrower to repay than an investor, because the originator is the party making the loan. Because the investor is several steps removed from the borrower, the investor may receive less robust loan performance information. Additionally, the large number of assets and the disclosures provided to investors may not include sufficient information on the quality of the underlying financial assets for investors to undertake full due diligence on each asset that backs the security.

FSOC Risk Retention Report at 9 (footnote omitted).

345. In addition, Members United and/or the NCUA Board as its Liquidating Agent are or were members of putative classes in the cases listed in Table 7, below. Therefore, the NCUA Board's claims are subject to legal tolling of the various periods of limitation pursuant to *American Pipe & Constr. Co. v. Utah*, 414 U.S. 538 (1974) ("*American Pipe*") and its progeny.

Table 7
Purchases Subject to Tolling Under American Pipe

CUSIP	ISSUING ENTITY	PURCHASER	TRADE DATE	*AMERICAN PIPE* TOLLING COMMENCEMENT DATE
41162CAE1	HarborView Mortgage Loan Trust 2006-10	Members United	10/18/2006	*New Jersey Carpenters Vacation Fund v. The Royal Bank of Scotland,* No. 08-5093 (S.D.N.Y.) Consolidated First Amended Complaint **Filed: May 19, 2009**
41164MAC1	HarborView Mortgage Loan Trust 2007-1	Members United	7/26/2007	*New Jersey Carpenters Vacation Fund v. The Royal Bank of Scotland,* No. 08-5093 (S.D.N.Y.) Consolidated First Amended Complaint **Filed: May 19, 2009**
41164MAD9	HarborView Mortgage Loan Trust 2007-1	Members United	2/14/2007	*New Jersey Carpenters Vacation Fund v. The Royal Bank of Scotland,* No. 08-5093 (S.D.N.Y.) Consolidated First Amended Complaint **Filed: May 19, 2009**

CUSIP	ISSUING ENTITY	PURCHASER	TRADE DATE	*AMERICAN PIPE* TOLLING COMMENCEMENT DATE
41164LAD1	HarborView Mortgage Loan Trust 2007-2	Members United	6/20/2007	*New Jersey Carpenters Vacation Fund v. The Royal Bank of Scotland,* No. 08-5093 (S.D.N.Y.) Consolidated First Amended Complaint **Filed: May 19, 2009**
456612AE0	IndyMac INDX Mortgage Loan Trust 2006-AR6	Members United	4/21/2006	*IBEW Local 103 v. IndyMac,* No. BC405843 (Cal. Super. Ct. L.A. County) Complaint **Filed: January 20, 2009** Removed to No. 09-1520 (C.D.C.A.) *Police and Fire Retirement System of Detroit v. IndyMac,* No. 09-4583 (S.D.N.Y.) Complaint **Filed: May 14, 2009**
65538DAA3	Nomura Asset Acceptance Corporation, Alternative Loan Trust, Series 2006-AR4	Members United	11/15/2006	*Plumbers Union Local 12 v. Nomura,* No. 08-0544 (Commonwealth of M.A.) Complaint **Filed: January 31, 2008** Removed to No. 08-10446 (Dist. of M.A.)

346. With respect to those RMBS purchases for which the NCUA Board asserts claims under Section 11 of the Securities Act (Counts 2-3), the earliest date they were bona fide offered to the public -- after accounting for *American Pipe* tolling – was not more than three years prior to September 24, 2010. Accordingly, the NCUA Board's Section 11 claims are not time-barred.

347. With respect to those RMBS purchases for which the NCUA Board asserts claims under Section 12(a)(2) of the Securities Act (Counts 4 and 5), the earliest sale date – after accounting for *American Pipe* tolling – was not more than three years prior to September 24, 2010. Accordingly, the NCUA Board's Section 12(a)(2) claims are not time-barred.

348. With respect to those RMBS purchases for which the NCUA Board asserts claims under state law (Counts 1 and 6), the earliest purchase date/offering date with respect to those claims was February 17, 2006, or not more than five years prior to September 24, 2010. Accordingly, the NCUA Board's state law claims are not time-barred.

X. CLAIMS FOR RELIEF

COUNT ONE
Violation of the Texas Securities Act
Tex. Rev. Civ. Stat. Ann. art. 581, § 33
(GMACM Home Equity Loan Trust 2006-HE5, Long Beach Mortgage Loan Trust 2006-8, MortgageIT Mortgage Loan Trust 2006-1)

349. The NCUA Board realleges paragraphs 1 through 348 of this Complaint, as though fully set forth here, except those paragraphs specific to offerings other than the GMACM Home Equity Loan Trust 2006-HE5, Long Beach Mortgage Loan Trust 2006-8 and the MortgageIT Mortgage Loan Trust 2006-1 offerings.

350. The NCUA Board brings this cause of action pursuant to Section 33 of the Texas Securities Act, with respect to Southwest's purchases of the GMACM Home Equity Loan Trust 2006-HE5, Long Beach Mortgage Loan Trust 2006-8 and the MortgageIT Mortgage Loan Trust 2006-1 certificates against Defendant RBS as the seller of those certificates.

351. Defendant RBS offered to sell and sold the securities to Southwest by means of written and/or oral communications which included untrue statements of material fact and/or omissions of material facts that were necessary to make the statements made not misleading, as alleged above.

352. The untrue statements of material fact and omitted facts were material because a reasonably prudent investor deciding whether to purchase the certificates would have viewed them as important and as substantially altering the total mix of information available, as alleged above.

353. Defendant RBS sold the certificates to Southwest in Texas.

354. At the time Southwest purchased the certificates, it did not know of these untruths and omissions.

355. If Southwest had known about these untruths and omissions, it would not have purchased the securities from Defendant RBS.

356. Defendant RBS's sales of the certificates violated Tex. Rev. Civ. Stat. Ann. art. 581, § 33(A)(2).

357. Southwest and Plaintiff sustained damages as a result of Defendant RBS's violations of Tex. Rev. Civ. Stat. Ann. art. 581, § 33(A)(2).

358. WHEREFORE, the NCUA Board requests the Court to enter judgment in its favor against Defendant RBS, awarding a rescissory measure of damages, or in the alternative compensatory damages, in an amount to be proven at trial; costs, and such other relief as the Court deems appropriate and just.

COUNT TWO
Section 11 of the Securities Act of 1933
(HarborView Mortgage Loan Trust 2006-10, HarborView Mortgage Loan Trust 2007-2, HarborView Mortgage Loan Trust 2007-1)

359. The NCUA Board realleges paragraphs 1 through 348 of this Complaint, as though fully set forth here, except those paragraphs specific to offerings other than HarborView Mortgage Loan Trust 2006-10, HarborView Mortgage Loan Trust 2007-2, HarborView Mortgage Loan Trust 2007-1 offerings.

360. The NCUA Board brings this cause of action pursuant to Section 11 of the Securities Act of 1933, with respect to Members United's purchases of the HarborView Mortgage Loan Trust 2006-10, HarborView Mortgage Loan Trust 2007-2, HarborView Mortgage Loan Trust 2007-1 certificates against Defendant RBS, as the underwriter, and against Defendant RBS Acceptance, Inc. as the issuer.

361. At the time the registration statements became effective, they (including the prospectus and any prospectus supplements) contained untrue statements and omitted facts that

were necessary to make the statements made not misleading, as alleged above.

362. The untrue statements and omitted facts were material because a reasonably prudent investor deciding whether to purchase the certificates would have viewed them as important and as substantially altering the total mix of information available, as alleged above.

363. Members United purchased the certificates pursuant to and traceable to defective registration statements, as alleged above.

364. At the time Members United purchased the certificates, it did not know of the untrue statements and omissions contained in the registration statements.

365. RBS's and RBS Acceptance, Inc.'s conduct as alleged above violated Section 11.

366. Members United and Plaintiff sustained damages as a result of RBS's and RBS Acceptance, Inc.'s violations of Section 11.

367. WHEREFORE, the NCUA Board requests the Court to enter judgment in its favor against Defendant RBS and Defendant RBS Acceptance, Inc., jointly and severally, awarding all damages, in an amount to be proven at trial, costs, and such other relief as the Court deems appropriate and just.

COUNT THREE
Section 11 of the Securities Act of 1933
(Nomura Asset Acceptance Corporation, Alternative Loan Trust, Series 2006-AR4)

368. The NCUA Board realleges paragraphs 1 through 348 of this Complaint, as though fully set forth here, except those paragraphs specific to offerings other than Nomura Asset Acceptance Corporation, Alternative Loan Trust, Series 2006-AR4 offering.

369. The NCUA Board brings this cause of action pursuant to Section 11 of the Securities Act of 1933, with respect to Members United's purchase of the Nomura Asset Acceptance Corporation, Alternative Loan Trust, Series 2006-AR4 certificate against Defendant

RBS as the underwriter.

370. At the time the registration statement became effective, it (including the prospectus and any prospectus supplements) contained untrue statements and omitted facts that were necessary to make the statements made not misleading, as alleged above.

371. The untrue statements and omitted facts were material because a reasonably prudent investor deciding whether to purchase the certificate would have viewed them as important and as substantially altering the total mix of information available, as alleged above.

372. Members United purchased the certificate pursuant to and traceable to a defective registration statement, as alleged above.

373. At the time Members United purchased the certificate, it did not know of the untrue statements and omissions contained in the registration statement.

374. RBS's conduct as alleged above violated Section 11.

375. Members United and Plaintiff sustained damages as a result of RBS's violations of Section 11.

376. WHEREFORE, the NCUA Board requests the Court to enter judgment in its favor against Defendant RBS, awarding all damages, in an amount to be proven at trial, costs, and such other relief as the Court deems appropriate and just.

COUNT FOUR
Section 12(a)(2) of the Securities Act of 1933
(Nomura Asset Acceptance Corporation, Alternative Loan Trust, Series 2006-AR4)

377. The NCUA Board realleges paragraphs 1 through 348 of this Complaint, as though fully set forth here, except those paragraphs specific to offerings other than the Nomura Asset Acceptance Corporation, Alternative Loan Trust, Series 2006-AR4 offering.

378. The NCUA Board brings this cause of action pursuant to Section 12(a)(2) of the

Securities Act, with respect to Members United's purchase of the Nomura Asset Acceptance Corporation, Alternative Loan Trust, Series 2006-AR4 certificate against Defendant RBS as the underwriter and seller.

379. Defendant RBS offered to sell and sold the certificate to Members United through one or more instrumentalities of interstate commerce (*i.e.*, telephone, faxes, mails, email or other means of electronic communication).

380. Defendant RBS offered to sell and sold the certificate, for its own financial gain, to Members United by means of the prospectuses and/or prospectus supplements, as alleged above, and/or oral communications related to the prospectuses and/or prospectus supplements.

381. The prospectuses and/or prospectus supplements contained untrue statements and omitted facts that were necessary to make the statements made not misleading, as alleged above.

382. The untrue statements and omitted facts were material because a reasonably prudent investor deciding whether to purchase the certificate would have viewed them as important and as substantially altering the total mix of information available, as alleged above.

383. Members United purchased the certificate on the initial offering pursuant to the prospectuses and/or prospectus supplements.

384. At the time Members United purchased the certificate, it did not know of the untrue statements and omissions contained in the prospectuses and/or prospectus supplements.

385. Defendant RBS's conduct as alleged above violated Section 12(a)(2).

386. Members United and the NCUA Board sustained damages as a result of Defendant RBS's violation of Section 12(a)(2).

387. Under Section 12(a)(2), the NCUA Board is entitled to rescind and recover the consideration Members United paid for the certificate, minus principal and interest received.

388. WHEREFORE, the NCUA Board requests the Court to enter judgment in its favor against Defendant RBS, awarding a rescissory measure of damages, or in the alternative compensatory damages, in an amount to be proven at trial; costs, and such other relief as the Court deems appropriate and just.

COUNT FIVE
Section 12(a)(2) of the Securities Act of 1933
(HarborView Mortgage Loan Trust 2006-10, HarborView Mortgage Loan Trust 2007-1)

389. The NCUA Board realleges paragraphs 1 through 348 of this Complaint, as though fully set forth here, except those paragraphs specific to offerings other than the HarborView Mortgage Loan Trust 2006-10 and the HarborView Mortgage Loan Trust 2007-1 offerings.

390. The NCUA Board brings this cause of action pursuant to Section 12(a)(2) of the Securities Act, with respect to Members United's purchases of the HarborView Mortgage Loan Trust 2006-10 and HarborView Mortgage Loan Trust 2007-1 certificates against Defendants RBS and RBS Acceptance, Inc. as the statutory sellers and/or offerors of those certificates.

391. Defendants RBS and RBS Acceptance, Inc. offered to sell and sold the securities to Members United through one or more instrumentalities of interstate commerce (i.e., telephone, faxes, mails, email or other means of electronic communication).

392. Defendants RBS and RBS Acceptance, Inc. offered to sell and sold the securities, for its own financial gain, to Members United by means of the prospectuses and/or prospectus supplements, as alleged above, and/or oral communications related to the prospectuses and/or prospectus supplements.

393. The prospectuses and/or prospectus supplements contained untrue statements and omitted facts that were necessary to make the statements made not misleading, as alleged above.

394. The untrue statements and omitted facts were material because a reasonably prudent investor deciding whether to purchase the certificates would have viewed them as important and as substantially altering the total mix of information available, as alleged above.

395. Members United purchased the certificates on the initial offering pursuant to the prospectuses and/or prospectus supplements.

396. At the time Members United purchased the certificates, it did not know of the untrue statements and omissions contained in the prospectuses and/or prospectus supplements.

397. Defendants RBS's and RBS Acceptance, Inc.'s conduct as alleged above violated Section 12(a)(2).

398. Members United and the NCUA Board sustained damages as a result of Defendants RBS's and RBS Acceptance, Inc.'s violation of Section 12(a)(2).

399. Under Section 12(a)(2), the NCUA Board is entitled to rescind and recover the consideration Members United paid for the certificates, minus principal and interest received.

400. WHEREFORE, the NCUA Board requests the Court to enter judgment in its favor against Defendants RBS and RBS Acceptance, Inc., awarding a rescissory measure of damages, or in the alternative compensatory damages, in an amount to be proven at trial; costs, and such other relief as the Court deems appropriate and just.

COUNT SIX

Violation of the Illinois Securities Law of 1953
815 Ill. Comp. Stat. Ann. 5/12
(HarborView Mortgage Loan Trust 2006-10, HarborView Mortgage Loan Trust 2007-1, HarborView Mortgage Loan Trust 2007-2, HarborView Mortgage Loan Trust 2007-3, IndyMac INDX Mortgage Loan Trust 2006-AR6, Long Beach Mortgage Loan Trust 2006-2, MortgageIT Mortgage Loan Trust 2006-1, Nomura Asset Acceptance Corporation, Alternative Loan Trust, Series 2006-AR4, Nomura Home Equity Loan Inc., Home Equity Loan Trust, Series 2007-1, Option One Mortgage Loan Trust 2007-2, Soundview Home Loan Trust 2006-WF1)

401. The NCUA Board realleges paragraphs 1 through 348 of this Complaint, as

though fully set forth here, except those paragraphs specific to offerings other than the HarborView Mortgage Loan Trust 2006-10, HarborView Mortgage Loan Trust 2007-1, HarborView Mortgage Loan Trust 2007-2, HarborView Mortgage Loan Trust 2007-3, IndyMac INDX Mortgage Loan Trust 2006-AR6, Long Beach Mortgage Loan Trust 2006-2, MortgageIT Mortgage Loan Trust 2006-1, Nomura Asset Acceptance Corporation, Alternative Loan Trust, Series 2006-AR4, Nomura Home Equity Loan Inc., Home Equity Loan Trust, Series 2007-1, Option One Mortgage Loan Trust 2007-2 and the Soundview Home Loan Trust 2006-WF1 offerings.

402. The NCUA Board brings this cause of action pursuant to Section 12 of the Illinois Securities Law of 1953, with respect to Members United's purchases of the HarborView Mortgage Loan Trust 2006-10, HarborView Mortgage Loan Trust 2007-1, HarborView Mortgage Loan Trust 2007-2, HarborView Mortgage Loan Trust 2007-3, IndyMac INDX Mortgage Loan Trust 2006-AR6, Long Beach Mortgage Loan Trust 2006-2, MortgageIT Mortgage Loan Trust 2006-1, Nomura Asset Acceptance Corporation, Alternative Loan Trust, Series 2006-AR4, Nomura Home Equity Loan Inc., Home Equity Loan Trust, Series 2007-1, Option One Mortgage Loan Trust 2007-2 and the Soundview Home Loan Trust 2006-WF1 certificates against Defendant RBS as the seller of those certificates.

403. Defendant RBS offered to sell and sold the certificates to Members United by means of written and/or oral communications which included untrue statements of material fact and/or omissions of material facts that were necessary to make the statements made not misleading, as alleged above.

404. The untrue statements of material fact and omitted facts were material because a reasonably prudent investor deciding whether to purchase the certificates would have viewed

them as important and as substantially altering the total mix of information available, as alleged above.

405. Defendant RBS sold the certificates to Members United in Illinois.

406. At the time Members United purchased the certificates, it did not know of these untruths and omissions.

407. If Members United had known about these untruths and omissions, it would not have purchased the certificates from Defendant RBS.

408. Defendant RBS's sales of the certificates violated 815 Ill. Comp. Stat. Ann. 5/12(G).

409. Members United and Plaintiff sustained damages as a result of Defendant RBS's violations of 815 Ill. Comp. Stat. Ann. 5/12(G).

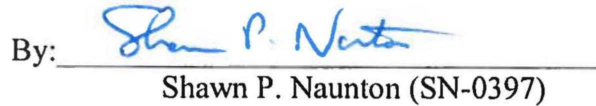
410. WHEREFORE, the NCUA Board requests the Court to enter judgment in its favor against Defendant RBS, awarding rescission or a rescissory measure of damages, or in the alternative compensatory damages, in an amount to be proven at trial; costs, and such other relief as the Court deems appropriate and just.

Jury Demand

Plaintiff hereby demands a trial by jury of all issues properly triable.

Dated: September 23, 2013

NATIONAL CREDIT UNION ADMINISTRATION BOARD,
as Liquidating Agent of Southwest Corporate Federal Credit Union and Members United Corporate Federal Credit Union

By: 
Shawn P. Naunton (SN-0397)

Shawn P. Naunton
ZUCKERMAN SPAEDER LLP
1185 Avenue of the Americas, 31st Floor
New York, New York 10036
Phone: (212) 704-9600
Fax: (212) 704-4256

Graeme W. Bush
Andrew N. Goldfarb
ZUCKERMAN SPAEDER LLP
1800 M Street, N.W., Suite 1000
Washington, D.C. 20036
Phone: (202) 778-1800
Fax: (202) 822-8106

Of Counsel:
Michael J. McKenna, General Counsel
John K. Ianno, Associate General Counsel
NATIONAL CREDIT UNION ADMINISTRATION
1775 Duke Street
Alexandria, Virginia 22314

George A. Zelcs
KOREIN TILLERY LLC
205 North Michigan Avenue
Suite 1950
Chicago, Illinois 60601
Phone: (312) 641-9760
Fax: (312) 641-9751

Stephen M. Tillery
Peter H. Rachman
Robert L. King
Diane E. Moore
KOREIN TILLERY LLC
505 North Seventh Street
Suite 3600
St. Louis, Missouri 63101-1625
Phone: (314) 241-4844
Fax: (314) 241-3525

Mark C. Hansen
David C. Frederick
Wan J. Kim
Gregory G. Rapawy
KELLOGG, HUBER, HANSEN, TODD, EVANS & FIGEL, P.L.L.C.
Sumner Square
1615 M Street, N.W.
Suite 400
Washington, D.C. 20036
Phone: (202) 326-7900
Fax: (202) 326-7999

Attorneys for the National Credit Union Administration Board