

Regarding 3rd-Party Review of ABS Structures

- 1) We are wholly in support of independent 3rd-party review.
- 2) We are wholly in support of mandating that the 3rd-part reviewer be an independent expert, similar to what is required in Section 314(d)(1)¹³⁶ of the Trust Indenture Act of 1939.
- 3) We suggest that the choice of the 3rd-party reviewer for each securitization be **randomly** assigned by the SEC from a 'pool' of interested qualified experts. If the assignment of a reviewer is not to be done at the 'issue' level, then the assignment should be done at the issuer level. The reviewer must NOT have an existing business relationship with the issuer, nor during the term of the assignment to an issuer.
- 4) We suggest that no independent reviewer/expert be assigned to review any given securitized issue/issuer for more than two consecutive years. If the same reviewer is again randomly assigned in the 3rd year, then that reviewer must be replaced by a different reviewer. We further suggest that the independent reviewers and the SEC jointly develop procedures for 'handing-off' records between reviewers and what, if any, internal working papers of each reviewer be handed-off to the next reviewing organization or the SEC itself, in order to not unduly burden the review process as securities 'age'.
- 5) We suggest that the reviewer be empowered to request SEC compliance actions/measures against the issuer for failure to produce necessary documentation and records within a defined period of time prior to/during each review of each deal.
- 6) We believe that standardized fees for such reviews be set by negotiation between the SEC, the reviewers, and the issuers, and set for a period of approximately 5 years duration. Fees might be different for different underlying asset classes, depending upon perceived complexity of the underlying assets, their tendency to prepay or otherwise extinguish themselves from a pool, the number of underlying assets in each pool, etc.... eg. aircraft lease pools have different characteristics vs. car lease pools, and residential single-family mortgage pools vs. commercial MBS, all for the same dollar value. Issuers would pay the required fee, **in advance**, either directly to the reviewing organization, or perhaps preferably via a trust administered by the SEC or other appropriate agency. Payment of the fee to an agency would decouple the fee payment from any undue influence the issuer may try to impose upon the reviewer, would ensure that each examiner has conducted the necessary stress tests, and would also provide investors greater comfort and transparency regarding the examination process.
- 7) Sufficient documentation should be retained by the issuer at all times to :
 - a) document all underlying assets at the time of securitization
 - b) provide for ongoing verification and study of the underlying assets by the examiner as time progresses
 - c) record all normal course and exogenous changes in the underlying assets (both physical and financial), ie. has a structure been condemned or otherwise

written-off, details of any default or waiver of any condition, etc...

8) Any changes in what the issuer must retain and provide to the examiner shall be made by SEC regulation alone, and not be subject to a lengthy legislative process.

Respectfully,
Alan Flancman