SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

ROYAL PARK INVESTMENTS SA/NV, Plaintiff, vs. CREDIT SUISSE AG, CREDIT SUISSE SECURITIES (USA) LLC, DLJ MORTGAGE CAPITAL, INC. and CREDIT SUISSE FIRST BOSTON MORTGAGE SECURITIES CORP., Defendants.	Index No. SUMMONS

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TO: THE ABOVE NAMED DEFENDANTS

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on plaintiffs' attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Plaintiffs designate New York County as the place of trial. Venue is proper because the defendants do business in or derive substantial revenue from activities carried out in this County, and many of the wrongful acts alleged herein occurred in this County.

DATED: September 25, 2013

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I. SUMMARY OF THE ACTION

1. This action arises out of plaintiff's purchases of more than $359 million worth of residential mortgage-backed securities ("RMBS").[1] The specific RMBS at issue are generally referred to as "certificates." The certificates are essentially bonds backed by a large number of residential real estate loans, which entitle their holders to receive monthly distributions derived from the payments made on those loans. The claims at issue herein arise from 20 separate certificate purchases made in 10 different offerings (the "Credit Suisse Offerings"), all of which were structured, marketed, and sold by defendants during the period from 2005 through 2007. *See* Appendix A hereto.

2. Defendants used U.S. Securities and Exchange Commission ("SEC") forms, such as registration statements, prospectuses and prospectus supplements, as well as other documents – such as offering circulars, pitch books, term sheets, loan tapes, offering memoranda, draft prospectus supplements, "red," "pink" and "free writing" prospectuses and electronic summaries of such materials – to market and sell the certificates to plaintiff. In addition, defendants also disseminated the key information in these documents to third parties – such as the rating agencies (the "Credit Rating Agencies"), broker-dealers and analytics firms, like Intex Solutions, Inc. ("Intex") – for the express purpose of marketing the certificates to plaintiff and other investors. Collectively, all of the documents and information disseminated by defendants for the purpose of marketing and/or selling

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[1] As explained more fully *infra*, at §II.A., plaintiff obtained its claims through assignment. The certificates were initially purchased by subsidiaries of Fortis Bank SA/NV, but all rights, title, interest and causes of action to the certificates were assigned to plaintiff. Accordingly, all references herein to plaintiff's purchases of certificates refer to plaintiff's claims arising by assignment.

the certificates to plaintiff are referred to herein as the "Offering Documents." Each purchase at issue herein was made in direct reliance on the information contained in the Offering Documents.[2]

3. As further detailed herein, the Offering Documents were materially false and misleading at the time they were issued by defendants and relied on by plaintiff and/or its assignors. Specifically, the Offering Documents both failed to disclose and affirmatively misrepresented material information regarding the very nature and credit quality of the certificates and their underlying loans. The Offering Documents further failed to disclose that, at the same time defendants were offering the certificates for sale to plaintiff, they were privately betting that similar certificates would soon default at significant rates. Defendants used these Offering Documents to defraud plaintiff and its assignors into purchasing supposedly "investment grade" certificates at falsely inflated prices. Plaintiff's certificates are now all rated at junk status or below, and are essentially worthless investments, while defendants, on the other hand, have profited handsomely from their roles in structuring, marketing and selling the certificates sold to plaintiff.

II. PARTIES

A. Plaintiff

4. Plaintiff Royal Park Investments SA/NV ("RPI"), is a limited liability company incorporated under the laws of Belgium, with its principal place of business at Van Orley 15, 1000 Brussels, Belgium. RPI was created by the Belgian State, Ageas (formerly known as Fortis Holding SA/NV), and BNP Paribas for the purpose of acquiring and managing a portion of Fortis Bank

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[2] As further detailed *infra*, at §V.B, some of the purchase decisions at issue herein were made prior to the date of the final prospectus supplements for the offerings from which such certificates were purchased. On information and belief, however, all such purchases were made in direct reliance upon draft prospectus supplements that were distributed by defendants and were identical in all material respects to the final prospectus supplements for such offerings.

SA/NV's ("Fortis Bank") structured credit portfolio. The special purpose and mission statement of RPI is to minimize the downside risk and maximize recoveries on the legacy portfolio.

5. RPI brings its claims against defendants as an assignee of causes of action regarding securities that were initially purchased by Fortis Bank and three of its subsidiaries. The four original purchasers of the securities at issue herein are identified below:

(a) Fortis Bank is a Belgian limited liability company with its registered office at Montagne du Parc 3, 1000 Brussels, Belgium, and its principal place of business in Brussels, Belgium. Fortis Bank was the banking arm of Fortis Holding SA/NV ("Fortis Holding"), a Belgian insurance, banking, and investment management company. In 2008, Fortis Holding sold Fortis Bank to the Belgian State, which then sold 75% of Fortis Bank to BNP Paribas. Fortis Bank is now a subsidiary of BNP Paribas. The certificates initially purchased by Fortis Bank were assigned to RPI, along with all associated rights, title, interest, causes of action and claims in and related to such certificates, including all claims at issue herein.

(b) Fortis Proprietary Investment (Ireland) Limited ("Fortis Ireland") is a company incorporated under the laws of Ireland, with its principal place of business in New York, New York. Fortis Ireland was at all relevant times a wholly-owned subsidiary of Fortis Bank, fully consolidated under Fortis Bank, and maintained its financial base in Belgium. The certificates initially purchased by Fortis Ireland were assigned to RPI, along with all associated rights, title, interest, causes of action and claims in and related to such certificates, including all claims at issue herein.

(c) Fortis Bank SA/NV, Cayman Islands Branch ("Fortis Cayman"), is a branch of, and wholly owned by, Fortis Bank. The certificates initially purchased by Fortis Cayman were assigned to RPI, along with all associated rights, title, interest, causes of action and claims in and related to such certificates, including all claims at issue herein.

(d) Scaldis Capital Limited ("Scaldis") is a conduit special purpose vehicle, created, along with co-issuer Scaldis Capital LLC, for placement of commercial paper in both the United States and European markets. Scaldis was created, fully controlled, and sponsored by Fortis Bank. All of Scaldis's assets, including the securities at issue herein, were consolidated into the balance sheet of Fortis Bank, and all losses on the securities were incurred by Fortis Bank. As the sponsor of Scaldis, Fortis Bank provided both credit and liquidity support for Scaldis and managed all its operations. During the relevant period, the individuals conducting the administrative duties of Scaldis's business (including the purchasing of the securities at issue herein) were Fortis Bank employees located in Amsterdam, the Netherlands. All decisions to purchase the securities at issue herein were made on behalf of Scaldis in Belgium by employees of Fortis Bank. The certificates initially purchased by Scaldis were assigned to RPI, along with all associated rights, title, interest, causes of action and claims in and related to such certificates, including all claims at issue herein.

6. Fortis Bank, Fortis Ireland, Fortis Cayman, and Scaldis are referred to collectively herein as the "assigning entities."

7. RPI acquired the legal claims at issue in this case in exchange for good and valuable consideration. The certificates at issue in this case were severely damaged on or before the day they were transferred to RPI, and continued to be damaged, in an amount to be proven at trial. RPI has standing to sue defendants to recover those damages as an assignee of all rights, title, interest, causes of action and claims regarding securities initially purchased by the assignor identified above. As a result, use of the terms "plaintiff" and "RPI" herein shall also refer to each of the above-identified assigning entities.

B. The "Credit Suisse Defendants"

8. As further set forth below, each of the following defendants was actively involved with and/or liable for some or all of the Credit Suisse Offerings at issue herein, which are identified

in §V, *infra*. Additional detailed information concerning each Credit Suisse Offering is also set forth in Appendix A, attached hereto.

9. Defendant Credit Suisse AG is a multi-national company that delivers banking and financial services throughout the world. Credit Suisse AG is the ultimate owner and controller of the other "Credit Suisse Defendants" alleged herein. Credit Suisse AG directed and controlled the complained-of conduct herein by the other Credit Suisse Defendants identified herein.

10. Defendant Credit Suisse Securities (USA) LLC, formerly known as Credit Suisse First Boston LLC, is a Delaware limited liability company with its principal place of business in New York, New York. Unless otherwise noted, use of the term "Credit Suisse Securities" herein refers collectively to both Credit Suisse Securities (USA) LLC and Credit Suisse First Boston LLC. Credit Suisse Securities is an SEC-registered broker-dealer primarily engaged in the business of investment banking and is a wholly-owned indirect subsidiary of co-defendant Credit Suisse AG. Credit Suisse Securities acted as the lead or co-lead underwriter and broker-dealer for all of the Credit Suisse Offerings alleged herein. As an underwriter, Credit Suisse Securities was intimately involved in the Credit Suisse Offerings alleged herein, as it investigated the loans at issue herein, and participated in the drafting and disseminating of the Offering Documents used to sell the certificates in such offerings to plaintiff. Of the 20 certificates plaintiff purchased in the Credit Suisse Offerings at issue herein, 17 were purchased directly from Credit Suisse Securities in its capacity as an underwriter for the Credit Suisse Offerings.

11. Defendant DLJ Mortgage Capital, Inc. ("DLJ Mortgage") is a Delaware corporation with its principal place of business in New York, New York. It is a wholly-owned indirect subsidiary of co-defendant Credit Suisse AG, and is primarily engaged in the purchase of mortgage loans. DLJ Mortgage acted as the sponsor for four of the certificates plaintiff purchased in the Credit Suisse Offerings alleged herein. In its capacity as the sponsor for such offerings, DLJ

Mortgage organized and initiated the deals by acquiring the mortgage loans to be securitized, negotiating the principal securitization transaction documents and working with the securities underwriters to structure the offerings.

12. Defendant Credit Suisse First Boston Mortgage Securities Corp. ("CSFBMS") is a Delaware corporation with its principal place of business in New York, New York. It is a wholly-owned indirect subsidiary of co-defendant Credit Suisse AG. CSFBMS acted as the depositor for four of the certificates plaintiff purchased in the Credit Suisse Offerings alleged herein. Accordingly, under the U.S. securities laws, CSFBMS was also an "issuer" of the certificates plaintiff bought in such offerings.

13. Defendants Credit Suisse AG, Credit Suisse Securities, DLJ Mortgage and CSFBMS are collectively referred to herein as either the "Credit Suisse Defendants" or "Credit Suisse."

III. JURISDICTION AND VENUE

14. This Court has subject matter jurisdiction over this action pursuant to Article VI, §7 of the New York State Constitution, which authorizes it to serve as a court of "general [and] original jurisdiction in law and equity." The amount in controversy exceeds the minimum threshold of $150,000 pursuant to §202.70(a) of the Uniform Civil Rules of the New York Supreme Court.

15. The Court's personal jurisdiction over defendants is founded upon C.P.L.R. §§301 and 302, as each defendant transacts business within the State of New York within the meaning of C.P.L.R. §302(a)(1), and each of them committed a tortious act inside the State of New York within the meaning of C.P.L.R. §302(a)(2).

16. Defendants regularly and systematically transact business within the State of New York and derive substantial revenue from activities carried out in New York. A majority of defendants' acts pertaining to the securitization of the RMBS giving rise to the causes of action alleged herein occurred in New York. Each defendant was actively involved in the creation,

solicitation and/or sale of the subject certificates to plaintiff in the State of New York. Specifically, defendants originated and/or purchased the loans at issue, prepared, underwrote, negotiated, securitized and marketed the offerings, and sold and/or marketed the certificates to plaintiff, in substantial part, in New York County, New York.

17. Since numerous witnesses with information relevant to the case and key documents are located within the State of New York, any burdens placed on defendants by being brought under the State's jurisdiction will not violate fairness or substantial justice.

18. This Court also has personal jurisdiction over many of the defendants based on consent under C.P.L.R. §301 due to their unrevoked authorization to do business in the State of New York and their designations of registered agents for service of process in New York.

19. This Court has personal jurisdiction over any foreign defendants because they transact business within the State of New York either directly or through their wholly-owned subsidiaries, by selling securities in the State, and/or maintaining offices in the State. Any subsidiaries, affiliates and/or agents of such foreign defendants conducting business in this State are organized and operated as instrumentalities and/or alter egos of such foreign defendants. Such foreign defendants are the direct or indirect holding companies that operate through their subsidiaries, affiliates and/or agents in this State.

20. Venue is proper in this Court pursuant to C.P.L.R. §503(c) because most of the defendants maintain their principal place of business in New York County, and pursuant to C.P.L.R. §503(a) as designated by plaintiff. Many of the alleged acts and transactions, including the preparation and dissemination of the Offering Documents, also occurred in substantial part in New York County, New York.

IV. BACKGROUND ON RMBS OFFERINGS IN GENERAL AND DEFENDANTS' INVOLVEMENT IN THE PROCESS

A. The Mortgage-Backed Securities Market

21. This case involves securities that are supported by residential mortgages. Residential mortgages are loans made to homeowners that are secured by a piece of collateral – a residence. The loans generate specific, periodic payments, and the related collateral interest gives the lender the right to "foreclose" on the loan by seizing and selling the property to recover the amount of money that was loaned.

22. The mortgage-backed securities market has existed for decades. In 1980, the market's size was about $100 billion. By 2004, the size of that market had reached over $4.2 trillion. To place this figure in context, in 2004 the total size of the U.S. corporate debt market was $4.6 trillion. Investors from all over the world purchased mortgage-backed securities, and that demand drove down mortgage borrowing costs in the United States.

23. RMBS are created through a process called "securitization," which is described in more detail immediately below.

B. Organizations and Defendant Entities Involved in the Securitization Process

24. The securitization process requires a number of parties, including: (1) mortgage originators; (2) borrowers; (3) RMBS sponsors (or "sellers"); (4) mortgage depositors; (5) securities underwriters; (6) trusts that issue certificates backed by mortgages; (7) Nationally Recognized Statistical Rating Organizations ("NRSROs"), such as Moody's Investors Service and Standard & Poor's; and (8) investors. Following is a description of their roles in order.

25. ***Mortgage originators*** accept mortgage applications and other information from prospective borrowers. They set borrowing standards, purport to evaluate a borrower's ability to repay, and appraise the value of the collateral supporting the borrower's obligations. This process is

called "underwriting" a mortgage. The key mortgage originators at issue herein are set forth in §§V.B and VI.A, *infra*.

26. ***Borrowers*** who purport to satisfy the originators' underwriting criteria sign documentation memorializing the terms and conditions of the mortgages. Those documents typically include a promissory note and lien securing repayment – which together form what is known as the mortgage. Originators are then able to sell such mortgages to securitization sponsors in a large secondary market. Some of the specific borrowers at issue herein are described in §VI.A.10, *infra*.

27. ***Sponsors*** (or "sellers") typically organize and initiate the securitization aspect of the process by acquiring large numbers of mortgages, aggregating them, and then selling them through an affiliated intermediary into an issuing trust. In this case, the sponsor for many of the RMBS offerings at issue herein was defendant DLJ Mortgage. In this role, DLJ Mortgage was generally responsible for pooling the mortgage loans to be securitized by the depositors, negotiating the principal securitization transaction documents and participating with the underwriters to structure the RMBS offerings.

28. ***Depositors*** typically buy the pools of mortgages from the sponsors (or "sellers"), settle the trusts, and deposit the mortgages into those trusts in exchange for the certificates to be offered to investors, which the depositors in turn sell to the underwriters, for ultimate sale to investors. Under the U.S. securities laws, depositors are technically considered "issuers" of the securities, and are strictly liable for material misrepresentations and omissions in any registration statement under the Securities Act of 1933. Defendant CSFBMS served as the depositor for many of the RMBS offerings at issue herein. A more detailed summary of the roles the depositors played in the offerings at issue herein follows:

(a) First, the depositors acquired discrete pools of mortgages from the offerings' "sponsors" (in many cases, DLJ Mortgage). The sponsors typically transferred those mortgages to the depositor via written mortgage purchase agreements, which typically contained written representations and warranties about the mortgages ("Mortgage Purchase Agreements").

(b) Second, the depositors settled the issuing trusts, and purportedly "deposited" the discrete pools of mortgages acquired from the offering sponsors – along with their rights under the Mortgage Purchase Agreements – into the issuing trusts, in exchange for the certificates, which were then transferred to the underwriter for ultimate sale to investors such as plaintiff. The depositors were responsible for making sure the mortgage loans were properly and timely transferred to the trusts and/or trustees of the trusts. The mortgages and their rights, among other things, constitute the trusts' res. The trusts – their res, trustee and beneficiaries – are defined by a written pooling and servicing agreement ("Pooling Agreement").

(c) Third, the depositors, who are technically the "issuers" under the U.S. securities laws, filed "shelf" registration statements with the SEC, which enabled the depositors to issue securities rapidly in "shelf take-downs." In order to be offered through this method, it was necessary for the certificates to be deemed "investment grade" quality by the NRSRO processes described herein.

29. ***Securities underwriters*** purchase the certificates from the depositors and resell them to investors, such as plaintiff. The terms of a particular underwriter's liabilities and obligations in connection with the purchase, sale and distribution of RMBS certificates are typically set forth in a written agreement between the depositor and the underwriter ("Underwriting Agreement"). Moreover, the underwriters also have obligations and responsibilities placed upon them by U.S. securities laws, including, without limitation, that they investigate the loans and ensure representations about the loans in the offering documents are true and correct. The "underwriter

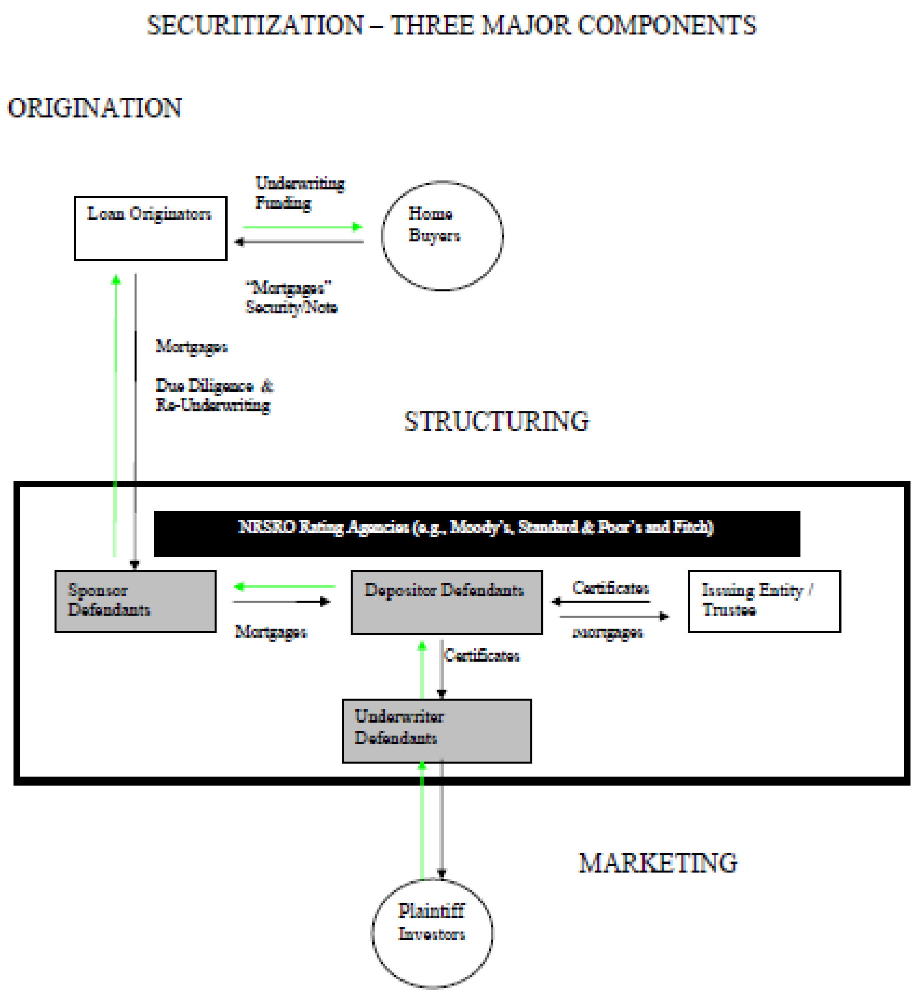
defendant" at issue herein is Credit Suisse Securities, which served as underwriter in all of the RMBS offerings at issue herein.

30. ***Issuing trusts*** hold the mortgages and all accompanying rights under the Mortgage Purchase Agreements. Pursuant to the terms of the Pooling Agreements, the issuing trusts issue the certificates to the depositors, for ultimate sale to investors by the securities underwriters. The certificates entitle the investors to principal and interest payments from the mortgages held by the trusts. Trustees voluntarily agree to administer the trusts and voluntarily agree to satisfy contractual and common law duties to trust beneficiaries – the plaintiff certificate investors in this case.

31. ***NRSROs***, which include the Credit Rating Agencies herein, analyze performance data on mortgage loans of every type and use that information to build software programs and models, which are ultimately used to assign credit ratings to RMBS. These computer models generate various "levels" of subordination and payment priorities that are necessary to assign "investment grade" credit ratings to the certificates that the RMBS trusts issue. The rules generated by the NRSRO models are then written into the Pooling Agreements drafted by the sponsor and the securities underwriter(s). As alleged above, in order to be issued pursuant to a "shelf take-down," the certificates must receive "investment grade" credit ratings from the NRSROs.

32. ***Investors***, like plaintiff, purchase the RMBS certificates, and thus provide the funding that compensates all of the securitization participants identified above.

33. The illustration below further summarizes the roles of the various parties in an RMBS securitization. In this illustration, the green arrows – moving from investors to home buyers or borrowers – illustrate funds flow, and the grey cells identify certain defendant entities in the context of their roles in the securitization process:



C. To Market the Certificates, Defendants Registered Them with the SEC on "Investment Grade" Shelves

34. Receiving strong credit ratings assigned to a particular RMBS is what enables securities dealers, like defendants, to register those securities on a "shelf" with the SEC. Issuing securities in this way involves two steps. First, an issuer must file a "shelf" registration statement with the SEC, governing potentially dozens of individual issuances of securities, or "shelf take-downs," that the issuer plans to conduct in the future. Second, to market a particular issuance, the issuer must file a prospectus "supplement" to the registration statement. The registration statement describes the shelf program in general, while the prospectus supplement and other offering documents describe in detail the particular securities offered to investors at that time.

35. Many of the securities at issue in this case were "taken down" from shelves that defendants created, a process that never would have been possible without investment grade ratings from the Credit Rating Agencies.

V. C.P.L.R. §3016 PARTICULARITY ALLEGATIONS

36. As detailed immediately below, all of the Offering Documents distributed by defendants and relied on by plaintiff and/or its assignors were materially false and misleading, as they omitted and affirmatively misrepresented material information regarding the certificates and their underlying loans. Moreover, as set forth *infra*, defendants were well aware of each of the following material misrepresentations and omissions. *See* §VII, *infra.*

A. Each of the Offering Documents Omitted Material Information

37. The Offering Documents for each of the 10 offerings at issue failed to disclose critical information within defendants' possession regarding the certificates and their underlying loans. Specifically, prior to selling the certificates to plaintiff, defendants hired Clayton Holdings, Inc. ("Clayton"), Watterson-Prime, LLC ("Watterson"), Bohan Group ("Bohan") and/or other due diligence firms to re-underwrite samples of the loans underlying each of the specific certificates purchased by plaintiff.[3] For each of the 10 offerings, Clayton and/or the other due diligence providers determined that a significant percentage of the loans had been defectively underwritten and/or were secured by inadequate collateral, and were thus likely to default. In aggregate, during 2006 and 2007 – the time period during which the vast majority of offerings at issue herein occurred

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[3] During the relevant time frame, Clayton reviewed loan samples for approximately 50% to 70% of all RMBS offerings brought to market by third-party investment banks, including the Credit Suisse Defendants. Based upon Clayton's re-underwriting of sampled loans, the due diligence firm was able to establish, at a 95% confidence level, the overall defect rate for the specific pool of loans underlying the offerings at issue.

– Clayton determined that ***32% of all loans it reviewed for Credit Suisse's offerings were defective***. This information was directly provided to the defendants prior to the offerings, but defendants affirmatively chose ***not*** to include it in the Offering Documents, even though Clayton expressly recommended that it be so included.

38. The Offering Documents also failed to disclose what defendants did with the material, undisclosed information they received from Clayton and their other due diligence providers. Specifically, with regard to the test samples of loans that were reviewed by Clayton, defendants actually "waived" back into the purchase pools for their offerings approximately ***33.4% of the specific loans that had been affirmatively identified as defective***. In addition, former employees of Bohan, another firm who performed due diligence of loans purchased by Credit Suisse, have confirmed that from 2005 through 2007, Credit Suisse ignored Bohan's findings that loans did not meet underwriting guidelines, exerted constant pressure to stop Bohan underwriters from removing defective loans from pools, and would even alter underwriting guidelines to allow more defective loans into loan pools. One former Bohan due diligence underwriter from 2005 through 2007 who reviewed loans purchased by Credit Suisse stated that 50% of the loans she reviewed were defective, that "you would have to be an idiot not to know that the loans were no good," and that the Wall Street banks – including Credit Suisse – knew they were purchasing defective loans because they received daily reports summarizing the due diligence findings.

39. Likewise, in the case titled *Ambac Assurance Corp. v. EMC Mortgage LLC, et al.*, No. 650421/2011 (N.Y. Sup. Ct., N.Y. Cty.), a former Clayton and Watterson employee was deposed, and the employee's sworn testimony revealed that Clayton and Watterson were instructed by their Wall Street bank clients (including Credit Suisse) to "***approve loans that often did not satisfy the underwriting guidelines***," to ignore defects in loan applications, to code defective loans as non-defective and to change many of the grades on loans that were coded as defective to reflect

that they were non-defective. These instructions included ignoring appraisals which did not support the stated value of the properties and applications for which borrowers' stated incomes were "unreasonable" and not supported by documentation. The former employee testified that the practice of failing to follow underwriting guidelines when re-underwriting loans at both Clayton and Watterson was pervasive, and that "[d]ue diligence underwriters like myself were forced to find compensating factors for defective loans where none existed."

40. With regard to the unsampled portion of the purchase pools – *i.e.*, the vast majority of the loans – defendants simply purchased the loans in their entirety, ***sight unseen***. Moreover, on information and belief, defendants also used the significant, undisclosed material defect rates uncovered by their due diligence providers as leverage to force their loan suppliers to accept lower purchase prices for the loans, without passing the benefits of such discounts onto plaintiff and other investors. None of the foregoing information was disclosed in the Offering Documents relied on by plaintiff and its assignors, making such documents materially misleading.

B. Each of the Offering Documents Contained Material Misrepresentations

1. The CSMC 2006-3 Certificates

41. The CSMC Mortgage-Backed Trust Series 2006-3, CSMC Mortgage-Backed Pass-Through Certificates, Series 2006-3 ("the CSMC 2006-3 Certificates") were issued pursuant to a Prospectus Supplement dated March 30, 2006. The following defendants played critical roles in the fraudulent structuring, offering and sale of the CSMC 2006-3 Certificates: CSFBMS (depositor); DLJ Mortgage (sponsor/seller); and Credit Suisse Securities (underwriter).

42. Plaintiff purchased the following CSMC 2006-3 Certificate:

Plaintiff	Tranche Purchased	CUSIP	Purchase Date	Original Face Amount	Purchased From
Fortis Ireland	2A11	225470P23	11/7/2006	$45,159,000	Deutsche Bank Securities

43. The decision to purchase the above security was made by Fortis Ireland in direct reliance upon the CSMC 2006-3 Offering Documents, including draft and/or final CSMC 2006-3 Prospectus Supplements, all of which were distributed by the defendants associated with the CSMC 2006-3 offering. Fortis Ireland's diligent investment processes are described in great detail in §VIII.B, *infra*.

a. Underwriting Guidelines

44. The CSMC 2006-3 Offering Documents disclosed that approximately 22.44% of the loans underlying plaintiff's CSMC 2006-3 Certificate were acquired by the sponsor/seller, DLJ Mortgage, from loan originator Bank of America, N.A. ("BofA"); approximately 18.56% of the loans underlying plaintiff's CSMC 2006-3 Certificate were acquired by the sponsor/seller, DLJ Mortgage, from loan originator Countrywide Home Loan, Inc. ("Countrywide"); approximately 10.72% of the loans underlying plaintiff's CSMC 2006-3 Certificate were acquired by the sponsor/seller, DLJ Mortgage, from loan originator Washington Mutual Bank ("WaMu"); and the remaining loans underlying plaintiff's CSMC 2006-3 Certificate were acquired by the sponsor/seller, DLJ Mortgage, from unidentified originators, none of which "originated or acquired more than 10% of the mortgage loans." *See* CSMC 2006-3 Prospectus Supplement ("Pros. Supp.") at S-50.

45. With regard to the BofA loans, the CSMC 2006-3 Offering Documents represented that they were originated in accordance with underwriting standards used to evaluate "the applicant's repayment ability, credit standing, and the adequacy of the mortgage property as collateral for the mortgage loan." *Id.* at S-54. The CSMC 2006-3 Offering Documents also represented that, "[i]n addition to evaluating the loan-to-value ratio," BofA

> will also evaluate the applicant's credit history and/or Credit Score and/or Custom Mortgage Score, the amount of the applicant's debts (including proposed housing payment and related expenses such as property taxes and hazard insurance) to his or her gross monthly income, the intended occupancy of the subject property, the property type, and the purpose of the loan transaction to determine whether the mortgage loan generally meets the guidelines established for the program under which the applicant is applying.

Id. at S-55. The CSMC 2006-3 Offering Documents further represented that "[a]s part of the underwriting evaluation, the applicant's 'Debt-to-Income Ratio' is calculated as the amount of the monthly debt obligations (including the proposed new housing payment and related expenses such as property taxes and hazard insurance) to his or her gross monthly income." *Id.* (emphasis omitted). Additionally, the CSMC 2006-3 Offering Documents represented that "[BofA] conducts a valuation of the mortgaged property as collateral for each mortgage loan." *Id.* at S-57. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that BofA had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for the borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.1, *infra*.

46. With regard to the Countrywide and WaMu loans, as well as the loans originated by various unidentified originators, the CSMC 2006-3 Offering Documents stated that they were "originated generally in accordance with the underwriting criteria described [in the prospectus supplement]." *See* CSMC Pros. Supp. at S-50. The CSMC 2006-3 Offering Documents represented that, "[b]ased on the data provided in the [prospective borrower's] application and certain verification (if required), a determination is made by the original lender that the mortgagor's monthly income (if required to be stated) will be sufficient to enable the mortgagor to meet its monthly obligations on the mortgage loan and other expenses related to the property such as property taxes, utility costs, standard hazard insurance and other fixed obligations other than housing

expenses," and that "[g]enerally, scheduled payments on a mortgage loan during the first year of its term plus taxes and insurance and all scheduled payments on obligations that extend beyond ten months equal no more than a specified percentage of the prospective mortgagor's gross income." *Id.* at S-51. The CSMC 2006-3 Offering Documents also represented that "[t]he adequacy of the mortgaged property as security for repayment of the related mortgage loan will generally have been determined by an appraisal in accordance with pre-established appraisal procedure guidelines for appraisals established by or acceptable to the originator." *Id.* The CSMC 2006-3 Offering Documents further represented that "[t]he depositor expects that the originator of each of the loans will have applied, consistent with applicable federal and state laws and regulations, underwriting procedures intended to evaluate the borrower's credit standing and repayment ability and/or the value and adequacy of the related property as collateral." *See* CSMC 2006-3 Prospectus ("Pros.") at 28. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that Countrywide, WaMu and the unidentified originators had completely abandoned their stated underwriting guidelines and were simply seeking to originate as many loans as possible, ***without*** any regard for the borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.1 and VI.A.2, *infra*.

b. Loan-to-Value Ratios

47. The CSMC 2006-3 Offering Documents also made certain misrepresentations regarding the loan-to-value ("LTV") ratios associated with the loans supporting the CSMC 2006-3 Certificate purchased by plaintiff.[4] Specifically, the CSMC 2006-3 Offering Documents represented

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[4] For the reasons set forth *infra*, LTV ratios are very important to RMBS investors. *See* §§VI.B and IX.A, *infra*.

that only a very small percentage of the loans supporting plaintiff's CSMC 2006-3 Certificate had LTV ratios over 80%, and that ***none*** of the loans supporting plaintiff's CSMC 2006-3 Certificate had LTV ratios over 100%.

48. Plaintiff, however, has performed an industry-accepted historical valuation analysis on the actual loans underlying plaintiff's CSMC 2006-3 Certificate, which reveals that the LTV ratio percentages stated in the CSMC 2006-3 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the LTV ratio percentages stated in the CSMC 2006-3 Offering Documents, and the actual percentages that should have been stated according to plaintiffs' industry-accepted analysis:[5]

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Groups**	**Stated Percentage of Loans Having LTV Ratios Over 80%**	**Actual Percentage of Loans Having LTV Ratios Over 80%**	**Stated Percentage Of Loans Having LTV Ratios Over 100%**	**Actual Percentage of Loans Having LTV Ratios Over 100%**
2A11	225470P23	Groups 2-5	1.08%	30.73%	0.00%	13.26%

c. Owner Occupancy Rates

49. The CSMC 2006-3 Offering Documents also made certain misrepresentations regarding the owner occupancy rates ("OOR" or "Primary Residence Percentages") associated with the loans supporting the CSMC 2006-3 Certificates purchased by plaintiff.[6] Specifically, the CSMC 2006-3 Offering Documents represented that a large percentage of the loans supporting plaintiff's CSMC 2006-3 Certificate were issued to borrowers that actually lived in the properties serving as

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5 Consistent with defendants' representations in the Offering Documents, all LTV ratio percentages herein are stated as a percentage of the aggregate outstanding loan balance of the supporting loan group or groups at issue.

6 For the reasons set forth *infra*, OOR percentages are very important to RMBS investors. *See* §§VI.C and IX.A, *infra*.

collateral for their loans, significantly decreasing the likelihood that those borrowers would default on their loans.

50. Plaintiff, however, has performed an in-depth investigation of the actual borrowers, loans and properties underlying plaintiff's CSMC 2006-3 Certificate, which reveals that the OOR percentages stated in the CSMC 2006-3 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the Primary Residence Percentages stated in the CSMC 2006-3 Offering Documents, and the actual percentages that should have been stated according to plaintiff's investigation:[7]

Tranche Purchased	CUSIP	Applicable Supporting Loan Groups	Primary Residence Percentage Stated in the Offering Documents	Actual Primary Residence Percentage	Percent Overstatement of Actual Primary Residence Percentage
2A11	225470P23	Groups 2-5	89.50%	77.39%	15.65%

d. Credit Ratings

51. The CSMC 2006-3 Offering Documents also represented that the CSMC 2006-3 Certificate purchased by plaintiff had been assigned certain high "investment grade" credit ratings by Standard & Poor's ("S&P") and Moody's Investors Service ("Moody's"), indicating that the security was a very strong, safe investment with an extremely low probability of default.[8] Specifically, the CSMC 2006-3 Offering Documents represented that plaintiff's CSMC 2006-3 Certificate had been

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[7] Consistent with defendants' representations in the Offering Documents, all Primary Residence Percentages herein are stated as a percentage of the aggregate outstanding loan balance of the supporting loan group or groups at issue.

[8] For the reasons set forth *infra*, credit ratings are very important to RMBS investors. *See* §§VI.D and IX.B, *infra*.

assigned AAA/Aaa credit ratings – the highest, safest credit ratings available, which are in fact the same as, or even higher than, the current credit rating of U.S. Treasury debt.[9]

52. These representations, however, were false and misleading when made. In truth, plaintiff's CSMC 2006-3 Certificate should not have received AAA/Aaa credit ratings because it was ***not*** a safe, "investment grade" security with "a less than 1% probability of incurring defaults." Rather, as defendants were well aware, plaintiff's CSMC 2006-3 Certificate was an extremely risky, speculative grade "junk" bond or worse**,** backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had assigned such high ratings to plaintiff's CSMC 2006-3 Certificate was because defendants had fed them falsified information regarding the CSMC 2006-3 Certificates' underlying loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, false borrower debt-to-income ("DTI") ratios, and false OOR percentages.

53. The falsity of the credit ratings set forth in the CSMC 2006-3 Offering Documents is confirmed by subsequent events. Specifically, ***almost 20%[10] of the loans supporting plaintiff's CSMC 2006-3 Certificate are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them.[11] Moreover, plaintiff's "investment grade"

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[9] As explained *infra*, "[t]raditionally, investments holding AAA ratings have had ***a less than 1% probability of incurring defaults***." *See* §VI.D, *infra* (citing Carl Levin & Tom Coburn, *Wall Street and the Financial Crisis: Anatomy of a Financial Collapse*, Majority and Minority Staff Report, Permanent Subcommittee on Investigations, United States Senate, 112th Congress (Apr. 13, 2011) ("Levin-Coburn Report") at 6).

[10] The default rates for all offerings at issue were obtained from trustee reports which were generally issued in or about May 2013.

[11] When used herein to describe the status of a loan or group of loans, the terms "in default," "into default" or "defaulted" are defined to include any loan or group of loans that is delinquent, in bankruptcy, foreclosed or bank owned.

CSMC 2006-3 Certificate is now rated at "junk" status or below. Clearly, plaintiff's CSMC 2006-3 Certificate was not the highly rated, "investment grade" security that defendants represented it to be. The evidence supporting the falsity of the CSMC 2006-3 Certificate's credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Group**	**Current Percentage of Outstanding Loan Balance in Default**	**Moody's Ratings**		**S&P's Ratings**	
				Initial	**Current**	**Initial**	**Current**
2A11	225470P23	Groups 2-5	19.08%	Aaa	Caa2	AAA	D

e. Transfer of Title

The CSMC 2006-3 Offering Documents also represented that the loans underlying the CSMC 2006-3 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering.[12] Specifically, the CSMC 2006-3 Offering Documents stated that "[p]ursuant to the pooling and servicing agreement, on the closing date, the depositor will sell, transfer, assign, set over and otherwise convey without recourse to the trustee in trust for the benefit of the certificateholders all right, title and interest of the depositor in and to each mortgage loan." *See* CSMC 2006-3 Pros. Supp. at S-118. The CSMC 2006-3 Offering Documents also stated that "[i]n connection with such transfer and assignment, the depositor will deliver or cause to be delivered to the trustee, or a custodian for the trustee, a mortgage file for each mortgage loan which will consist of, among other things, the original promissory note, or mortgage note, . . . [and] an assignment in recordable form of the mortgage." *Id.* These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

[12] For the reasons set forth *infra*, transfer of title of the underlying loans was very important to RMBS investors. *See* §§VI.E and IX.D, *infra*.

2. The AMSI 2006-R2 Certificates

54. The Ameriquest Mortgage Securities Trust 2006-R2, Asset-Backed Pass-Through Certificates, Series 2006-R2 ("AMSI 2006-R2 Certificates") were issued pursuant to a Prospectus Supplement dated March 10, 2006. Defendant Credit Suisse Securities, as a primary underwriter, played a critical role in the fraudulent structuring, offering and sale of the AMSI 2006-R2 Certificates.

55. Plaintiff purchased the following AMSI 2006-R2 Certificate:

Original Purchaser	**Tranche Purchased**	**CUSIP**	**Purchase Date**	**Original Face Amount**	**Purchased From**
Fortis Bank	M1	03072SZ73	3/13/2006	$6,500,000	Credit Suisse Securities

56. The decision to purchase the above security was made by Fortis Bank in direct reliance upon the AMSI 2006-R2 Offering Documents, including draft and/or final AMSI 2006-R2 Prospectus Supplements, all of which were distributed by the defendants associated with the AMSI 2006-R2 offering. Fortis Bank's diligent investment processes are described in great detail in §VIII.A, *infra*.

a. Underwriting Guidelines

57. The AMSI 2006-R2 Offering Documents disclosed that 100% of the mortgage loans underlying the plaintiff's AMSI 2006-R2 Certificates were originated or acquired by Ameriquest Mortgage Company ("Ameriquest"). *See* AMSI 2006-R2 Pros. Supp. at S-29.

58. The AMSI 2006-R2 Offering Documents represented that Ameriquest's "Underwriting Guidelines are primarily intended to evaluate: (1) the applicant's credit standing and repayment ability and (2) the value and adequacy of the mortgaged property as collateral." *Id.* The AMSI 2006-R2 Offering Documents also represented that "[d]uring the underwriting process, the Originator . . . calculates the amount of income from all such sources indicated on the loan application, reviews the credit history of the applicant, calculates the debt-to-income ratio to

determine the applicant's ability to repay the loan, and reviews the mortgaged property for compliance with the Underwriting Guidelines." *Id.* at S-30. The AMSI 2006-R2 Offering Documents further represented that "[t]he Underwriting Guidelines . . . require[] . . . (i) an appraisal of the mortgaged property which conforms to the Uniform Standards of Professional Appraisal Practice . . . and (ii) a review of such appraisal." *Id.* Moreover, the AMSI 2006-R2 Offering Documents represented that the maximum allowable debt-to-income ratio is 55%. *Id.* at S-32. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that Ameriquest had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for the borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.8, *infra*.

b. Loan-to-Value Ratios

59. The AMSI 2006-R2 Offering Documents also made certain misrepresentations regarding the LTV ratios associated with the loans supporting the AMSI 2006-R2 Certificate purchased by plaintiff. Specifically, the AMSI 2006-R2 Offering Documents represented that less than half of the loans supporting plaintiff's AMSI 2006-R2 Certificate had LTV ratios over 80%, and that ***none*** of the loans supporting plaintiff's AMSI 2006-R2 Certificate had LTV ratios over 100%.

60. Plaintiff, however, has performed an industry-accepted historical valuation analysis on the actual loans underlying plaintiff's AMSI 2006-R2 Certificate, which reveals that the LTV ratio percentages stated in the AMSI 2006-R2 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the LTV ratio percentages stated in the AMSI 2006-R2 Offering Documents, and the actual percentages that should have been stated according to plaintiff's industry-accepted analysis:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Stated Percentage of Loans Having LTV Ratios Over 80%	Actual Percentage of Loans Having LTV Ratios Over 80%	Stated Percentage of Loans Having LTV Ratios Over 100%	Actual Percentage of Loans Having LTV Ratios Over 100%
M1	03072SZ73	All	47.94%	63.98%	0.00%	25.56%

c. Credit Ratings

61. The AMSI 2006-R2 Offering Documents also represented that the AMSI 2006-R2 Certificate purchased by plaintiff had been assigned certain high "investment grade" credit ratings by S&P and Moody's, indicating that the security was a very strong, safe investment with an extremely low probability of default. Specifically, the AMSI 2006-R2 Offering Documents represented that plaintiff's AMSI 2006-R2 Certificate had been assigned AA+/Aa1 ratings – signifying an extremely safe and stable security.

62. These representations, however, were false and misleading when made. In truth, plaintiff's AMSI 2006-R2 Certificate should not have received AA+/Aa1 credit ratings, because it was ***not*** a safe, "investment grade" security. Rather, as defendants were well aware, plaintiff's AMSI 2006-R2 Certificate was an extremely risky, speculative grade "junk" bond backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had assigned such high ratings to plaintiff's AMSI 2006-R2 Certificate was because defendants had fed them falsified information regarding the AMSI 2006-R2 Certificates' underlying loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, and false borrower DTI ratios.

63. The falsity of the credit ratings set forth in the AMSI 2006-R2 Offering Documents is confirmed by subsequent events. Specifically, ***almost 35% of the loans supporting plaintiff's AMSI 2006-R2 Certificate are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade"

AMSI 2006-R2 Certificate has been significantly downgraded by both ratings agencies. Clearly, plaintiff's AMSI 2006-R2 Certificate was not the highly rated, "investment grade" security defendants represented it to be. The evidence supporting the falsity of the AMSI 2006-R2 Certificate's credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Group**	**Current Percentage of Outstanding Loan Balance in Default**	**Moody's Ratings**		**S&P's Ratings**	
				Initial	**Current**	**Initial**	**Current**
M1	03072SZ73	All	33.89%	Aa1	Caa1	AA+	B-

d. Transfer of Title

64. The AMSI 2006-R2 Offering Documents also represented that the loans underlying the AMSI 2006-R2 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering. Specifically, the AMSI 2006-R2 Offering Documents stated that "[t]he Seller will sell the Mortgage Loans to the Depositor and the Depositor will convey the Mortgage Loans to the Trust in exchange for and concurrently with the delivery of the Certificates," and that "[o]n the Closing Date, the Issuing Entity will acquire . . . the 'Mortgage Loans.'" *See* AMSI 2006-R2 Pros. Supp. at S-6, S-24. The AMSI 2006-R2 Offering Documents also stated that "[t]he Depositor will deliver to the Trustee (or to a custodian on the Trustee's behalf) with respect to each Mortgage Loan (i) the mortgage note endorsed without recourse in blank to reflect the transfer of the Mortgage Loan, (ii) the original mortgage with evidence of recording indicated thereon and (iii) an assignment of the mortgage in recordable form endorsed in blank without recourse, reflecting the transfer of the Mortgage Loan." *Id.* The AMSI 2006-R2 Offering Documents further stated that "[a]t the time of issuance of any series of securities, the depositor will cause the pool of mortgage assets to be included in the related

trust fund to be assigned to the trustee," and that "[t]he depositor will, with respect to each mortgage asset, deliver or cause to be delivered to the trustee, or to the custodian hereinafter referred to":

- With respect to each mortgage loan, (1) the mortgage note endorsed, without recourse, to the order of the trustee or in blank, (2) the original Mortgage with evidence of recording indicated thereon and an assignment of the Mortgage to the trustee or in blank, in recordable form.

See AMSI 2006-R2 Pros. at 26-27. These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

3. The ARMT 2005-8 Certificates

65. The Adjustable Rate Mortgage Trust 2005-8, Adjustable Rate Mortgage-Backed Pass-Through Certificates, Series 2005-8 ("ARMT 2005-8 Certificates") were issued pursuant to a Prospectus Supplement dated July 27, 2005. The following defendants played critical roles in the fraudulent structuring, offering and sale of the ARMT 2005-8 Certificates: CSFBMS (depositor); DLJ Mortgage (seller); and Credit Suisse Securities (underwriter).

66. Plaintiff purchased the following ARMT 2005-8 Certificate:

Original Purchaser	Tranche Purchased	CUSIP	Purchase Date	Original Face Amount	Purchased From
Fortis Ireland	4A11	007036QK5	5/8/2007	$41,230,000	BofA Securities

67. The decision to purchase the above security was made by Fortis Ireland in direct reliance upon the ARMT 2005-8 Offering Documents, including draft and/or final ARMT 2005-8 Prospectus Supplements, all of which were distributed by the defendants associated with the ARMT 2005-8 offering. Fortis Ireland's diligent investment processes are described in great detail in §VIII.B, *infra*.

a. Underwriting Guidelines

68. The ARMT 2005-8 Offering Documents disclosed that all of the mortgage loans underlying the plaintiff's ARMT 2005-8 Certificate were originated or acquired by the seller, defendant DLJ Mortgage. *See* ARMT 2005-8 Pros. Supp. at S-38.

69. With regard to all the mortgage loans underlying the ARMT 2005-8 Certificates, the ARMT 2005-8 Offering Documents stated that they were "originated generally in accordance with the underwriting criteria described" in the prospectus supplement. *Id.* The ARMT 2005-8 Offering Documents represented that "[b]ased on the data provided in the [borrower's loan] application and certain verification (if required), a determination is made by the original lender that the mortgagor's monthly income . . . will be sufficient to enable the mortgagor to meet its monthly obligations on the mortgage loan and other expenses related to the property such as property taxes, utility costs, standard hazard insurance and other fixed obligations other than housing expenses," and that "[g]enerally, scheduled payments on a mortgage loan during the first year of its term plus taxes and insurance and all scheduled payments on obligations that extend beyond ten months equal no more than a specified percentage of the prospective mortgagor's gross income." *Id.* The ARMT 2005-8 Offering Documents also represented that "[t]he adequacy of the mortgaged property as security for repayment of the related mortgage loan will generally have been determined by an appraisal," and that "[a]ll appraisals conform to the Uniform Standards of Professional Appraisal Practice." *Id.* at S-39. The ARMT 2005-8 Offering Documents further represented that "[t]he depositor expects that the originator of each of the loans will have applied, consistent with applicable federal and state laws and regulations, underwriting procedures intended to evaluate the borrower's credit standing and repayment ability and/or the value and adequacy of the related property as collateral." *See* ARMT 2005-8 Pros. at 9. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that the

seller, DLJ Mortgage, had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.1, *infra*.

b. Loan-to-Value Ratios

70. The ARMT 2005-8 Offering Documents also made certain misrepresentations regarding the LTV ratios associated with the loans supporting the ARMT 2005-8 Certificate purchased by plaintiff. Specifically, the ARMT 2005-8 Offering Documents represented that only a very small percentage of the loans supporting plaintiff's ARMT 2005-8 Certificate had LTV ratios over 80%, and that ***none*** of the loans supporting plaintiff's ARMT 2005-8 Certificate had LTV ratios over 100%.

71. Plaintiff, however, has performed an industry-accepted historical valuation analysis on the actual loans underlying plaintiff's ARMT 2005-8 Certificate, which reveals that the LTV ratio percentages stated in the ARMT 2005-8 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the LTV ratio percentages stated in the ARMT 2005-8 Offering Documents, and the actual percentages that should have been stated according to plaintiff's industry-accepted analysis:

Tranche Purchased	CUSIP	Applicable Supporting Loan Groups	Stated Percentage of Loans Having LTV Ratios Over 80%	Actual Percentage of Loans Having LTV Ratios Over 80%	Stated Percentage of Loans Having LTV Ratios Over 100%	Actual Percentage of Loans Having LTV Ratios Over 100%
4A11	007036QK5	Groups 1-6	6.36%	34.78%	0.00%	6.04%

c. Credit Ratings

72. The ARMT 2005-8 Offering Documents also represented that the ARMT 2005-8 Certificate purchased by plaintiff had been assigned certain high "investment grade" credit ratings by

S&P and Moody's, indicating that the security was a very strong, safe investment with an extremely low probability of default. Specifically, the ARMT 2005-8 Offering Documents represented that plaintiff's ARMT 2005-8 Certificate had been assigned AAA/Aaa ratings – the highest, safest credit ratings available, which are in fact the same as, or even higher than, the current credit rating of U.S. Treasury debt.

73. These representations, however, were false and misleading when made. In truth, plaintiff's ARMT 2005-8 Certificate should not have received AAA/Aaa credit ratings, because it was ***not*** a safe, "investment grade" security with "a less than 1% probability of incurring defaults." Rather, as defendants were well aware, plaintiff's ARMT 2005-8 Certificate was an extremely risky, speculative grade "junk" bond, backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had assigned such high ratings to plaintiff's ARMT 2005-8 Certificate was because defendants had fed them falsified information regarding the ARMT 2005-8 Certificates' underlying loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, and false borrower DTI ratios.

74. The falsity of the credit ratings set forth in the ARMT 2005-8 Offering Documents is confirmed by subsequent events. Specifically, ***approximately 19% of the loans supporting plaintiff's ARMT 2005-8 Certificate are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade" ARMT 2005-8 Certificate is now rated at "junk" status. Clearly, plaintiff's ARMT 2005-8 Certificate was not the highly rated, "investment grade" security defendants represented it to be. The evidence supporting the falsity of the ARMT 2005-8 Certificate's credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Current Percentage of Outstanding Loan Balance in Default	Moody's Ratings		S&P's Ratings	
				Initial	Current	Initial	Current
4A11	007036QK5	Groups 1-6	18.88%	Aaa	Caa1	AAA	CCC

d. Transfer of Title

75. The ARMT 2005-8 Offering Documents also represented that the loans underlying the ARMT 2005-8 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering. Specifically, the ARMT 2005-8 Offering Documents stated that "[p]ursuant to the pooling and servicing agreement, on the closing date for the initial mortgage loans and on any subsequent transfer date for the related subsequent mortgage loans, the depositor will sell, transfer, assign, set over and otherwise convey without recourse to the trustee in trust for the benefit of the certificateholders all right, title, and interest of the depositor in and to each mortgage loan, including all principal and interest received on or with respect to such mortgage loans, exclusive of principal and interest due on or prior to the Cut-Off Date." *See* ARMT 2005-8 Pros. Supp. at S-39. The ARMT 2005-8 Offering Documents also stated that:

> In connection with such transfer and assignment, the depositor will deliver or cause to be delivered to the trustee, or a custodian for the trustee, a mortgage file for each mortgage loan which will consist of, among other things, the original promissory note, or mortgage note, and any modification or amendment thereto endorsed in blank without recourse . . . , the original instrument creating a first lien on the related mortgaged property, or the mortgage, . . . [and] an assignment in recordable form of the mortgage . . . .

Id. These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

4. The ARMT 2005-11 Certificates

76. The Adjustable Rate Mortgage Trust 2005-11, Adjustable Rate Mortgage-Backed Pass-Through Certificates, Series 2005-11 ("ARMT 2005-11 Certificates") were issued pursuant to a

Prospectus Supplement dated October 27, 2005. The following defendants played critical roles in the fraudulent structuring, offering and sale of the ARMT 2005-11 Certificates: CSFBMS (depositor); DLJ Mortgage (sponsor/seller); and Credit Suisse Securities (underwriter).

77. Plaintiff purchased the following ARMT 2005-11 Certificate:

Original Purchaser	**Tranche Purchased**	**CUSIP**	**Purchase Date**	**Original Face Amount**	**Purchased From**
Fortis Ireland	2A41	007036VD5	10/30/2006	$29,742,000	Deutsche Bank Securities

78. The decision to purchase the above security was made by Fortis Ireland in direct reliance upon the ARMT 2005-11 Offering Documents, including draft and/or final ARMT 2005-11 Prospectus Supplements, all of which were distributed by the defendants associated with the ARMT 2005-11 offering. Fortis Ireland's diligent investment processes are described in great detail in §VIII.B, *infra*.

a. Underwriting Guidelines

79. The ARMT 2005-11 Offering Documents disclosed that all of the mortgage loans underlying the ARMT 2005-11 Certificates were originated or acquired by the sponsor/seller, defendant DLJ Mortgage. *See* ARMT 2005-11 Pros. Supp. at S-33.

80. With regard to all of the mortgage loans underlying the ARMT 2005-11 Certificates, the ARMT 2005-11 Offering Documents stated that they were "originated generally in accordance with the underwriting criteria described" in the prospectus supplement. *Id.* The ARMT 2005-11 Offering Documents represented that "[b]ased on the data provided in the [borrower's loan] application and certain verification (if required), a determination is made by the original lender that the mortgagor's monthly income . . . will be sufficient to enable the mortgagor to meet its monthly obligations on the mortgage loan and other expenses related to the property such as property taxes, utility costs, standard hazard insurance and other fixed obligations other than housing expenses," and that "[g]enerally, scheduled payments on a mortgage loan during the first year of its term plus taxes

and insurance and all scheduled payments on obligations that extend beyond ten months equal no more than a specified percentage of the prospective mortgagor's gross income." *Id.* at S-34. The ARMT 2005-11 Offering Documents also represented that "[t]he adequacy of the mortgaged property as security for repayment of the related mortgage loan will generally have been determined by an appraisal," and that "[a]ll appraisals conform to the Uniform Standards of Professional Appraisal Practice." *Id.* The ARMT 2005-11 Offering Documents further represented that "[t]he depositor expects that the originator of each of the loans will have applied, consistent with applicable federal and state laws and regulations, underwriting procedures intended to evaluate the borrower's credit standing and repayment ability and/or the value and adequacy of the related property as collateral." *See* ARMT 2005-11 Pros. at 9. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that the seller, DLJ Mortgage, had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for the borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.1, *infra*.

b. Loan-to-Value Ratios

81. The ARMT 2005-11 Offering Documents also made certain misrepresentations regarding the LTV ratios associated with the loans supporting the ARMT 2005-11 Certificate purchased by plaintiff. Specifically, the ARMT 2005-11 Offering Documents represented that less than 10% of the loans supporting plaintiff's ARMT 2005-11 Certificate had LTV ratios over 80%, and that ***none*** of the loans supporting plaintiff's ARMT 2005-11 Certificate had LTV ratios over 100%.

82. Plaintiff, however, has performed an industry-accepted historical valuation analysis on the actual loans underlying plaintiff's ARMT 2005-11 Certificate, which reveals that the LTV

ratio percentages stated in the ARMT 2005-11 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the LTV ratio percentages stated in the ARMT 2005-11 Offering Documents, and the actual percentages that should have been stated according to plaintiff's industry-accepted analysis:

Tranche Purchased	CUSIP	Applicable Supporting Loan Groups	Stated Percentage of Loans Having LTV Ratios Over 80%	Actual Percentage of Loans Having LTV Ratios Over 80%	Stated Percentage of Loans Having LTV Ratios Over 100%	Actual Percentage of Loans Having LTV Ratios Over 100%
2A41	007036VD5	Groups 1-4	8.21%	43.73%	0.00%	8.80%

c. Owner Occupancy Rates

83. The ARMT 2005-11 Offering Documents also made certain misrepresentations regarding the OOR percentages associated with the loans supporting the ARMT 2005-11 Certificate purchased by plaintiff. Specifically, the ARMT 2005-11 Offering Documents represented that a large percentage of the loans supporting plaintiff's ARMT 2005-11 Certificate were issued to borrowers that actually lived in the properties serving as collateral for their loans, significantly decreasing the likelihood that such borrowers would default on their loans.

84. Plaintiff, however, has performed an in-depth investigation of the actual borrowers, loans and properties underlying plaintiff's ARMT 2005-11 Certificate, which reveals that the OOR percentages stated in the ARMT 2005-11 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the OOR percentages stated in the ARMT 2005-11 Offering Documents, and the actual percentages that should have been stated according to plaintiff's investigation:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Primary Residence Percentage Stated in the Offering Documents	Actual Primary Residence Percentage	Percent Overstatement of Actual Primary Residence Percentage
2A41	007036VD5	Groups 1-4	83.57%	65.98%	26.65%

d. Credit Ratings

85. The ARMT 2005-11 Offering Documents also represented that the ARMT 2005-11 Certificate purchased by plaintiff had been assigned certain high "investment grade" credit ratings by S&P and Moody's, indicating that the security was a very strong, safe investment with an extremely low probability of default. Specifically, the ARMT 2005-11 Offering Documents represented that plaintiff's ARMT 2005-11 Certificate had been assigned AAA/Aaa ratings – the highest, safest credit ratings available, which are in fact the same as, or even higher than, the current credit rating of U.S. Treasury debt.

86. These representations, however, were false and misleading when made. In truth, plaintiff's ARMT 2005-11 Certificate should not have received AAA/Aaa credit ratings, because it was ***not*** a safe, "investment grade" security with "a less than 1% probability of incurring defaults." Rather, as defendants were well aware, plaintiff's ARMT 2005-11 Certificate was an extremely risky, speculative grade "junk" bond or worse, backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had assigned such high ratings to plaintiff's ARMT 2005-11 Certificate was because defendants had fed them falsified information regarding the ARMT 2005-11 Certificates' underlying loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, and false borrower DTI ratios.

87. The falsity of the credit ratings set forth in the ARMT 2005-11 Offering Documents is confirmed by subsequent events. Specifically, ***more than 27% of the loans supporting plaintiff's ARMT 2005-11 Certificate are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade" ARMT 2005-11 Certificate is now rated at "junk" status or below. Clearly, plaintiff's ARMT

2005-11 Certificate was not the highly rated, "investment grade" security defendants represented it to be. The evidence supporting the falsity of the ARMT 2005-11 Certificate's credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Group**	**Current Percentage of Outstanding Loan Balance in Default**	**Moody's Ratings**		**S&P's Ratings**	
				Initial	**Current**	**Initial**	**Current**
2A41	007036VD5	Groups 1-4	27.56%	Aaa	Caa2	AAA	D

e. Transfer of Title

88. The ARMT 2005-11 Offering Documents also represented that the loans underlying the ARMT 2005-11 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering. Specifically, the ARMT 2005-11 Offering Documents stated that "[p]ursuant to the pooling and servicing agreement, on the closing date the depositor will sell, transfer, assign, set over and otherwise convey without recourse to the trustee in trust for the benefit of the certificateholders all right, title and interest of the depositor in and to each mortgage loan, including all principal and interest received on or with respect to such mortgage loans, exclusive of principal and interest due on or prior to the Cut-off Date." *See* ARMT 2005-11 Pros. Supp. at S-34. The ARMT 2005-11 Offering Documents also stated that:

> In connection with such transfer and assignment, the depositor will deliver or cause to be delivered to the trustee, or a custodian for the trustee, a mortgage file for each mortgage loan which will consist of, among other things, the original promissory note, or mortgage note, and any modification or amendment thereto endorsed in blank without recourse . . . , the original instrument creating a first lien on the related mortgaged property, or the mortgage, . . . [and] an assignment in recordable form of the mortgage . . . .

Id. at S-34–S-35. These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

5. The FNLC 2007-1 Certificates

89. The First NLC Trust 2007-1, Mortgage-Backed Certificates, Series 2007-1 ("FNLC 2007-1 Certificates") were issued pursuant to an Offering Circular dated June 25, 2007. Defendant Credit Suisse Securities, as a primary underwriter, played a critical role in the fraudulent structuring, offering and sale of the FNLC 2007-1 Certificates.

90. Plaintiff purchased the following FNLC 2007-1 Certificates:

Original Purchaser	Tranche Purchased	CUSIP	Purchase Date	Original Face Amount	Purchased From
Fortis Cayman	A4	32115BAD2	6/25/2007	$12,000,000	Credit Suisse Securities
Fortis Cayman	A4	32115BAD2	6/25/2007	$12,000,000	Credit Suisse Securities
Fortis Cayman	M2	32115BAF7	6/25/2007	$4,000,000	Credit Suisse Securities
Fortis Cayman	M2	32115BAF7	6/25/2007	$3,000,000	Credit Suisse Securities
Fortis Cayman	M2	32115BAF7	6/27/2007	$4,310,000	Credit Suisse Securities
Fortis Cayman	M3	32115BAG5	6/25/2007	$4,000,000	Credit Suisse Securities

91. The decision to purchase the above securities was made by Fortis Cayman in direct reliance upon the FNLC 2007-1 Offering Documents, including draft and/or final FNLC 2007-1 Offering Circulars, all of which were distributed by the defendants associated with the FNLC 2007-1 offering. Fortis Cayman's diligent investment processes are described in great detail in §VIII.C, *infra*.

a. Underwriting Guidelines

92. The FNLC 2007-1 Offering Documents disclosed that 100% of the FNLC 2007-1 Certificates' underlying loans were originated or acquired by the sponsor, First NLC Financial Services, LLC ("First NLC"). *See* FNLC 2007-1 Offering Circular ("Off. Circ.") at 5, 28.

93. The FNLC 2007-1 Offering Documents represented that First NLC originated the mortgage loans in accordance with underwriting guidelines "designed to evaluate a borrower's credit

history, his or her capacity, willingness and ability to repay the loan and the value and adequacy of the collateral." *Id.* The FNLC 2007-1 Offering Documents also represented that as part of its underwriting process, "First NLC also requires an appraisal," "requires its underwriters to review all third-party appraisals," and "[i]f the underwriters are not satisfied with the accuracy of the third-party appraisal, they will request that a senior credit officer review the appraisal." *Id.* The FNLC 2007-1 Offering Documents further represented that "First NLC reviews the loan applicant's source of income, calculate [sic] the amount of income from sources indicated on the loan application or similar documentation and calculate [sic] debt-to-income ratios to determine the applicant's ability to repay the loan." *Id.* at 30. Moreover, the FNLC 2007-1 Offering Documents represented that the maximum allowable debt-to-income ratio is 50% to 55%. *Id.* at 32-35. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that First NLC had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for the borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.6, *infra*.

b. Credit Ratings

94. The FNLC 2007-1 Offering Documents also represented that the FNLC 2007-1 Certificates purchased by plaintiff had been assigned certain high "investment grade" credit ratings by S&P and Moody's, indicating that the securities were very strong, safe investments with an extremely low probability of default. Specifically, the FNLC 2007-1 Offering Documents represented that plaintiff's FNLC 2007-1 Certificates had been assigned AAA/Aaa, AA/Aa2 and AA/Aa3 ratings, respectively – signifying extremely safe and stable securities.

95. These representations, however, were false and misleading when made. In truth, plaintiff's FNLC 2007-1 Certificates should not have received AAA/Aaa, AA/Aa2 and AA/Aa3

credit ratings, because they were ***not*** safe, "investment grade" securities. Rather, as defendants were well aware, plaintiff's FNLC 2007-1 Certificates were extremely risky, speculative grade "junk" bonds or worse, backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had assigned such high ratings to plaintiff's FNLC 2007-1 Certificates was because defendants had fed them falsified information regarding the FNLC 2007-1 Certificates' underlying loans, including, without limitation, false loan underwriting guidelines, false borrower FICO scores, and false borrower DTI ratios.

96. The falsity of the credit ratings set forth in the FNLC 2007-1 Offering Documents is confirmed by subsequent events. Specifically, ***more than 33% of the loans supporting plaintiff's FNLC 2007-1 Certificates are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade" FNLC 2007-1 Certificates are now rated at "junk" status or below. Clearly, plaintiff's FNLC 2007-1 Certificates were not the highly rated, "investment grade" securities defendants represented them to be. The evidence supporting the falsity of the FNLC 2007-1 Certificates' credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Group**	**Current Percentage of Outstanding Loan Balance in Default**	**Moody's Ratings**		**S&P's Ratings**	
				Initial	**Current**	**Initial**	**Current**
A4	32115BAD2	All	33.67%	Aaa	Ca	AAA	CCC
M2	32115BAF7	All	33.67%	Aa2	WR	AA	D
M3	32115BAG5	All	33.67%	Aa3	WR	AA	D

c. Transfer of Title

97. The FNLC 2007-1 Offering Documents also represented that the loans underlying the FNLC 2007-1 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering. Specifically, the FNLC 2007-1 Offering Documents stated that "[o]n the Closing Date, the Sponsor will transfer to the

Depositor and the Depositor will transfer to the Issuing Entity all of its right, title and interest in and to each Mortgage Loan, the related mortgage note, Mortgage, assignment of mortgage in recordable form in blank or to order of the Trustee (or its nominee) and other related documents . . . including all scheduled payments with respect to each such Mortgage Loan due after the Cut-off date." *See* FNLC 2007-1 Off. Circ. at 43. The Offering Documents also represented that "the Depositor will deliver or cause to be delivered to the Trustee (or the Custodian on behalf of the Trustee) the mortgage note endorsed to the Trustee or in blank on behalf of the certificateholders, together with the related mortgage, any assignment of mortgage . . . any assumption or modification agreements and a copy of the lender's title insurance policy." *Id.* These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

6. The GEWMC 2005-2 Certificates

98. The GE-WMC Asset-Backed Pass-Through Certificates, Series 2005-2 ("the GEWMC 2005-2 Certificates") were issued pursuant to a Prospectus Supplement dated December 14, 2005. Defendant Credit Suisse Securities, as a primary underwriter, played a critical role in the fraudulent structuring, offering and sale of the GEWMC 2005-2 Certificates.

99. Plaintiff and/or its assignors purchased the following GEWMC 2005-2 Certificate:

Plaintiff	Tranche Purchased	CUSIP	Purchase Date	Original Face Amount	Purchased From
Fortis Bank	A2C	367910AU0	12/13/2005	$20,000,000	Credit Suisse Securities

100. The decision to purchase the above security was made by Fortis Bank in direct reliance upon the GEWMC 2005-2 Offering Documents, including draft and/or final GEWMC 2005-2 Prospectus Supplements, all of which were distributed by the defendants associated with the

GEWMC 2005-2 offering. Fortis Bank's diligent investment processes are described in great detail in §VIII.A, *infra*.

a. Underwriting Guidelines

101. The GEWMC 2005-2 Offering Documents disclosed that 100% of the GEWMC 2005-2 Certificates' underlying loans were originated or acquired by WMC Mortgage Corp. ("WMC"). *See* GEWMC 2005-2 Pros. Supp. at S-27.

102. With regard to all of the loans underlying the GEWMC 2005-2 Certificates, the GEWMC 2005-2 Offering Documents represented that "[t]he mortgage loans have been either (i) originated generally in accordance with the underwriting guidelines established by WMC . . . or (ii) purchased from correspondent lenders after being re-underwritten by WMC . . . , generally in accordance with the Underwriting Guidelines." *Id.* The GEWMC 2005-2 Offering Documents also represented that "[t]he Underwriting Guidelines are primarily intended to (a) determine that the borrower has the ability to repay the mortgage loan in accordance with its terms and (b) determine that the related mortgaged property will provide sufficient value to recover the investment if the borrower defaults." *Id.* The GEWMC 2005-2 Offering Documents also represented that WMC "verifies the loan applicant's eligible sources of income for all products, calculates the amount of income from eligible sources indicated on the loan application, reviews the credit and mortgage payment history of the applicant and calculates the Debt Ratio to determine the applicant's ability to repay the loan, and reviews the mortgaged property for compliance with the Underwriting Guidelines." *Id.* The GEWMC 2005-2 Offering Documents further represented that WMC's underwriting guidelines required "(1) an appraisal of the mortgaged property which conforms to Uniform Standards of Professional Appraisal Practice and (2) an audit of such appraisal by a WMC[-approved] . . . appraiser or by WMC['s] . . . in-house collateral auditors . . . and such audit may in certain circumstances consist of a second appraisal, a field review, a desk review or an automated

valuation model." *Id.* Moreover, the GEWMC 2005-2 Offering Documents represented that the maximum allowable DTI ratio under WMC's underwriting guidelines is 50% to 55%. *Id.* at S-30-S-37. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that WMC had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for the borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.5, *infra*.

b. Credit Ratings

103. The GEWMC 2005-2 Offering Documents also represented that the GEWMC 2005-2 Certificate purchased by plaintiff had been assigned certain high "investment grade" credit ratings by S&P and Moody's, indicating that the security was a very strong, safe investment with an extremely low probability of default. Specifically, the GEWMC 2005-2 Offering Documents represented that plaintiff's GEWMC 2005-2 Certificate had been assigned AAA/Aaa ratings – the highest, safest credit ratings available, which are in fact the same as, or even higher than, the current credit rating of U.S. Treasury debt.

104. These representations, however, were false and misleading when made. In truth, plaintiff's GEWMC 2005-2 Certificate should not have received AAA/Aaa credit ratings, because it was ***not*** a safe, "investment grade" security with "a less than 1% probability of incurring defaults." Rather, as defendants were well aware, plaintiff's GEWMC 2005-2 Certificate was an extremely risky, speculative grade "junk" bond backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had assigned such high ratings to plaintiff's GEWMC 2005-2 Certificate was because defendants had fed them falsified information regarding the GEWMC 2005-2 Certificates' underlying loans, including, without limitation, false loan underwriting guidelines, false borrower FICO scores and false borrower DTI ratios.

105. The falsity of the credit ratings set forth in the GEWMC 2005-2 Offering Documents is confirmed by subsequent events. Specifically, ***more than 34%[13] of the loans supporting plaintiff's GEWMC 2005-2 Certificate are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade" GEWMC 2005-2 Certificate is now rated at "junk" status. Clearly, plaintiff's GEWMC 2005-2 Certificate was not the highly rated, "investment grade" security that defendants represented it to be. The evidence supporting the falsity of the GEWMC 2005-2 Certificate's credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Group**	**Current Percentage of Outstanding Loan Balance in Default**	**Moody's Ratings**		**S&P's Ratings**	
				Initial	**Current**	**Initial**	**Current**
A2C	367910AU0	All	34.17%	Aaa	Caa1	AAA	CCC

c. Transfer of Title

106. The GEWMC 2005-2 Offering Documents also represented that the loans underlying the GEWMC 2005-2 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering. Specifically, the GEWMC 2005-2 Offering Documents represented that "[t]he mortgage loan seller will sell the mortgage loans to the depositor and the depositor will convey the mortgage loans to the trust fund in exchange for and concurrently with the delivery of the certificates," and that "approximately 96.2% of the loans therein (by scheduled principal balance) are expected to be delivered to the trust on the closing date." *See* GEWMC 2005-2 Pros. Supp. at S-6, S-24. The GEWMC 2005-2 Offering Documents also stated that:

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13 The default rate stated herein was obtained from a trustee report issued in or about June 2013.

> The depositor will deliver to the trustee (or to a custodian on the trustee's behalf) with respect to each mortgage loan included in the trust (i) the mortgage note endorsed without recourse in blank to reflect the transfer of the mortgage loan, (ii) the original mortgage with evidence of recording indicated thereon and (iii) an assignment of the mortgage in recordable form endorsed in blank without recourse, reflecting the transfer of the mortgage loan.

Id. at S-66. The GEWMC 2005-2 Offering Documents further stated that "[a]t the time of issuance of any series of securities, the depositor will cause the pool of mortgage assets to be included in the related trust fund to be assigned to the trustee," and that "[t]he depositor will, with respect to each mortgage asset, deliver or cause to be delivered to the trustee, or to the custodian hereinafter referred to:"

- With respect to each mortgage loan, (1) the mortgage note endorsed, without recourse, to the order of the trustee or in blank, (2) the original Mortgage with evidence of recording indicated thereon and an assignment of the Mortgage to the trustee or in blank, in recordable form.

See GEWMC 2005-2 Pros. at 27-28. These statements were false and misleading. The depositor failed to legally and properly transfer the promissory notes and security instruments to the trust. *See* §VI.E, *infra*.

7. The HEAT 2007-3 Certificates

107. The Home Equity Asset Trust 2007-3, Home Equity Pass-Through Certificates, Series 2007-3 ("HEAT 2007-3 Certificates") were issued pursuant to a Prospectus Supplement dated April 30, 2007. The following defendants played critical roles in the fraudulent structuring, offering and sale of the HEAT 2007-3 Certificates: CSFBMS (depositor); DLJ Mortgage (sponsor/seller); Credit Suisse Securities (underwriter).

108. Plaintiff and/or its assignors purchased the following HEAT 2007-3 Certificates:

Original Purchaser	**Tranche Purchased**	**CUSIP**	**Purchase Date**	**Original Face Amount**	**Purchased From**
Fortis Cayman	M2	43710TAG2	4/26/2007	$2,750,000	Credit Suisse Securities
Fortis Cayman	M2	43710TAG2	5/1/2007	$1,000,000	Credit Suisse

					Securities
Fortis Cayman	M1	43710TAF4	5/1/2007	$2,750,000	Credit Suisse Securities

109. The decision to purchase the above securities was made by Fortis Cayman in direct reliance upon the HEAT 2007-3 Offering Documents, including draft and/or final HEAT 2007-3 Prospectus Supplements, all of which were distributed by the defendants associated with the HEAT 2007-3 offering. Fortis Cayman's diligent investment processes are described in great detail in §VIII.C, *infra*.

a. Underwriting Guidelines

110. The HEAT 2007-3 Offering Documents disclosed that approximately 33.6% of the HEAT 2007-3 Certificates' underlying loans were acquired by the sponsor, DLJ Mortgage, from loan originator Decision One Mortgage Company, LLC ("Decision One"); approximately 20.6% of the HEAT 2007-3 Certificates' underlying loans were acquired by the sponsor, DLJ Mortgage, from loan originator EquiFirst Corporation ("EquiFirst"); approximately 18.3% of the HEAT 2007-3 Certificates' underlying loans were acquired by the sponsor, DLJ Mortgage, from loan originator Wilmington Finance, Inc. ("Wilmington"); and the remainder of the HEAT 2007-3 Certificates' underlying loans were originated by various unidentified originators, each of whom "originated or acquired no more than 10% of the mortgage loans." *See* HEAT 2007-3 Pros. Supp. at S-34.

111. With regard to the Decision One loans, the HEAT 2007-3 Offering Documents represented that they were originated in accordance with underwriting guidelines "primarily intended to assess the borrower's ability to repay the mortgage loan, to assess the value of the mortgaged property and to evaluate the adequacy of the property as collateral for the mortgage loan." *Id.* The HEAT 2007-3 Offering Documents also represented that "[w]hile Decision One['s] . . . primary consideration in underwriting a mortgage loan is the value of the mortgaged property, Decision One . . . also considers, among other things, a mortgagor's credit history, repayment ability and debt

service to income ratio, as well as the type and use of the mortgaged property." *Id.* The HEAT 2007-3 Offering Documents further represented that "[m]ortgaged properties that are to secure mortgage loans are appraised by qualified independent appraisers," and that Decision One's underwriting guidelines require "Decision One['s] . . . underwriters to be satisfied that the value of the property being financed, as indicated by an appraisal and a review of the appraisal, currently supports the outstanding loan balance." *Id.* at S-37. Moreover, the HEAT 2007-3 Offering Documents represented that "Decision One . . . reviews the applicant's source of income, calculates the amount of income from sources indicated on the loan application or similar documentation, reviews the credit history of the applicant, calculates the debt service to income ratio to determine the applicant's ability to repay the loan, reviews the type and use of the property being financed, and reviews the property." *Id.* As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that Decision One had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for the borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.1, *infra*.

112. With regard to the EquiFirst loans, the HEAT 2007-3 Offering Documents represented that they were originated in accordance with underwriting standards "primarily intended to assess the ability and willingness of the borrower to repay the debt and to evaluate the adequacy of the mortgaged property as collateral for the mortgage loan." *See* HEAT 2007-3 Pros. Supp. at S-40. The HEAT 2007-3 Offering Documents also represented that "EquiFirst['s] . . . guidelines . . . generally require an appraisal of the mortgaged property which conforms to Freddie Mac and/or Fannie Mae standards." *Id.* at S-41. The HEAT 2007-3 Offering Documents further represented that "the borrower's income, credit and equity are used to assess the likelihood that the applicant will

satisfy the repayment conditions of the loan." *Id.* at S-42. Additionally, the HEAT 2007-3 Offering Documents represented that "[a]ll loans are subject to EquiFirst['s] . . . appraisal review process," and that "all loans are reviewed to verify credit grading, documentation compliance and data accuracy," which "loan review confirms the existence and accuracy of legal documents, credit documentation, appraisal analysis and underwriting decision." *Id.* at S-41-S-42. Moreover, the HEAT 2007-3 Offering Documents represented that the maximum allowable DTI ratio under EquiFirst's underwriting guidelines is 50% to 55%. *Id.* at S-42-S-43. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that EquiFirst had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for the borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.1, *infra*.

113. With regard to the Wilmington loans and the loans originated by various unidentified originators, the HEAT 2007-3 Offering Documents represented that they were originated according to the General Underwriting Guidelines described in the prospectus supplement. *See* HEAT 2007-3 Pros. Supp. at S-35. Specifically, the HEAT 2007-3 Offering Documents represented that, "[b]ased on the data provided in the [borrower's] application and certain verifications (if required), a determination will have been made by the original lender that the mortgagor's monthly income . . . should be sufficient to enable the mortgagor 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)," and that "[g]enerally, 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 mortgagor's gross income." *Id.* The HEAT 2007-3 Offering Documents also represented that "[t]he adequacy of the

mortgaged property as security for repayment of the related mortgage loan will generally have been determined by an appraisal." *Id.* at S-36. The HEAT 2007-3 Offering Documents further represented that "[t]he depositor expects that the originator of each of the loans will have applied, consistent with applicable federal and state laws and regulations, underwriting procedures intended to evaluate the borrower's credit standing and repayment ability and/or the value and adequacy of the related property as collateral." *See* HEAT 2007-3 Pros. at 30. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that Wilmington and the various unidentified originators had completely abandoned their stated underwriting guidelines and were simply seeking to originate as many loans as possible, ***without*** any regard for the borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.7, *infra*.

b. Loan-to-Value Ratios

114. The HEAT 2007-3 Offering Documents also made certain misrepresentations regarding the LTV ratios associated with the loans supporting the HEAT 2007-3 Certificates purchased by plaintiff and/or their assigning entities. Specifically, the HEAT 2007-3 Offering Documents represented that just over one-third of the loans supporting plaintiff's HEAT 2007-3 Certificates had LTV ratios over 80%, and that ***none*** of the loans supporting plaintiff's HEAT 2007-3 Certificates had LTV ratios over 100%.

115. Plaintiff, however, has performed an industry-accepted historical valuation analysis on the actual loans underlying plaintiff's HEAT 2007-3 Certificates, which reveals that the LTV ratio percentages stated in the HEAT 2007-3 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the LTV ratio percentages stated in the HEAT 2007-3 Offering Documents, and the actual percentages that should have been stated according to plaintiff's industry-accepted analysis:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Stated Percentage of Loans Having LTV Ratios Over 80%	Actual Percentage of Loans Having LTV Ratios Over 80%	Stated Percentage of Loans Having LTV Ratios Over 100%	Actual Percentage of Loans Having LTV Ratios Over 100%
M2	43710TAG2	All	36.55%	62.97%	0.00%	21.64%
M1	43710TAF4	All	36.55%	62.97%	0.00%	21.64%

c. Owner Occupancy Rates

116. The HEAT 2007-3 Offering Documents also made certain misrepresentations regarding the OOR percentages associated with the loans supporting the HEAT 2007-3 Certificates purchased by plaintiff and/or its assigning entities. Specifically, the HEAT 2007-3 Offering Documents represented that a large percentage of the loans supporting plaintiff's HEAT 2007-3 Certificates were issued to borrowers that actually lived in the properties serving as collateral for their loans, significantly decreasing the likelihood that those borrowers would default on their loans.

117. Plaintiff, however, has performed an in-depth investigation of the actual borrowers, loans and properties underlying plaintiff's HEAT 2007-3 Certificates, which reveals that the OOR percentages stated in the HEAT 2007-3 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the OOR percentages stated in the HEAT 2007-3 Offering Documents, and the actual percentages that should have been stated according to plaintiff's investigation:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Primary Residence Percentage Stated in the Offering Documents	Actual Primary Residence Percentage	Percent Overstatement of Actual Primary Residence Percentage
M2	43710TAG2	All	95.36%	86.12%	10.73%
M1	43710TAF4	All	95.36%	86.12%	10.73%

d. Credit Ratings

118. The HEAT 2007-3 Offering Documents also represented that the HEAT 2007-3 Certificates purchased by plaintiff had been assigned certain high "investment grade" credit ratings

by S&P and Moody's, indicating that the securities were very strong, safe investments with an extremely low probability of default. Specifically, the HEAT 2007-3 Offering Documents represented that plaintiff's HEAT 2007-3 Certificates had been assigned AA+/Aa1 and AA+/Aa2 ratings – signifying extremely safe and stable securities.

119. These representations, however, were false and misleading when made. In truth, plaintiff's HEAT 2007-3 Certificates should not have received AA+/Aa1 and AA+/Aa2 credit ratings, because they were ***not*** safe, "investment grade" securities. Rather, as defendants were well aware, plaintiff's HEAT 2007-3 Certificates were extremely risky, speculative grade "junk" bonds or worse, backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had assigned such high ratings to plaintiff's HEAT 2007-3 Certificates was because defendants had fed them falsified information regarding the HEAT 2007-3 Certificates' underlying loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, false borrower DTI ratios, and false OOR percentages.

120. The falsity of the credit ratings set forth in the HEAT 2007-3 Offering Documents is confirmed by subsequent events. Specifically, ***approximately 38% of the loans supporting plaintiff's HEAT 2007-3 Certificates are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade" HEAT 2007-3 Certificates are now rated at "junk" status or below. Clearly, plaintiff's HEAT 2007-3 Certificates were not the highly rated, "investment grade" securities defendants represented them to be. The evidence supporting the falsity of the HEAT 2007-3 Certificates' credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Group**	**Current Percentage of Outstanding Loan Balance in Default**	**Moody's Ratings**		**S&P's Ratings**	
				Initial	**Current**	**Initial**	**Current**
M2	43710TAG2	All	37.89%	Aa2	WR	AA+	D

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Current Percentage of Outstanding Loan Balance in Default	Moody's Ratings		S&P's Ratings	
				Initial	Current	Initial	Current
M1	43710TAF4	All	37.89%	Aa1	C	AA+	D

e. Transfer of Title

121. The HEAT 2007-3 Offering Documents also represented that the loans underlying the HEAT 2007-3 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering. Specifically, the HEAT 2007-3 Offering Documents stated that "on the closing date for the initial mortgage loans and on any subsequent transfer date for the subsequent mortgage loans, the depositor will sell, transfer, assign, set over and otherwise convey without recourse to the trustee in trust for the benefit of the certificateholders all right, title and interest of the depositor in and to each mortgage loan." *See* HEAT 2007-3 Pros. Supp. at S-33. The Offering Documents further represented that "the depositor will deliver or cause to be delivered to the trustee, or a custodian for the trustee, a mortgage file for each mortgage loan which will consist of, among other things, the original promissory note, or mortgage note, and any modification or amendment thereto endorsed in blank without recourse . . . , the original instrument . . . or the mortgage, with evidence of recording indicated thereon, [and] an assignment in recordable form of the mortgage." *See* HEAT 2007-3 Pros. at 50-51. These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

8. The INABS 2006-C Certificates

122. The Home Equity Mortgage Loan Asset-Backed Trust, Series INABS 2006-C Certificates ("INABS 2006-C Certificates") were issued pursuant to a Prospectus Supplement dated June 14, 2006. Defendant Credit Suisse Securities, as a primary underwriter, played a critical role in the fraudulent structuring, offering and sale of the INABS 2006-C Certificates.

123. Plaintiff purchased the following INABS 2006-C Certificate:

Original Purchaser	Tranche Purchased	CUSIP	Purchase Date	Original Face Amount	Purchased From
Scaldis	3A4	43709BAF6	6/12/2006	$15,000,000	Credit Suisse Securities

124. The decision to purchase the above security was made by Fortis Bank, on behalf of Scaldis, in direct reliance upon the INABS 2006-C Offering Documents, including draft and/or final INABS 2006-C Prospectus Supplements, all of which were distributed by the defendants associated with the INABS 2006-C offering. Fortis Bank's diligent investment processes are described in great detail in §VIII.A, *infra*.

a. Underwriting Guidelines

125. The INABS 2006-C Offering Documents disclosed that 100% of the INABS 2006-C Certificates' underlying loans were originated by the sponsor/seller IndyMac Bank, F.S.B. ("IndyMac"). *See* INABS 2006-C Pros. Supp. at S-33.

126. The INABS 2006-C Offering Documents represented that "[e]ach of the mortgage loans were underwritten or re-underwritten by IndyMac," and that "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." *Id.* at S-34. The INABS 2006-C Offering Documents also represented that "maximum total monthly debt payments-to income ratios" may be applied. *Id.* at S-35. The INABS 2007-C Offering Documents further represented that "[t]o determine the adequacy of the property to be used as collateral, an appraisal is generally made of the subject property in accordance with the Uniform Standards of Profession Appraisal Practice." *Id.* Additionally, the INABS 2007-C Offering Documents represented that "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" may be

"considered in determining loan eligibility." *Id*. Additionally, the INABS 2007-C Offering Documents represented that "[u]nderwriting standards are applied by or on behalf of a lender to evaluate the borrower's credit standing and repayment ability, and the value and adequacy of the Property as collateral." *See* INABS 2006-C Pros. at 35. Moreover, the INABS 2007-C Offering Documents represented that "[o]nce 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 monthly housing expenses and other financial obligations and monthly living expenses and to meet the borrower's monthly obligations on the proposed mortgage loan (generally determined on the basis of the monthly payments due in the year of origination) and other expenses related to the Property such as property taxes and hazard insurance." *Id.* As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that IndyMac had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for the borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.3, *infra*.

b. Loan-to-Value Ratios

127. The INABS 2006-C Offering Documents also made certain misrepresentations regarding the LTV ratios associated with the loans supporting the INABS 2006-C Certificate purchased by plaintiff. Specifically, the INABS 2006-C Offering Documents represented that just over one-third of the loans supporting plaintiff's INABS 2006-C Certificate had LTV ratios over 80%, and that ***none*** of the loans supporting plaintiff's INABS 2006-C Certificate had LTV ratios over 100%.

128. Plaintiff, however, has performed an industry-accepted historical valuation analysis on the actual loans underlying plaintiff's INABS 2006-C Certificate, which reveals that the LTV

ratio percentages stated in the INABS 2006-C Offering Documents were materially false ***at the time they were made***. The following chart summarizes the LTV ratio percentages stated in the INABS 2006-C Offering Documents, and the actual percentages that should have been stated according to plaintiff's industry-accepted analysis:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Stated Percentage of Loans Having LTV Ratios Over 80%	Actual Percentage of Loans Having LTV Ratios Over 80%	Stated Percentage of Loans Having LTV Ratios Over 100%	Actual Percentage of Loans Having LTV Ratios Over 100%
3A4	43709BAF6	All	34.89%	52.67%	0.00%	16.04%

c. Owner Occupancy Rates

129. The INABS 2006-C Offering Documents also made certain misrepresentations regarding the OOR percentages associated with the loans supporting the INABS 2006-C Certificate purchased by plaintiff. Specifically, the INABS 2006-C Offering Documents represented that a large percentage of the loans supporting plaintiff's INABS 2006-C Certificate were issued to borrowers that actually lived in the properties serving as collateral for their loans, significantly decreasing the likelihood that such borrowers would default on their loans.

130. Plaintiff, however, has performed an in-depth investigation of the actual borrowers, loans and properties underlying plaintiff's INABS 2006-C Certificate, which reveals that the OOR percentages stated in the INABS 2006-C Offering Documents were materially false ***at the time they were made***. The following chart summarizes the OOR percentages stated in the INABS 2006-C Offering Documents, and the actual percentages that should have been stated according to plaintiff's investigation:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Primary Residence Percentage Stated in the Offering Documents	Actual Primary Residence Percentage	Percent Overstatement of Actual Primary Residence Percentage
3A4	43709BAF6	All	92.94%	83.91%	10.76%

d. Credit Ratings

131. The INABS 2006-C Offering Documents also represented that the INABS 2006-C Certificate purchased by plaintiff had been assigned certain high "investment grade" credit ratings by S&P and Moody's, indicating that the security was a very strong, safe investment with an extremely low probability of default. Specifically, the INABS 2006-C Offering Documents represented that plaintiff's INABS 2006-C Certificate had been assigned AAA/Aaa ratings – the highest, safest credit ratings available, which are in fact the same as, or even higher than, the current credit rating of U.S. Treasury debt.

132. These representations, however, were false and misleading when made. In truth, plaintiff's INABS 2006-C Certificate should not have received AAA/Aaa credit ratings, because it was ***not*** a safe, "investment grade" security with "a less than 1% probability of incurring defaults." Rather, as defendants were well aware, plaintiff's INABS 2006-C Certificate was an extremely risky, speculative grade "junk" bond backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had assigned such high ratings to plaintiff's INABS 2006-C Certificate was because defendants had fed them falsified information regarding the INABS 2006-C Certificate's underlying loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, false borrower DTI ratios, and false OOR percentages.

133. The falsity of the credit ratings set forth in the INABS 2006-C Offering Documents is confirmed by subsequent events. Specifically, ***more than 43% of the loans supporting plaintiff's INABS 2006-C Certificate are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade" INABS 2006-C Certificate is now rated at "junk" status. Clearly, plaintiff's INABS 2006-C

Certificate was not the highly rated, "investment grade" security defendants represented it to be. The evidence supporting the falsity of the INABS 2006-C Certificate's credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Group**	**Current Percentage of Outstanding Loan Balance in Default**	**Moody's Ratings**		**S&P's Ratings**	
				Initial	**Current**	**Initial**	**Current**
3A4	43709BAF6	All	43.46%	Aaa	Ca	AAA	CCC

e. Transfer of Title

134. The INABS 2006-C Offering Documents also represented that the loans underlying the INABS 2006-C Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering. Specifically, the INABS 2006-C Offering Documents stated that "on the closing date . . . the depositor will sell, transfer, assign, set over and otherwise convey without recourse to the trustee in trust for the benefit of the certificateholders all right, title and interest of the depositor, in and to each Closing Date Mortgage Loan and all right, title and interest in and to all other assets included in Home Equity Mortgage Loan Asset-Backed Trust, Series INABS 2006-C." *See* INABS 2006-C Pros. Supp. at S-31-S-32. The INABS 2006-C Offering Documents also stated that "[i]n connection with each transfer and assignment, the depositor will deliver or cause to be delivered to the trustee, or a custodian for the trustee, among other things, the original mortgage note . . . endorsed in blank without recourse . . . , the original mortgage creating a first lien on the related mortgaged property with evidence of recording indicated thereon, [and] an assignment in recordable form of the mortgage for any non-MERS mortgage loan." *Id.* at S-32. The INABS 2006-C Offering Documents further stated that "[a]t the time of issuance of the securities of a series, the depositor will cause the mortgage loans comprising the related issuing entity to be assigned to the trustee," and that "the depositor will deliver or cause to be delivered to the trustee (or to the custodian) for each mortgage

loan[:] the mortgage note endorsed without recourse in blank or to the order of the trustee . . . , the mortgage . . . , [and] an assignment of the mortgage to the trustee in recordable form." *See* INABS 2006-C Pros. at 64-65. These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

9. The INDX 2007-FLX3 Certificates

135. The IndyMac INDX Mortgage Loan Trust 2007-FLX3 Certificates ("INDX 2007-FLX3 Certificates") were issued pursuant to a Prospectus Supplement dated April 27, 2007. Defendant Credit Suisse Securities, as a primary underwriter, played a critical role in the fraudulent structuring, offering and sale of the INDX 2007-FLX3 Certificates.

136. Plaintiff purchased the following INDX 2007-FLX3 Certificates:

Original Purchaser	**Tranche Purchased**	**CUSIP**	**Purchase Date**	**Original Face Amount**	**Purchased From**
Fortis Ireland	A1	45670AAA9	4/24/2007	$50,000,000	Credit Suisse Securities
Fortis Bank	A2	45670AAB7	4/24/2007	$30,000,000	Credit Suisse Securities
Fortis Bank	A3	45670AAC5	4/24/2007	$57,370,000	Credit Suisse Securities

137. The decisions to purchase the above securities were made by Fortis Bank and Fortis Ireland in direct reliance upon the INDX 2007-FLX3 Offering Documents, including draft and/or final INDX 2007-FLX3 Prospectus Supplements, all of which were distributed by the defendants associated with the INDX 2007-FLX3 offering. Fortis Ireland's and Fortis Bank's diligent investment processes are described in great detail in §§VIII.A and VIII.B, *infra*.

a. Underwriting Guidelines

138. The INDX 2007-FLX3 Offering Documents disclosed that 100% of the INDX 2007-FLX3 Certificates' underlying loans were purchased by the sponsor/seller, IndyMac, from various undisclosed sellers. *See* INDX 2007-FLX3 Pros. Supp. at S-33, S-47.

139. With regard to all of the loans underlying the INDX 2007-FLX3 Certificates, the INDX 2007-FLX3 Offering Documents represented loans that they were "acquired by IndyMac Bank are underwritten by IndyMac Bank according to IndyMac Bank's underwriting guidelines." *Id.* at S-48. The INDX 2007-FLX3 Offering Documents also represented that "IndyMac['s] . . . underwriting criteria for . . . 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." *Id.* The INDX 2007-FLX3 Offering Documents further represented that "maximum total monthly debt payments-to-income ratios" may be applied and that "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" are factors that "may be considered in determining loan eligibility." *Id.* at S-49. Additionally, the INDX 2007-FLX3 Offering Documents represented that "[t]o determine the adequacy of the property to be used as collateral, an appraisal is generally made of the subject property in accordance with the Uniform Standards of Profession Appraisal Practice," and that "[t]he value of the property . . . must support the loan amount." *Id.* Moreover, the INDX 2007-FLX3 Offering Documents represented that "[u]nderwriting standards are applied by or on behalf of a lender to evaluate the borrower's credit standing and repayment ability, and the value and adequacy of the Property as collateral." *See* INDX 2007-FLX3 Pros. at 35. Furthermore, the INDX 2007-FLX3 Offering Documents represented that "[o]nce 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 monthly housing expenses and other financial obligations and monthly living expenses and to meet the borrower's monthly obligations on the proposed mortgage loan (generally determined on the basis of the monthly payments due in the year of origination) and other expenses related to the Property such as property taxes and hazard insurance." *Id.* at 35-36. As further detailed *infra*, these

representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that IndyMac had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, without any regard for the borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.3, *infra*.

b. Loan-to-Value Ratios

140. The INDX 2007-FLX3 Offering Documents also made certain misrepresentations regarding the LTV ratios associated with the loans supporting the INDX 2007-FLX3 Certificates purchased by plaintiff. Specifically, the INDX 2007-FLX3 Offering Documents represented that only a very small percentage of the loans supporting plaintiff's INDX 2007-FLX3 Certificates had LTV ratios over 80%, and that ***none*** of the loans supporting plaintiff's INDX 2007-FLX3 Certificates had LTV ratios over 100%.

141. Plaintiff, however, has performed an industry-accepted historical valuation analysis on the actual loans underlying plaintiff's INDX 2007-FLX3 Certificates, which reveals that the LTV ratio percentages stated in the INDX 2007-FLX3 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the LTV ratio percentages stated in the INDX 2007-FLX3 Offering Documents, and the actual percentages that should have been stated according to plaintiff's industry-accepted analysis:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Stated Percentage of Loans Having LTV Ratios Over 80%	Actual Percentage of Loans Having LTV Ratios Over 80%	Stated Percentage of Loans Having LTV Ratios Over 100%	Actual Percentage of Loans Having LTV Ratios Over 100%
A1	45670AAA9	All	0.48%	52.21%	0.00%	15.28%
A2	45670AAB7	All	0.48%	52.21%	0.00%	15.28%
A3	45670AAC5	All	0.48%	52.21%	0.00%	15.28%

c. Credit Ratings

142. The INDX 2007-FLX3 Offering Documents also represented that the INDX 2007-FLX3 Certificates purchased by ***plaintiff*** had been assigned certain high "investment grade" credit ratings by S&P and Moody's, indicating that the securities were very strong, safe investments with an extremely low probability of default. Specifically, the INDX 2007-FLX3 Offering Documents represented that plaintiff's INDX 2007-FLX3 Certificates had each been assigned AAA/Aaa ratings – the highest, safest credit ratings available, which are in fact the same as, or even higher than, the current credit rating of U.S. Treasury debt.

143. These representations, however, were false and misleading when made. In truth, plaintiff's INDX 2007-FLX3 Certificates should not have received AAA/Aaa credit ratings, because they were ***not*** safe, "investment grade" securities with "a less than 1% probability of incurring defaults." Rather, as defendants were well aware, plaintiff's INDX 2007-FLX3 Certificates were extremely risky, speculative grade "junk" bonds or worse, backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons that S&P and Moody's had assigned such high ratings to plaintiff's INDX 2007-FLX3 Certificates was because defendants had fed them falsified information regarding the INDX 2007-FLX3 Certificates' underlying loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, and false borrower DTI ratios.

144. The falsity of the credit ratings set forth in the INDX 2007-FLX3 Offering Documents is confirmed by subsequent events. Specifically, ***more than 27% of the loans supporting plaintiff's INDX 2007-FLX3 Certificates are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade" INDX 2007-FLX3 Certificates are now rated at "junk" status or below. Clearly, plaintiff's INDX 2007-FLX3 Certificates were not the highly rated, "investment

grade" securities defendants represented them to be. The evidence supporting the falsity of the INDX 2007-FLX3 Certificates' credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Group**	**Current Percentage of Outstanding Loan Balance in Default**	**Moody's Ratings**		**S&P's Ratings**	
				Initial	**Current**	**Initial**	**Current**
A1	45670AAA9	All	27.04%	Aaa	Caa1	AAA	CCC
A2	45670AAB7	All	27.04%	Aaa	C	AAA	D
A3	45670AAC5	All	27.04%	Aaa	C	AAA	D

d. Transfer of Title

145. The INDX 2007-FLX3 Offering Documents also represented that the loans underlying the INDX 2007-FLX3 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering. Specifically, the INDX 2007-FLX3 Offering Documents stated that "on the closing date the depositor will assign without recourse to the trustee in trust for the benefit of the certificateholders all interest of the depositor in each Mortgage Loan and all interest in all other assets included in IndyMac INDX Mortgage Loan Trust 2007-FLX3." *See* INDX 2007-FLX3 Pros. Supp. at S-46. The INDX 2007-FLX3 Offering Documents also stated that, "[i]n connection with the assignment of the Mortgage Loans, the depositor will deliver or cause to be delivered to the trustee the mortgage file, which contains among other things, the original mortgage note . . . endorsed in blank without recourse . . . , the original mortgage . . . , [and] an assignment in recordable form of the mortgage." *Id.* The INDX 2007-FLX3 Offering Documents further stated that "[a]t the time of issuance of the securities of a series, the depositor will cause the mortgage loans comprising the related issuing entity to be assigned to the trustee," and that "the depositor will deliver or cause to be delivered to the trustee (or to the custodian) for each mortgage loan[:] the mortgage note endorsed without

recourse in blank or to the order of the trustee . . . , the mortgage . . . , [and] an assignment of the mortgage to the trustee in recordable form." *See* INABS 2006-C Pros. at 64-65. These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

10. The NCHET 2006-1 Certificates

146. The New Century Home Equity Loan Trust 2006-1, Asset Backed Notes, Series 2006-1 ("NCHET 2006-1 Certificates") were issued pursuant to a Prospectus Supplement dated March 23, 2006. Credit Suisse Securities, as the primary underwriter, played a critical role in the fraudulent structuring, offering and sale of the NCHET 2006-1 Certificates.

147. Plaintiff and/or its assignors purchased the following NCHET 2006-1 Certificates:

Plaintiff	Tranche Purchased	CUSIP	Purchase Date	Original Face Amount	Purchased From
Fortis Bank	A2C	64352VQS3	3/24/2006	$9,000,000	Credit Suisse Securities
Fortis Bank	M1	64352VQT1	3/24/2006	$10,000,000	Credit Suisse Securities

148. The decision to purchase the above securities was made by Fortis Bank in direct reliance upon the NCHET 2006-1 Offering Documents, including draft and/or final NCHET 2006-1 Prospectus Supplements, all of which were distributed by the defendants associated with the NCHET 2006-1 offering. Fortis Bank's diligent investment processes are described in great detail in §VIII.A, *infra*.

a. Underwriting Guidelines

149. The NCHET 2006-1 Offering Documents disclosed that 100% of the mortgage loans underlying plaintiff's NCHET 2006-1 Certificates were originated by loan originator and sponsor New Century Mortgage Corporation ("New Century"). *See* NCHET 2006-1 Pros. Supp. at S-57.

150. The NCHET 2006-1 Offering Documents represented that "[t]he New Century Underwriting Guidelines are primarily intended to assess the borrower's ability to repay the related mortgage loan, to assess the value of the mortgaged property and to evaluate the adequacy of the property as collateral for the mortgage loan." *Id.* at S-58. The NCHET 2006-1 Offering Documents also represented that "[w]hile the originator's primary consideration in underwriting a mortgage loan is the value of the mortgaged property, the originator also considers . . . a mortgagor's credit history, repayment ability and debt service-to-income ratio, as well as the type and use of the mortgaged property." *Id.* The NCHET 2006-1 Offering Documents further represented that "[m]ortgaged properties that are to secure mortgage loans generally are appraised by qualified independent appraisers," and that "[t]he New Century Underwriting Guidelines require a review of the appraisal by a qualified employee of the originator or by an appraiser retained by the originator." *Id.* at S-58-S-59. Additionally, the NCHET 2006-1 Offering Documents represented that:

> Under each of the programs, the originator reviews the applicant's source of income, calculates the amount of income from sources indicated on the loan application or similar documentation, reviews the credit history of the applicant, calculates the debt service-to-income ratio to determine the applicant's ability to repay the loan, reviews the type and use of the property being financed, and reviews the property. In determining the ability of the applicant to repay the loan, a qualifying rate has been created under the New Century Underwriting Guidelines that generally is equal to the interest rate on that loan. The New Century Underwriting Guidelines require that mortgage loans be underwritten in a standardized procedure which complies with applicable federal and state laws and regulations and requires the originator's underwriters to be satisfied that the value of the property being financed, as indicated by an appraisal and a review of the appraisal, currently supports the outstanding loan balance.

Id. at S-59. Moreover, the NCHET 2006-1 Offering Documents represented that the maximum allowable DTI ratio under New Century's underwriting guidelines is 50% to 55%. *Id.* at S-60-S-62. As further detailed *infra*, these representations were false and misleading at the time they were made. Contrary to defendants' affirmative representations, the truth was that New Century had completely abandoned its stated underwriting guidelines and was simply seeking to originate as many loans as possible, ***without*** any regard for the borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral. *See* §VI.A.4, *infra*.

b. Loan-to-Value Ratios

151. The NCHET 2006-1 Offering Documents also made certain misrepresentations regarding the LTV ratios associated with the loans supporting the NCHET 2006-1 Certificates purchased by plaintiff and/or its assigning entities. Specifically, the NCHET 2006-1 Offering Documents represented that just over 40% of the loans supporting plaintiff's NCHET 2006-1 Certificates had LTV ratios over 80%, and that ***none*** of the loans supporting plaintiff's NCHET 2006-1 Certificates had LTV ratios over 100%.

152. Plaintiff, however, has performed an industry-accepted historical valuation analysis on the actual loans underlying plaintiff's NCHET 2006-1 Certificates, which reveals that the LTV ratio percentages stated in the NCHET 2006-1 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the LTV ratio percentages stated in the NCHET 2006-1 Offering Documents, and the actual percentages that should have been stated according to plaintiff's industry-accepted analysis:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Stated Percentage of Loans Having LTV Ratios Over 80%	Actual Percentage of Loans Having LTV Ratios Over 80%	Stated Percentage Of Loans Having LTV Ratios Over 100%	Actual Percentage of Loans Having LTV Ratios Over 100%
A2C	64352VQS3	All	41.08%	61.93%	0.00%	16.14%
M1	64352VQT1	All	41.08%	61.93%	0.00%	16.14%

c. Owner Occupancy Rates

153. The NCHET 2006-1 Offering Documents also made certain misrepresentations regarding the OOR percentages associated with the loans supporting the NCHET 2006-1 Certificates purchased by plaintiff and/or its assigning entities. Specifically, the NCHET 2006-1 Offering Documents represented that a large percentage of the loans supporting plaintiff's NCHET 2006-1

Certificates were issued to borrowers that actually lived in the properties serving as collateral for their loans, significantly decreasing the likelihood that those borrowers would default on their loans.

154. Plaintiff, however, has performed an in-depth investigation of the actual borrowers, loans and properties underlying plaintiff's NCHET 2006-1 Certificates, which reveals that the OOR percentages stated in the NCHET 2006-1 Offering Documents were materially false ***at the time they were made***. The following chart summarizes the Primary Residence Percentages stated in the NCHET 2006-1 Offering Documents, and the actual percentages that should have been stated according to plaintiff's investigation:

Tranche Purchased	CUSIP	Applicable Supporting Loan Group	Primary Residence Percentage Stated in the Offering Documents	Actual Primary Residence Percentage	Percent Overstatement of Actual Primary Residence Percentage
A2C	64352VQS3	All	89.99%	83.60%	7.65%
M1	64352VQT1	All	89.99%	83.60%	7.65%

d. Credit Ratings

155. The NCHET 2006-1 Offering Documents also represented that the NCHET 2006-1 Certificates purchased by plaintiff had been assigned certain high "investment grade" credit ratings by S&P and Moody's, indicating that the securities were very strong, safe investments with an extremely low probability of default. Specifically, the NCHET 2006-1 Offering Documents represented that plaintiff's NCHET 2006-1 Certificates had been assigned AAA/Aaa and AA+/Aa1 ratings – indicating extremely safe and stable securities.

156. These representations, however, were false and misleading when made. In truth, plaintiff's NCHET 2006-1 Certificates should not have received AAA/Aaa and AA+/Aa1 credit ratings, because they were ***not*** safe, "investment grade" securities. Rather, as defendants were well aware, plaintiff's NCHET 2006-1 Certificates were extremely risky, speculative grade "junk" bonds or worse**,** backed by low credit quality, extremely risky loans. Indeed, one of the primary reasons

that S&P and Moody's had assigned such high ratings to plaintiff's NCHET 2006-1 Certificates was because defendants had fed them falsified information regarding the NCHET 2006-1 Certificates' underlying loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, false borrower DTI ratios, and false OOR percentages.

157. The falsity of the credit ratings set forth in the NCHET 2006-1 Offering Documents is confirmed by subsequent events. Specifically, ***approximately 40% of the loans supporting plaintiff's NCHET 2006-1 Certificates are currently in default*** because they were made to borrowers who either could not afford them or never intended to repay them. Moreover, plaintiff's "investment grade" NCHET 2006-1 Certificates are now rated at "junk" status or below. Clearly, plaintiff's NCHET 2006-1 Certificates were not the highly rated, "investment grade" securities defendants represented them to be. The evidence supporting the falsity of the NCHET 2006-1 Certificates' credit ratings is set forth in further detail in §VI.D, *infra*, and summarized by the following chart:

Tranche Purchased	**CUSIP**	**Applicable Supporting Loan Group**	**Current Percentage of Outstanding Loan Balance in Default**	**Moody's Ratings**		**S&P's Ratings**	
				Initial	**Current**	**Initial**	**Current**
A2C	64352VQS3	All	39.46%	Aaa	Ca	AAA	CCC
M1	64352VQT1	All	39.46%	Aa1	C	AA+	D

e. Transfer of Title

158. The NCHET 2006-1 Offering Documents also represented that the loans underlying the NCHET 2006-1 Certificates would be timely transferred to the issuing trust, so that the trust would obtain good title to the mortgage loans comprising the pool for the offering. Specifically, the NCHET 2006-1 Offering Documents stated that "the depositor will transfer such right, title and interest [in and to each mortgage loan, the related mortgage note, mortgages and other related documents, including all payments received after the cut-off date other than payments of principal

and interest on the mortgage loans due on or before the cut-off date] to the issuing entity and pursuant to the indenture, the issuing entity will pledge such right, title and interest to the indenture trustee," and that "[t]he indenture trustee, concurrently with the transfers and pledge on the closing date, will deliver the notes to the depositor." *See* NCHET 2006-1 Pros. Supp. at S-108. The NCHET 2006-1 Offering Documents also stated that "the depositor . . . will deliver to the indenture trustee . . . the mortgage loans endorsed in blank or to the indenture trustee and the related documents." *Id.* The NCHET 2006-1 Offering Documents further stated that "[a]t the time of issuance of any series of securities, the depositor will cause the pool of mortgage loans to be included in the related trust fund to be assigned to the trustee," and that "[i]n addition, the depositor will, with respect to each mortgage loan, deliver or cause to be delivered to the trustee, or to the custodian hereinafter referred to: (1) With respect to each single-family loan, the mortgage note endorsed, without recourse, to the order of the trustee or in blank, the original Mortgage with evidence of recording indicated thereon and an assignment of the Mortgage to the trustee or in blank, in recordable form." *See* NCHET 2006-1 Pros. at 26-27. These statements were false and misleading. Defendants failed to legally and properly transfer the promissory notes and security instruments to the trusts. *See* §VI.E, *infra*.

VI. DEFENDANTS' STATEMENTS AND OMISSIONS WERE MATERIALLY FALSE AND MISLEADING

A. Defendants' Statements that the Loan Underwriting Guidelines Were Designed to Assess a Borrower's Ability to Repay the Loan and to Evaluate the Adequacy of the Property as Collateral for the Loan Were Materially False and Misleading

159. As set forth above in §V, the Offering Documents for each Credit Suisse Offering represented that the underlying loans were originated pursuant to specific, prudent, underwriting guidelines, which the Offering Documents represented were generally intended to: (1) assess the

borrowers' creditworthiness and/or ability to repay the loans; and/or (2) evaluate the adequacy of the underlying properties to serve as security for the loans.

160. These representations were incredibly material to plaintiff because they confirmed that, regardless of the technical guidelines being applied, the certificates' underlying loans were generally being originated on the basis of a valid determination that the borrower would be able to repay his or her loans and that the property serving as collateral would provide adequate security in the event of a default. In other words, these representations assured plaintiff that the loans supporting their investments were unlikely to default, and further, unlikely to incur a loss in the unlikely event of default. As such, they were material to plaintiff's investment decision.

161. Unfortunately for plaintiff, however, defendants' material representations regarding the underwriting guidelines purportedly being used to originate the certificates' underlying loans were false and misleading at the time defendants made them. As set forth immediately below, the originators of the certificates' underlying loans had, in fact, completely abandoned their stated underwriting guidelines and were simply seeking to originate as many loans as possible, ***without*** any regard for the borrowers' actual repayment ability or the true value and adequacy of the mortgaged properties to serve as collateral.

1. The Loan Originators Had Systematically Abandoned the Underwriting Guidelines Set Forth in the Credit Suisse Offering Documents

162. The representations in the Offering Documents for the Credit Suisse Offerings concerning the loan originators' underwriting guidelines were false and misleading when made. In reality, the loan originators at issue herein were ***not*** originating loans in accordance with their stated underwriting guidelines and were ***not*** evaluating the borrowers' true repayment ability or assessing the actual value of the properties serving as collateral. Instead, during the relevant time period, 2004-2007 – when the loans underlying the offerings at issue herein were originated – the loan

originators identified herein had abandoned their stated underwriting guidelines, and were simply making loans to nearly anyone they could, without regard for the borrowers' repayment ability or the adequacy of the mortgaged properties as collateral. These lenders made loans as fast as they possibly could and ignored the borrowers' true repayment ability because they knew defendants would purchase the loans ***regardless*** of whether the lenders had given any consideration to the borrowers' ability to repay, and ***regardless*** of whether the loans otherwise complied with the lenders' stated underwriting guidelines. This was the case because the demand for RMBS was skyrocketing during the relevant time period and defendants were making billions of dollars by satisfying that demand. Thus, defendants were scrambling to buy as many loans as they could, as fast as they could, so that they could quickly bundle the loans into RMBS offerings like those at issue herein, and sell them to unsuspecting investors like plaintiff.

163. Defendants knew that, contrary to their affirmative representations in the Offering Documents, the certificates' underlying loans had not been originated pursuant to underwriting guidelines that were designed to evaluate the borrowers' ability to repay or assess the adequacy of the mortgaged properties to serve as collateral. Defendants also knew, as a result, that the loans were not likely to be repaid. Defendants, however, failed to disclose any of this information. Instead, they simply packaged the defective loans as quickly as they could, concealed them within the offerings, and passed the risk of their repayment on to plaintiff.

164. Contrary to their affirmative representations in the Offering Documents, defendants knew that the loan originators had, in fact, implemented loan underwriting policies that were simply designed to extend mortgages to as many borrowers as possible, regardless of whether those borrowers could actually repay the loans. These policies included, among other things:

- Falsifying borrowers' incomes and/or coaching borrowers to misstate their income on loan applications to qualify them for loans they could not afford to repay, while making it appear the loans complied with the stated underwriting guidelines;

- Coaching borrowers to omit or understate debts and expenses on loan applications to qualify them for loans they could not afford to repay, while making it appear the loans complied with the stated underwriting guidelines;
- Steering borrowers to loans that exceeded their borrowing capacity;
- Approving borrowers based on "teaser rates" for loans, despite knowing that the borrowers would not be able to afford the fully indexed rates when the loan rates adjusted; and
- Approving non-qualifying borrowers for loans under "exceptions" to the originators' underwriting standards based on purported "compensating factors," when no such compensating factors ever existed.

165. Further, the loan originators and their agents had become so aggressive at improperly approving and funding mortgage loans that many of the loans at issue herein were made to borrowers who had either not submitted required documents or had falsely altered the required documentation. In many instances, required income/employment verifications were improperly performed because the lenders' clerical staff either did not have adequate verification skills or did not care to exercise such skills, and oftentimes verifications were provided by inappropriate contacts at a borrower's place of employment (*e.g.*, a friend of the borrower would complete the verification instead of the human resources department at the borrower's employer). In this way, many suspect and false income verifications and loan applications were accepted by the originators at issue herein.

166. In addition, borrowers who submitted "stated income" loan applications were routinely approved on the basis of stated income levels that were inflated to extreme levels relative to their stated job titles, in order to give the appearance of compliance with stated underwriting guidelines. In many cases, the loan originators herein actually coached the borrowers to falsely inflate their stated incomes in order to qualify under the originators' underwriting guidelines. Inflation of stated income was so rampant that a study cited by Mortgage Asset Research Institute later found that almost ***all*** stated income loans exaggerated the borrower's actual income by 5% or more, ***and more than half overstated income by at least 50%***.

167. This type of income inflation was a direct result of the loan originators' abandonment of their stated underwriting guidelines and their complete disregard for the borrowers' true repayment ability. For instance, many "stated income" borrowers were actually wage earners who could have supplied Internal Revenue Service ("IRS") Forms W-2 or other income-verifying documentation, but were not required to do so. Instead, they were steered to stated income loans by the lenders at issue herein, who then helped the borrowers "state" falsely inflated incomes. Originators also routinely issued loans without requiring the borrowers to execute an IRS Form 4506, which would have allowed the lender to access such borrowers' tax returns from the IRS, because the originators simply did not want to know that the borrowers' true income levels were less than the income levels reported on the loan applications. In other cases, lenders removed documentation of borrowers' incomes from loan files, because such documentation revealed that the borrowers' stated incomes were falsely inflated. The falsification of income levels by the borrowers and the loan originators at issue herein was rampant.

168. The originators at issue herein also routinely violated their stated underwriting guidelines by using falsely inflated appraisals and other valuations – which, in turn, resulted in falsely understated LTV ratios – in order to approve loans that otherwise would have never been made. The U.S. Government's Financial Crisis Inquiry Commission ("FCIC") investigation confirmed that, during the time the loans underlying plaintiff's certificates were originated, the lenders at issue herein were regularly pressuring appraisers to falsely inflate their appraisals in order to meet or exceed the amount needed for the subject loans to be approved. This was especially true for loans, such as those at issue here, which were originated by lenders with the intention of being pooled and sold to defendants for eventual re-sale to investors like plaintiff, who would ultimately bear the risk of default.

169. The constant pressure appraisers routinely faced from originators such as those at issue herein was described by Jim Amorin, President of the Appraisal Institute, who stated in his April 23, 2009 FCIC testimony that "***[i]n many cases, appraisers are ordered or severely pressured to doctor their reports and to convey a particular, higher value for a property, or else never see work from those parties again*. . . . *[T]oo often state licensed and certified appraisers are forced into making a 'Hobson's Choice***.'" This complete lack of independence by appraisers was also noted by Alan Hummel, Chair of the Appraisal Institute, in his testimony before the U.S. Senate, where Hummel noted that the dynamic between lenders and appraisers created a "terrible conflict of interest" by which ***appraisers "experience[d] systemic problems with coercion" and were "ordered to doctor their reports" or else they would never "see work from those parties again" and were placed on "'exclusionary appraiser lists***.'" Testimony on "Legislative Proposals on Reforming Mortgage Practices" presented by Alan E. Hummel before the House Committee on Financial Services, at 5 (Oct. 24, 2007).

170. As a result of such pressures, appraisers routinely provided the originators at issue herein with falsely inflated appraisals that had no reasonable basis in fact, in direct contravention of the Offering Documents' false and misleading representations that the certificates' underlying loans had been originated pursuant to underwriting guidelines that required the lenders to evaluate the adequacy of the mortgaged properties to serve as collateral for the loans. Moreover, the falsely inflated property values also resulted in artificially understated LTV ratios, which caused the loans and certificates to appear to plaintiff to be of much higher credit quality and to be much less risky than they actually were.

171. Following below are detailed allegations demonstrating that the loan originators for the offerings at issue herein did not comply with the loan underwriting guidelines stated in the Offering Documents, thereby rendering the Offering Documents false and misleading. While the

allegations concerning these originators cover most of the offerings, plaintiff has not provided such allegations for every originator at issue herein, in an attempt to streamline the allegations. Nonetheless, on information and belief, plaintiff alleges that ***all*** of the loan originators at issue herein engaged in similar conduct, and that such allegations are factually supported by both the investigations of the FCIC and the U.S. Senate, each of which concluded, after extensive investigations, that the breakdown in residential loan underwriting standards alleged herein was systemic in the lending industry during the relevant time period (2004-2007). *See* The Financial Crisis Inquiry Report ("FCIC Report") at 125 ("***Lending standards collapsed, and there was a significant failure of accountability and responsibility throughout each level of the lending system***."); Levin-Coburn Report at 12 (One of four major causes of worldwide financial collapse was that "***[l]enders introduced new levels of risk into the U.S. financial system by selling . . . home loans with . . . poor underwriting***."); *id.* at 50 ("***The Subcommittee investigation indicates that" there were "a host of financial institutions that knowingly originated, sold, and securitized billions of dollars in high risk, poor quality home loans***.").

172. In fact, in 2005, federal examiners and agencies conducted a "confidential . . . study of mortgage practices at six companies that together had originated . . . almost half the national total" of mortgages in that year. ***The study "'showed a very rapid increase in the volume of these irresponsible, very risky loans***,'" according to Sabeth Siddique, then head of credit risk at the Federal Reserve Board's Division of Banking Supervision and Regulation. ***For "[a] large percentage of the[] loans" reviewed, "the underwriting standards . . . had deteriorated***." FCIC Report at 172.

173. In addition, on December 30, 2007, *The Kansas City Star* published an article titled "American Dreams Built on a Shaky Foundation of Subprime Loans," analyzing the Nation's mortgage meltdown and the reasons behind it. The news article painted a picture of systematic

abandonment of underwriting guidelines by lenders during the relevant time period (2004-2007). Kurt Eggert, a law professor and member of the Federal Reserve's Consumer Advisory Panel was quoted: "'***Originators were making loans based on quantity rather than quality. . . . They made loans even when they didn't make sense from an underwriting standpoint***.'" The news article further stated: "Mark Duda, a research affiliate at Harvard University's Joint Center for Housing Studies, said that because ***brokers were so intent to quickly sell off loans to investors, they had little incentive to make sure the loans were suitable for borrowers. 'They were setting people up to fail***,' Duda said." A news article in the *San Diego Union-Tribune* on November 16, 2008 echoed these sentiments, stating: "Bankruptcy specialists say part of what led to the housing market collapse ***was systemic. Lenders set themselves up for problems by not requiring buyers to prove they could afford the loans*** . . . ."

174. At a March 11, 2009 hearing of the U.S. House of Representatives Subcommittee investigating the Nation's mortgage meltdown, Representative Jeb Hensarling from the State of Texas was even more blunt about the pervasive abandonment of underwriting guidelines: "***Mortgage fraud ran rampant for a decade, on the lenders' side and on the borrower side . . . . We know that mortgage fraud ran rampant*** . . . ."

175. The systemic abandonment of stated underwriting guidelines by all of the originators identified herein during the period 2004-2007, which included the originators' complete failure to evaluate borrowers' repayment ability, is further corroborated by the following allegations, which demonstrate that the abandonment of loan underwriting guidelines was rampant, pervasive and commonplace in the residential lending industry during 2004-2007.

2. The Offering Documents Misrepresented Countrywide's Underwriting Guidelines

176. As detailed *supra*, Countrywide's supposed underwriting guidelines were described by defendants in the Offering Documents. *See* §V. For the reasons set forth immediately below, these representations were false and misleading at the time defendants made them. In truth, Countrywide had completely abandoned its stated underwriting guidelines and was routinely originating loans without any regard for the borrowers' true repayment ability or the actual adequacy of the mortgaged properties to serve as collateral.

177. During the relevant time period, Countrywide was the largest independent mortgage lender and loan originator for RMBS offerings in the United States. Unfortunately for plaintiff, it was also one of the worst, as it repeatedly originated loans in violation of its stated loan underwriting guidelines and routinely extended loans to borrowers without any regard for such borrowers' true repayment ability, oftentimes relying on falsely inflated appraisals (and thus false LTV ratios), falsified occupancy data and other false information to do so.

178. In June 2009, the SEC initiated a securities fraud action in the United States District Court for the Central District of California against former Countrywide executives Angelo Mozilo ("Mozilo"), David Sambol ("Sambol") and Eric Sieracki ("Sieracki"). On September 16, 2010, the court denied the Countrywide executives' motions for summary judgment and held that ***the SEC had raised genuine issues of fact*** as to whether the defendants had misrepresented the quality of Countrywide's underwriting processes from 2005-2007. Specifically, the court held that ***the SEC presented evidence that Countrywide "routinely ignored its official underwriting guidelines to such an extent that Countrywide would underwrite <u>any</u> loan it could sell into the secondary mortgage market," and that "a significant percentage (typically in excess of 20%) of Countrywide's loans were issued as exceptions to its official underwriting guidelines***." *SEC v.*

Mozilo, No. CV 09-3994-JFW (MANx), 2010 U.S. Dist. LEXIS 98203, at *33-*34 (C.D. Cal. Sept. 16, 2010). ***The court held that the evidence presented was such that "a reasonable jury could conclude that Countrywide all but abandoned managing credit risk through its underwriting guidelines***." *Id*. at *35. In 2010, Mozilo, Sambol and Sieracki paid over $73.1 million to settle the SEC action.

179. The testimony and documents only recently made available to plaintiff by way of the SEC's investigation confirm that Countrywide was systematically abusing "exceptions" and low-documentation processes in order to circumvent its own underwriting guidelines. For example, in an April 13, 2006 e-mail, Mozilo, who was Countrywide's co-founder and Chief Executive Officer ("CEO"), wrote to Sieracki and others that he was concerned that certain subprime loans had been originated "***with serious disregard for process [and] compliance with guidelines***," resulting in the delivery of loans "with deficient documentation." Mozilo further stated that "***I have 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]***."

180. The testimony and documents produced in the SEC action also show that, on June 28, 2005, Sieracki attended a Corporate Credit Risk Committee meeting "in which he was informed that ***1/3 of the loans which were referred from CLUES [Countrywide's automated underwriting system] violated 'major' underwriting guidelines and 1/3 violated 'minor' guidelines***." At a similar meeting on March 12, 2007, "Risk Management reported that 12% of the loans reviewed through Countrywide's internal quality control process were rated ***severely unsatisfactory*** or high risk, and that one of ***the principal causes for such a rating was that loans had debt-to-income, loan to value, or FICO scores outside Countrywide's underwriting guidelines***."

181. A separate False Claims Act lawsuit brought by the U.S. Government against Countrywide and appraisal firm Land Safe Appraisal Services, Inc. ("Land Safe") confirms that Countrywide routinely violated its stated underwriting guidelines by using falsely inflated appraisals. *See* Complaint, *United States, ex rel. Kyle W. Lagow v. Countrywide Fin. Corp.*, No. 1:09-cv-02040-RJD-JMA (E.D.N.Y. May 13, 2009) ("*Lagow* Complaint"). According to the allegations of this action, which are based on the testimony of Kyle Lagow, a former Land Safe employee, Countrywide and Land Safe conspired together to systematically inflate appraisals. According to Lagow, Countrywide and Land Safe systematically inflated appraisals for Countrywide loans by, among other things: (a) paying above-market fees to appraisers who provided inflated appraisals; (b) rewarding appraisers that provided inflated appraisals with significant amounts of additional work; (c) black-listing, retaliating against and firing appraisers that refused to provide inflated appraisals; (d) improperly requiring appraisers to rely on information outside the relevant market that justified inflated appraisals; (e) providing appraisers with false information concerning "comparable" properties that led to inflated appraisals; and (f) retaliating against anyone who questioned or criticized Countrywide and Land Safe's appraisal inflation scheme. *Lagow* Complaint, ¶9. This action was settled, as part of a global $1 billion settlement, with Countrywide's parent company, Bank of America Corp.

182. In addition, the FCIC Report, which was issued in January 2011, also set forth, *inter alia*, findings regarding Countrywide's key role in the financial crisis and the lender's general failure to evaluate its borrowers' repayment ability. Specifically, the FCIC Report stated:

> ***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.***

See FCIC Report at xxii.

183. According to evidence in the FCIC Report, Countrywide's loan products were simply not designed to evaluate the borrowers' repayment ability. Indeed, one of Countrywide's loan products was described as "***poison***" by the lender's own co-founder and CEO, Mozilo, who stated in an April 17, 2006 e-mail: "'***In all my years in the business I have never seen a more toxic [product]*** . . . .'" FCIC Report at 20. According to information contained in the FCIC Report, the reason Countrywide was willing to offer such products was because its sole focus was "'originating what was salable in the secondary market,'" *i.e.*, to Wall Street banks such as defendants. *Id.* at 105. According to the FCIC Report, Countrywide "sold or securitized 87% of the $1.5 trillion in mortgages it originated between 2002 and 2005." *Id.*

184. Moreover, former Countrywide employee Eileen Foster ("Foster") confirmed, in an interview with the FCIC, that fraud was rampant in connection with Countrywide's origination of loans. Foster worked as a mortgage fraud investigator at Countrywide, and confirmed that loans that Countrywide's fraud investigators or underwriters rejected due to fraud or non-conformance with the underwriting guidelines were routinely overruled and approved by Countrywide's sales unit, as "***the rules were bent and broken and twisted regularly and it was . . . an accepted mode of doing business***." July 30, 2010 FCIC Staff Interview of Eileen Foster. Foster further stated that "all of the fraud that may have been taking place [was] being managed out by the sales units," or in other words, "'***concealed***.'" *Id.* She suspected that "there was quite a bit of fraud taking place" in connection with Countrywide's loan originations, which her audit manager "confirmed to [her]." *Id.*

185. In fact, according to the FCIC, Countrywide had tens of thousands of internal company referrals of potentially fraudulent activity in connection with its mortgage business during the period from 2005-2007. FCIC Report at 162.

186. Other former Countrywide employees have confirmed that Countrywide originated loans that did not comply with its stated underwriting criteria because its employees were incentivized to increase the number of loan originations without concern for the borrowers' repayment ability. Instead of evaluating repayment ability, ***Countrywide's Sales Training Facilitator Guide instructed originators to "look for ways to make the loan rather than turn it down***."

187. According to another former Countrywide manager, the mindset at the company was "***if you had a pulse, Countrywide gave you a loan***."

188. Countrywide's loan originators would "coach" borrowers as to the level of falsely inflated incomes they should claim in order to qualify for loans they could not otherwise afford. Countrywide itself also falsified borrowers' incomes, or facilitated falsified incomes by steering otherwise ineligible borrowers to "stated income" loans. According to a former Countrywide account manager, the company was "infested" with employees that ignored the company's underwriting guidelines.

189. Former Countrywide employees have revealed that as many as 80% of the loans originated by a Countrywide office in Florida did not meet loan underwriting guidelines. According to another former Countrywide employee, approximately 90% of all reduced documentation loans sold out of a Chicago office had falsely inflated incomes, and one of Countrywide's mortgage brokers, One Source Mortgage Inc., routinely doubled the amount of the potential borrowers' income on stated income mortgage applications in order to qualify borrowers for loans they could not afford.

190. Moreover, even in the cases where Countrywide employees actually obtained written income documentation (*i.e.*, a Form W-2) demonstrating that the borrower did not qualify for a loan, the documentation was ignored by Countrywide and the loan was re-submitted as a stated income

loan with an inflated income number so as to obtain approval of the loan – a loan which the borrower could not afford to repay. These problems were systemic within Countrywide at the time the loans in the offerings at issue herein were originated.

191. Countrywide's general abandonment of its stated underwriting guidelines has also been the subject of numerous civil complaints and investigations by state attorneys general, each of which have alleged facts supporting plaintiff's allegations here that Countrywide's underwriting practices were not intended to evaluate borrowers' repayment ability. *See*, *e.g.*, *In re Countrywide Fin. Corp. Derivative Litig.*, No. 07-CV-06923-MRP (MANx) (C.D. Cal.); *In re Countrywide Fin. Corp. Sec. Litig.*, No. 07-CV-05295 MRP (MANx) (C.D. Cal.); *The People of the State of Illinois v. Countrywide Fin. Corp.*, No. 2008-CH-22994 (Cook Cty. Cir. Ct., Ch. Div. Ill.); *The People of the State of California v. Countrywide Fin. Corp.*, No. LC081846 (Cal. Super. Ct., Los Angeles Cty.); *State of Connecticut, et al. v. Countrywide Fin. Corp., et al.*, No. 08-cv-01301 (D. Conn.) (originally filed in Conn. Super. Ct., Hartford Jud. Dist.); *MBIA Ins. Corp. v. Countrywide*, No. 602825/2008 (N.Y. Sup. Ct., N.Y. Cty.). The sheer volume of the lawsuits, all alleging that Countrywide systematically abandoned its underwriting guidelines, is strong evidence that that is what in fact occurred.

192. Countrywide, unsurprisingly, made the list of the "Worst Ten in the Worst Ten" report by the U.S. Government's Office of the Comptroller of the Currency ("OCC"), which identified the lenders with the highest number of foreclosures for loans originated between 2005 and 2007 in the ten metropolitan areas with the highest rates of foreclosures. The extremely high foreclosure rates for Countrywide's loans corroborate that the company did ***not*** comply with its purported underwriting guideline to evaluate borrowers' repayment ability. In addition, the U.S. Senate confirmed that Countrywide had abandoned its purported underwriting guidelines stated in

the Offering Documents: ***Countrywide and other "lenders issued billions of dollars in high risk, poor quality home loans***." Levin-Coburn Report at 239.

3. The Offering Documents Misrepresented IndyMac's Underwriting Guidelines

193. As detailed *supra*, IndyMac's supposed underwriting guidelines were described by defendants in the Offering Documents. *See* §V. For the reasons set forth immediately below, these representations were false and misleading at the time defendants made them. In truth, IndyMac had completely abandoned its stated underwriting guidelines and was routinely originating loans without any regard for the borrowers' true repayment ability or the actual adequacy of the mortgaged properties to serve as collateral.

194. IndyMac's concerted effort to fund as many loans as possible led it to become one of the country's largest and fastest-growing mortgage lenders from 2003-2006. Indeed, during this period, IndyMac's loan volume tripled, going from $29 billion to $90 billion in three short years. By 2008, however, IndyMac's reckless lending practices finally caught up with it, causing the bank to experience excessive losses that ultimately led to its undoing. On July 11, 2008, IndyMac was closed by the Office of Thrift Supervision ("OTS") and taken under the control of the Federal Deposit Insurance Corporation ("FDIC").[14]

195. On June 30, 2008, the Center for Responsible Lending ("CRL") issued a report by Mike Hudson, entitled "IndyMac: What Went Wrong? How an 'Alt-A' Lender Fueled its Growth with Unsound and Abusive Mortgage Lending" (the "CRL Report"). The CRL Report, which was based on information obtained from 19 former IndyMac employees, concluded that IndyMac

[14] On March 19, 2009, the FDIC completed the sale of IndyMac's "assuming institution"– IndyMac Federal Bank, F.S.B. – to OneWest Bank, F.S.B.

"engaged in ***unsound and abusive lending***" and "***routinely [made] loans without regard to borrowers' ability to repay***." CRL Report at 2.

196. According to the CRL Report, IndyMac's regular practice of originating loans that disregarded borrowers' ability to repay and failed to comply with the bank's stated underwriting and appraisal guidelines was ***not*** "caused by rogue brokers or by borrowers who lied." *Id.* at 1. Instead, this institutionalized practice was "spawned by top-down pressures that valued short-term growth over protecting borrowers and shareholders' interests over the long haul." *Id.* Indeed, the CRL Report describes the atmosphere at IndyMac as one "where the hunger to close loans ruled." *Id.* at 2. According to the CRL Report, this "hunger" led IndyMac to routinely "push[] through loans based on ***bogus appraisals*** and income data that ***exaggerated borrowers' finances***." *Id.*

197. The CRL Report details several accounts from former IndyMac employees which clearly demonstrate the bank's institutional disregard for its own stated underwriting and appraisal guidelines and borrowers' ability to repay their loans. Among other things, the CRL Report provides the following information:

- Audrey Streater, a former underwriter and underwriting team leader for IndyMac in New Jersey, stated in an interview: '"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. . . . I'm like, "What the Sam Hill? There's nothing in there to support this loan."'" *Id.* at 3.

- According to a former IndyMac vice president, former IndyMac CEO Michael Perry ("Perry") and other top managers "focused on increasing loan volume 'at all costs,' putting pressure on subordinates to disregard company policies and simply 'push loans through.'" *Id.*

- According to another former IndyMac employee, Perry once told him '"business guys rule'" and '"[expletive deleted] you to compliance guys,'" from which this former employee concluded that IndyMac was about '"production and nothing else.'" *Id.* at 4.

- According to Wesley E. Miller, a former underwriter for IndyMac in California, "when he rejected a loan, sales managers screamed at him and then went up the line to a senior vice president and got it okayed." *Id.* at 9.

- According to Scott Montilla, a former underwriter for IndyMac in Arizona, "when salespeople went over his head to complain about loan denials, higher-ups overruled his decisions roughly half of the time." *Id*.

- Montilla further stated in an interview: "'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" . . . . There were some loans that were just blatantly overstated.'" *Id*. at 10.

198. On February 26, 2009, the Office of Inspector General ("OIG") of the U.S. Department of Treasury issued a report entitled "Safety and Soundness: Material Loss Review of IndyMac Bank, FSB" (the "OIG Report"). The OIG Report found that "IndyMac's business model was to produce as many loans as possible and sell them in the secondary market," *i.e.*, to banks such as defendants. OIG Report at 21. According to the OIG Report, "[t]o facilitate this level of [loan] production . . . IndyMac often did not perform adequate underwriting." *Id*. Indeed, IndyMac frequently made loans with "little, if any, review of borrower qualifications, including income, assets, and employment." *Id.* at 11. As a result, the OIG concluded that IndyMac's loans "were made to many borrowers who simply could not afford to make their payments." *Id.* at 2.

199. Moreover, according to the OIG Report, "[a]ppraisals obtained by IndyMac on underlying collateral were often questionable as well." *Id.* The OIG Report found that "IndyMac officials accepted appraisals that were not in compliance with [the industry standard,] the Uniform Standard of Professional Appraisal Practice," and in some instances, IndyMac even "allowed the borrowers to select the appraiser" and/or accepted "appraisals where the property valuation was made without physical site inspection of the subject property or comparable properties." *Id.* at 12, 26.

200. IndyMac's improper and fraudulent lending practices were also documented in a separate action, *Fin. Guar. Ins. Co. v. IndyMac Bank, F.S.B.*, No. 08-CV-06010-LAP (S.D.N.Y. July 1, 2008) (the "*Fin. Guar.* Complaint"), where the complaint relied on the following information from former IndyMac employees:

- According to a former IndyMac central banking group vice president, IndyMac concocted "exceptions to its own underwriting guidelines that allowed IndyMac to make and approve mortgage loans that should have been denied under the actual guidelines and that direct fraud by IndyMac loan sales representatives was rampant in the mortgage loan origination process at IndyMac." *Fin. Guar*. Complaint, ¶37(b)(i).

- According to a former IndyMac loan underwriter, IndyMac's loan origination process had evolved into organized chaos where, at management's direction, any concessions or adjustments were made in order to close loans that would not normally be made, including inflating appraisals to make the loan work. *Id.*

- According to a former IndyMac vice president in IndyMac's mortgage banking segment, "in order to keep pace with its competition, IndyMac greatly loosened its underwriting guidelines in order to bring in more loans." *Id.*, ¶37(b)(iii).

- According to a former IndyMac senior auditor in IndyMac's central mortgage operations, "an increasing number of loans were made through apparently fraudulent or misrepresented documentation and there was an increase in defaults because of": (1) "these misrepresentations in the underwriting process"; (2) "the relaxation of the underwriting guidelines"; and (3) "approval of borderline loans." *Id.*, ¶37(b)(iv).

- According to a former IndyMac senior loan processor, "the increase in the number of IndyMac originated delinquent loans was due to misrepresentations and fraud occurring in the mortgage loan origination process." *Id.*, ¶37(b)(vi) [sic].

201. That IndyMac was not following its underwriting guidelines and attempting to determine whether its borrowers could actually afford to repay their loans is further corroborated by the fact that IndyMac made the OCC's "Worst Ten in the Worst Ten" list. If, as defendants represented, IndyMac was actually attempting to determine whether its borrowers could afford to repay their loans, the lender would not have experienced so many loan foreclosures.

4. The Offering Documents Misrepresented the New Century Originators' Underwriting Guidelines

202. As detailed *supra*, defendants' Offering Documents purported to describe the underwriting guidelines that were supposedly used by New Century in originating loans underlying plaintiff's certificates. *See* §V. For the reasons set forth immediately below, these representations were false and misleading at the time defendants made them. In truth, New Century had completely

abandoned its stated underwriting guidelines and was routinely originating loans without any regard for the borrowers' true repayment ability or the actual adequacy of the mortgaged properties to serve as collateral.

203. The U.S. Senate investigation found that New Century "w[as] known for issuing poor quality subprime loans," but "[d]espite [its] reputation[] for poor quality loans, leading investment banks [such as the Credit Suisse Defendants] continued to do business with [New Century] and helped [it and other lenders] sell or securitize hundreds of billions of dollars in home mortgages." Levin-Coburn Report at 21.

204. In 2007, New Century went into bankruptcy. An examiner was appointed by the bankruptcy court to investigate New Century and its collapse. After reviewing "a large volume of documents" from numerous sources, including New Century, and interviewing over 100 fact witnesses, the bankruptcy examiner filed a detailed report concerning New Century. *See* Final Report of Michael J. Missal, *In re: New Century TRS Holdings, Inc.*, No. 07-10416 (D. Del. Feb. 29, 2008) ("Examiner's Report") at 14, 16. The examiner confirmed that New Century routinely failed to follow its stated underwriting guidelines when originating loans during the relevant time period. The examiner, after his comprehensive fact-gathering process, "conclude[d] that New Century engaged in a number of significant improper and imprudent practices related to its loan originations." *Id.* at 2. Among other things, the examiner found that:

- "***New Century had a brazen obsession with increasing loan originations, without due regard to the risks associated with that business strategy . . . and trained mortgage brokers to originate New Century loans in the aptly named 'CloseMore University***.'" *Id.* at 3.
- "***The increasingly risky nature of New Century's loan originations created a ticking time bomb that detonated in 2007***." *Id.*
- "***New Century . . . layered the risks of loan products upon the risks of loose underwriting standards in its loan originations to high risk borrowers***." *Id.*

- ***A New Century employee had informed the company's senior management in 2005 that, under New Century's underwriting guidelines, "'we are unable to actually determine the borrowers' ability to afford a loan.'"*** *Id.*

- "***New Century also made frequent [unmerited] exceptions to its underwriting guidelines for borrowers who might not otherwise qualify for a particular loan," so much so that a senior officer of New Century warned internally that the "'number one issue is exceptions to guidelines.'"*** *Id.* at 3-4.

- ***New Century's Chief Credit Officer had noted as early as 2004 that New Century had "'no standard for loan quality.'"*** *Id.* at 4 ***"'[L]oan quality'" referred to "New Century's loan origination processes, which were supposed to ensure that New Century loans met its own internal underwriting guidelines . . . ."*** *Id.* at 109.

- "***Instead of focusing on whether borrowers could meet their obligations under the terms of the mortgages, a number of members of [New Century's] Board of Directors and Senior Management told the Examiner that their predominant standard for loan quality was whether the loans New Century originated could be sold or securitized . . . ."*** *Id.* at 4.

- ***A large number of New Century's loans did not meet its underwriting guidelines, suffering from defects such as "defective appraisals, incorrect credit reports and missing documentation."*** *Id.* at 109.

- ***From 2003 forward, New Century's Quality Assurance and Internal Audit departments identified "significant flaws in New Century's loan origination processes."*** *Id.* at 110.

- ***Notwithstanding all the foregoing facts, New Century's Board of Directors and Senior Management did little to nothing to remedy the company's abandonment of its stated underwriting guidelines.*** *Id.*

205. The FCIC found that New Century "ignored early warnings that its own loan quality was deteriorating and stripped power from two risk-control departments that had noted the evidence." FCIC Report at 157. The FCIC reported that New Century's Quality Assurance staff "had found severe underwriting errors," while New Century's Internal Audit department had "identified numerous deficiencies in loan files," with seven out of nine reviews of the company's loan production department resulting in "'unsatisfactory'" ratings. *Id.* New Century's senior management's reaction to the revelation of this information – establishing that New Century was not complying with its underwriting guidelines – was not what one would expect. Instead of making

efforts designed to bring the company into compliance with its underwriting guidelines, New Century's management directed that the negative results be removed from the company's loan tracking performance, that the Quality Assurance department be dissolved, and that the Internal Audit department's budget be cut. *Id.*

206. New Century thereafter continued making numerous loans in violation of the company's stated underwriting guidelines, and then sold them to defendants. Indeed, New Century had a practice during the relevant time period whereby if a loan it attempted to sell to one securitizer was rejected because it was found not to comply with New Century's underwriting guidelines, New Century would put that defective loan into a subsequent pool of loans and sell it to another RMBS securitizer.

207. Patricia Lindsay ("Lindsay"), a former fraud specialist for New Century, told the FCIC that New Century's definition of a "good" loan changed during the relevant time period: "'The definition of a good loan changed from "one that pays" to "one that could be sold."'" FCIC Report at 105. The import of this statement was that New Century no longer cared if the loan met its stated underwriting guideline of determining whether the borrower could afford to repay the loan. Rather, the guideline was ignored, as it only mattered if defendants would purchase the loan. As will become more evident, defendants did buy huge quantities of such loans – even when the borrowers could not afford to repay them – and defendants did so knowingly. In fact, Lindsay pointed out that Credit Suisse, *i.e.*, "'Wall Street[,] was very hungry for our product. We had loans sold three months in advance, ***before they were even made at one point***.'" FCIC Report at 117. Given that defendants bought New Century's defective loans ***before*** they were even made, and thus could not possibly have determined whether the loans met the stated underwriting guidelines, it is evident that defendants did not bother to determine whether the statements in the Offering Documents were true.

In any event, as alleged more fully below, ***defendants did in fact know that the Offering Documents were false***.

208. Lindsay also confirmed to the FCIC that New Century subjected its appraisers to the pressures described above. Specifically, Lindsay stated that New Century's appraisers "fear[ed]" for their "livelihoods," and therefore cherry picked data "that would help support the needed value rather than finding the best comparables to come up with the most accurate value." Written Testimony of Patricia Lindsay to the FCIC, April 7, 2010, at 5.

209. The Attorney General for the Commonwealth of Massachusetts ("Attorney General") similarly found that New Century originated numerous loans to borrowers who could not afford them, and which were illegal and not in compliance with New Century's purported underwriting guidelines. On June 24, 2010, the Attorney General announced a settlement with Morgan Stanley related to its purchase, financing and securitization of New Century loans. Morgan Stanley agreed to pay $102 million to settle charges that it assisted New Century in making and securitizing awful loans to borrowers who could not afford to repay them. In announcing the settlement, the Attorney General also released the findings of its investigation. The Attorney General found the following with respect to New Century's loans:

- The Attorney General found that ***New Century was making unfair and illegal loans to borrowers in Massachusetts who could not afford to repay them***. The Attorney General found that New Century unlawfully qualified borrowers for adjustable rate mortgages by using "teaser" rates, instead of using the "fully indexed rates," as required by law. By using teaser rates, New Century was able to calculate artificially low DTI ratios to qualify borrowers for loans they could not afford. The Attorney General found that if the borrowers' DTI ratios had been properly calculated, 41% of the loans Morgan Stanley purchased from New Century were to borrowers who could not afford them. Assurance of Discontinuance at 13, *In re: Morgan Stanley & Co. Incorporated*, No. 10-2538 (Mass. Super. Ct., Suffolk Cty. June 24, 2010).

- The Attorney General found that, by late 2005, New Century engaged in "***sloppy underwriting for many loans and stretching of underwriting guidelines to encompass or approve loans not written in accordance with the guidelines***." *Id.* at 9.

- The Attorney General found that ***New Century successfully pressured Morgan Stanley into buying loans which both parties knew did not comply with the underwriting guidelines***. In March 2006, New Century complained to Morgan Stanley that it was rejecting too many loans and further pressured Morgan Stanley to buy more loans, by suggesting that it would begin shifting its business to other buyers if Morgan Stanley did not buy more loans. ***The very next month, in April 2006, Morgan Stanley's senior bankers purchased hundreds of New Century loans that Morgan Stanley's due diligence team had rejected***. In addition, "Morgan Stanley's due diligence teams began to be more responsive to New Century's desire to include additional [defective] loans in the purchase pools." *Id*. at 10.

- The Attorney General found that ***the majority of loans Morgan Stanley purchased from New Century and securitized in 2006 and 2007 did not comply with the underwriting guidelines***. According to the Attorney General, Clayton was hired to determine whether samples of New Century's loans "complied with the originator's underwriting guidelines and whether the loans were in compliance with applicable laws. When Clayton's examination uncovered loans that were in violation of guidelines or law in any respect, it graded the loans as 'exceptions.'" ***The Attorney General's investigation found that "[i]n Morgan Stanley's 2006-2007 New Century [loan] pools, the large majority of the loans reviewed by Clayton were identified by Clayton as having some type of exception. Most loans had multiple exceptions." The Attorney General further found that "[d]uring 2006 and 2007, Morgan Stanley waived exceptions on and purchased a large number of the loans found by Clayton to violate guidelines without sufficient compensating factors. In the last three quarters of 2006, Morgan Stanley waived more than half of all material exceptions found by Clayton . . . and purchased a substantial number of New Century loans found by Clayton to violate guidelines without sufficient compensating factors***." *Id.*

- The Attorney General also found that New Century "***loans with certain exceptions such as high DTI ratios or high LTV or CLTV ratios that were in excess of underwriting guidelines but within a tolerance found acceptable to Morgan Stanley were purchased without a review by Clayton for compensating factors***." *Id.*

- ***The Attorney General found that large numbers of New Century's loans had LTV ratios exceeding 100%, contrary to representations in the offering documents***. In the offering documents, defendants represented that pursuant to the underwriting guidelines, almost none of the loans had LTV ratios over 100%. However, the Attorney General found that "***31% of the New Century loans on properties checked via BPOs . . . and securitized by Morgan Stanley in 2006 and 2007 had []LTV ratios . . . that were greater than 100%***." *Id*. at 13.

- The Attorney General found that ***New Century's "stated income" loans contained falsely inflated borrower incomes***. The Attorney General found that "***[a]s early as October 2005, Morgan Stanley's diligence team determined . . . that the stated income on a number of New Century loans was unreasonable. In early 2006, a Morgan Stanley employee commented that stated income credit was not adequately***

> ***evaluated by New Century. . . . On average, the stated income of these borrowers was approximately 42% higher than the income of fully documented borrowers.*" *Id.* at 13-14.

- ***The Attorney General found that New Century's deficient and illegal lending practices went on unabated throughout the relevant time period.*** The Attorney General found that "***[n]otwithstanding the problems identified above, Morgan Stanley continued to . . . purchase and securitize New Century's subprime mortgages through 2006 and the first half of 2007.***" *Id.* at 14.

210. New Century also made the OCC's "Worst Ten in the Worst Ten" list of lenders, which identified the lenders with the highest number of foreclosures in the ten metropolitan areas with the highest foreclosure rates. ***Indeed, New Century was the worst of all the lenders – New Century's loans had more foreclosures than any other lender's loans originated during the 2005-2007 time period.*** This corroborates the fact that New Century did not determine whether borrowers could afford to repay the loans, thereby rendering the Offering Documents false and misleading.

5. The Offering Documents Misrepresented WMC's Underwriting Guidelines

211. As detailed *supra*, defendants' Offering Documents purported to describe the underwriting guidelines that were supposedly used by WMC in originating loans underlying plaintiff's certificates. *See* §V. For the reasons set forth immediately below, these representations were false and misleading at the time defendants made them. In truth, WMC had completely abandoned its stated underwriting guidelines and was routinely originating loans without any regard for the borrowers' true repayment ability or the actual adequacy of the mortgaged properties to serve as collateral.

212. Like many other lenders during the relevant time period (2004-2007), WMC had a culture of deception and fraud as the basis of its lending operations. According to a news article published by *iWatch News* in January 2012, which was based on interviews of eight former WMC employees, ***WMC's mantra was "Fraud pays.***" The article described a company, during the period

from 2004-2007 (the timeframe when the loans at issue herein were originated), that routinely disregarded its purported underwriting guidelines and instead "***embraced fraud as a tool for pushing through loans that borrowers couldn't afford***." Sales managers were making upwards of $1-$2 million a year and were incentivized to make as many loans as possible. ***Therefore, they ignored WMC's underwriting guidelines and "used falsified paperwork, bogus income documentation and other tricks to get loans approved and sold off to Wall Street investors."***

213. The *iWatch News* article quoted former WMC Compliance Manager Dave Riedel ("Riedel"), who worked at WMC from 2004 until it was closed by its parent company, General Electric, Inc. ("GE"), in 2007. Riedel was a quality control manager for WMC and was responsible for detecting fraud in the company's loan applications. Riedel started working for WMC immediately after it was acquired by GE in 2004. Riedel had previously worked as a real estate appraiser, loan underwriter, and most recently, as a mortgage fraud investigator manager for WaMu, which similarly was engaged in fraudulent lending practices that ignored company lending guidelines.

214. Riedel supervised a team of people at WMC who watched over WMC's lending activities in Southern California. *iWatch News* reported that Riedel's team "found ***many examples of fraud committed by in-house staffers or the independent mortgage brokers who helped bring in customers to the lender. These included faking proofs of loan applicants' employment and faking verifications that would-be home buyers had been faithfully paying rent for years rather than, say, living with their parents." It also included "creating bogus W-2 tax forms," with some employees doing it the "old-school" way, by "cutting and pasting numbers from one photocopy to another," while the more modern fraudsters "had software on their computers that allowed them to create W-2s from scratch***." Such widespread practices obviously did not comply with WMC's stated underwriting guidelines.

215. Riedel told *iWatch News* that in 2005 he investigated a WMC sales manager who oversaw hundreds of loan originations per month. Riedel's audit of these loans "found that many of the deals showed evidence of fraud or other defects such as missing documents." Riedel reported the discrepancies to a GE compliance officer. Rather than reprimanding the sales manager or disciplining him, according to Riedel, "'nothing changed.'" However, GE's/WMC's response to Riedel was swift and sure – Riedel was stripped of his title and staff and given nothing more to do. According to a former WMC executive, Riedel was thereafter "'branded as a whistleblower and not a team player. . . . They just marginalized him and he really didn't have anything to do'" subsequently.

216. Notwithstanding the above, in 2006 Riedel was trying to rebuild his career within WMC. He was involved in meetings with GE officials, trying to give GE a sense of how serious WMC's fraud problems were. Riedel recalled an audit of a group of loans during that time period that indicated 78% of the loans were fraudulent, containing either falsified incomes or employment. Moreover, Riedel was also working on a computer program designed to detect fraud in WMC's loans. Riedel told *iWatch News* that the program detected fraudulent loans but that WMC never regularly used the program. It was at a meeting about this computer program that Riedel attended where a WMC executive declared "Fraud pays."

217. Riedel's experience was not an isolated incident. The *iWatch News* article also quoted Gail Roman, a former WMC loan auditor in New York. ***iWatch News reported that Roman revealed that she and her colleagues "dug up persuasive evidence of inflated borrower incomes and other deceptions on loan applications," but that WMC's "[m]anagement ignored their reports and approved the loans anyway." Roman stated: "'They didn't want to hear what you found . . . [e]ven if you had enough documentation to show that there was fraud or questionable activity.'"***

Roman further reported that such fraudulent activity occurred the entire time she was at WMC during the period from 2004-2006.

218. Former WMC risk analyst Victor Argueta confirmed to *iWatch News* the complete abandonment of WMC's underwriting guidelines taking place at the company during the relevant time period. Argueta reported that ***one of WMC's top salespersons was never reprimanded or disciplined for using his computer to create fake documents to get borrowers' loans approved, even though this salesperson's fraudulent activities were well known within the company. Argueta stated the following concerning this salesperson's fabrication of documents: "'Bank Statements, W-2s, you name it, pretty much anything that goes into a file, . . . [a]nything to make the loan look better than what was the real story'" was created by this salesperson***.

219. Glen Pizzolorusso was interviewed for a National Public Radio broadcast. Pizzolorusso, a former WMC Area Sales Manager, discussed the horrible loans WMC made to borrowers: "'We looked at loans, these people didn't have a pot to piss in. . . . [T]hey could barely make the car payment, and now we're giving them a $300,000 to $400,000 house.'"

220. WMC's conduct led to having a Statement of Charges filed against it by the Washington State Department of Financial Institutions, Division of Consumer Services in 2008, *see* Statement of Charges, No. C-07-557-08-SC01, June 4, 2008, for deceptive and unfair lending practices. The Statement of Charges alleged that the Washington State regulator reviewed 86 loans extended by WMC and found that 76 of them were defective or otherwise violated Washington State law. WMC subsequently entered into a consent order with the State of Washington. In addition, according to the *Los Angeles Times*, the Federal Bureau of Investigation and the Department of Justice were investigating potentially criminal business practices at WMC. The government was investigating the very conduct at issue in this case: whether WMC used falsified paperwork, overstated income and other tactics to push through questionable loans, according to sources cited by

the *Los Angeles Times*. The probe appeared to be focused on whether senior managers condoned improper practices that enabled fraudulent loans to be sold to investors, according to the *Los Angeles Times*.

221. Further proof that WMC did not comply with the underwriting guidelines stated in the Offering Documents is found in a lawsuit against WMC and another originator, EquiFirst, another originator of loans at issue herein. *See* Complaint, *MASTR Asset Backed Securities Trust 2006-HE3 v. WMC Mortgage Corp., et al.*, No. 11-CV-02542-PAM-TNV (D. Minn. Sept. 2, 2011). In that action, the trustee of an RMBS trust alleged that loans within that trust acquired from WMC and EquiFirst were fraudulent, did not comply with the stated underwriting guidelines, and did not determine properly whether the borrowers could afford to repay their loans. A sample of 200 loans within the trust were reviewed and it was found that 150 of those loans were either fraudulent, not originated pursuant to the underwriting guidelines, and/or did not have a proper determination made of whether the borrower could afford to repay the loan. ***In other words, a stunning 75% of the loans did not comply with the underwriting guidelines***. Given WMC's culture, as described above, such a statistic is understandable. The complaint in the action gave examples of loans that were made even though they did not comply with the underwriting guidelines. For example, WMC extended a loan to a borrower that claimed in his loan application that he earned $14,782 per month performing "account analysis," when in fact his tax returns showed he actually earned $1,548 per month driving a taxi. The borrower also did not disclose in his loan application thousands of dollars per month in debt payments that he had, thus concealing his true DTI ratio, which was in violation of the lending guidelines. He further misrepresented that he would occupy the property as his primary residence when in fact he did not. *Id.*, ¶24.

222. Another loan was extended by WMC to a borrower that claimed in her loan application that she made $9,200 per month as a billing manager when in fact she made only $2,405

per month as an optometric technician. This borrower also did not disclose all of her debts, thus concealing that she had an unacceptable DTI ratio. Her co-borrower also misrepresented his income and occupation to be $8,800 per month earned as a "grade check" rather than the actual $2,843 per month he earned as a laborer. *Id.*, ¶25. These examples are stunningly similar to the examples of borrowers alleged herein at §VI.A.10.

223. In addition, the U.S. Government's Federal Housing Finance Agency ("FHFA") sued GE and others in 2011 concerning the ***exact*** type of conduct at issue herein. *See FHFA v. General Electric Company, et al.*, No. 652439/2011 (N.Y. Sup. Ct., N.Y. Cty.). In the *FHFA* action, FHFA sued GE and others for misrepresentations in offering documents for other RMBS offerings, and alleged, as here, that there were misrepresentations in the offering documents that WMC originated loans pursuant to underwriting guidelines designed to assess the borrowers' repayment ability and the adequacy of the properties as collateral for the loan. In the *FHFA* action, as here, it is alleged that WMC did not originate loans pursuant to such guidelines but instead abandoned its guidelines.

224. Further corroborating that WMC did not comply with its purported guidelines is the fact that WMC made the OCC's "Worst Ten in the Worst Ten" list of lenders with the most foreclosures on loans originated between 2005 and 2007. WMC was not the worst lender, but it was close – WMC was fourth "worst" of all lenders. Such high foreclosure rates further demonstrate that, contrary to defendants' representations, WMC was not actually attempting to determine whether borrowers could afford to repay their loans.

6. The Offering Documents Misrepresented First NLC's Underwriting Guidelines

225. As detailed *supra*, defendants' Offering Documents purported to describe the underwriting guidelines that were supposedly used by First NLC in originating loans underlying plaintiff's certificates. *See* §V. For the reasons set forth immediately below, these representations

were false and misleading at the time defendants made them. In truth, First NLC had completely abandoned its stated underwriting guidelines and was routinely originating loans without any regard for the borrowers' true repayment ability or the actual adequacy of the mortgaged properties to serve as collateral.

226. The fact that First NLC did ***not*** comply with its stated underwriting guidelines was confirmed by a former Quality Control Supervisor with First NLC from November 2004 through April 2007, who worked in First NLC's Florida headquarters and ran the company's quality control department, which was responsible for auditing samples of loans that had already been closed and funded by First NLC throughout the United States. In this role, this former First NLC employee saw many "underwriting errors" in the originated loans, including routinely finding "a lot of fraud in the loan files." Specifically, the fraud included numerous instances of appraisers who had been "paid off to bring in the value" of a property higher than it actually merited, problems verifying a borrower's employment, numerous stated income claims that were clearly unverified and insupportable by the background information available about the borrower, and discrepancies related to borrowers' credit and assets. This former employee routinely found falsified IRS Forms W-2, pay stubs and bank statements. Despite these numerous instances of fraud, the witness stated that First NLC operations managers would grant exceptions to these loan applications. ***This former employee stated that by the time she found problems with the loans, it was too late, and nothing was done to prevent the loans being sold to investors***. First NLC's Loan Processors handling the pre-funding audit were under intense pressure from the company's Sales Managers at the wholesale branches to get the loans funded.

227. First NLC's improper and fraudulent lending practices were also documented in the complaint filed in the action titled *Allstate Ins. Co., et al. v. Morgan Stanley, et al.*, No. 651840/2011

(N.Y. Sup. Ct., N.Y. Cty. July 5, 2011) (the "*Allstate* Complaint"). The complaint in that case quotes former First NLC employees as stating:

- According to a former underwriter for First NLC in Deerfield Beach, Florida, from April 2004 until November 2006, "'every loan had a problem with it. Every loan seemed to have an exception on it.'" Between half and three-quarters of the mortgage loans that were initially denied by the former underwriter and other First NLC underwriters were subsequently overruled and approved by First NLC management because the loans could be sold to purchasers such as defendants. This former underwriter also stated that if a prospective borrower's tax return appeared to be fraudulent and the underwriter sought to request further documentation to verify the submitted information, First NLC account representatives would "'scream bloody murder.'" A loan application with this type of questionable documentation would still be approved by First NLC's underwriting manager or Vice President of Operations/Underwriting, who decided no further due diligence was necessary. In regards to verifying the borrower's ability to repay the mortgage loan, this underwriter stated they were told by First NLC management that "'[w]e don't need this, so just don't dig,'" and that verifying borrowers' income was discouraged, as it was considered "'digging for problems.'"

- According to another former senior underwriter for First NLC in Deerfield Beach, Florida, from August 2004 until September 2005, First NLC made numerous unwarranted exceptions to its stated underwriting guidelines, including appraisal exceptions and income exceptions. Instead of denying the loan in accordance with First NLC's stated underwriting guidelines, according to the former senior underwriter, employees at First NLC would institute "'premium pricing'" and charge the prospective borrower a higher price to compensate for "'overlook[ing] things.'" This senior underwriter believed that 80% of First NLC's stated income loans contained inflated borrower incomes.

- According to another First NLC senior underwriter in Anaheim, California, from September 2005 to December 2007, and whose unit was overseen by Charles Bryson, the former Chief Financial Officer of First NLC, the underwriter once alerted Bryson that a stated loan file lacked a signed income statement. Bryson directed the underwriter to "make one up."

Allstate Complaint, ¶¶108-111.

7. The Offering Documents Misrepresented Wilmington's Underwriting Guidelines

228. As detailed *supra*, Wilmington's supposed underwriting guidelines were described by defendants in the Offering Documents. *See* §V. For the reasons set forth immediately below, these representations were false and misleading at the time defendants made them. In truth, Wilmington

had completely abandoned its stated underwriting guidelines and was routinely originating loans without any regard for the borrowers' true repayment ability or the actual adequacy of the mortgaged properties to serve as collateral.

229. Both Wilmington and AIG Federal Savings Bank ("AIG Federal Savings") are subsidiaries of American International Group ("AIG"). Because AIG controlled both AIG Federal Savings and Wilmington – including their lending activities – during the relevant time period, AIG Federal Savings and Wilmington are discussed together herein. In fact, beginning in 2003, AIG Federal Savings outsourced its lending activities to Wilmington, with Wilmington providing all loan underwriting for the two lenders, while AIG Federal Savings funded the loans.

230. Wilmington and AIG Federal Savings were the subject of a government investigation into their lending practices. The OTS, based on the exercise of its regulatory responsibilities, determined that AIG Federal Savings "failed to manage and control the mortgage lending activities outsourced to [Wilmington] in a safe and sound manner." Supervisory Agreement at 1. The stated purpose of the Supervisory Agreement was, among other things, to "correct and remediate the negative financial impact to certain borrowers from the insufficiently supervised lending activities of [AIG Federal Savings] outsourced to [Wilmington]." *Id.* at 2. Thus, pursuant to that agreement, AIG Federal Savings and Wilmington and their affiliates established a $128 million reserve to cover, among other things, costs associated with providing affordable loans to ***borrowers whose creditworthiness was not adequately evaluated at the time the loans were originated***. *Id.* Moreover, AIG Federal Savings agreed to improve its mortgage loan origination policies "to enhance its compliance with applicable laws and regulations." *Id.*

8. The Offering Documents Misrepresented Ameriquest's Underwriting Guidelines

231. As detailed *supra*, defendants' Offering Documents purported to describe the underwriting guidelines that were supposedly used by Ameriquest in originating loans underlying plaintiff's certificates. *See* §V. For the reasons set forth immediately below, these representations were false and misleading at the time defendants made them. In truth, Ameriquest had completely abandoned its stated underwriting guidelines and was routinely originating loans without any regard for the borrowers' true repayment ability or the actual adequacy of the mortgaged properties to serve as collateral.

232. The FCIC documented how Ameriquest has long been one of the worst lenders in the United States. Rampant fraudulent lending practices occurred at Ameriquest both before and during the relevant time period. The FCIC obtained testimony from the former Attorney General from Illinois, Lisa Madigan, who, along with a coalition of 49 states and the District of Columbia, investigated and sued Ameriquest for its abusive lending practices, ultimately settling with the company in 2006 for $325 million. Madigan's FCIC testimony revealed that Ameriquest routinely disregarded its borrowers' true repayment ability and violated its own stated underwriting guidelines by, among other things, "inflating home appraisals" and using other "fraudulent [lending] practices." FCIC Report at 12.

233. Ed Parker, the former head of Ameriquest's Fraud Investigations Department, told the FCIC that he detected lending fraud at the company within one month of joining it in January 2003. He sent reports to Ameriquest's senior management but they did nothing. He also heard that other company departments were complaining that he "'looked too much'" into the loans. *Id*. His efforts to point out fraudulent lending practices at Ameriquest eventually led to first a demotion, and then subsequently to him being laid off by Ameriquest in May 2006. ***Parker reported that "fraudulent***

loans were very common at the company*"** during his tenure at Ameriquest. *Id.* at 161. Ameriquest's dubious lending practices were so bad that the former president of the National Association of Mortgage Brokers told the FCIC that Ameriquest was "'absolutely' corrupt***." *Id.* at 14.

234. The FCIC further found that "Ameriquest . . . originated vast numbers of high-risk, nontraditional mortgages that were . . . often beyond borrowers' ability to repay." *Id*. at 418. The FCIC also found that Ameriquest made loans "that would probably never be repaid." *Id*. at 424.

235. Other former Ameriquest employees have confirmed that the company had a culture of deception that ignored the underwriting guidelines even before the relevant time period. For example, Tyson Russum ("Russum"), a former Ameriquest Loan Officer, told a news reporter for National Public Radio in May 2007 that when he began work at Ameriquest in 2003, his first day consisted of watching a training video: "I think when I showed up for my first day there was three of us that were all new hires that came together and [they] told us to go into the conference room and watch a couple of videos. Well, the first video they threw in was a movie called 'Boiler Room.'" Boiler Room was a movie about corrupt stockbrokers selling stock in bogus companies. Russum stated that "[t]he impression I got was that they were trying to get across to us that it's basically ***make the sale at any cost***. And that kind of set the, I guess, set the mood for the next 11 to 12 months that I was with the organization."

236. Russum revealed that Ameriquest employees would white out income numbers on borrowers' Forms W-2 and bank statements and then fill in larger amounts to qualify borrowers for loans they could not afford. He stated that the practice was known within the company as taking the loan documents to the "art department." Russum also witnessed the forging of signatures on loan documents. In addition, he witnessed the use of "bait-and-switch tactics," such as having borrowers unwittingly sign fake fixed-rate loan documents, thereby making the borrower believe he or she was

obtaining a fixed-rate loan, but also including in the stack of papers the borrower was signing adjustable rate loan documents which the borrower then unknowingly signed. After the loan was extended, the faked fixed-rate loan documents were thrown away, locking the borrower into an adjustable rate loan that he or she did not want.

237. In addition, in other cases, Russum reported that Ameriquest managers encouraged loan officers to conceal from borrowers the actual costs and interest rates on loans and to lie to borrowers, putting the borrowers into loans they could not afford. For some loans made by Ameriquest, which had fixed payments for the first two years and then adjusted sharply upwards thereafter, managers instructed Russum to lie to the borrowers and tell them that the payments would be "fixed for as long as they need[ed] [them] to be," when in fact that was not true.

238. Ameriquest borrower Dianna Quartelli confirmed that such practices occurred, and also that Ameriquest put borrowers into loans they could not afford. She stated that Ameriquest initially told her that her loan payments would not increase. Subsequently, however, she received a letter advising her that her monthly payment of $849 was increasing to $1,200. Quartelli stated:

> "***[The letter] said now the mortgage [payment] was going to go up to $1,200. And also in that same letter, in six months, it was going up again, guaranteed not to go down. Well, we couldn't afford the $849 we were dealing [with]***."

239. Russum reported that Ameriquest personnel also routinely lied to borrowers by telling them that prepayment penalties on the loans would be waived, when in fact they were not. Some borrowers were required to pay more than $10,000 when they refinanced their loans early. Borrower Quartelli confirmed that Ameriquest had lied to her in this way also. Russum reported that one borrower got so mad when he had been deceived in this way that he "threatened to come up and shoot us all in the head."

240. Russum confirmed that Ameriquest ignored its purported underwriting guidelines through the following statement that was reported by the American News Project in May 2009:

"***[T]he entire system [at Ameriquest] [wa]s built to do whatever you can to close as many loans at the highest fee amount as possible***."

241. Former Ameriquest Loan Officer Omar Khan confirmed that the company falsified borrower incomes to qualify borrowers for loans they could not afford. In a news report from the American News Project in May 2009, Khan recalled situations where "***the borrower felt uncomfortable about signing the stated income letter***" – the portion of the loan application where the borrower was to report his income – "***because they didn't want to lie." Nonetheless, "the stated income letter would be filled out later on by the processing staff" at Ameriquest, and the loan was thereafter funded***. Khan also recalled "bait-and-switch" tactics at Ameriquest and said they occurred "because you could never get them [the borrowers] to the table if you were honest."

242. Ameriquest's systemic abandonment of its stated underwriting guidelines, and its use of fraudulent loan practices, has led to the filing of numerous lawsuits against the company by its borrowers. The borrowers alleged that Ameriquest used faked documents, forged signatures, and falsified incomes to put borrowers into loans they did not want and which they could not afford.

243. That Ameriquest did not originate loans pursuant to its stated underwriting guidelines is corroborated by the fact that the company made the OCC's "Worst Ten in the Worst Ten" list of lenders with the highest numbers of foreclosures on loans originated between 2005 and 2007. Had Ameriquest actually followed its underwriting guidelines of determining whether borrowers could repay their loans, it would not have incurred so many foreclosures.

9. Clayton Holdings Confirmed that the Offering Documents Were False and Misleading

244. As previously alleged, from at least January 1, 2006 through June 30, 2007, defendants hired Clayton to test samples of the loans defendants were placing into their offerings to determine whether the loans met the stated underwriting guidelines or had compensating factors

meriting approval; were supported by valid appraisals/valuations; and had other valid characteristics. Clayton tested small samples of loans and provided written reports (daily reports in most cases) to defendants with the testing results. This was first made public in late September 2010, when the FCIC released testimony and documents from Clayton.

245. In September 2010, Clayton provided to the FCIC trending reports it created, which summarized its work for various Wall Street banks, including defendants herein. These reports established that, during the period from January 1, 2006 through June 30, 2007, when most of the loans at issue herein were being originated, and when most of the certificates were being sold to plaintiff, ***32.0% of the mortgage loans Clayton tested for the Credit Suisse Defendants did not comply with the stated underwriting guidelines and did not have compensating factors that would merit approval. The trending reports also revealed that defendants "waived" back in 33.4% of the defective loans; that is, defendants included 33.4% of those defective loans into the RMBS offerings defendants sold to plaintiff***! *See* Clayton Trending Reports, *available at* http://fcic.law.stanford.edu/hearings/testimony/the-impact-of-the-financial-crisis-sacramento#documents (last visited June 24, 2013).

246. The forgoing information from Clayton undisputedly establishes that defendants' representations in the Offering Documents – namely that the certificates' underlying loans complied with the stated underwriting guidelines – were false and misleading at the time defendants made them.

247. Not only did defendants knowingly include in the offerings loans that had been affirmatively identified as defective, they also did no further testing on the vast majority of unsampled loans, even in the face of Clayton's reports indicating – at a 95% confidence level – that the unsampled loans possessed the same defect rate. In fact, defendants, fully aware of the situation, turned a blind eye to the information, did no further testing, and then ***included these defective loans***

into the offerings, thereby rendering the Offering Documents materially false and misleading. As the FCIC later pointed out, "***one could reasonably expect [the untested loans] to have many of the same deficiencies, and at the same rate, as the sampled loans,***" and that defendants' failure to do any further testing or disclose Clayton's findings "***rais[ed] the question of whether" the Offering Documents "were materially misleading, in violation of the securities laws***." FCIC Report at 170.

248. Moreover, recently discovered evidence establishes that the above Clayton defect rates and numbers of defective loans that were "waived" into defendants' offerings were actually ***understated***. In a lawsuit entitled *Ambac Assurance Corp. v. EMC Mortgage LLC, et al.*, No. 650421/2011 (N.Y. Sup. Ct., N.Y. Cty.), excerpts of a deposition transcript of a former Clayton employee were recently filed. The former Clayton employee (whose identity was redacted) testified that ***all*** of Clayton's Wall Street clients (including Credit Suisse, a client of Clayton's) ***instructed Clayton to ignore defective loans, to code defective loans as non-defective, and to change loans that had been graded as defective to non-defective***. The essence of the former Clayton employee's testimony was that defendants instructed Clayton to fraudulently change defective, non-complying loans into compliant loans. The effect of such efforts was that Clayton's reports ***understated*** the number of loans that were defective and which were included in defendants' offerings.

10. Actual Loan and Borrower Information Confirms that the Offering Documents Were False and Misleading

249. Plaintiff has obtained information concerning loans within the offerings at issue herein and the attendant borrowers from public bankruptcy filings and other sources. This information confirms that there was a systemic abandonment of the stated loan underwriting guidelines in this case by the loan originators at issue in this action. The following examples conclusively demonstrate that the loan originators used by the Credit Suisse Defendants did not originate loans in conformance with the underwriting guidelines set forth in the Offering Documents,

and did not evaluate either the creditworthiness of the borrowers or their ability to repay the loans. Plaintiff has not provided examples from every offering, however, the examples provided are not aberrations or outliers. Rather, they are an accurate representative sample of the underwriting defects that permeated all of the loans and offerings at issue herein and loan originators in general during the relevant time period. Indeed, as previously alleged, former Clayton executive D. Keith Johnson confirmed in his testimony to the FCIC that the breakdown in lending standards was "systemic."

250. The systemic breakdown in loan underwriting guidelines with respect to the loans at issue in this action is further confirmed by, among many other things, the huge numbers of loans at issue herein that have subsequently defaulted. Indeed, as alleged more fully at §V, *supra*, nearly all of the loan groups supporting plaintiff's certificates have double-digit default rates, ***with the vast majority of the loan groups having stunning defaults rates between 27%-40%, and with many having default rates in excess of 33%***. The fact that so many loans have defaulted is strong evidence that the lenders at issue herein did not follow their loan origination guidelines and did not determine, or care, whether borrowers could afford to repay their loans.

251. The following information concerns loans and borrowers from the Credit Suisse Offerings at issue herein:

(1) CSMC 2006-3 Offering

252. A borrower obtained three loans, for $925,000, $736,000, and $760,000, in 2005, and all three loans were contained within the CSMC 2006-3 offering. The loans were originated through Credit Suisse First Boston Financial Corp., one of the loan originators identified in the Offering Documents. This borrower had joint (with his wife) income in 2005 of $13,795 per month, according to the borrower's sworn bankruptcy filings. ***However, the borrower's monthly debt payments were at least $18,893, far in excess of the borrower's monthly income***. The borrower's

monthly debt payments were in addition to the borrower's monthly expenses for things such as taxes, utilities, groceries, health care, transportation, and the like. Clearly, this borrower could not afford to repay the loans. This is confirmed by the fact that the borrower declared bankruptcy after obtaining the loans at issue, in 2007.

(2) FNLC 2007-1 Offering

253. A borrower obtained a loan for $472,500 in 2007 which was contained within the FNLC 2007-1 offering. The loan was originated through First NLC, the loan originator identified in the Offering Documents. This borrower had income in 2007 of $2,083 per month, according to the borrower's sworn bankruptcy filings. ***However, the borrower's monthly debt payments were at least $4,594, far in excess of the borrower's monthly income***. The borrower's monthly debt payments were in addition to the borrower's monthly expenses for things such as taxes, utilities, groceries, health care, transportation, and the like. Clearly, this borrower could not afford to repay the loan. This is confirmed by the fact that the borrower declared bankruptcy shortly after obtaining the loan at issue, in 2008.

(3) GEWMC 2005-2 Offering

254. A borrower obtained a first-lien loan for $416,000 and a second-lien loan for $104,000 in 2005, both of which were contained within the GEWMC 2005-2 offering. The loans were originated through WMC, the loan originator identified in the Offering Documents. This borrower had income in 2005 of $2,598 per month, according to the borrower's sworn bankruptcy filings. ***However, the borrower's monthly debt payments were at least $4,055, far in excess of the borrower's monthly income***. The borrower's monthly debt payments were in addition to the borrower's monthly expenses for things such as taxes, utilities, groceries, health care, transportation, and the like. Clearly, this borrower could not afford to repay the loans. This is confirmed by the fact that the borrower declared bankruptcy shortly after obtaining the loans at issue, in 2006.

(4) HEAT 2007-3 Offering

255. A borrower obtained a loan for $356,000 in 2006 which was contained within the HEAT 2007-3 offering. This loan was originated through EquiFirst, one of the originators identified in the Offering Documents. This borrower had income in 2006 of $2,659 per month, according to the borrower's sworn bankruptcy filings. ***However, the borrower's monthly debt payments were at least $5,942, far in excess of the borrower's monthly income***. Therefore, this borrower had a DTI ratio of over 223%. The borrower's monthly debt payments were in addition to the borrower's monthly expenses for things such as taxes, utilities, groceries, health care, transportation, and the like. Clearly, this borrower could not afford to repay the loan. This is confirmed by the fact that the borrower declared bankruptcy after obtaining the loan, in 2008.

(5) INDX 2007-FLX3 Offering

256. A borrower obtained a loan for $536,000 in 2007 which was contained within the INDX 2007-FLX3 offering. The loan was originated through IndyMac, the loan originator identified in the Offering Documents. This borrower had income in 2007 of $1,513 per month, according to the borrower's sworn bankruptcy filings. ***However, the borrower's debt payments were at least $2,644 to $4,567 per month, far in excess of the borrower's monthly income***. The borrower's monthly debt payments were in addition to the borrower's monthly expenses for things such as taxes, utilities, groceries, health care, transportation, and the like. Clearly, this borrower could not afford to repay the loan. This is confirmed by the fact that the borrower declared bankruptcy after obtaining the loan at issue, in 2009.

(6) NCHET 2006-1 Offering

257. A borrower obtained a loan for $315,000 in 2006 which was contained within the NCHET 2006-1 offering. The loan was originated through New Century, the loan originator identified in the Offering Documents. ***This borrower had income in 2006 of only $364 per month***,

according to the borrower's sworn bankruptcy filings. ***However, the borrower's monthly debt payments were at least $4,961, far in excess of the borrower's monthly income***. The borrower's monthly debt payments were in addition to the borrower's monthly expenses for things such as taxes, utilities, groceries, health care, transportation, and the like. Clearly, this borrower could not afford to repay the loan. This is confirmed by the fact that the borrower declared bankruptcy shortly after obtaining the loan at issue, in 2007.

B. Defendants Made Material Misrepresentations Regarding the Underlying Loans' Loan-to-Value Ratios

258. As set forth *supra*, defendants' Offering Documents affirmatively misrepresented the LTV ratios associated with the certificates' underlying loans. *See* §V. For the reasons set forth immediately below, these misrepresentations were material to plaintiff's investments in the certificates.

259. An LTV ratio is calculated by dividing the loan amount into the value of the mortgaged property. LTV ratios are extremely important to both investors and the Credit Rating Agencies, because they are indicative of the credit quality and safety of a particular loan or group of loans. Generally speaking, a lower LTV ratio indicates a higher credit quality, safer loan. Conversely, a higher LTV ratio indicates a lower quality, riskier loan.

260. To explain, the mortgaged property serves as collateral and security for the repayment of the loan. If the borrower defaults on the loan, foreclosure occurs and the property is sold, with the proceeds of the sale going toward paying the outstanding loan balance, but only after all other expenses are paid. If there is insufficient collateral, *i.e.*, the sale proceeds (minus all expenses) are less than the outstanding loan balance, the investor suffers a loss. A low LTV ratio indicates that there is more collateral, or security, for the loan in the event of a foreclosure. In other words, the investor is less likely to face a situation where the sale proceeds net of expenses are less than the

outstanding loan amount, and therefore the investor is less likely to suffer a loss. In addition, a lower LTV ratio indicates that the borrower has more "equity" committed to the property, and is thus less likely to default on the loan compared to a borrower with little or less equity, who consequently has less financial incentive to avoid defaulting on the loan. As a result, the lower the LTV ratio, the more likely it is the borrower will repay the loan, and the more likely it is that there will be sufficient security to make the investor whole, and avoid a loss, in the event of a default and/or a decline in real estate values.

261. In any case, an investor ***never*** wants a group of loans with a large number of loans with LTV ratios over 100%, as that implies a ***certain loss*** in the event of foreclosure. Moreover, a group of loans with a high number of loans with LTV ratios over 100% is highly susceptible to default, because the borrowers have little financial incentive to continue making payments if their financial circumstances change or the value of the properties decline. An understanding of the true LTV ratios associated with the loans underlying a given RMBS is thus essential to an investor, as it allows the investor to properly gauge the risk associated with the investment.

262. Because LTV ratios are critically important to the risk analysis for a given RMBS, they also constitute one of the critical pieces of information used by the Credit Rating Agencies' computerized rating models to determine what credit ratings should be assigned to RMBS certificates. Generally, the lower the LTV ratios, the higher the ratings the Credit Rating Agencies assign to the certificates. Moreover, the lower the LTV ratios, the less credit enhancement the Credit Rating Agencies generally require to obtain "investment grade" credit ratings. And the less credit

enhancement that is required, the less costly, and more profitable, the RMBS offering is to the entities structuring, marketing and selling the RMBS (*i.e.*, defendants here).[15]

263. Defendants were very aware of the foregoing. Accordingly, defendants affirmatively misrepresented the actual percentages of the certificates' underlying loans that had LTV ratios in excess of 80% and 100%. These representations were intended to convey that there was sufficient protection against losses in the event of defaults, and that the loans (and therefore the certificates) were of high credit quality, and were safe, solid investments. Unfortunately for plaintiff, defendants' representations concerning the LTV ratios associated with the certificates' underlying loans were false and misleading when made. *See* §V, *supra*.

264. Defendants accomplished their deception by using false and inflated appraisals and valuations for the relevant properties, as alleged above. Because false and inflated appraisals were used, defendants were able to generate artificially understated LTV ratios, which were then included in the Offering Documents.

265. The appraisers knew that their appraisals were false and inaccurate, and did not believe them to be true. The appraisers, and others providing valuations, were being strong-armed into providing inflated valuations by the lenders, who threatened the appraisers with being black-balled in the industry and excluded from future work unless the inflated valuations were provided. In other instances, appraisers were being bribed into providing inflated valuations by lenders who paid the appraisers above-market fees for inflated valuations and/or rewarded appraisers with

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[15] "Credit enhancements" can take numerous forms, but one common form is to require the sellers (defendants in this case) to include additional collateral, *i.e.*, additional loans or better credit quality loans, in the offering to help ensure the expected cash flow. Either way, the practical effect is that additional credit enhancements represent additional costs and/or decreased profit margins to the entities responsible for the offering.

substantial additional work for inflated appraisals. In yet other instances, lenders intentionally provided appraisers with false sales information designed to generate inflated appraisals and valuations. Lenders also required appraisers to rely on information outside the relevant market to support inflated valuations. Lenders and some appraisers further retaliated against any appraisers that questioned or criticized their corrupt practices.

266. Defendants were well aware that the appraisal valuation process was being actively manipulated by loan originators and appraisers, and therefore also knew that the reported property valuations and LTV ratios for the loans did not reflect accurate information. Defendants learned such facts when they performed due diligence on the loans, as well as through Clayton, and by virtue of their participation in originating the loans, and through their ownership and control of lenders and their close relationships with them. Defendants had little incentive to correct the inflated appraisals – and did not – because inflated appraisals led to larger loan amounts, thereby increasing the size of defendants' RMBS offerings, and decreased credit enhancement requirements, all of which, in turn, increased defendants' compensation and profits. Accordingly, defendants knew that the LTV ratios reported in the Offering Documents were not accurate or reliable indicators of the credit quality of the loans, and that such LTV ratios had no reasonable basis in fact.

C. Defendants Made Material Misrepresentations Regarding the Underlying Loans' Owner Occupancy Rates

267. As set forth *supra*, the Offering Documents misrepresented the OOR percentages, or Primary Residence Percentages, associated with the loan groups supporting plaintiff's certificates. *See* §V. For the reasons set forth immediately below, these misrepresentations were material to plaintiff's investments in the certificates.

268. The purpose behind disclosing the OOR percentages associated with a particular group of loans supporting RMBS is to identify the percentage of such loans that are owner occupied

or primary residences – that is, the percentage of loans issued to borrowers who purportedly lived in the mortgaged properties. Primary Residence Percentages are extremely important to investors like plaintiff, because borrowers are much less likely to default on loans secured by their primary homes, as opposed to loans secured by investment properties or second homes. Accordingly, higher Primary Residence Percentages indicate safer loans, and thus safer RMBS certificates, while lower Primary Residence Percentages indicate riskier loans, and thus lower credit quality certificates.

269. Because Primary Residence Percentages are critically important to the risk analysis for a given RMBS, they also constitute one of the critical pieces of information used by the Credit Rating Agencies' computerized rating models to determine what credit ratings should be assigned to RMBS certificates. Generally, the higher the Primary Residence Percentages, the higher the ratings the Credit Rating Agencies assign to the certificates. Moreover, the higher the Primary Residence Percentages, the less credit enhancement the Credit Rating Agencies generally require to obtain "investment grade" credit ratings. And the less credit enhancement that is required, the less costly, and more profitable, the RMBS offering is to the entities responsible for structuring, marketing and selling the RMBS (*i.e.*, defendants here).

270. Well aware of this dynamic, defendants systematically overstated the Primary Residence Percentages associated with plaintiff's certificates, as set forth *supra*. As a result, defendants created the false impression that the loans and certificates were of higher credit quality than they in fact were. Indeed, in most instances, defendants materially overstated the actual Primary Residence Percentages by double-digit percentages. *See* §V, *supra*.

271. Defendants knew, based on their due diligence of the loans, Clayton's reports and their own active role in the loan origination process, that the Primary Residence Percentages for the certificates' underlying loans were being actively manipulated by loan originators and borrowers. Specifically, defendants were well aware that borrowers were misrepresenting their residency status

in order to obtain lower interest rates and/or eligibility for higher LTV or DTI ratio loans. Defendants were further aware that the originators were also actively manipulating the Primary Residence Percentages in order to receive higher prices when selling their loans. Even though defendants were aware that the Primary Residence Percentages were falsely inflated, they did not challenge them or change them to reflect the true OORs because defendants knew that higher Primary Residence Percentages for the loans would result in higher credit ratings from the Credit Rating Agencies and less additional credit enhancement requirements for their offerings, thereby increasing defendants' profits in selling the certificates. As a result of the foregoing, defendants knew that the Primary Residence Percentages stated in the Offering Documents were false and had no reasonable basis in fact.

D. Defendants Made Material Misrepresentations Regarding the Credit Ratings for the Certificates

272. As set forth *supra*, in each of the Offering Documents at issue herein, defendants represented that the certificates plaintiff was purchasing had or would have certain high, safe, "investment grade" credit ratings from at least two of the three major Credit Rating Agencies (S&P, Moody's and/or Fitch). *See* §V, *supra*. For the reasons set forth *supra* and immediately below, these representations were both material and false.

273. Credit ratings are extremely important to investors in assessing the quality and safety of RMBS certificates. Credit ratings on such securities indicate how reliable and safe the investments are, and are used to predict the likelihood that they will perform, *i.e.*, pay, as expected and return the investor's principal at the end of the lending term. The credit ratings of the certificates were very important to plaintiff, as they were required to purchase only certificates that were rated "investment grade" by the Credit Rating Agencies. Indeed, many of the certificates purchased by plaintiff received the highest, safest credit ratings available – "Aaa" by Moody's or

"AAA" by S&P and Fitch. These credit ratings indicated that the certificates were the "safest of the safe," as such ratings were ***the same as, or even higher than, the current credit rating of U.S. Treasury debt***. Indeed, "[t]raditionally, investments holding AAA ratings have had a ***less than 1% probability of incurring defaults***." Levin-Coburn Report at 6. Below is a chart setting forth the Credit Rating Agencies' credit grading systems, denoting the various investment grade and speculative grade ratings they provided:

Moody's Grades	**S&P's Grades**	**Fitch's Grades**
Aaa	AAA	AAA
Aa1	AA+	AA+
Aa2	AA	AA
Aa3	AA-	AA-
A1	A+	A+
A2	A	A
A3	A-	A-
Baa1	BBB+	BBB+
Baa2	BBB	BBB
Baa3	BBB-	BBB-
↑Investment Grade		
Speculative Grade↓		
Ba1	BB+	BB+
Ba2	BB	BB
Ba3	BB-	BB-
B1	B+	B+
B2	B	B
B3	B-	B-
Caa1	CCC+	CCC+
Caa2	CCC	CCC
Caa3	CCC-	CCC-
Ca	CC	CC
C	C	C
	D	D

274. As previously discussed, the certificates never should have received the safe, "investment grade" ratings touted by defendants in the Offering Documents. In truth, the certificates were anything but safe, "investment grade" securities, as defendants well knew. In fact, the certificates were exactly the opposite – extremely risky, speculative grade "junk" bonds or worse, backed by low credit quality, extremely risky loans. As defendants were well aware, the certificates

were each backed by numerous loans that had not been originated pursuant to their stated underwriting guidelines, with many loans being made without any regard for the borrowers' true repayment ability, and/or on the basis of falsely inflated incomes and property values, as alleged above. Moreover, as also alleged above, the LTV ratios and Primary Residence Percentages for the loans had been falsified so as to make the loans (and thus, the certificates) appear to be of much higher credit quality than they actually were.

275. In order to obtain "investment grade" credit ratings for the certificates, defendants were required to work with the Credit Rating Agencies. Specifically, defendants were required to provide the Credit Rating Agencies with information concerning the underlying loans, which the Credit Rating Agencies then put into their computerized ratings models to generate the credit ratings. In order to procure the falsely inflated ratings defendants desired for the certificates, defendants fed the Credit Rating Agencies falsified information on the loans, including, without limitation, false loan underwriting guidelines, false LTV ratios, false borrower FICO scores, false borrower DTI ratios, and false Primary Residence Percentages. Among other things, defendants falsely represented to the Credit Rating Agencies that virtually none of the loans in any of the offerings had LTV ratios in excess of 100%. Defendants also misrepresented and underreported the numbers of loans that had LTV ratios in excess of 80% in many cases. Defendants further misrepresented that the loans had much higher Primary Residence Percentages than they actually did. Defendants also concealed from the Credit Rating Agencies that most of the loans were not originated pursuant to the underwriting guidelines stated in the Offering Documents and/or were supported by falsely inflated incomes, appraisals and valuations. Defendants also never informed the Credit Rating Agencies that Clayton had detected defect rates of 32% in the samples of loans it tested for the Credit Suisse Defendants or that Credit Suisse had put 33.4% of those identifiably defective loans into the offerings. Defendants also never told the Credit Rating Agencies that defendants did no further testing on the vast majority

of loans despite their awareness that there were significant numbers of defective loans detected by the test samples.

276. That the credit ratings stated in the Offering Documents were false and misleading is confirmed by subsequent events, as set forth *supra*. Specifically, after the sales of the certificates to plaintiff were completed, staggering percentages of the loans underlying the certificates began to go into default because they had been made to borrowers who either could not afford them or never intended to pay them. Indeed, ***in a majority of the loan groups at issue herein, at least 33% of the loans currently in the trusts are in default***. ***A substantial number of loan groups have default rates above 37%***.

277. ***The average default rate for all the certificates at issue herein currently hovers at around 32.5%***. In other words, over three in ten loans currently in the trusts are in default. It is also important to understand that these reported default rates are for loans that are ***currently*** still in the trusts. Any ***prior*** loans that were in default and which had been previously liquidated or sold, and thus written off and taken out of the trusts, have not been included in the calculations. Therefore, the foregoing default rates do not include earlier defaults, and thus ***understate*** the cumulative default rates for all of the loans that were originally part of the trusts.

278. Further proving that the credit ratings stated in the Offering Documents were false and misleading is the fact that ***all*** of the certificates have since been downgraded to reflect their true credit ratings, now that the true credit quality (or more accurately, lack of quality) and riskiness of their underlying loans is known. Indeed, ***all of plaintiff's 20 certificates have now been downgraded to speculative "junk" status or below by S&P and/or Moody's***. Moreover, ***12 of plaintiff's 20 certificates now have a credit rating of "D" by S&P and/or "C" by Moody's, indicating that they are in "default***," and reflecting that they have suffered losses and/or writedowns, and/or have completely stopped paying. In other words, approximately 60***% of***

plaintiff's certificates are in default. This is strong evidence that defendants lied about the credit ratings. This is so because the high, "investment grade" credit ratings assigned to plaintiff's certificates had a probability of default of between "less than 1%" (Levin-Coburn Report at 6) for the highest rated certificates and 2.6% (according to Moody's) for certificates rated even lower than plaintiff's. The huge discrepancy in the actual default rates (60%) and the historically expected default rates (less than 2.6%) demonstrates the falsity of defendants' statements regarding the credit ratings.

279. These massive downgrades – in many cases, from "safest of the safe" "AAA" ratings to "junk" (anything below Baa3 or BBB-) – show that, due to defendants' knowing use of bogus loan data, the initial ratings for the certificates, as stated in the Offering Documents, were false. Indeed, the fact that 100**%** of the certificates are now rated at "junk" status or below, and ***approximately*** 60***% of the certificates are now in default***, is compelling evidence that the initial high ratings touted by defendants in the Offering Documents were grossly overstated and false.

E. Defendants Materially Misrepresented that Title to the Underlying Loans Was Properly and Timely Transferred

280. An essential aspect of the mortgage securitization process is that the issuing trust for each RMBS offering must obtain good title to the mortgage loans comprising the pool for that offering. This is necessary in order for plaintiff and the other certificate holders to be legally entitled to enforce the mortgage and foreclose in case of default. Accordingly, at least two documents relating to each mortgage loan must be validly transferred to the trust as part of the securitization process – a promissory note and a security instrument (either a mortgage or a deed of trust).

281. The rules for these transfers are governed by the law of the state where the property is located, by the terms of the pooling and servicing agreement ("PSA") for each securitization, and by the law governing the issuing trust (with respect to matters of trust law). Generally, state laws and

the PSAs require that the trustee have physical possession of the original, manually signed note in order for the loan to be enforceable by the trustee against the borrower in case of default.

282. In addition, in order to preserve the bankruptcy-remote status of the issuing trusts in RMBS transactions, the notes and security instruments are generally not transferred directly from the mortgage loan originators to the trusts. Rather, the notes and security instruments are generally initially transferred from the originators to the sponsors of the RMBS offerings. After this initial transfer to the sponsor, the sponsor in turn transfers the notes and security instruments to the depositor. The depositor then transfers the notes and security instruments to the issuing trust for the particular securitization. This is done to protect investors from claims that might be asserted against a bankrupt originator. Each of these transfers must be valid under applicable state law in order for the trust to have good title to the mortgage loans.

283. Moreover, the PSAs generally require the transfer of the mortgage loans to the trusts to be completed within a strict time limit – three months – after formation of the trusts in order to ensure that the trusts qualify as tax-free real estate mortgage investment conduits ("REMICs"). In order for the trust to maintain its tax free status, the loans must have been transferred to the trust no later than three months after the "startup day," *i.e.*, the day interests in the trust are issued. *See* Internal Revenue Code §860D(a)(4). That is, the loans must generally have been transferred to the trusts within at least three months of the "closing" dates of the offerings. In this action, all of closing dates occurred in 2005, 2006 or 2007, as the offerings were sold to the public. If loans are transferred into the trust after the three-month period has elapsed, investors are injured, as the trusts lose their tax-free REMIC status and investors like plaintiff may face several adverse draconian tax consequences, including: (1) the trust's income becoming subject to corporate "double taxation"; (2) the income from the late-transferred mortgages being subject to a 100% tax; and (3) if late-

transferred mortgages are received through contribution, the value of the mortgages being subject to a 100% tax. *See* Internal Revenue Code §§860D, 860F(a), 860G(d).

284. In addition, applicable state trust law generally requires strict compliance with the trust documents, including the PSAs, so that failure to strictly comply with the timeliness, endorsement, physical delivery, and other requirements of the PSAs with respect to the transfers of the notes and security instruments means the transfers would be void and the trust would ***not*** have good title to the mortgage loans.

285. To this end, all of the Offering Documents relied upon by plaintiff stated that the loans would be timely transferred to the trusts. *See* §V, *supra.* For example, in the HEAT 2007-3 Offering Materials, the Credit Suisse Defendants represented that "on the closing date for the initial mortgage loans and on any subsequent transfer date for the subsequent mortgage loans, the depositor will sell, transfer, assign, set over and otherwise convey without recourse to the trustee in trust for the benefit of the certificateholders all right, title and interest of the depositor in and to each mortgage loan." HEAT 2007-3 Pros. Supp. at S-33.

286. However, defendants' statements were materially false and misleading when made. Contrary to defendants' representations that they would legally and properly transfer the promissory notes and security instruments to the trusts, defendants in fact systematically failed to do so. This failure was driven by defendants' desire to complete securitizations as fast as possible and maximize the fees they would earn on the deals they closed. Because ensuring the proper transfer of the promissory notes and mortgages hindered and slowed defendants' securitizations, defendants deliberately chose to disregard their promises to do so to plaintiff.

287. Defendants' failure to ensure proper transfer of the notes and the mortgages to the trusts at closing has already resulted in damages to investors in securitizations underwritten by defendants. Trusts are unable to foreclose on loans because they cannot prove they own the

mortgages, due to the fact that defendants never properly transferred title to the mortgages at the closing of the offerings. Moreover, investors are only now becoming aware that, while they thought they were purchasing "***mortgaged-backed***" securities, in fact they were purchasing ***non***-mortgaged-backed securities.

288. In fact, Attorneys General from 49 states have investigated foreclosure practices after the discovery that mortgage servicers used faulty or falsified paperwork to improperly seize homes from borrowers. The investigation culminated in a huge settlement of $25 billion with five large banks.

289. Facts disclosed in news reports and uncovered through government investigations and home owner foreclosure litigation over defendants' securitizations confirm widespread problems with defendants' failure to ensure proper transfer of the required mortgage documents, and highlight the damage that failure has caused to plaintiff's investments. In an interview on *60 Minutes*, Lynn Szymoniak, a lawyer and fraud investigator who has uncovered instances in which banks appear to have manufactured mortgage documentation, explained the issue as follows:

> "When you could make a whole lotta money through securitization. And every other aspect of it could be done electronically, you know, key strokes. This was the only piece where somebody was supposed to actually go get documents, transfer the documents from one entity to the other. And it looks very much like they just eliminated that stuff all together."

290. As part of its exposé, *60 Minutes* interviewed Chris Pendley, a temporary employee of a company called Docx. Pendley was paid $10 per hour to sign the name "Linda Green," who, on paper, purportedly served as vice president of at least 20 different banks at one time, to thousands of mortgage documents that were later used in foreclosure actions. Pendley said he and other employees of Docx were expected to sign at least 350 documents per hour using the names of other individuals on documents used to establish valid title. Asked if he understood what these documents were, Pendley said, "[n]ot really." He then explained that he signed documents as a "vice president"

of five to six different banks per day. Purported transfers bearing the signature of "Linda Green" were used to transfer mortgages from major originators to the depositors.

291. Further illustrating the falsity of defendants' representations in the Offering Documents regarding proper transfer of the mortgage documents to the issuing trusts is attorney Szymoniak's letter to the SEC (the "SEC Letter"). In the SEC Letter, Szymoniak detailed the fraudulent alteration and manufacture of mortgage documents by employees of Lender Processing Services, Inc. ("LPS"). LPS is a mortgage default company located in Jacksonville, Florida that, according to Szymoniak, "produced several missing Mortgage Assignments, using its own employees to sign as if they were officers of the original lenders." Szymoniak observed instances of mortgage transfers prepared by LPS employees that contained forged signatures, signatures of individuals as corporate officers on behalf of a corporation that never employed the individuals in any such capacity, and signatures of individuals as corporate officers on behalf of mortgage companies that had been dissolved by bankruptcy years prior to the transfers, among other things.

292. The fabrication of the mortgage transfers appears to have been intended to conceal the actual date that interests in the properties were acquired by the RMBS trusts. The fraudulent transfers uncovered in foreclosure litigation often show that the transfers were prepared and filed in 2008 and 2009, when, in reality, the mortgages and notes were intended and should have been transferred prior to the closing date of the trusts, in 2005, 2006 and 2007, as stated in the Offering Documents relied on by plaintiff. Moreover, Szymoniak published an article on *Phil's Stock World* on July 20, 2011, setting forth the huge numbers of "trusts that closed in 2005, 2006 and 2007 [that have] repeatedly filed mortgage assignments signed and notarized in 2011," years after the closing dates. These late transfers of mortgages are an obvious improper attempt by defendants to untimely transfer the mortgage loans to the trusts after-the-fact. As discussed above, even if such transfers are valid, plaintiff has been severely damaged because of defendants' failure to timely transfer the loans,

as the trusts have potentially lost their tax-free status and the payments to investors might now be subject to various forms of draconian taxation.

293. Other public reports corroborate the fact that the loans were not properly transferred. For example, Cheryl Samons, an office manager for the Law Office of David J. Stern – a "foreclosure mill" under investigation by the Florida Attorney General for mortgage foreclosure fraud that was forced to shut down in March 2011 – signed tens of thousands of documents purporting to establish mortgage transfers for trusts that closed in 2005 and 2006 in 2008, 2009 and 2010 from Mortgage Electronic Registration Services, an electronic registry that was intended to eliminate the need to file transfers in the county land records. In depositions in foreclosure actions, Samons has admitted that she had no personal knowledge of the facts recited on the mortgage transfers that were used in foreclosure actions to recover the properties underlying the mortgages backing RMBS. *See, e.g.*, Deposition of Cheryl Samons, *Deutsche Bank Nat'l Trust Co., as Trustee for Morgan Stanley ABS Capital 1 Inc. Trust 2006-HE4 v. Pierre*, No. 50-2008-CA-028558-XXX-MB (Fla. Cir. Ct., 15th Jud. Cir., Palm Beach City, May 20, 2009).

294. The need to fabricate or fraudulently alter mortgage assignment documentation provides compelling evidence that, in many cases, title to the mortgages backing the certificates plaintiff purchased was never properly or timely transferred. This fact is confirmed by an investigation conducted by plaintiff concerning one of the specific offerings at issue herein, which revealed that the vast majority of loans underlying the offering were not properly or timely transferred to the trust.

295. Specifically, plaintiff performed an investigation concerning the mortgage loans purportedly transferred to the trust for the Credit Suisse Defendants' HEAT 2007-3 offering. The closing date for this offering was on or about May 1, 2007. Plaintiff reviewed the transfer history for 272 loans that were supposed to be timely transferred to this trust. Thirty-five (35) of the loans were

not and have never been transferred to the trust. Twenty-one (21) additional loans were never assigned to the trust, and were paid in full in the name of the originator (or a third party). In addition, two (2) other loans that were supposed to be transferred to the trust were transferred to entities other than the trust, but not to the trust. The remainder of the loans (214) were eventually transferred to the trust, but all such transfers occurred between late 2007 and the present, well beyond the three-month time period required by the trust documents. ***In other words, none of the reviewed mortgage loans were timely transferred to the trust, a 100% failure rate***.

296. The foregoing example, coupled with the public news, lawsuits and settlements discussed above, plainly establishes that defendants failed to properly and timely transfer title to the mortgage loans to the trusts. Moreover, it shows that defendants' failure to do so was widespread and pervasive. In fact, the specific example discussed above shows that defendants utterly and completely failed to properly and timely transfer title. Defendants' failure has caused plaintiff (and other RMBS investors) massive damages. As noted by law professor Adam Levitin of Georgetown University Law Center on November 18, 2010, in testimony he provided to the a U.S. House Subcommittee investigating the mortgage crisis, "[i]f the notes and mortgages were not properly transferred to the trusts, then the mortgage-backed securities that the investors[] purchased were in fact ***non-mortgaged-backed securities***" (emphasis in original), and defendants' failure "ha[d] profound implications for [R]MBS investors" like plaintiff.

VII. THE CREDIT SUISSE DEFENDANTS KNEW THAT THE REPRESENTATIONS IN THE OFFERING DOCUMENTS WERE FALSE AND MISLEADING

297. Defendants' representations in the Offering Documents were not only false and misleading, but defendants also ***knew***, or were at least reckless in disregarding, that the misrepresentations identified herein were false and misleading at the time defendants made them.

298. Indeed, as set forth above and further detailed immediately below, defendants were explicitly informed by their own independent due diligence firms, such as Clayton and Bohan, that substantial percentages of the loans underlying plaintiff's certificates either did not comply with their stated guidelines, had been issued without regard for the borrowers' true repayment ability or were secured by inadequate collateral.

299. In addition, as further detailed below, defendants' undeniable awareness of the Offering Documents' misrepresentations is further established by several other publicly available sources of information, including governmental investigations and documents disclosed in other civil litigations.

A. The Credit Suisse Defendants' Due Diligence Process Revealed to Them that the Loans Underlying the Credit Suisse Offerings Did Not Comply with the Stated Underwriting Guidelines and Had Falsified Statistics

300. Credit Suisse, through defendant Credit Suisse Securities, was an underwriter for all of the Credit Suisse Offerings alleged herein. As an underwriter, Credit Suisse was required under U.S. securities laws to "perform a review of the pool assets underlying the [certificates]," *i.e.,* the loans, and ensure that the offering documents were "accurate in all material respects." 17 C.F.R. §230.193. As such, Credit Suisse's legal duty was two-fold: first, to investigate the loans underlying its offerings, and second, to ensure that the statements in the Offering Documents about such loans were true and accurate.

301. As the Financial Industry Regulatory Authority ("FINRA") has found, Credit Suisse was very actively involved in performing due diligence on the loans underlying its RMBS

offerings.[16] *See* FINRA Letter of Acceptance, Waiver and Consent, No. 2008012808901, signed by Credit Suisse on May 16, 2011 ("Credit Suisse FINRA Letter"). In the Credit Suisse FINRA Letter, FINRA fined defendant Credit Suisse Securities $4.5 million because it provided RMBS investors with inaccurate information about delinquent loans underlying 21 of its offerings, including at least one of the Credit Suisse Offerings at issue herein. *See id.* In the Credit Suisse FINRA Letter, FINRA made the following findings concerning the due diligence performed by Credit Suisse Securities on the loans supporting Credit Suisse's RMBS offerings:

> ***As underwriter, Credit Suisse was involved both in preparing the offering documents for subprime RMBS [offerings] and in selling the securities to institutional investors [such as plaintiff]. Credit Suisse employees in the Firm's RMBS Group assisted in the underwriting and securitization process for subprime RMBS. <u>This group gathered all the pertinent information regarding the residential mortgage loans pooled in connection with subprime RMBS [offerings]</u> as of the cut-off date, including the loan tapes, which set forth data related to the type of collateral, location of the homes, borrowers' FICO scores, and payment status. Credit Suisse employees then coordinated with outside counsel to draft the prospectus materials and provided outside accountants with the delinquency numbers calculated to verify the data contained in the prospectus supplement. <u>Credit Suisse employees reviewed all offering materials for completeness and accuracy prior to its issuance to institutional investors [such as plaintiff]</u>.***

Credit Suisse FINRA Letter at 3.

302. Credit Suisse consented to and accepted FINRA's characterization of its due diligence activities on loans underlying its offerings. *Id.* at 1. As the foregoing demonstrates, Credit Suisse was not only intimately involved in investigating the loans and collecting detailed credit information and data for such loans, it was also the drafter and final editor of the Credit Suisse Offering Documents. Given the detailed due diligence Credit Suisse admittedly performed, coupled with the

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[16] FINRA is Credit Suisse's private regulator. FINRA is an independent regulator of securities firms doing business in the United States. Its mission is to protect investors by making sure the securities industry operates fairly and honestly.

repetitive nature and large magnitude of the misstated underwriting guidelines, appraisals, LTV ratios, and Primary Residence Percentages in the Credit Suisse Offerings (§V, *supra*), Credit Suisse undoubtedly became aware during its due diligence that its statements in the Offering Documents were false and misleading when made. This is particularly true because Credit Suisse first "***gathered all the pertinent information regarding the residential mortgage loans,***" thereby obtaining the misstated information above, and then also specifically checked the "***offering materials for completeness and accuracy prior to [their] issuance to [the plaintiffs]***." Credit Suisse FINRA Letter at 3. In light of these concessions by Credit Suisse, it clearly obtained knowledge that its statements in the Offering Documents were false.

303. Additional sources establish that Credit Suisse knew there were numerous defective loans within its offerings and that its statements affirming that the loans were originated pursuant to the applicable underwriting guidelines, were false and misleading. For example, on November 16, 2012, the SEC announced a settlement with Credit Suisse Securities concerning Credit Suisse's misconduct in misleading investors in connection with its securitization of mortgage loans and sale of RMBS offerings to investors. Credit Suisse Securities has agreed to pay $120 million to settle the SEC's charges.

304. The SEC's cease and desist order against several of the Credit Suisse Defendants sets forth two fraudulent practices that formed the basis for the charges: (1) Credit Suisse's "bulk settlement" practice in connection with 75 offerings between 2005 and 2012, whereby Credit Suisse failed to repurchase defective loans from the trust to the detriment of investors who were relying on the quality of these loans for repayment and unbeknownst to investors, entered into bulk settlements with originators in lieu of repurchases, which monies it retained as profits; and (2) Credit Suisse's failure to remove loans that experienced first payment defaults, in breach of its express representation that it would remove such loans, thereby causing investors to incur massive losses. *In*

the Matter of Credit Suisse Securities (USA) LLC, File No. 3-15098, Order Instituting Cease-and-Desist Proceedings (Nov. 16, 2012), http://www.sec.gov/litigation/admin/2012/33-9368.pdf ("Cease-and-Desist Order").

305. Among its findings, the SEC noted:

- "Because an EPD occurred almost immediately after the mortgage loan was originated, such a default was a red flag of a possible breach of underwriting standards or other loan origination problems." Cease-and-Desist Order, ¶16.
- "During the relevant period, Credit Suisse employees were aware that EPDs sometimes signaled origination and underwriting problems." *Id.*, ¶17.
- "Credit Suisse sampled 3% to 5% of all loans every month to identify deficiencies associated with origination of the loans. Through this loan quality review process, Credit Suisse learned facts that could constitute breaches of representations and warranties Credit Suisse made to RMBS trusts." *Id.*, ¶18.

306. The SEC's findings are highly relevant to the instant action because they constitute compelling evidence that Credit Suisse knew, based on its due diligence practices and the outstanding number of early payment defaults, that it was securitizing loans that did not comply with stated underwriting guidelines – a fact that is confirmed by the number of settlements it entered into with originators (in lieu of repurchases). Yet, Credit Suisse never disclosed to investors the defects that pervaded its offerings and its related settlements with originators. Instead, Credit Suisse fraudulently pocketed monies that should have been paid to the trusts/investors. The Cease-and-Desist Order explains that Credit Suisse grandly profited from its fraud as it "improperly obtained approximately $55,747,769," in addition to the monies it obtained "from underwriting fees on the November 2006 securitizations, and through the sale of the mortgages to the RMBS trust on the closing date of the securitizations." Cease-and Desist-Order at 2 & ¶45. As noted by the Director of the SEC's Division of Enforcement in a November 16, 2012 news conference call about enforcement of its action against Credit Suisse, "[a] basic tenet of our nation's financial system is that investors must be given accurate information upon which to base their investment decisions. If a major

investment bank misleads investors and places its own interests first, it is not just the investors who suffer, but the credibility of our financial system as well."

307. Similarly, on November 21, 2012, the New York Attorney General filed an action against Credit Suisse for committing multiple fraudulent and deceptive acts in promoting and selling its RMBS offerings and causing investors to incur over $11 billion in losses. The Attorney General alleges that "[d]espite its severe flaws, Defendants' review process did identify a large number of problematic loans and put Defendants on notice of systematic problems with underwriting. Defendants, however, routinely ignored the defects in order to preserve their relationship with originators and to keep a high volume of loans flowing into their securitization machine." Complaint, ¶53, *People of the State of New York v. Credit Suisse Securities (USA) LLC*, No. 451802-2012 (N.Y. Sup. Ct., N.Y. Cty. Nov. 20, 2012).

308. In fact, evidence adduced in a lawsuit filed by MBIA Insurance Corporation ("MBIA") against three Credit Suisse entities – Credit Suisse Securities, DLJ Mortgage (two of the defendants sued herein) and Select Portfolio Servicing, Inc. – ***demonstrates that Credit Suisse knew that borrowers of the loans it was securitizing were falsely overstating their incomes in violation of the underwriting guidelines***. *See MBIA Insurance Corporation v. Credit Suisse Securities (USA) LLC, et al.*, No. 603751/2009 (N.Y. Sup. Ct., N.Y. Cty.) ("*MBIA* Action"). In the case, MBIA insured a Credit Suisse RMBS offering and, after numerous loans in the offering went into default, MBIA was required to pay over $296 million in insurance claim payments. MBIA sued, alleging in a ***verified*** complaint that Credit Suisse had fraudulently represented that all the loans had been originated pursuant to strict underwriting guidelines. MBIA alleged in its verified complaint that Credit Suisse had fraudulently concealed that loans were made to borrowers who could not afford to repay them, and that borrowers falsely inflated their incomes, in violation of the underwriting guidelines.

309. In support of its allegations, MBIA filed with the court an internal Credit Suisse e-mail it had obtained. In the e-mail, Credit Suisse employees conducting due diligence on the loans were discussing the stated income loans Credit Suisse purchased and securitized. In an e-mail dated January 10, 2007, Credit Suisse Director Rob Sacco made the following comments to other Credit Suisse due diligence employees about the loans Credit Suisse purchased and securitized:

> As a side note – Of all Alt A loans we purchased in 2006, 1.0% of the full doc loan[s] have gone 60+ days delinquent. 5.56% of the Stated doc loans have gone 60+. 5 1/2 times worse ***because they are overstating their income on their application***.

This unequivocally establishes that Credit Suisse ***knew*** that stated income loans that it was buying and securitizing – such loans constituted a large portion of the securitized loans – had falsely inflated incomes in violation of the underwriting guidelines.

310. That Credit Suisse was aware that the loans it bought and securitized were not originated pursuant to the stated underwriting guidelines is further supported by the ***verified*** allegations made in the *MBIA* Action. As noted above, in its verified complaint, MBIA alleged that Credit Suisse fraudulently represented that the loans at issue had been originated pursuant to certain prudent underwriting guidelines. MBIA demonstrated that Credit Suisse lied by not only citing the above internal Credit Suisse e-mail, ***but by also obtaining and reviewing the actual loan files for 1,798 loans underlying the offering at issue***. MBIA ***verified*** that it found an astounding 87% of the defaulted loans in the offering did not comply with the stated underwriting guidelines, and that for another sample of 477 randomly selected loans, 79% did not comply with the stated underwriting guidelines. The evidence adduced from the *MBIA* Action demonstrates that Credit Suisse conducted due diligence and learned through that process that loans it sold to investors did not comply with the underwriting guidelines set forth in the Offering Documents.

311. The Credit Suisse Defendants also hired Clayton, Bohan and Watterson to test samples of loans they were going to put into the Credit Suisse Offerings, to determine whether the loans met the stated underwriting guidelines, had compensating factors meriting approval, and/or to determine whether the properties at issue had been properly and appropriately appraised/valued. These due diligence firms tested small samples of the loans, and provided Credit Suisse with written reports of the results.

312. During the period from at least January 1, 2006 through June 30, 2007 –when nearly all of the Credit Suisse Offerings were sold to plaintiff – Clayton tested loans and provided reports of the results to the Credit Suisse Defendants. During that time period, Clayton found that 32% of the loans it tested for Credit Suisse did not meet the stated underwriting guidelines, did not have compensating factors meriting approval, and/or had defective appraisals. In other words, one-third of the loans Credit Suisse submitted for testing were defective. ***Nonetheless, the Credit Suisse Defendants knowingly and deliberately "waived" 33.4% of those defective loans into the Credit Suisse Offerings and then sold them to plaintiff. This undisputedly establishes that the Credit Suisse Defendants intentionally and knowingly put a large numbers of defective, non-compliant loans into their offerings, which clearly contradicted their representations in the Offering Documents that all of the loans underlying their offerings complied with the stated underwriting guidelines. This in itself establishes that the Credit Suisse Defendants intentionally lied***.

313. Recently uncovered evidence in the action titled *Ambac Assurance Corp. v. EMC Mortgage LLC, et al.*, No. 650421/2011 (N.Y. Sup. Ct., N.Y. Cty.), further supports the fact that the Credit Suisse Defendants acted fraudulently. In that case, a former employee of Clayton and Watterson was deposed and excerpts of his deposition were recently filed with the court. The deposition transcript revealed that the former Clayton employee testified under oath that both Clayton and Watterson were instructed by ***all*** of their Wall Street bank clients to "approve loans ***that***

often did not satisfy the underwriting guidelines," to ignore defects in loan applications, to code defective loans as non-defective and to change many of the grades on loans that were coded as defective to reflect that they were non-defective. According to the former Clayton employee, these instructions included ignoring appraisals which did not support the stated value of the properties and applications for which a borrower's stated income was "unreasonable" and not supported by documentation. The former Clayton employee testified that the practice of failing to follow underwriting guidelines when re-underwriting loans at Clayton was pervasive, and that "[d]ue diligence underwriters like myself were forced to find compensating factors for defective loans where none existed." This indicates that the Clayton reports discussed above actually ***understated*** the numbers of defective loans that were "waived" into the Credit Suisse Offerings, because the Credit Suisse Defendants were instructing Clayton to re-designate defective loans as non-defective and telling Clayton to ignore such defective loans. More importantly, it clearly shows fraudulent intent, as the Credit Suisse Defendants instructed Clayton to essentially conceal the defective loans by either ignoring them or changing loans designated as defective to non-defective.

314. Moreover, while the high defect rates in the tiny test samples would cause "one [to] reasonably expect" that the much larger, untested, population of loans would "have many of the same deficiencies, and at the same rate, as the sampled loans," FCIC Report at 170, the Credit Suisse Defendants did absolutely no further testing of the loans, and instead used the Clayton reports to negotiate lower purchase prices for the loans. Indeed, D. Keith Johnson, former president of Clayton, told the FCIC in September 2010 that investment banks, such as Credit Suisse, used Clayton's loan defect reports as leverage to force lower sales prices from loan originators, thereby leaving more room for defendants to profit. After purchasing the defective loans from originators at the discounted prices, the Credit Suisse Defendants then securitized the risky loans, hiding them

within their offerings, thereby passing them on to the unsuspecting investors like plaintiff, while defendants never said a word about the defective loans. As the FCIC later concluded:

> [M]any prospectuses indicated that the loans in the pools either met guidelines outright or had compensating factors, even though Clayton's records show that only a portion of the loans were sampled, and that of those that were sampled, a substantial percentage of [defective] loans were waived in.

FCIC Report at 167. The FCIC found that such actions "rais[ed] the question of whether [the] disclosures [in the offering documents] were materially misleading." *Id.* at 170.

315. The foregoing unequivocally establishes that the Credit Suisse Defendants intentionally lied when they represented in the Offering Documents that the loans underlying their offerings were originated pursuant to the underwriting guidelines stated in those Offering Documents. The Clayton reports clearly establish that the loans were not so originated, and that the Credit Suisse Defendants knew it at the time they made their statements.

B. The Statistical Evidence Is Itself Persuasive Evidence that the Credit Suisse Defendants Knew or Recklessly Disregarded the Falsity of Their Representations

316. As discussed above, plaintiff's certificates have significantly underperformed, and an analysis of the underlying loans shows seriously misrepresented underwriting guidelines, LTV ratios and Primary Residence Percentages. For instance, as alleged above, in every Credit Suisse Offering the underwriting guidelines were seriously misstated. In addition, plaintiff's loan-level analysis shows that the Credit Suisse Defendants frequently overstated the percentage of loans secured by owner-occupied properties. *See* §V, *supra*. Because borrowers are less likely to "walk away," *i.e.*, default on properties they live in, the Credit Suisse Defendants' repeated overstatements of the Primary Residence Percentages materially understated the risk of each of the Credit Suisse Offerings.

317. Plaintiff's loan-level analysis also revealed that the Credit Suisse Defendants repeatedly understated the percentage of loans with high LTV ratios, sometimes by staggering amounts. *See* §V. In several Credit Suisse Offerings a substantial percentage of the loans – over 20% – were already "underwater." *Id.* This meant that many of the borrowers had no equity cushion to protect against a default, and in fact guaranteed a loss upon foreclosure.

318. The remarkable default rates, grossly understated LTV ratios, materially overstated owner occupancy statistics, and misrepresented underwriting guidelines are not only evidence that the loans underlying the Credit Suisse Offerings were defective – they are themselves strong evidence that the Credit Suisse Defendants knew the loans underlying the Credit Suisse Offerings were defective when they made contrary representations to plaintiff's assignors. Simply put, through their detailed loan-level reviews of the loans they were purchasing, the Credit Suisse Defendants could not have pooled these loans without knowing that, contrary to their representations, the loans were widely defective. Indeed, the Credit Suisse Defendants' own insurer – MBIA – found, in reviewing the ***actual*** loan files (which, as an investor, plaintiff does not have access to) that the "rampant and obvious nature of the breaches confirms that Credit Suisse made intentional misrepresentations concerning its mortgage loans and the due diligence that Credit Suisse purported to perform regarding the quality of those loans." *MBIA* Action, Verified Complaint, ¶11.

319. The significance of the Credit Suisse Defendants' systematic underwriting problems is magnified when one considers the size of these defendants' operations. It is inconceivable that problems on the scale at issue here, occurring within one of the world's largest and most sophisticated finance entities, could be anything but the result of knowing or reckless conduct with regard to the true risk profiles of the mortgage loans underlying the Credit Suisse Defendants' securitizations. Indeed, as previously alleged, the misrepresentations always made the loans look

safer and less risky than was true. The reason for this was simple – the Credit Suisse Defendants always made more money when they slanted the information in this way.

C. Credit Suisse Engaged in a Pattern and Practice of Consistent and Intentional Misrepresentations Concerning Loan Underwriting Guidelines, Appraisals, LTV Ratios, OORs, and Credit Ratings

320. The foregoing demonstrates that the Credit Suisse Defendants conducted due diligence on the loans underlying their offerings and learned of information contradicting their statements in the Offering Documents, at or before the time they wrote those documents. Subsequent events demonstrate that the Credit Suisse Defendants also engaged in a pattern and practice of serial misrepresentations and omissions concerning their RMBS offerings, defrauding plaintiff, other investors, and others, over and over in the same way.

321. For example, as alleged above, MBIA sued Credit Suisse, claiming it made fraudulent misrepresentations concerning the underwriting guidelines used to originate the loans, and alleged that borrowers were given loans they could not afford to repay, just as plaintiff alleges here. MBIA ***verified*** that the Credit Suisse Defendants had lied about the loans, as MBIA reviewed the ***actual loan files*** for numerous Credit Suisse loans and discovered that 79% to 87% of the loans were ***not*** originated pursuant to the relevant underwriting guidelines, contrary to Credit Suisse's representations. ***In fact, as revealed in that litigation, Credit Suisse employee Rob Sacco confirmed that Credit Suisse knew and concealed that borrowers "[we]re overstating their income[s] on their [loan] application[s]***" in violation of the underwriting guidelines, yet bought and securitized the loans anyway. Although MBIA was not an investor purchasing RMBS certificates like plaintiff, and a different Credit Suisse offering was at issue there, Credit Suisse engaged in an identical pattern of making the same types of misrepresentations to both MBIA and plaintiff concerning the underwriting guidelines purportedly used to originate the loans.

322. Similarly, several Allstate Insurance Company entities ("Allstate") sued the Credit Suisse Defendants in February 2011, alleging that Credit Suisse had fraudulently lied to them in connection with the sale of 11 RMBS certificates. *See Allstate Insurance Company, et al. v. Credit Suisse Securities (USA) LLC, et al.*, No. 650547/2011 (N.Y. Sup. Ct., N.Y. Cty). In that case, Allstate alleged that in each of the eight Credit Suisse offerings at issue therein, none of which are at issue in this case, Credit Suisse had systematically and materially misrepresented the loans and loan data, including, like here, the underwriting guidelines purportedly used, the appraisals, the LTV ratios, the Primary Residence Percentages, and the credit ratings. Allstate conducted analyses of the loans much like the plaintiff did here and confirmed that such data was consistently misrepresented by Credit Suisse throughout its offerings just as it was in this action. The LTV ratios were falsely understated and the Primary Residence Percentages were overstated. The Allstate lawsuit corroborates the fact that the Credit Suisse Defendants' *modus operandi* was consistent throughout its offerings – misstating the underwriting guidelines, the appraisals, the LTV ratios, the Primary Residence Percentages, and the credit ratings.

323. Further corroborating the pattern and practice of the Credit Suisse Defendants' serial misrepresentations about loan underwriting guidelines, appraisals, LTV ratios, Primary Residence Percentages and credit ratings, is the 2011 lawsuit against Credit Suisse by the FHFA. *See FHFA v. Credit Suisse Holdings (USA), Inc., et al.,* No. 11-cv-6200-DLC (S.D.N.Y.). In that case, the FHFA sued Credit Suisse over the sale of over $1.4 billion in certificates ***from 43 different Credit Suisse-sponsored or Credit Suisse-underwritten RMBS offerings***, including nine of the Credit Suisse Offerings at issue herein. The FHFA undertook a review of the loans underlying the 43 different offerings at issue therein (much the like analysis the instant plaintiff has undertaken with respect to the offerings at issue herein), and found that Credit Suisse had systematically misrepresented the same information that is alleged to have been misrepresented here. Indeed, the FHFA's analysis

concerning the LTV ratios and owner occupancy statistics for the 43 offerings at issue there show a remarkable pattern of consistent and uniform misrepresentations of the underwriting guidelines, along with serial understatements of the LTV ratios and repetitive overstatements of the Primary Residence Percentages by the Credit Suisse Defendants.

324. Several high-ranking Credit Suisse employees also engaged in criminally fraudulent activities related to RMBS, further demonstrating Credit Suisse's pattern and practice of fraud in connection with its RMBS. On February 1, 2012, Kareem Serageldin, Credit Suisse's Global Head of Structured Credit Trading; David Higgs, Credit Suisse's Managing Director and Head of Hedge Trading; Faisal Siddiqui, Vice President of Credit Suisse's CDO Trading Group in New York; and Salmaan Siddiqui, another Vice President of Credit Suisse's CDO Trading Group in New York, were sued by the SEC for violating federal securities laws. *See* Complaint, *SEC v. Serageldin, et al.*, No. 1:12-cv-00796-LTS (S.D.N.Y. Feb. 1, 2012). The SEC charged these Credit Suisse employees with fraudulently manipulating and overstating the prices of over $3 billion of RMBS and other securities owned by Credit Suisse, causing the company to falsely and materially misstate its financial results. The SEC complaint alleged that these Credit Suisse employees knew that the prices of RMBS and other mortgage-backed securities were falling, yet intentionally inflated the values of such securities carried on Credit Suisse's books. The SEC cited to telephone conversations by these employees which were taped, wherein they openly discussed how and by how much they would falsely inflate the values of the securities. The SEC cited to defendant Serageldin's "senior role in Credit Suisse's structured products group," *id.*, ¶81, and how the defendants knew of the steep price declines and impending demise of RMBS as early as the fall of 2007. It further chronicled how the Credit Suisse employees engaged in a course of fraudulent conduct designed to falsely report the values of Credit Suisse's RMBS and other securities. The SEC's complaint also detailed how these defendants sold RMBS short, via CDSs, obtaining a short position of $1 billion

during October of 2007. Moreover, at or about the same time as the SEC filed its complaint in February 2012, the United States Attorney for the Southern District of New York and a Grand Jury filed a criminal indictment against Serageldin, charging him with conspiracy to falsify books and records and wire fraud, based on the same conduct described above. *See* Indictment, *United States v. Serageldin,* No. 1:12-cr-00090-AKH (S.D.N.Y. Feb. 1, 2012). This shows that Credit Suisse's conduct was not only civilly fraudulent, but also criminal. It also further establishes a pattern and practice of fraudulent behavior by Credit Suisse in connection with its RMBS.

325. The fact that MBIA, Allstate, the FHFA, the SEC, a U.S. Attorney, a Grand Jury, and the plaintiff herein, have all been subject to or observed either the same or similar fraudulent conduct by the Credit Suisse Defendants, over numerous different Credit Suisse offerings and situations, demonstrates that those defendants had a pattern and practice of fraud and deceit that they repeated over and over. This is strong evidence that the Credit Suisse Defendants acted fraudulently, particularly since the misrepresented information was always presented such that it concealed the true risk profiles of the loans, or the true value of the securities, which not so coincidentally resulted in the Credit Suisse Defendants profiting more.

326. Credit Suisse ***knew***, based on its due diligence, its comprehensive involvement in all phases of the securitization process, its receipt of the Clayton reports, its motive and opportunity, its knowledge of the systemic breakdown in prudent lending practices by the residential mortgage industry, and its status as a repeat offender/serial misrepresenter, that the statements it made in the Credit Suisse Offering Documents were intentionally false and misleading.

D. The Credit Suisse Defendants' Scienter with Respect to the Certificates' Credit Ratings

327. Others have described the manner in which defendants used the false information in the Offering Documents to obtain investment grade and even "AAA" credit ratings, which were

essential for marketing the certificates to plaintiff. As Susan Barnes, the North American Practice Leader for RMBS at S&P from 2005 to 2008, explained:

> The securitization process relies on the quality of the data generated about the loans going into [the offerings]. ***S&P relies on the data produced by others and reported to both S&P and investors about those loans***. At the time that it begins its analysis of a[n offering], S&P receives detailed data concerning the loan characteristics of each of the loans in the pool – up to 70 separate characteristics for each loan in a pool of, potentially, thousands of loans. ***S&P does not receive the original loan files for the loans in the pool. Those files are reviewed by the arranger or sponsor of the transaction, who is also responsible for reporting accurate information about the loans in the deal documents and offering documents to potential investors***.

Testimony of Susan Barnes Before the Senate Permanent Subcommittee on Investigations, Apr. 23, 2010.

328. Defendants met with the Credit Rating Agencies prior to having the certificates rated, to discuss the proposed guidelines the Credit Rating Agencies would use to determine the ratings and how the Credit Rating Agencies would treat the loans in question. Defendants did this to ensure that they understood how the Credit Rating Agencies would determine the ratings. Defendants learned from these meetings – as well as from their prior knowledge of Fitch's, Moody's and S&P's ratings software from earlier RMBS securitizations – that using accurate information would not yield the required ratings. Accordingly, defendants fed the Credit Rating Agencies the same false loan-level data regarding LTV ratios, Primary Residence Percentages, home values, DTI ratios, FICO scores, underwriting guidelines and repayment ability that they provided to plaintiff in aggregate form in the Offering Documents. The Credit Rating Agencies then put this false data into their quantitative models to assess the supposed credit risk associated with the certificates, project likely future defaults, and ultimately, determine the credit ratings to be assigned to the certificates. Defendants essentially pre-determined the ratings by putting false data into the ratings system. In essence, defendants engaged in the maxim "garbage in, garbage out" – they fed the Credit Rating Agencies

"garbage," in the form of falsified property valuations, borrower credit information, LTV ratios, OOR percentages, and the like, and the Credit Rating Agencies put "garbage out," in the form of inaccurate credit ratings that were based on defendants' falsified data. Unfortunately, as a former Wall Street insider revealed to the U.S. Senate in testimony concerning the mortgage crisis, "***most people believed in the ratings***." Levin-Coburn Report at 340.

329. Because data supplied by defendants to the Credit Rating Agencies was already false and made the loans appear to be of higher credit quality, and safer and less risky than they actually were, the credit ratings were similarly affected – the Credit Rating Agencies' credit ratings always made the certificates appear safer and of higher credit quality than they actually were. But far from being the safe, high quality, investment grade securities their credit ratings depicted, the undisclosed truth was that the certificates were junk bonds, or worse. Because of defendants' knowing use of false data, the credit ratings contained in the Offering Documents had no reasonable basis in fact. As a result, the RMBS securities at issue in this case should never have been registered, marketed or sold by way of the SEC filings and other Offering Documents alleged herein.

E. The Credit Suisse Defendants Knowingly Misrepresented that Title to the Certificates' Underlying Loans Was Properly and Timely Transferred

330. As previously alleged, defendants represented in the Offering Documents that they would properly and timely transfer title to the mortgage loans to the trusts that issued plaintiff's certificates. The Offering Documents represented that the depositor defendant would ensure that all right, title and interest in the mortgage loans would be transferred to the trusts at or about the "closing" or "cut-off" dates of the offerings, to ensure that plaintiff's certificates would be "mortgage-backed," as opposed to "***non***-mortgaged-backed" securities, as well as to ensure the trusts maintained their tax-free status as REMIC mortgage pass-through conduits.

331. However, as is now evident, defendants, notwithstanding their promises, did not timely and/or effectively transfer title to the mortgage loans. This is evidenced by the news reports and lawsuits concerning the problems trustees are having with foreclosing on defaulting loans, the news reports of large scale forgeries and bogus assignments of loans after-the-fact, the mega-settlement with the Attorneys General of 49 states for $25 billion over such practices, and plaintiff's representative investigation concerning the loans in at least one of the trusts at issue herein, which revealed that nearly all of the loans were never properly or timely transferred to the trusts. *See* §VI.E, *supra*.

332. The foregoing shows that defendants did not timely or effectively transfer title to the mortgage loans to plaintiff's trusts. Of course, defendants were aware of this failure, as it was they, themselves, who were responsible for carrying out such conduct. Defendants obviously know what they did or did not do – here, it is obvious they did nothing, and equally obvious that they are aware of that fact. This is evidenced by the fact that years after the offerings closed, defendants attempted to scramble and create assignments after-the-fact, once they realized the implications of their earlier failures to act. The mass of late assignments, forged assignments, and bogus assignment documents, is just further evidence of defendants' attempts to cover up their fraudulent scheme.

VIII. DEFENDANTS' MISREPRESENTATIONS AND OMISSIONS WERE MADE FOR THE PURPOSE OF INDUCING RPI TO RELY ON THEM AND RPI ACTUALLY AND JUSTIFIABLY RELIED ON DEFENDANTS' MISREPRESENTATIONS AND OMISSIONS

333. RPI, through its assigning entities,[17] actually and justifiably relied upon the false information that defendants knowingly wrote into the Offering Documents and that was used to market the certificates.

334. The Offering Documents contained detailed descriptions of the mortgage pools underlying the certificates. The Offering Documents provided the specific terms of the particular offerings. They included data concerning the loans underlying the offerings, including, without limitation: the types of loans; the number of loans; the mortgage rate; the aggregate scheduled principal balance of the loans; the LTV ratios; the OOR percentages, including the Primary Residence Percentages; the credit enhancements; and the geographic concentration of the mortgaged properties. The Offering Documents also contained a description of the loan originators' underwriting and appraisal/valuation standards, guidelines and practices. The Offering Documents further contained the investment grade credit ratings assigned to the certificates by the Credit Rating Agencies, and a promise that the relevant mortgage loans would be properly and timely transferred to the trusts.

335. In deciding to purchase the certificates, the assigning entities actually relied on each of defendants' false representations and omissions of material fact in the prospectuses, offering circulars, pitch books, term sheets, loan tapes, "free writing" prospectuses, "red" and "pink" prospectuses, prospectus supplements and other offering documents alleged herein that defendants

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[17] In this section of the Complaint alleging justifiable reliance, all references to RPI include the entities that assigned their claims to RPI alleged herein and include those entities' justifiable reliance.

provided to the assigning entities, including the representations regarding the loan underwriting guidelines, the characteristics of the underlying mortgage loans (such as the LTV ratios and OOR percentages, including the Primary Residence Percentages), the credit ratings assigned by the Credit Rating Agencies, and the transfer of title to the mortgage loans. But for defendants' misrepresentations and omissions in the Offering Documents, plaintiff's assignors would not have purchased the certificates.

336. RPI, through the assigning entities, reasonably and justifiably relied upon the information that defendants wrote into the Offering Documents and could not have discovered that defendants – some of the most sophisticated and then-respected commercial actors in the world – were omitting and misrepresenting material information exclusively within their possession, custody and control. RPI, through the assigning entities, performed a diligent investigation concerning the offerings, certificates and the underlying loans before purchasing the certificates and could not have learned that defendants were making material misrepresentations and omissions about the offerings, certificates and loans.

A. Fortis Bank Actually and Justifiably Relied on the False Information that Defendants Used to Sell the Subject Certificates

337. Assigning entity Fortis Bank made the decisions to purchase certain of the certificates at issue for itself and for its affiliate Scaldis. All of the certificates purchased by Fortis Bank and Scaldis were purchased for those entities' own accounts, with the intention to hold the certificates on their balance sheets.

338. Fortis Bank employed highly qualified, conscientious, and experienced investment professionals to make investments on its behalf. The process involved screening and testing the quality of potential investments, which included portfolio and RMBS-level analyses. This process

was diligently followed by Fortis Bank in purchasing the securities at issue and was eminently reasonable.

339. Fortis Bank was only permitted to purchase securities for its asset-backed security ("ABS") portfolio that conformed to numerous investment parameters. For example, the security had to be a debt security, which, unlike equity, requires the obligor to return 100% of the invested principal amount by a date certain. Further, each debt security must have passed the major Credit Rating Agencies' own tests, qualifying as "investment grade" securities under those tests and analyses. Only if the particular security satisfied such portfolio-level criteria could it be considered for further review. Any security affected by defendants' misrepresentations and omissions would have been rejected at this first screening ***if*** defendants' misrepresentations and omissions ***could have*** been detected.

340. After putting in place reasonable portfolio-level screens to weed out risky investments, Fortis Bank conducted a detailed, three-tiered analysis of each RMBS. This analysis consisted of analyzing: (1) the capital structure of the particular security; (2) the quality of the underlying collateral, including the loans' LTV ratios, OOR percentages, DTI ratios, underwriting standards, and types of loans; and (3) the parties participating in the creation of the RMBS, including the originator of the loans, the servicer, the manager, and the underwriter. Investment professionals at Fortis Bank reviewed term sheets or similar summary materials that defendants wrote and provided (including pitch books, offering circulars, draft and final prospectuses, and investor presentations) regarding a particular RMBS, analyzed the RMBS's yield and price relative to similar securities in the market, and made an initial recommendation about whether to purchase the RMBS.

341. Fortis Bank also took into consideration which companies were originating the loans underlying the RMBS, based upon the originators' underwriting guidelines and historical performance. Fortis Bank regularly met with loan originators to discuss underwriting guidelines, at

conferences and on-site. Fortis Bank continued to meet with both defendants and originators after purchasing the securities at issue, and both defendants and those originators continued to provide assurances that the loans underlying the securities were originated pursuant to underwriting guidelines. Fortis Bank relied upon the statements regarding the originators' underwriting guidelines in the Offering Documents in making its investment decisions.

342. The next step in Fortis Bank's investment process involved conducting further credit analyses on the proposed RMBS. In that process, a credit analyst read marketing materials that defendants wrote, including the prospectus supplements and other offering documents. The process also involved using an expensive database and software system to detect any anomalies in a particular offering and to model the particular offering under various economic assumptions. This credit analysis further considered the level of structural subordination (or credit enhancement) supporting the proposed RMBS, and how sensitive the particular RMBS security was to various cashflow assumptions. The credit analysis focused on underwriting criteria, LTV ratios, FICO scores, OOR percentages, geographic dispersion, and the quality of the loan servicer supporting the transaction, among other pertinent credit characteristics.

343. Following its credit analysis, Fortis Bank subjected a proposed RMBS purchase to even more screening. Fortis Bank gathered the foregoing portfolio-level data, pricing information and credit analysis data, including LTVs, OORs, credit ratings, and originator information, and subjected all of that data to review by Fortis Bank's investment committee. The investment committee was comprised of experienced senior investment professionals and a risk management officer, who were required to approve the particular RMBS prior to purchase.

344. In fact, there were at least four different screens that Fortis Bank employed that would have rejected defendants' "junk" securities that were falsely masquerading as investment grade bonds. ***First***, the certificates at issue in this case never should have been rated "investment grade,"

because, as defendants knew, those ratings were based on "garbage in" the Credit Rating Agencies' rating models, resulting naturally in "garbage out" of those models. Thus, the certificates would have failed Fortis Bank's portfolio-level screening had the truth about defendants' misrepresentations been known. ***Second***, the subject certificates would have failed the initial RMBS-level screening, because the true qualitative and quantitative data would have exposed the certificates as being massively mispriced had it been accurately set forth in the certificates' Offering Documents. ***Third***, the subject certificates would have been thoroughly rejected by Fortis Bank's robust credit analysis, which, as noted, served to double check prior analyses and dive even deeper into the credit characteristics of the particular bond. ***Fourth***, if Fortis Bank's personnel had detected defendants' use of phony data, they would have rejected the certificates at every stage noted above and would have rejected the certificates at the investment committee phase of the investment process.

345. In the end, none of Fortis Bank's expertise, databases, software, investment personnel, quality control checks or substantial investment in all of these processes really mattered. Indeed, where highly sophisticated commercial actors like defendants have material non-public information about a security and a premeditated plan to commit fraud, such as was the case here, even the most sophisticated systems in the world are insufficient to detect those misrepresentations and omissions. That is one of the many reasons why it has taken the full force of the U.S. Government and its agencies, exercising their subpoena power, through the U.S. Senate and the FCIC, to alert investors to the fact that defendants received reports from Clayton showing that the loans they were selling to investors – including plaintiff and its assigning entities – via the certificates were ***defective on the day they were made***.

B. Fortis Ireland Actually and Justifiably Relied on the False Information that Defendants Used to Sell the Subject Certificates

346. Assigning entity Fortis Ireland, through Fortis Securities, LLC (New York branch), made the decisions to purchase certain of the certificates at issue. Fortis Ireland employed highly qualified, conscientious, and experienced investment professionals to make investments on its behalf. The process involved screening and testing the quality of potential investments, which included portfolio and RMBS-level analyses. This process was diligently followed by Fortis Ireland in purchasing the securities at issue and was eminently reasonable.

347. Similar to Fortis Bank, Fortis Ireland was only permitted to purchase securities for its ABS portfolio that conformed to numerous investment parameters. For example, the security had to be a debt security, which, unlike equity, requires the obligor to return 100% of the invested principal amount by a date certain. Further, each debt security must have passed the major Credit Rating Agencies' own tests, qualifying as "investment grade" securities under those tests and analyses. Only if the particular security satisfied such portfolio-level criteria could it be considered for further review. Any security affected by defendants' misrepresentations and omissions would have been rejected at this first screening ***if*** defendants' misrepresentations and omissions ***could have*** been detected.

348. After putting in place reasonable portfolio-level screens to weed out risky investments, Fortis Ireland conducted a detailed, three-tiered analysis of each RMBS. This analysis consisted of analyzing: (1) the capital structure of the particular security; (2) the quality of the underlying collateral, including the loans' LTV ratios, OOR percentages, DTI ratios, underwriting standards, and consideration of the type of loans; and (3) the parties participating in the creation of the RMBS, including the originator of the loans, the servicer, the manager, and the underwriter. Investment professionals at Fortis Ireland reviewed term sheets or similar summary materials that

defendants wrote and provided (including pitch books, offering circulars, draft and final prospectuses, and investor presentations) regarding a particular RMBS, analyzed the RMBS's yield and price relative to similar securities in the market, and made an initial recommendation about whether to purchase the RMBS.

349. Fortis Ireland also took into consideration which companies were originating the loans underlying the RMBS, based upon the originators' underwriting guidelines and historical performance. Fortis Ireland regularly met with loan originators to discuss underwriting guidelines. Fortis Ireland continued to meet with both defendants and originators after purchasing the securities at issue, and both defendants and those originators continued to provide assurances that the loans underlying the securities were originated pursuant to underwriting guidelines. Fortis Ireland relied upon the statements regarding the originators' underwriting guidelines in the Offering Documents in making its investment decisions.

350. The next step in Fortis Ireland's investment process involved conducting further credit analyses on the proposed RMBS. In that process, a credit analyst read marketing materials that defendants wrote, including the prospectus supplements and other Offering Documents. The process also involved using an expensive database and software system to detect any anomalies in a particular offering and to model the particular offering under various economic assumptions. This credit analysis further considered the level of structural subordination (or credit enhancement) supporting the proposed RMBS, and how sensitive the particular RMBS security was to various cashflow assumptions. Fortis Ireland's credit analysis focused on the loans' underwriting criteria, LTV ratios, FICO scores, OOR percentages, geographic dispersion, and the quality of the loan servicers supporting the transactions, among other pertinent credit characteristics.

351. Following its credit analysis, Fortis Ireland subjected a proposed RMBS purchase to even more screening. Fortis Ireland gathered the foregoing portfolio-level data, pricing information

and credit analysis data, including LTV ratios, OORs, credit ratings, and originator information, and subjected all of that data to review by Fortis Ireland's investment committee. The investment committee was comprised of experienced senior investment professionals and a risk management officer, who were required to approve the particular RMBS prior to purchase.

352. In fact, there were at least four different screens that Fortis Ireland employed that would have rejected defendants' "junk" securities that were falsely masquerading as investment grade bonds. ***First***, the certificates at issue in this case never should have been rated "investment grade," because, as defendants knew, those ratings were based on "garbage in" the Credit Rating Agencies' rating models, resulting naturally in "garbage out" of those models. Thus, the certificates would have failed Fortis Ireland's portfolio-level screening had the truth about defendants' misrepresentations been known. ***Second***, the subject certificates would have failed the initial RMBS-level screening, because the true qualitative and quantitative data would have exposed the certificates as being massively mispriced had it been accurately set forth in the certificates' Offering Documents. ***Third***, the subject certificates would have been thoroughly rejected by Fortis Ireland's robust credit analysis, which, as noted, served to double check prior analyses and dive even deeper into the credit characteristics of the particular bond. ***Fourth***, if Fortis Ireland's personnel had detected defendants' use of phony data, they would have rejected the certificates at every stage noted above and would have rejected the certificates at the investment committee phase of the investment process.

353. In the end, none of Fortis Ireland's expertise, databases, software, investment personnel, quality control checks or substantial investment in all of these processes really mattered. Indeed, where highly sophisticated commercial actors like defendants have material non-public information about a security and a premeditated plan to commit fraud, such as was the case here, even the most sophisticated systems in the world are insufficient to detect those misrepresentations

and omissions. That is one of the many reasons why it has taken the full force of the U.S. Government and its agencies, exercising their subpoena power, through the U.S. Senate and the FCIC, to alert investors to the fact that defendants received reports from Clayton showing that the loans they were selling to investors – including plaintiff through the assigning entities – via the certificates were ***defective on the day they were made***.

C. Fortis Cayman Actually and Justifiably Relied on the False Information that Defendants Used to Sell the Subject Certificates

354. Assigning entity Fortis Cayman hired professional asset investment managers, such as Fortis Investment Management ("FIM") and FSI Capital LLC ("FSI"), to conduct its investment activities. On information and belief, these investment managers, in turn, employed highly qualified, conscientious, and experienced investment professionals to make investments on behalf of their clients, reviewed the term sheets and/or similar summary materials that defendants wrote and provided (including pitch books, offering circulars, draft and final prospectuses, and investor presentations) regarding a particular RMBS, analyzed the RMBS's yield and price relative to similar securities in the market, and made a decision to purchase the RMBS based on that information.

355. Fortis Cayman's investment managers, such as FIM and FSI, were only permitted to purchase securities for Fortis Cayman's portfolio that conformed to numerous investment parameters and criteria contained in the engagement letters between Fortis Cayman and its investment managers. Further, each debt security must have passed the major Credit Rating Agencies' own tests, qualifying as an "investment grade" security under those tests and analyses. Any security affected by defendants' misrepresentations and omissions would have been rejected at this first screening if defendants' misrepresentations and omissions could have been detected.

356. In the end, none of Fortis Cayman's or its professional investment managers' expertise, investment personnel, quality control checks or substantial investment in all of these

processes really mattered. Indeed, where highly sophisticated commercial actors like defendants have material non-public information about a security and a premeditated plan to commit fraud, such as was the case here, even the most sophisticated systems in the world are insufficient to detect those misrepresentations and omissions. That is one of the many reasons why it has taken the full force of the U.S. Government and its agencies, exercising their subpoena power, through the U.S. Senate and the FCIC, to alert investors to the fact that defendants received reports from Clayton showing that the loans they were selling to investors – including plaintiff through the assigning entities – via the certificates were ***defective on the day they were made***.

D. All of the Assignors and Plaintiff Were Reasonable and Could Not Have Discovered the Fraud Alleged Herein

357. Plaintiff and the assigning entities did not learn that the defendants were making the misrepresentations and omissions alleged herein prior to purchasing the certificates because such information about the certificates and loans was peculiarly within defendants' knowledge and control, and defendants did not allow plaintiff and the assigning entities access to such information. The only way for plaintiff or the assigning entities to learn that defendants were making misrepresentations and omissions about the certificates and the underlying loans was to have access to the actual loan files or due diligence reports analyzing those loan files. Defendants had such access, but did not share it with plaintiff, the assigning entities, or other investors.

358. At the time they purchased the certificates, plaintiff and the assigning entities could not determine from available information that defendants had made misrepresentations and omissions in the Offering Documents. The information that would have revealed defendants' misrepresentations and omissions – the loan files – was private information in the complete control and possession of defendants. Moreover, information such as "loan tapes," and the like, and other information defendants supplied to plaintiff or its assignors before they purchased the certificates,

would not have revealed borrowers' names or property addresses so that plaintiff could conduct an investigation. Such information also would not have revealed defendants' misrepresentations and omissions because the "loan tapes" and the other information defendants provided to plaintiff ***contained*** the falsified appraisal values, LTV ratios, OOR percentages, FICO scores and DTI ratios upon which defendants' scheme was premised, and thus, revealed nothing concerning the loans' true nature, characteristics and risks.

359. In addition, at the time plaintiff bought the certificates – 2005 through 2007 – there were no loan databases available that contained sufficient data to conduct analyses concerning the LTV ratios and OOR percentages like the ones plaintiff was able to conduct before filing this complaint. In short, there was no information available to plaintiff or the assigning entities at the time they bought the certificates – other than the loan files, which defendants did not share – that would have allowed plaintiff or the assigning entities to conduct an investigation that would have revealed that defendants were making misrepresentations and omitting material information in the Offering Documents.

360. Indeed, plaintiff could not have learned, and did not learn, that defendants were defrauding it until late September 2010, when the FCIC investigation revealed for the first time that defendants: (1) were told by Clayton in 2006 and 2007 that significant portions of the loans within the offerings did not comply with the underwriting guidelines stated in the Offering Documents; and (2) ***defendants then knowingly included large numbers of those defective loans into the offerings***. It was only at that time that plaintiff and the public first learned that defendants were intentionally defrauding investors in connection with RMBS offerings. Specifically, the information disclosed by the FCIC in September 2010 revealed, for the first time, that defendants were expressly aware that their RMBS offerings were filled with defective loans, and that defendants knew so:

(a) ***before*** marketing the RMBS;

(b) ***before*** describing the collateral underlying the RMBS;

(c) ***before*** writing the prospectuses, prospectus supplements and other Offering Documents they used to market the certificates;

(d) ***before*** "structuring" the RMBS with the Credit Rating Agencies' data-sensitive models;

(e) ***before*** "pricing" the subject RMBS; and

(f) ***before*** conveying the false information to plaintiff or its agents.

361. This information only came to light in late September 2010, and only after the U.S. Government compelled defendants, Clayton, and others to produce documents and testimony that finally revealed defendants' fraud. Only the unique power of the government to compel people, documents and testimony without bringing a legal action revealed defendants' fraud. Obviously, plaintiff does not and did not have such power or unique abilities. This further serves to demonstrate that plaintiff and the assigning entities could not have uncovered defendants' misconduct by any means available to them.

IX. DEFENDANTS' MATERIAL MISREPRESENTATIONS AND OMISSIONS CAUSED INJURY TO PLAINTIFF

362. Defendants' material misrepresentations and omissions relate directly to plaintiff's economic losses. Sophisticated securities dealers like defendants have long known about the relationship between LTV ratios, OORs, credit ratings, title and ownership, and underwriting criteria on the one hand, and the price and performance of an RMBS certificate on the other hand. Defendants' misrepresentations were the actual and proximate causes of plaintiff's injuries.

A. The Relationship Between Original Loan-to-Value Ratios, Owner Occupancy Data and RMBS Performance

363. Original LTV or "OLTV" metrics are among the most important variables indicating whether a loan will default. Studies conducted by one industry participant, Smith Barney,

demonstrate that there is a strong correlation between the likelihood of default of a mortgage loan and the loan's OLTV ratio. When home prices decrease, borrowers with lower OLTV ratios are more likely to retain more equity in their homes ***even if*** housing prices generally decline. Retaining such equity provides borrowers a powerful incentive to make loan payments, which reduces the propensity of a loan to default. Retaining such equity also enables the borrower to sell the property, repay the loan and recover value in the event of default.

364. Conversely, if a borrower has a higher OLTV ratio, like those that were concealed in this case, there is much less incentive for the borrower to repay the loan if home prices decline or a borrower's financial condition changes, because such borrower would have little equity at risk of loss and therefore far less economic incentive to pay the loan. As a consequence, from an investor's perspective, a loan with a higher OLTV ratio is a much riskier investment, as there is a much higher chance of default and a much higher risk of incurring a loss because of insufficient collateral for the loan.

365. When defendants misrepresented the OLTV ratios associated with the RMBS at issue in this case, they knew that they were also misrepresenting both the propensity of the loans to default ***and*** their propensity to recover any value and avoid a loss in the event of default.

366. The relationship between those inaccurate numbers and plaintiff's harm is immediate and clear. Just as industry literature shows a direct relationship between OLTV ratios, defaults and loss severity, that literature shows the same relationship between OOR percentages and default probabilities. Under every market condition, the OLTV ratios and OOR percentages drive the probability of a loan defaulting. Under every market condition, OLTV ratios and OOR percentages also drive the degree of loss that will be suffered in the event of a loan default.

367. But that is not the full extent of defendants' fraud as it relates to OLTV ratios and OOR percentages in this case. Defendants further inflated the prices of the RMBS in this case by

entering inaccurate OLTV and OOR numbers into the Credit Rating Agencies' computerized ratings models to secure artificially inflated ratings. This misconduct also relates to plaintiff's losses.

B. The Relationship Between Credit Ratings and RMBS Performance

368. It is already clear that defendants used "garbage" data to get overrated, inflated credit ratings assigned to the certificates at issue in this case. These false credit ratings, based on false facts, also contributed directly to plaintiff's damages.

369. When the Credit Rating Agencies began downgrading the certificates at issue in this case to speculative or "junk" grade levels and below because of escalating default rates, it became apparent that the certificates did not have the creditworthiness defendants had portrayed. As a result, the market value of the certificates plummeted. Because of defendants' misrepresentations and omissions, plaintiff suffered damages in the form of overpaying for the certificates in the first instance. Plaintiff also suffered damages as a result of defendants' misrepresentations and omissions when the risky loans defaulted, causing plaintiff to lose principal and interest payments and incur writedowns to the loan pools underlying the certificates.

370. Industry executives have explained how false credit ratings relate to losses on RMBS products like those defendants sold in this case. According to Charles Prince, the former CEO of Citigroup, the largest bank in the world, the Credit Rating Agencies' downgrades were "the precipitating event in the financial crisis."

371. In the very documents that defendants wrote and used to market the securities at issue in this case, the Credit Suisse Defendants admit that a downgrade in credit ratings could affect the value of the certificates:

> If the performance of the related mortgage loans is substantially worse than assumed by the rating agencies, the ratings of any class of the certificates may be lowered in the future. This would probably reduce the value of those certificates.

See HEAT 2007-3 Pros. Supp. at 10.

372. Defendants had actual knowledge on the day they wrote falsified credit ratings into the Offering Documents at issue in this case that there was an immediate and direct relationship between credit ratings and market values. Defendants clearly foresaw the harm they would inflict on plaintiff by misrepresenting those ratings. When the credit ratings were downgraded, the certificates' market values predictably dropped – just as defendants said they would. Yet defendants elected not to balance their "risk" factor about credit ratings with a "reality" factor disclosing the truth that they had intentionally misrepresented those ratings in this case.

373. Defendants warped those ratings so that they could sell the subject certificates at inflated values, and pocket a larger profit or "spread" between the amount of money they paid their originators for defective loans and the amount of money they received by selling those defective loans to plaintiff via securitizations. Quite simply, defendants used inaccurate data to make and market the certificates so that they could make more money.

374. Downgrades to junk revealed the truth that the original ratings – like the OLTV and OOR data – were based on false and inaccurate information on the day they were issued. It is not possible to ascribe this inaccurate information to mistakes in the origination or structuring processes outside of defendants' control. Rather, as revealed by the government's disclosure of the Clayton data in September 2010, defendants were well aware of reports detailing the inaccurate OLTV, OOR and ratings data used to structure the RMBS at issue in this case ***before*** making, structuring and selling their RMBS to plaintiff, and defendants nonetheless deliberately decided to misrepresent that data to plaintiff, the Credit Rating Agencies, and other investors, so that they could profit.

C. The Relationship Between Underwriting and RMBS Performance

375. Defendants also concealed rampant, systematic violations of stated loan underwriting standards to maximize their profits at plaintiff's expense. Underwriting, by definition, refers to the process of determining a borrower's ability and willingness to repay a loan. As with LTV ratios,

OORs and credit ratings, defendants' decision to misrepresent underwriting standards relates directly to plaintiff's economic damages.

376. Government investigations demonstrate the direct link between defendants' misrepresentations about underwriting standards and plaintiff's economic harm. On or about March 13, 2008, for example, after a seven-month investigation requested by the President of the United States, a working group led by the Secretary of Treasury and including the chairmen of the Federal Reserve, the SEC, and the Commodities Futures Trading Commission, issued a report finding that: (i) "a significant erosion of market discipline by those involved in the securitization process, including originators, underwriters, credit rating agencies and global investors, related in part to failures to provide adequate risk disclosures"; and (ii) "[t]he turmoil in financial markets clearly was triggered by a dramatic weakening of underwriting standards for U.S. subprime mortgages."

377. Indeed, contrary to defendants' expected efforts to claim that plaintiff's certificates declined in value because of this Nation's economic collapse, in fact, the opposite is true – defendants' systemic misrepresentations in the Offering Documents caused plaintiff's and many other investors' certificates to plummet in value, which in turn caused this Nation's financial collapse. Defendants' systemic misrepresentations and omissions concerning the loans at issue caused plaintiff's damages, and thereafter "***the high risk loans [defendants] issued became the fuel that ignited the financial crisis***." Levin-Coburn Report at 50; *see also id*. at 475 ("***The widespread losses caused by . . . RMBS securities originated by investment banks [which contained 'poor quality assets'] are a key cause of the financial crisis that affected the global financial system in 2007 and 2008***.").

378. When it became known that the loans in the offerings were much riskier than represented, through skyrocketing default rates that led to major credit downgrades to the certificates, it also became apparent that the loans had not been originated pursuant to the

underwriting standards represented in the Offering Documents. It became apparent then that the loans had been originated in a slipshod fashion, with little regard to the most basic underwriting guideline of all – determining whether the borrower could repay the loan. This fact too was a cause of the plummeting value of plaintiff's certificates, and a contributing cause of plaintiff's damages. Therefore, defendants' misrepresentations about underwriting standards directly and proximately caused plaintiff's injuries.

D. The Relationship Between Proper and Timely Transfer of Title and Plaintiff's Damages

379. Defendants' misrepresentations that the loans would be properly and timely transferred to the trusts were also a proximate cause of plaintiff's economic damages. Plaintiff believed it was purchasing mortgage-***backed*** securities. Given that the certificates are lacking much of the backing or collateral that was supposed to be providing security, and guaranteeing a source of funds if the loans defaulted, the certificates have lost value as it has become known that the RMBS might actually be ***non***-mortgage-backed securities. In other words, the lack of collateral underlying the certificates has caused an understandable and logical diminution in the value of the certificates. As Professor Levitin noted in his testimony to Congress in November 2010, the failure to properly or timely transfer title would have "profound implications for [R]MBS investors," and would cause trillions of dollars in damages. Defendants' misrepresentations concerning the transfer of title proximately caused plaintiff's damages.

FIRST CAUSE OF ACTION

(Common Law Fraud Against All Defendants)

380. Plaintiff repeats and realleges the allegations set forth in the preceding paragraphs, as if fully set forth herein.

381. As alleged above, in the Offering Documents, defendants made false and misleading statements of material fact, and omitted material facts necessary in order to make their statements, in light of the circumstances under which the statements were made, not misleading.

382. As the corporate parent of its wholly-owned subsidiaries, defendant Credit Suisse AG directed and controlled the activities of its co-defendants, and used them as conduits to conduct the RMBS offerings alleged herein.

383. Defendants knew at the time they sold and marketed each of the certificates that the foregoing statements were false and misleading or, at the very least, were made recklessly.

384. Defendants made these materially false and misleading statements and omissions for the purpose of inducing plaintiff (and the assigning entities) to purchase the certificates. Furthermore, these statements related to these defendants' own acts and omissions.

385. Defendants knew or recklessly disregarded that investors like plaintiff (and the assigning entities) were relying on defendants' expertise, and defendants encouraged such reliance through the Offering Documents, as described herein. Defendants knew or recklessly disregarded that investors like plaintiff (and the assigning entities) would rely upon defendants' representations in connection with their decisions to purchase the certificates. As alleged herein, defendants were in a position of unique and superior knowledge regarding the true facts concerning the foregoing material misrepresentations and omissions.

386. It was only by making such misrepresentations and omissions that defendants were able to induce plaintiff (and the assigning entities) to buy the certificates. Plaintiff (and the assigning entities) would not have purchased or otherwise acquired the certificates but for defendants' fraudulent representations and omissions about the quality of the certificates and the underlying loans.

387. Plaintiff (and the assigning entities) actually, justifiably, reasonably, and foreseeably relied upon defendants' false and misleading representations and omissions regarding the certificates and the underlying loans.

388. As a result of defendants' false and misleading statements and omissions, as alleged herein, plaintiff (and the assigning entities) have suffered substantial damages.

389. Because defendants committed these acts and omissions maliciously, wantonly and oppressively, and because the consequences of these acts knowingly affected the general public, including, but not limited to, all persons with interests in the RMBS, plaintiff (through itself and the assigning entities) is entitled to recover punitive damages.

SECOND CAUSE OF ACTION

(Fraudulent Inducement Against All Defendants)

390. Plaintiff repeats and realleges the allegations set forth in the preceding paragraphs, as if fully set forth herein.

391. As alleged above, in the Offering Documents defendants made fraudulent, false and misleading statements of material fact, and omitted material facts necessary in order to make their statements, in light of the circumstances under which the statements were made, not misleading.

392. This is a claim for fraudulent inducement against all of the defendants. As the corporate parent, defendant Credit Suisse AG directed the activities of its co-defendant subsidiaries and used them as conduits to conduct the RMBS offerings alleged herein.

393. Defendants knew at the time they sold and marketed each of the certificates that the foregoing statements were false and misleading or, at the very least, were made recklessly.

394. Defendants made these materially false and misleading statements and omissions for the purpose of inducing plaintiff (and the assigning entities) to purchase the certificates. Furthermore, these statements related to defendants' own acts and omissions.

395. Defendants knew or recklessly disregarded that investors like plaintiff (and the assigning entities) were relying on defendants' expertise, and defendants encouraged such reliance through the Offering Documents, as described herein. Defendants knew or recklessly disregarded that investors like plaintiff (and the assigning entities) would rely upon defendants' representations in connection with their decisions to purchase the certificates. As alleged herein, defendants were in a position of unique and superior knowledge regarding the true facts concerning the foregoing material misrepresentations and omissions.

396. It was only by making such misrepresentations and omissions that defendants were able to induce plaintiff (and the assigning entities) to buy the certificates. Plaintiff (and the assigning entities) would not have purchased or otherwise acquired the certificates but for defendants' fraudulent representations and omissions about the certificates and the underlying loans.

397. Plaintiff (and the assigning entities) actually, justifiably, reasonably, and foreseeably relied upon defendants' false and misleading representations and omissions regarding the certificates and underlying loans.

398. By virtue of defendants' false and misleading statements and omissions, as alleged herein, plaintiff (and the assigning entities) has suffered substantial damages.

399. In addition, because defendants acted maliciously, wantonly and oppressively, and defendants' acts affected the general public, plaintiff is entitled to recover punitive damages.

THIRD CAUSE OF ACTION

(Aiding and Abetting Fraud Against All Defendants)

400. Plaintiff repeats and realleges the allegations set forth in the preceding paragraphs, as if fully set forth herein.

401. This is a claim against each of the defendants for aiding and abetting the fraud by their co-defendants. Specifically, each of the Credit Suisse Defendants aided and abetted each of the other Credit Suisse Defendants.

402. Each of the defendants knew of the fraud perpetrated by the each of their co-defendants on plaintiff (and the assigning entities). As alleged in detail above, each of the defendants knew that the certificates were not backed by loans of the quality represented by defendants, and were not underwritten according to the originators' stated underwriting standards. In fact, defendants owned originators and/or conducted due diligence on the loan pools securitized into the offerings purchased by plaintiff (and the assigning entities) and identified the originators' deviations from the loan underwriting and appraisal standards set forth in the Offering Documents and knew that the LTV ratios, OOR percentages (including the Primary Residence Percentages) and credit ratings in the Offering Documents were false. Each of the defendants also knew that their representations that they had timely and properly transferred title to the mortgage loans were false. Each of the defendants participated in those violations by their co-defendants, and had actual knowledge of their own acts and participated in and had actual knowledge of their co-defendants' fraudulent acts alleged herein.

403. Furthermore, each of the defendants provided their co-defendants with substantial assistance in advancing the commission of their frauds. As alleged in detail above, each of the defendants participated in the following acts constituting the fraud with their co-defendants: making false and misleading statements and omissions in the Offering Documents about the originators' loan underwriting and appraisal standards, the loans' LTV ratios, the loans' OOR percentages (including the Primary Residence Percentages), the certificates' credit ratings, and the transfer of title of the mortgage loans; providing false information about the loans underlying the certificates to the Credit Rating Agencies; providing false information for use in the Offering Documents; and concealing

from plaintiff (and the assigning entities) the originators' deviations from their stated mortgage loan underwriting and appraisal standards.

404. It was foreseeable to each of the defendants at the time they actively assisted in the commission of their co-defendants' frauds that plaintiff (and the assigning entities) would be harmed as a result of each of the defendants' assistance of their co-defendants.

405. As a direct and natural result of the frauds committed by each defendant and each defendant's knowing and active participation in each fraud committed by such defendant's co-defendants, plaintiff (and the assigning entities) has suffered substantial damages.

406. In addition, because defendants acted maliciously, wantonly and oppressively, and defendants' acts affected the general public, plaintiff is entitled to recover punitive damages.

FOURTH CAUSE OF ACTION

(Negligent Misrepresentation Against All Defendants)

407. Plaintiff repeats and realleges the allegations set forth in the preceding paragraphs, as if fully set forth herein, except any allegations that defendants made any untrue statements and omissions intentionally or recklessly. For the purposes of this cause of action, plaintiff expressly disclaims any claim of fraud or intentional or reckless misconduct.

408. This is a claim for negligent misrepresentation against all defendants.

409. Plaintiff (and the assigning entities) made 20 separate investments in 10 offerings of RMBS that the defendants securitized and sold.

410. It is a required industry practice for underwriters of RMBS offerings to perform an investigation of the loans backing the certificates to ensure that the quality of the loans is as represented in the offering documents provided to investors. In fact, U.S. securities laws require defendants to "***perform a review of the pool assets underlying the asset-backed security***" and ensure that such information shall be disclosed in the offering documents and "***is accurate in all***

material respects." 17 C.F.R. §230.193. In addition, "[p]rospective investors look to the underwriter – a fact well known to all concerned and ***especially to the underwriter*** – to pass on the soundness of the security and the correctness of the [offering documents]." *Chris-Craft Indus. v. Piper Aircraft Corp.*, 480 F.2d 341, 370 (2d Cir. 1973).

411. Because of the foregoing, defendants conducted due diligence and investigated the loans that backed their RMBS offerings. The purpose and effect of defendants' legal obligations as underwriters to conduct due diligence and ensure the correctness of the statements in the Offering Documents, as well as the investing public's understanding that the RMBS underwriters perform such due diligence to ensure the accuracy of statements made in the Offering Documents, was to assure plaintiff (and the assigning entities) that it could reasonably rely upon the Offering Documents. Moreover, by virtue of the due diligence defendants performed, and their extensive role in originating, purchasing, securitizing and selling the certificates that plaintiff (and the assigning entities) purchased, defendants had extremely unique and special knowledge and expertise regarding the loans backing those certificates, including the loans' quality, the nature of their underwriting, their value and adequacy as collateral, their LTV ratios, their OOR percentages, and the title to such loans.

412. In particular, because plaintiff (and the assigning entities) did not have access to the loan files for the mortgage loans, or defendants' due diligence and valuation reports, while only defendants did, and because plaintiff (and the assigning entities) could not examine the underwriting quality of the mortgage loans underlying the offerings on a loan-by-loan basis, plaintiff (and the assigning entities) was heavily dependent on defendants' unique and special knowledge and expertise regarding the loans that backed the certificates at issue herein when determining whether to invest in each certificate. Plaintiff (and the assigning entities) was entirely dependent on defendants to provide accurate and truthful information regarding the loans because plaintiff (and the assigning

entities) had no access to the loan files, which were completely within defendants' control. Moreover, as alleged above, at the time plaintiff (and the assigning entities) purchased the certificates, plaintiff (and the assigning entities) had no ability to test the veracity of defendants' representations in the Offering Documents concerning the loans because there were no loan databases available in the 2005 to 2007 time period which would allow plaintiff (or the assigning entities) to conduct sufficient analyses, like the analyses plaintiff performed prior to filing this complaint. Accordingly, defendants were uniquely situated to evaluate the safety and economics of each certificate sold to plaintiff (and the assigning entities) and the loans underlying them.

413. Because plaintiff (and the assigning entities) was without access to critical information regarding the loans backing the certificates, and defendants had a legal obligation to perform due diligence on the loans and ensure any statements made about the loans in the Offering Documents were truthful and accurate, and plaintiff (and the assigning entities) had the understanding that RMBS underwriters performed due diligence to ensure the accuracy of the Offering Documents, defendants had a duty to plaintiff (and the assigning entities) to verify the accuracy and truthfulness of the Offering Documents.

414. Over the course of at least five years, plaintiff (and the assigning entities) relied on defendants' unique and special knowledge regarding the quality of the underlying mortgage loans and defendants' underwriting when determining whether to invest in the certificates. These longstanding relationships, coupled with defendants' unique and special position of knowledge about the underlying loans, created a special relationship of trust, confidence, and dependence between defendants and plaintiff (and the assigning entities).

415. Defendants were aware that plaintiff (and the assigning entities) relied on defendants' unique and special position, expertise and experience, and depended upon defendants for accurate and truthful information. Defendants also knew that the actual true statistics regarding the loans and

the loans' compliance with the stated underwriting standards were exclusively within defendants' knowledge.

416. Based on defendants' expertise, superior knowledge, legal duties, and relationship with plaintiff (and the assigning entities), defendants owed a duty to plaintiff (and the assigning entities) to provide complete, accurate, truthful and timely information regarding the mortgage loans and the certificates. Defendants breached their duty to provide such information to plaintiff (and the assigning entities).

417. Defendants likewise made misrepresentations which they knew, or were negligent in not knowing at the time, to be false and misleading in order to induce plaintiff's (and the assigning entities') investment in the certificates. Defendants provided the Offering Documents to plaintiff (and the assigning entities) in connection with the sale of the certificates for the purpose of informing plaintiff (and the assigning entities) of material facts necessary to make an informed judgment about whether to purchase the certificates in the offerings. In providing these documents, defendants knew that the information contained and incorporated therein would be used for a serious purpose, and that plaintiff (and the assigning entities), like other reasonably prudent investors, intended to rely on the information contained in the Offering Documents.

418. As alleged above, the Offering Documents contained materially false and misleading information and omissions, including, without limitation, misrepresentations concerning the underwriting guidelines, appraisals, LTV ratios, Primary Residence Percentages, credit ratings, and the transfer of title to the loans.

419. Defendants acted negligently in making the materially false and misleading statements and omissions to plaintiff (and the assigning entities).

420. Unaware that the Offering Documents contained materially false and misleading statements and omissions, plaintiff (and the assigning entities) reasonably relied on those false and misleading statements and omissions when deciding to purchase the certificates.

421. Plaintiff (and the assigning entities) purchased certificates from defendant Credit Suisse Securities in the offerings, and is therefore in privity with them.

422. Based on defendants' expertise and specialized knowledge, and in light of the false and misleading representations and omissions in the Offering Documents, defendants owed plaintiff (and the assigning entities) a duty to provide it with complete, accurate, truthful and timely information regarding the quality of the certificates and underlying loans, and their title, and defendants breached their duty to provide such information to plaintiff (and the assigning entities).

423. Plaintiff (and the assigning entities) reasonably relied on the information provided by defendants and has suffered substantial damages as a result of defendants' misrepresentations.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for relief and judgment, as follows:

A. Awarding compensatory damages in favor of plaintiff against all defendants, jointly and severally, for all damages sustained as a result of defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;

B. Awarding punitive damages for plaintiff's common-law fraud claims;

C. Awarding plaintiff its reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

D. Such other relief, including equitable relief, as the Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all claims so triable.

DATED: September 25, 2013

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Appendix A

Offering	Issue Date	Depositor	Sponsor	Defendant Underwriter	Tranche Purchased	CUSIP	Purchase Date	Original Face Amount	Assigning Entity	Seller
AMSI 2006-R2	3/29/2006	Ameriquest Securities	Ameriquest	Credit Suisse Securities	M1	03072SZ73	3/13/2006	$6,500,000	Fortis Bank	Credit Suisse Securities
ARMT 2005-8	7/1/2005	CSFBMS	DLJ Mortgage	Credit Suisse Securities	4A11	007036QK5	5/8/2007	$41,230,000	Fortis Ireland	BofA Securities
ARMT 2005-11	10/1/2005	CSFBMS	DLJ Mortgage	Credit Suisse Securities	2A41	007036VD5	10/30/2006	$29,742,000	Fortis Ireland	DBSI
CSMC 2006-3	3/1/2006	CSFBMS	DLJ Mortgage	Credit Suisse Securities	2A11	225470P23	11/7/2006	$45,159,000	Fortis Ireland	DBSI
FNLC 2007-1	6/26/2007	First NLC Securitization	First NLC	Credit Suisse Securities	A4	32115BAD2	6/25/2007	$12,000,000	Fortis Cayman	Credit Suisse Securities
					A4	32115BAD2	6/25/2007	$12,000,000	Fortis Cayman	Credit Suisse Securities
					M2	32115BAF7	6/25/2007	$4,000,000	Fortis Cayman	Credit Suisse Securities
					M2	32115BAF7	6/25/2007	$3,000,000	Fortis Cayman	Credit Suisse Securities
					M2	32115BAF7	6/27/2007	$4,310,000	Fortis Cayman	Credit Suisse Securities
					M3	32115BAG5	6/25/2007	$4,000,000	Fortis Cayman	Credit Suisse Securities
GEWMC 2005-2	12/19/2005	GE-WMC Mortg. Secs.	GE Mortg. Holding	Credit Suisse Securities	A2C	367910AU0	12/13/2005	$20,000,000	Fortis Bank	Credit Suisse Securities
HEAT 2007-3	5/1/2007	CSFBMS	DLJ Mortgage	Credit Suisse Securities	M2	43710TAG2	4/26/2007	$2,750,000	Fortis Cayman	Credit Suisse Securities
					M2	43710TAG2	5/1/2007	$1,000,000	Fortis Cayman	Credit Suisse Securities
					M1	43710TAF4	5/1/2007	$2,750,000	Fortis Cayman	Credit Suisse Securities
INABS 2006-C	6/15/2006	IndyMac MBS	IndyMac	Credit Suisse Securities	3A4	43709BAF6	6/12/2006	$15,000,000	Scaldis	Credit Suisse Securities
INDX 2007-FLX3	4/27/2007	IndyMac MBS	IndyMac	Credit Suisse Securities	A1	45670AAA9	4/24/2007	$50,000,000	Fortis Ireland	Credit Suisse Securities
					A2	45670AAB7	4/24/2007	$30,000,000	Fortis Bank	Credit Suisse Securities
					A3	45670AAC5	4/24/2007	$57,370,000	Fortis Bank	Credit Suisse Securities
NCHET 2006-1	3/30/2006	New Century Mortg.Secs.	New Century	Credit Suisse Securities	A2C	64352VQS3	3/24/2006	$9,000,000	Fortis Bank	Credit Suisse Securities
					M1	64352VQT1	3/24/2006	$10,000,000	Fortis Bank	Credit Suisse Securities

General Information

Docket Number	653335/2013
Court	New York Supreme Court, New York County