



November 3, 2011

**By E-Mail: rule-comments@sec.gov**  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549-1090  
Attn: Elizabeth M. Murphy, Secretary

**Re: Re-Proposal of Shelf Eligibility Conditions for Asset-Backed Securities**  
Release Nos. 33-9244; 34-64968 (File No. S7-08-10)  
Comment Letter – Required Disclosure for Equipment Sector

Ladies and Gentlemen:

CNH Capital ("CNH"), a non-bank captive finance company, is a major securitizer of equipment ABS, predominately backed by loans for the purchase of agricultural and construction equipment manufactured by our parent, CNH Global N.V. We have participated with the American Securitization Forum ("ASF") and support their pool-level recommendation as submitted in the ASF Comment Letter - Required Disclosure for Equipment Sector, dated November 2, 2011.

We are writing this letter to provide additional comments particular to the views of CNH regarding the question raised by the Commission noting the lack of investor comment letters in support of the proposal for Equipment ABS pool-level disclosure<sup>1</sup>. As stated above, CNH continues to support this pool-level recommendation (as now presented in the referenced ASF Comment Letter) and would like to present the Commission with supplemental information regarding investor support.

First, it is not surprising to CNH that investors did not provide public comments in support of the pool-level proposal for equipment ABS. When given the choice between less or

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<sup>1</sup> See 76 Fed. Reg 47,968, footnote 155 (Aug. 5, 2011)

more data, it may not be perceived as prudent by an investor's internal or external stakeholders to publically select to receive less data, even when additional data is not deemed necessary or useful by the investor. Likewise, publically voicing an opinion for more data could be viewed as prudent; again, even if additional data is not deemed as necessary by the investor. However, as noted in the referenced ASF Comment Letter, when given the opportunity to anonymously provide opinions, a slightly larger number of investors favored a pool-level approach than the group-level or loan-level options for equipment ABS disclosure.

Second, because not all active equipment investors are ASF members, CNH wanted to receive additional investor views from both ASF members and non-members alike. While CNH does not claim this to be a highly scientific, statistical study, we wanted additional feedback from those investors who actually purchase our securities to verify the feedback that ASF had received from investors' showing their apparent preference for pool-level disclosure. CNH asked several investors who participated in our offerings for their views on the sufficiency of pool-level data disclosure. While we are aware of the potential for bias in their answers, we believe that their feedback was helpful to us in developing a reasonable proposal for providing our investors with needed information while at the same time protecting our competitively-sensitive information. Again, the feedback from these investors should not be viewed as a statistically-valid survey of unbiased investors, but merely as another source of additional feedback in support of pool-level data disclosure.

CNH Capital (through a third-party) provided questions to 25 active equipment ABS investors (selected by the third-party, and defined as having purchased CNH retail equipment ABS securities during 2011). CNH has publically issued \$1.86 billion of U.S. retail equipment ABS during 2011, which represents approximately 33% of all equipment ABS issued in the public U.S. market and 2.5% of all public U.S. ABS issued year-to-date 2011<sup>2</sup>. We received 11 responses.

The questions to investors referenced the proposal that, in lieu of providing any asset-level or group-level data disclosure, the equipment ABS issuers would provide quarterly updated pool-level statistics in a form similar to the stratification tables currently disclosed in the offering documents, as well as providing a standardized summary form to be included with all equipment ABS monthly servicer reports. In addition to being filed with the Commission, both of these disclosures would be available in an excel spreadsheet format posted on the issuer's website, for ease of use by investors. The specific questions were "*Would you find these useful*" and "*Would*

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<sup>2</sup> As of September 19, 2011, year-to-date U.S. equipment ABS issuance was \$5.58 billion and all U.S. ABS issuance was \$75.17 billion, as compiled from various public sources.

*these, along with currently provided information, be sufficient to independently perform due diligence for equipment ABS".* The wording of these questions purposely followed similar wording utilized by the Commission in Question 85<sup>3</sup> of the SEC Re-Proposal regarding asset-level and group-level disclosure ("*Are there other ways to present data that is useful to investors but helps to address privacy concerns?*") and Question 87<sup>4</sup> ("*...be sufficient for investors to independently perform due diligence...*").

The responses we received to the first question were 10 (91%) YES, 0 (0%) NO, and 1 (9%) MAYBE (handwritten). The responses we received to the second question were 10 (91%) YES and 1 (9%) NO. While the vast majority of responding investors believed that pool-level data was useful and sufficient, we recognize that these investors may not be representative of all equipment ABS investors. However, even when adjusting for any potential bias, the responses demonstrated, at the very least, an investor recognition that there may be justification for the Commission to consider an exemption from loan- or group-level disclosure for Equipment ABS.

CNH continues to believe that the option that best balances the information interests of investors with the competitive constraints of issuers yet fulfills the requirements of Section 7(c) of the Securities Act regarding Equipment ABS disclosure is to require pool-level data disclosure. As stated in the referenced ASF Comment Letter, "*The Equipment ABS issuers strongly believe that disclosure at a more granular level than pool-level data would be highly detrimental to the industry for the privacy, competitive, and relational difficulties without meaningfully enhancing the ability of Equipment ABS investors to conduct necessary due diligence.*" We fully support this view and encourage the Commission to consider requiring pool-level disclosure for Equipment ABS. The referenced ASF Comment Letter also contained a group-level proposal, and it should be noted by the Commission that this proposal is a) applicable only in the event that the Commission believes that disclosure beyond the pool-level is ultimately required, and b) endorsed by only certain Equipment ABS issuers and investors.

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<sup>3</sup> See 76 Fed. Reg 47,968, Question 85 (Aug. 5, 2011, "*Are there other ways to present data that is useful to investors but helps to address privacy concerns? How else can we implement Section 7(c) and also address commentators' privacy concerns related to asset-level reporting?*")

<sup>4</sup> See 76 Fed. Reg 47,969, Question 87 (Aug. 5, 2011), "*Is asset-level data necessary for investors to independently perform due diligence for Equipment ABS?*<sup>156</sup> *Or would a grouped account disclosure requirement along with pool-level disclosure be sufficient for investors to independently perform due diligence and also address commentators' privacy and competition concerns? If so, would it be appropriate to require for Equipment ABS similar disclosure requirements that were recommended by commentators for Auto ABS?*<sup>157</sup>"

The Commission in its Re-Proposal also indicated that it had some uncertainty as to the position of Equipment ABS issuers with regards to disclosure requirements.<sup>5</sup> CNH believes that the referenced ASF Comment Letter, specifically its pool-level disclosure recommendations, appropriately addresses our views. To the extent that the Commission believes that there is any specific distinction regarding equipment data disclosure between the referenced ASF Comment Letter and our prior submissions, particularly the December 13, 2010 letter entitled “CCEQ Meeting December 14, 2010 to discuss Sections 941 and 942 of Dodd-Frank Act” to which we were signatories, we withdraw those prior specific comments.

Finally, while CNH encourages investors to learn more about our company, operations and industry, we believe that a minimum standard of pool-level data disclosure should be adopted by the Commission in recognition of the uniqueness of the sector, as more fully described in the referenced ASF Comment Letter. We appreciate the opportunity to share this additional information with you, and as always, please do not hesitate to contact us if you have questions.

Sincerely,

CNH Capital America LLC



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Douglas S. MacLeod  
Chief Financial Officer  
CNH Capital LLC

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<sup>5</sup> See 76 Fed. Reg 47,968