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Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: Proposed Rule for Asset-Backed Securities
File Number S7-08-10; RIN 3235–AK37

Wells Fargo & Company ("Wells Fargo") welcomes the opportunity to provide comments regarding the proposed revisions to Regulation AB as published by the SEC in the Federal Register on May 3, 2010 (the "Proposed Rule"). We participate in the asset-backed securities markets in many roles, including as an issuer, sponsor, underwriter, investor, trustee, master servicer and primary servicer.

INTRODUCTION

Wells Fargo supports many of the proposed revisions to Regulation AB and recognizes that increased transparency and other reforms are needed for new securitizations. We believe a healthy securitization market is critical to support asset funding and liquidity needs essential to assuring the availability and affordability of consumer and business credit for financial products. However, unless some of the proposals contained in the Proposed Rule are altered in very substantial ways, we are extremely concerned that a vibrant and sustainable securitization market will not develop, but instead will stagnate as a result of overly restrictive and burdensome regulations. The primary focus of our letter is to expand on this latter concern in relation to certain specific aspects of the proposal and also to recommend constructive changes that we believe would be more effective in achieving the goals of the SEC.

I. REGISTRATION REQUIREMENTS FOR ABS

A. New Conditions to Shelf Eligibility

The SEC has proposed four new shelf registration eligibility criteria to replace the current requirement that all shelf offerings of asset-backed securities ("ABS") must have received an investment grade credit rating. We will provide comments below regarding each of the new proposed conditions.

1. Risk Retention

The SEC should remove risk retention as a condition to shelf registration eligibility in view of the enactment by Congress of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (H.R. 4173, or the "Dodd-Frank Legislation"). While the Dodd-Frank Legislation includes credit risk retention provisions, essential portions of those provisions contain total or partial exemptions to risk retention that are either mandated by statute, in the case of "qualified residential mortgages," or are permitted based upon federal regulations to be promulgated, and which regulations will allocate risk retention levels that vary by asset type, the quality of underwriting, particular asset characteristics and other considerations, such as certain unique parameters for commercial mortgage-backed securities ("CMBS") transactions. By doing so, Congress has determined that risk retention should not be implemented on a "one size fits all" basis. In addition, the setting of the specific risk retention standards and exemptions under this legislation will be based upon federal regulations to be adopted jointly by the SEC and the federal banking agencies. This approach varies substantially from the SEC's proposal under which risk retention would apply for ABS shelf transactions without the possibility of any exceptions or variations. Since the SEC will be an appropriate and active participant in the rulemaking related to risk retention under the new law, the SEC should delete the inflexible risk retention condition to shelf registration eligibility in the Proposed Rule, which would be inconsistent with the parameters for the federal regulations to be adopted under the Dodd-Frank Legislation.

In addition, we have concerns regarding the interplay between the risk retention requirements proposed by the SEC and the recent revised accounting guidance under FAS 166 and FAS 167, especially in regard to balance sheet consolidation risks for certain transactions such as prime residential mortgage-backed securities ("RMBS") offerings that would otherwise achieve sale treatment. Specifically, major accounting firms are considering what level of risk retention constitutes a "significant economic interest" in the securitization entity, thereby resulting in balance sheet consolidation by a sponsor of an ABS transaction when that entity is also the servicer of the pooled assets. We are concerned that *federally mandated* risk retention in the form of a 5% vertical slice may cause those accounting firms to more readily conclude that such risk retention is a "significant economic interest," thereby triggering balance sheet consolidation, even under circumstances in which those firms would have concluded that consolidation would not be the result in the absence of any federal mandate. Part of the Dodd-Frank Legislation requires that an inter-agency commission examine the effects of federally mandated risk retention requirements on the securitization markets on an asset class by asset class basis, including in relation to the revised accounting rules. Therefore, an additional reason that the SEC should not impose risk retention requirements as a condition of shelf eligibility is the need for the SEC and other federal regulators to evaluate the findings of this commission.

2. Depositor CEO Certifications

The SEC has proposed as a shelf-eligibility requirement that the CEO of the depositor entity provide a certification for each offering that must contain the following statement without any alteration: "to his or her knowledge the assets have the characteristics that provide a reasonable basis to believe they will produce, taking into account internal credit enhancements, cash flows at times and in amounts necessary to service payments on the securities as described in the prospectus."

We are concerned that the language of this mandated certificate would essentially require the depositor's CEO to act as a guarantor of the principal payments on the ABS. In this regard, the language for the certificate might mean that the CEO must certify that the payments from the underlying collateral would be sufficient to maintain a particular stream of cash flows to investors or repay the total principal balance of each of the certificates in full by the maturity date of the securitization. No single person could predict all of the events that may occur that could impact the performance of the underlying collateral. For example, particular classes of an ABS will be impacted to varying degrees by national or regional economic conditions, movements in market interest rates, declines in real estate or other values related to the collateral, legislative or regulatory changes, and many other factors. The depositor's CEO cannot predict such events or the precise impacts those events may have on asset cash flows. Further, to require such an implicit guaranty would be contrary to the very concept of securitizations, which are based upon a discrete pool of assets and whereby certificateholders will receive uncertain payments and absorb losses based on the uncertain performance of the underlying collateral. It is inherent in the credit structure of senior/subordinated ABS transactions that junior bonds are subject to a greater risk of loss than other more senior bonds, and, in some instances, suffer actual losses. Investors purchase a position in a credit tranche based on their risk appetite, the pricing for their securities and their view of how the collateral may perform. We question whether it is the intent of the SEC to change the very nature of these securitizations as pass-through obligations or securities otherwise dependent upon the uncertainty of asset cash flows.

Unfortunately, however, there are indications that the SEC may have proposed this certification in order to produce the functional equivalent of the now rejected ratings criteria. For example, in the footnotes of the Proposed Rule, the SEC seems to make this point when it elaborates that, in providing the certification, the CEO of the depositor must "analyze a structural review of the securitization," and the next sentence states that "rating agencies would *also* conduct a structural review of the securitization when issuing a rating on the securities." We strongly believe that equating the depositor CEO to a rating agency is entirely inappropriate and that the depositor CEO certification included in the Proposed Rule is contrary to one of the main themes of the Proposed Rule of encouraging investors to make their own credit analysis prior to making an investment decision.

While we are strongly opposed to the depositor CEO certification requirement as proposed, we hope that the proposed certification requirement may actually have been intended, similar to the proposals regarding enhanced disclosure, to be another tool for the SEC to bolster the probability that investors would receive sufficient disclosure. In our view, this would be a more appropriate type of certification to provide rather than a certification that effectively requires a depositor CEO to act as an omniscient overseer of all things that may affect the underlying collateral. Therefore, an acceptable alternative approach that we believe would be meaningful to investors would be a certification from either the depositor's CEO or the senior officer in charge of securitization for each shelf takedown that would be based upon a review of the adequacy of the disclosure and would read as follows: "Based on my knowledge, the prospectus does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading."

3. Third-Party Opinions of Repurchase Obligations

The third shelf eligibility proposal from the SEC is to require that a pooling and servicing agreement or other transaction agreement for a securitization contain a provision requiring a third party opinion addressing any repurchase demand made by the trustee that did not result in a repurchase by the relevant responsible party. Such opinion would state that the related assets did not actually need to be repurchased pursuant to the terms of the transaction documents, and this opinion would need to be provided quarterly.

This proposed condition to shelf registration eligibility was apparently motivated by the SEC's concern that securitization transactions often have not included effective contractual provisions for the enforcement of repurchase obligations related to alleged breaches of asset-level representations and warranties. Although we agree with the need to improve transaction documents in this area, we believe that other types of "repurchase governance" mechanisms would more effectively address this concern as we explain below. In addition, the proposed opinions would be extremely difficult to render and would likely be ineffective in many situations.

One of the problems with the proposed opinion is that it is often unclear whether a breach of a particular representation and warranty has occurred. Parties may disagree about contractual interpretations or certain findings of facts and circumstances. While many times these issues can be resolved over a period of time, occasionally parties are not able to reach an absolute agreement as to whether or not there was a repurchase obligation. Further, as drafted, the proposed rule is unclear as to who ultimately makes an initial repurchase request. Often, the securitization documents rely upon self-reporting of representation and warranty breaches and do not place a duty upon the trustee for any type of asset-level monitoring. Finally, as drafted, the proposal is unclear as to whether or not the trustee has to ultimately agree with the third party opinion.

In view of the foregoing, we believe that a better solution would be for the SEC to require the inclusion of repurchase governance provisions in transaction documents that contain the following elements: First, the trustee, a designated agent of the trustee, master servicer or another specified transaction party should be charged with performing a "forensic" review, limited to determining whether there may have been a breach of a contractual representation or warranty. Such a limited forensic review would be based upon a trigger event that would be identified in the transaction documents and would likely vary by asset and transaction type, such as a loan delinquency for a specified duration that occurs before the expiration of a specified period after loan origination or asset sale date. Secondly, the forensic reviewer must be entitled to access to loan origination and other relevant file documents (subject to applicable restrictions concerning consumer privacy information) in order for that party to conduct its required review. Third, after an appropriate period during which the representing party had an opportunity to present additional information or to disagree with the findings of the forensic reviewer, the transaction documents should authorize the retention of a third party arbiter who could render a final determination in the event that there remains disagreement about whether a breach of a contractual representation or warranty had, in fact, occurred. Fourth, the transaction documents should explicitly provide, as many currently do already, the steps that must be taken following the finding by the transaction parties or arbitrator that an asset must be repurchased, including who is responsible for reporting such results, such as the master servicer, trustee or designated agent. It should be noted that, while we suggest that the SEC requires that the transaction documents contain such step-by-step repurchase governance provisions, we believe that the substance of such step-by-step provisions should be left to market participants to decide, as those provisions may need to vary based on particular asset classes.

We believe that the intent of this third shelf eligibility requirement addresses an area of securitizations that market participants have already identified as an area that needs improvement. However, we disagree that the third party opinion is the appropriate and most effective way to resolve this issue versus our suggested approach.

4. <u>Undertaking to file ongoing reports</u>

The fourth shelf eligibility condition proposed by the SEC is the requirement for periodic reporting during the entire life of an ABS transaction, rather than allowing the suspension of such reporting after the first full year of an offering under the current "delisting" option. However, the Dodd-Frank Legislation repeals Section 15(d) of the Securities Exchange Act of 1934 that permits ABS issuers to suspend reporting after their first fiscal year, and authorizes the SEC to determine the duration of such reporting requirements. Therefore, since this subject matter is already covered under the Dodd-Frank Legislation, without any distinction between shelf and stand-alone transactions, we would request that the SEC delete this fourth condition to shelf eligibility.

5. <u>Other Shelf-Eligibility Requirements</u>

While we have raised concerns with some of the shelf eligibility requirements in the Proposed Rule, we would like to highlight our support for another shelf eligibility requirement that appears to be implicit in the new rules.

The purpose of establishing shelf filings is so that issuers may have one transaction structure or a relatively limited number of basic transaction structures that the SEC has an opportunity to review and then provide advance clearance, with the issuers then allowed to continuously use the shelf to offer substantially similar transactions without obtaining an additional SEC review. However, in several instances in the past, transactions following an effective shelf registration would greatly vary from one transaction to the next based upon differences in the types of structural features or characteristics of the asset pools. Such subsequent transactions would not receive a review by the SEC based on the fact that they were technically take-downs from the initial shelf registration. In contrast, the proposed revisions to Regulation AB require that issuers must file a separate registration statement on new Form SF-3 for each form of prospectus, and that each form of prospectus may only cover one asset class. In addition, when issuers desire to add information that relates to new structural features or credit enhancement, the issuer must file that information by a post-effective amendment. This would give the SEC an opportunity to review any new features, asset classes, etc.

These new shelf requirements achieve the purpose of tightening any subsequent use of a shelf offering so that it truly represents a minor change in the form of the filed prospectus. In this fashion, the SEC is essentially creating another shelf eligibility condition for the use of a Form SF-3 registration statement which is clearly different from what would be permissible for offerings under new Form SF-1 for stand-alone offerings. While these new rules will be burdensome to issuers, we are supportive of these changes because they are directly targeted at controlling the essential purpose of shelf filings. This would allow the SEC to accomplish a more targeted review of shelf registration statements.

B. Required Preliminary Prospectus and Waiting Period for Investor Review

Wells Fargo supports the proposal of the SEC to require preliminary prospectuses for all shelf takedowns of ABS (a major change for certain asset sectors such as RMBS). However, we believe that the proposed five business day waiting period between the filing of a preliminary prospectus by an ABS issuer and the first contract of sale of a security is too long. First, many investors have indicated that a shorter period such as two business days would be a reasonable period of time for them to review the preliminary prospectus. Secondly, extended waiting periods increase the origination costs of consumer financial assets, which will, in turn, increase the costs of such financial products to consumers. Therefore, an appropriate balance should be found by the SEC which would accommodate the need for an adequate review period for investors to consider all the information available before making their investment decisions, while also taking into account the real costs associated with each additional day of a waiting period.

In this regard, when Wells Fargo prices loans to consumers, we must take into account the capital and interest rate hedging costs of holding the loans on our balance sheet. We also need to consider possible credit spread widening due to market disruptions and changes in the supply and demand for ABS during such holding period. Unfortunately, there is no ability to hedge the risk of widening credit spreads before a securitization may be executed. Therefore, as an example, when we provide mortgage credit to borrowers for their home purchases or mortgage refinancing needs (and Wells Fargo is the largest residential mortgage originator in the U.S.), a major component of the costs of providing such loans to consumers is the expected holding period before which we may be able to access the capital markets through a securitization. Accordingly, although we support the SEC's proposal for preliminary prospectuses for all asset sectors, we believe that there is decreasing marginal utility for investors in extended waiting periods, while there are increasing consumer costs. For these reasons, we would suggest a two business day waiting period.

In addition to the length of the initial waiting period, we are also concerned about the SEC's proposal that would require another five business day waiting period before the first contract of sale for a securitization could occur in the event of any material change in the information contained in the preliminary prospectus, other than the information solely related to pricing We believe that an additional one business day waiting period should be sufficient in the circumstance where a material change was made during the first day of the initial waiting period (or a prior additional waiting period), and we would extend the additional wait period to two days if made later in the initial period (or prior additional period). The point would be to preserve a two day consideration period. We believe that since changes can be easily highlighted and that such an additional period is ample time for an investor to make a determination about whether to alter an earlier investment decision. We also note that in circumstances of particular complexity in a given transaction, particular investors can request additional time to consider an investment. We believe that such instances will be rare and believe that all transactions should not be burdened with the associated costs of a prolonged delay.

II. NEW REQUIREMENTS FOR PRIVATE OFFERINGS

The SEC proposes, in the case of asset-backed securities, to require issuers for Rule 144A transactions and unregistered securities under Rule 506, upon the request of a single investor, to provide all of the initial and ongoing Regulation AB material that the issuer would have provided had the transaction been offered publicly and, in the case of other "structured finance products" that are not considered to be asset-backed securities, to meet the Regulation AB disclosure requirements plus provide the information required under regulation S-K applicable to Form S-1. Due to the uncertainty as to whether or not an investor will request such information, the practical effect of this new mandate would be that all such private offerings must maintain all Regulation AB information, thereby essentially eliminating much of the utility of the private securitization market.

While we acknowledge that the private securitization markets may have facilitated some of the types of transactions that the SEC indicates in its release had severe negative impacts on the financial markets, it would be ill-advised to ignore the benefits of the private securitization markets. This proposal also runs contrary to established practices and the SEC's long-standing recognition of certain appropriate exemptions from registration. In this regard, we are very concerned that these new requirements could lead to the effective elimination of the private securitization market, a market which has substantial benefits and should be preserved even while we attempt to address any existing concerns. Below we outline our concern more fully and also suggest what we believe would be a better approach. Our hope is that this alternative will produce significant new protections for private offerings without causing the demise of this market.

In the past, private securitization markets have provided issuers, underwriters and investors a useful tool to bring transactions to market that, for various reasons, may not be able to be issued as public offerings. For example, re-securitizations, which are important to preserve the possibility of prudent restructuring or de-risking of legacy positions and increase liquidity in the underlying bonds, are typically transacted in the private placement market for two primary reasons. First, the current holder of the particular security to be re-securitized more often than not purchased the bond in the secondary market and would not have the underlying asset information necessary to comply with Regulation AB. Second, with respect to re-securitizations of bonds issued prior to these proposals, the original offering materials for the underlying bonds may not have complied in every respect with Regulation AB at the time of the original offering. This is true also for any securitization of seasoned loans that were securitized by an aggregator of such assets in the secondary market. In addition, in collateralized loan transactions, which have continued to perform relatively well even in this economic climate, issuers are subject to confidentiality agreements and not at liberty to disclose detailed underlying information. Furthermore, many smaller originators are not able to bear the expense of public offerings and have used the private securitization markets to address their liquidity needs. Such issuers would effectively be shut out of the market and denied an important financing source by the significant and ongoing costs of complying with the new disclosure requirements which would make their market participation infeasible. In short, the private securitization market can often be an attractive financing route for issuers both big and small.

Further, requiring that all securitizations must be Regulation AB compliant in all respects would have a stagnating affect on many market innovations. While in recent times some market innovations have developed negative connotations, this has not always been the case. Various types of relatively new market products have had many positive impacts on the broader economy, including lower transaction costs that would otherwise have been passed on to borrowers. To require complete Regulation AB disclosure for all structured finance products would result in a chilling effect on these market innovations to the extent such innovative transactions could not fit squarely within the parameters of Regulation AB.

For structured finance products not meeting the definition of an asset-backed security, besides the burdens raised by the proposals as addressed above, determining the applicability of complying with Regulation S-K requirements that were not written with these unique structures in mind will be difficult, if not impossible, and will create significant uncertainty in execution. Some existing securitization structures falling into this void include:

- future flow
- film rights
- franchise fees
- patent royalties or other intellectual property licensing fees
- lease transactions where the monetized residual exceeds the Regulation AB definition
- all other pools of novel asset classes or novel structures

Many of these structures, particularly as referenced in the last bullet point, often are a function of what may be referred to as reverse inquiry transactions. These are transactions where investors approach Wells Fargo or another investment bank to help them develop an appropriate financing structure to address their specific needs. We are very concerned that the effect of the SEC proposals would be to eliminate the ability of sophisticated private market participants to contract for specific structured solutions tailored to individual, often unique, investor criteria.

Despite the foregoing, we certainly recognize that some investors may not have been as sophisticated in certain financial products as the SEC rules would have intended. Accordingly, we would propose that, rather than require Regulation AB-type asset-level disclosure and reporting, the SEC provide for an additional category of private placement investor under Rule 144A, one with the wherewithal to bear risk but also with a particular expertise in structured finance products. In this regard, a class of institutional ABS and structured finance product investors could be created who have the ability and can be reasonably expected to protect their own interests through a minimum amount of required experience and expertise in evaluating and purchasing structured finance products. Such investors should have the capability to understand differing levels of available information and should be able to adequately price for variations in such available information. Specifically, we would suggest that the SEC add to the current definition of Qualified Institutional Buyer, or "QIB", a new subset for a "Structured Finance QIB" as an extra requirement for participation in the Rule 144A private market for ABS transactions. The particular minimum investment portfolio to be required for a Structured Finance QIB might be set by the SEC at a $100 million or $200 million level and the investors should be required to provide a specific investment representation letter for each transaction. It is our understanding that the comment letters from the American Securitization Forum (the "ASF") and the Securities Industry and Financial Markets Association ("SIFMA") will each forth specific parameters for the new subset of QIB, and we would like to express our general support of these proposals. While the ASF and SIFMA positions vary slightly, it is our understanding that they will be directionally the same and we strongly support this alternative approach.

III. ENHANCED DISCLOSURE REQUIREMENTS AT THE TIME OF AN ABS OFFERING

A. Cash Flow Waterfall Computer Program Disclosure

The SEC proposes that ABS issuers file a computer program that gives effect to the flow of funds, or "waterfall," provisions of the transaction documents and that the computer program is filed on EDGAR in the form of a downloadable source code using Python. We support the SEC's efforts to allow investors to run their own computer modeling programs with respect to the cash flow waterfall provisions of a transaction; however, the extensive elements of the proposed waterfall computer program would be extremely complex, with many practical and unforeseeable implications. Wells Fargo has ample experience as a bond administrator and ABS underwriter in producing periodic payment calculations and in running certain computer models for RMBS, CMBS and other ABS transactions. Through this experience, we have found that there is inherent subjectivity in modeling assumptions, and even the most sophisticated model will not anticipate all of the unexpected scenarios that may occur during the life of a transaction. In addition, due to the many nuances of the various computer programs that need to be integrated into cash flow waterfall modeling, and the different types of parties who have historically developed the assorted components of such highly technical programs, we believe that it is not appropriate for Wells Fargo or other similarly situated parties (whether as issuer or otherwise) to be responsible for every aspect of such programs as the SEC proposes. Therefore, we cannot support the current proposals relating to such waterfall computer programs, especially the proposal that would subject issuers to liability under the Securities Act of 1933 (the "Securities Act"), including the strict liability provisions of Section 11 of the Securities Act.

We believe that utilizing a third party vendor can provide a much more beneficial and cost effective approach to satisfying the SEC's objective to provide investors with adequate access to information regarding the waterfall and with opportunities to run selected inputs and assumptions that stress the cash flows of an ABS transaction. Currently underwriters use third party vendor cash flow engines, such as Intex, Bloomberg and others, to create models that can be tailored to an investor's requested inputs in terms of desired assumptions. While we understand the SEC's desire to promote an open-source program available to investors, open source codes allow investors to manipulate the actual model in addition to unlimited inputs, assumptions, etc. This means that an investor could significantly change the waterfall model, either purposefully or accidentally, which would render erroneous results and lead to faulty investment decisions. In our experience, most investors already subscribe to the services of Intex, Bloomberg or another such vendor, but we understand that not every investor holds a subscription. In this regard, we believe that efficient pricing could be negotiated and absorbed by the transaction parties in the context of a given issuance.

In addition, we believe that utilizing an open source code in Python would be extremely expensive for investors as well as for issuers and underwriters. Most investors do not have the knowledge or technology to support Python. Similarly, issuers and underwriters have already invested large sums of money in other types of computer engines, software and technology to model transactions, and we do not use Python. In addition, we understand that Python is not a computer language that is readily or widely used in the market. The Proposed Rule would require not only issuers and underwriters but also investors to hire Python specialists, which would be an additional cost to market participants. There would also be an additional amount of time for investors and other transaction parties to gain comfort with Python. Further, Python is accessed via the internet and is not an operating company that provides ready access to a help desk. The practical implication would be that an investor may receive the information but have an unduly difficult time being able to utilize the information. Moreover, at the closing of a transaction, any provider of an open-source cash flow waterfall program will be unable to obtain an accountant's comfort letter as to the computer program, as an auditor will not be able to tie-out a model that may be manipulated by an investor. Therefore, the provider could not gain any level of comfort that such program would remain accurate at all times. This inability to obtain comfort would produce unknown and unquantifiable risks, and those risks may prove too great for issuers to embark on transactions, effectively closing down the market.

The issuer, sponsor and underwriter communities of SIFMA have expressed in the SIFMA comment letter to the SEC regarding the Proposed Rule that there should be no Securities Act liability for the cash flow engine, or for the integration of the cash flow engine with the asset-level data file and with the waterfall computer program. The SIFMA comment letter contends that any strict liability under Section 11, and any liability of Section 12(a)(2), of the Securities Act should only apply to statements of fact made in the waterfall computer program itself regarding the transaction mechanics detailed therein and in the transaction agreements. We agree with this approach. It also seems that elements of the waterfall computer program are comparable to providing scenario analysis as a portion of computational materials for distribution to investors. In this regard, the SEC recognized under its revised securities offering reform rules in 2005 that federal securities law liability for such computational materials should not be ascribed to the issuer, as it determined that such computational materials were no longer required to be filed by the issuer with the SEC on EDGAR. Similarly, we do not believe that federal securities law liability for waterfall computer programs should run to the issuer. At most, any issuer liability regarding computer waterfall programs should be based upon the liability standards under Rule 10 b-5 under the Securities Exchange Act of 1934.

Finally, any SEC mandated waterfall program must have limited required elements, both in terms of collateral inputs and expected outputs. Any such required programs should be only be provided in a closed-source format and initially submitted on a trial basis (without liability), allowing issuers and underwriters to constantly monitor the program to insure accurate data results. Furthermore, issuers, underwriters and other market participants should be permitted to have regular dialogues as to any unforeseen glitches, inconsistent data results or any suggested improvements to the originally submitted programs. We believe that the market would be better served by these initial testing phases and open dialogues and that any further regulations on this subject only be promulgated in the context of this informed discourse.

B. Asset-Level Disclosure – At Time of Issuance

With some significant exceptions, Wells Fargo supports the SEC's proposal to require asset-level disclosure at the time of a public ABS offering, in addition to the currently required pool level disclosures. In this regard, the SEC would require extensive asset-level data fields on a new Schedule L under Item 1111 of Regulation AB to be filed with the SEC, except that no asset-level disclosures would be mandated for the securitization of credit card receivables.

1. Residential Mortgage Loans

With respect to the 28 general and 137 specific data fields proposed to be disclosed for RMBS transactions at the time of issuance, the SEC has indicated that such data fields were primarily based upon information already typically provided by sellers to Fannie Mae and Freddie Mac or likely to be collected under the Project RESTART disclosure package for residential mortgage loans released by the ASF in July, 2009 (the "RESTART Disclosure Package"). Wells Fargo representatives were very active in the industry discussions regarding the development of the RESTART Disclosure Package. However, we have not made any changes to our computer systems to reflect the asset-level data fields recommended by Project RESTART, and we have been evaluating the loan-level fields under Project RESTART as well as the incremental loan- level fields proposed by the SEC for residential mortgage loans. Based on this evaluation and other considerations, set forth below are our comments regarding selective portions of the RMBS data fields proposed to be filed with the SEC on Schedule L.

A significant portion of the residential mortgage loan data fields that the SEC proposes for Schedule L are either (a) not currently collected by Wells Fargo as a part of the loan origination process; (b) collected and possibly captured on an origination system but the data field is based upon an "as of date" that is different than the as of date requested by the SEC; (c) collected but not captured on our existing computer systems; or (d) currently stored on an origination system but not connected or "fed" to our asset sale systems. In view of these various states of data availability, we ask the SEC to recognize that capturing, storing and reporting each particular piece of incremental loan-level information will mean substantial systems and other resource costs, and that we will need adequate time to modify one or more computer systems, including sufficient testing periods. This also means that it is very important to be certain that each new data field is a field that is necessary to be provided to investors and that each new field is presented and expressed in the precise manner needed. Accordingly, there are certain data fields for RMBS transactions that we believe should not be required on Schedule L or which should be modified, and our views in this regard are consistent with the ASF consensus positions and the ASF issuer positions that are expressed in the portion of the ASF comment letter addressing the asset-level requirements for residential mortgage loans included in the Proposed Rule.

We also strongly urge the SEC to allow sufficient time for the necessary systems changes to be implemented in order to comply with the new asset-level requirements. In this regard, we believe that there should be at least a one-year period between the time the final revisions to Regulation AB are published and the effective date of the asset-level data fields. We also believe that such an effective date needs to be tied to the origination date of a residential mortgage loan, meaning that such loan level fields would be required to be provided on Schedule L for a new RMBS offering only to the extent that a particular mortgage loan included in the asset pool for that transaction had been originated more than one year after publication of the final revisions to Regulation AB. This would also mean that such a public RMBS offering could include residential loans that were originated before that date without being required to provide the Schedule L information under Item 1111 of Regulation AB.

In addition to our views expressed above regarding asset-level data fields at the time of an RMBS offering, there is another related issue that we would like to address because it involves an important area in which the SEC is requiring information to be presented differently than what was developed by Project RESTART and starkly contrasts with existing market practices. Specifically, the SEC is proposing that certain data fields for residential mortgage loans be presented in ranges, or through information that has relatively broad application. As examples, the SEC would only permit Schedule L to include a range of FICO scores within a 50 point band for a particular borrower rather than providing the borrower's precise FICO score, and the location of the secured property could only be provided by Metropolitan or Metropolitan Statistical Area or Division rather than by zip codes. It is our understanding that the reason for these differences is because the SEC is concerned about protecting borrowers' privacy. While protecting borrowers' private financial information is certainly a priority of ours, we have a substantial concern that by restricting the information we are able to provide to investors, we will receive substantially lower pricing for new RMBS offerings which will also mean substantially higher costs for consumers of residential mortgage loans. For example, presenting a range of FICO scores such as 650-700 will mean that an investor will assume the worst score (650) for a particular loan even though the borrower's actual FICO score may have been 700. The relative credit-worthiness of a borrower with a score of 700 is very different than a borrower with a score of 650. In addition, since no information is provided on a loan-level tape for a securitization that would disclose the identity of a particular borrower, we are not aware of a particular privacy concern that would arise as a result of the market practice of providing precise information versus providing information by ranges. To the extent that the SEC believes that there is a real question about borrower privacy in this regard, we request that the SEC consult with the appropriate federal regulators who can assess whether providing the types of precise information proposed in the RESTART Disclosure Package, and consistent with current market practice, would be prohibited by the Fair Credit Reporting Act or any other applicable federal privacy laws.

2. Commercial Mortgage Loans

We are concerned that certain provisions of Item 1111 of the Proposed Rule related to the asset-level disclosure requirements at the time of an offering for commercial mortgage loans do not reflect the practices that CMBS market participants have developed to provide CMBS investors with clear, timely and useful disclosure specifically tailored for use by those investors. We believe the industry's longstanding Investor Reporting Package ("IRP") published by the CRE Finance Council (formerly CMSA) provides the appropriate information required by CMBS investors. Consequently, we ask that the SEC conform the proposed Schedule L asset-level data disclosure to the then-current "Annex A" data fields contained in the IRP.

3. Other Asset types

While we generally support the emphasis on enhanced disclosure, we believe that the proposed asset-level disclosures for auto loan securitizations would provide little or no incremental value to investors, contain many items inapplicable to auto loans, and would be disproportionately burdensome on auto issuers, whose asset pools tend to be much larger than those of other asset classes. The typical auto loan securitization may include between 40,000 and 150,000 individual loans. In addition to the inapplicability of some of the proposed data fields to auto loans, capturing and then providing asset-level disclosure regarding each data point for such a massive amount of loans in any given pool will create a tremendous amount of data, and the data collection and systems costs associated with assembling and reporting the information could not be justified based on the utility of such information. We support the SEC's proposed exemption from the asset-level disclosure rules for credit cards and charge cards because of the overwhelming volume of data, and we urge the SEC to consider granting a similar exemption for auto loan securitizations on the same basis. Currently auto issuers provide many of the requested asset-level disclosure items in a grouped format, as the SEC proposes to allow for credit card ABS, and we believe that it is appropriate for auto loan securitizations to be allowed to continue to do so.

The breadth of the proposed asset-level disclosure for equipment loans and leases would require originators to disclose proprietary information and essentially would provide a roadmap for competitors to evaluate such originator's loan or lease "scorecard." Such disclosure would place originators who use securitizations at a competitive disadvantage to those who do not and would provide an unfair advantage to all of their competitors. In addition, some of the specific asset-level disclosures proposed for equipment loans and leases would require confidential or proprietary information regarding customers and the calculation of residual values to be disclosed. For example, Schedule L Item 6(c)(2) would require disclosure of the geographic location of the obligor identified by zip code. In a shipping container transaction, the offering materials typically disclose the names of the top obligors but it will not disclose all of the obligors in the pool. However, since the shipping industry is relatively small, providing the zip code, or its international equivalent, for all obligors is tantamount to disclosing the container leasing company's customer list, which such leasing company would consider to be confidential information. Such disclosure of obligors by name is not required of issuers in other asset classes and such a burden and disadvantage should not be placed on shipping container leasing companies. The disclosure of the residual value of each piece of equipment in a pool for many equipment lessors may require the disclosure of confidential and proprietary information because residual value calculations are often developed in-house and very often outside sources for such values do not exist.

C. Servicer Disclosure – At Time of Issuance

We believe that the SEC needs to modify the scope of Item 1108(b)(2) to remove the requirement that a transaction party include in its prospectus disclosure reference to any material instance of noncompliance ("MINC") identified in an Item 1123 statement, together with the steps taken to remedy such MINC and the current status of such steps. Pursuant to the terms of Item 1123, any MINC identified on an Item 1123 certification would be transaction-specific and would relate only to compliance with the governing documents for such transaction. Since the terms of governing documents can vary significantly even within the same program of shelf registration offerings, the relevance of a particular MINC identified on an Item 1123 Statement to new transactions would be limited at best.

IV. ENHANCED DISCLOSURE REQUIREMENTS ON AN ONGOING BASIS

A. Asset-Level Disclosure — Periodic Reporting

Set forth below are Wells Fargo's comments regarding the extensive proposed new requirements that primary servicers, master servicers or, in some instances, trustees must follow when they provide asset-level disclosure on a periodic basis under Item 1121 of Regulation AB. Such periodic reporting is to be made on a new Schedule L-D to be filed with the SEC in XML format. Our views are organized based upon various asset sectors — CMBS, RMBS, re-securitizations, private offerings, and generally applicable matters which includes data formats.

1. CMBS

The SEC asked whether it should rely on industry standards to establish disclosure requirements. In this regard, Schedule L-D would have different codes and ranges than the existing Investor Reporting Package ("IRP") guidelines for CMBS published by the CRE Finance Council. As we explain below, we believe that the SEC should, in large measure, conform the data fields for the proposed Schedule L-D asset-level reporting to the related fields of the IRP. We also ask the SEC to permit Schedule L-D to be delivered in XML at such time as the CREFC Investor Reporting Committee adopts a version of the IRP in XML (each as defined and further described below).

Currently, CMBS servicers provide a monthly IRP to the investment community. The IRP contains hundreds of data points and such CMBS industry reporting has been provided for over 14 years. Over the course of its use, the IRP has evolved gradually to include more information requested by investors and issuers. All CMBS transactions are reported via the IRP, which enables users to receive consistent and comparable data across all CMBS pools. The data contained in the IRP is provided to the investors via trustee websites and selected portions of the IRP data are also provided to external data providers (e.g. Trepp, Bloomberg, Intex and Real Point).

IRP guidelines identify which data points are restricted (i.e. only available for certain users), while the SEC data filings to be contained in Schedule L-D would be public information. Publicly disclosing certain sensitive information could put the underlying properties at a competitive disadvantage and could negatively influence the performance of the bonds.

Wells Fargo mapped the required data for Schedule L-D and discovered that, with the exception of two fields, all data on Schedule L-D is either already provided in the IRP or is not applicable to CMBS transactions. The two missing fields that we identified are (1) modified amortization period and (2) current servicer information. We expect that the CMBS industry, after receiving input from all market participants in accordance with established industry practice, will add these two fields to the IRP when it is next revised. This will assure that the data to be provided in these fields will be meaningful and will reflect industry standards.

Under the Proposed Rule, Schedule L-D must be filed with the SEC 15 business days after delivery of each monthly IRP. Bonds in CMBS transactions are typically traded based on real time data at the time of the IRP reporting. Since the IRP information would be available through other sources before it was available through the SEC, investment decisions would already be made by the time the SEC reporting was made available, thereby making the SEC data stale. Accordingly, the Schedule L-D reporting process is an unnecessary additional requirement and would add no value for investors.

The IRP for CMBS already has prescribed file format guidelines that are used throughout the industry. XML format changes were already being discussed in the IRP committee for future enhancements. Forcing a change to XML today would be unduly burdensome on the issuer, servicer, trustee and investment communities at a time when the market is not generating significant new business. Conversion to XML format at this time could also impair data quality.

As indicated above, we believe that existing reporting for CMBS transactions is sufficient, and that the SEC should utilize the data already provided in the CREFC IRP. However, if the SEC adopts the proposal to require Schedule L-D reporting, we would recommend the following changes to the data points in Item 3:

The content of Item 3(d)(3), Item 3(d)(11), Item 3(d)(12)(vii), and Item 3(d)(12)(x) should be revised to incorporate IRP terminology.

In addition to the changes noted above, the SEC should clarify, either in the instruction related to Schedule L-D or on Form 10-D, that the Schedule L-D information reported for any particular loan on any particular reporting date may not reflect information for the current reporting period. CMBS transactions often involve multiple loans with different financial reporting dates, and the information has to be reviewed by the appropriate parties, including the servicer, and normalized before it is provided to the SEC filer. Consequently, there can be a substantial delay between the time when loan-level information is received by the servicer and when such information is reported on Form 10-D. In such cases, the issuer or its agent responsible for ongoing reporting for the transaction should not be required to restate prior reports to reflect then-current information.

We support adding an instruction to Item 1121(a)(9) to provide pool-level disclosure in accordance with Item 1100(b) of Regulation AB, but with certain qualifications. Specifically, with regard to the reporting of CMBS delinquency information pursuant to Item 1121(a)(9), the monthly distribution statement for CMBS transactions already reports delinquencies in 30-59, 60-89 and 90+ categories, together with the total dollar amount and number of loans in delinquent status. Additionally, the monthly distribution statement identifies loan level delinquencies and provides the paid-through date. Although CMBS distribution statements do not report delinquencies in 30/31 day increments at the pool level as currently proposed by Regulation AB, the exact number of months delinquent for each loan could easily be derived from the reported paid through date. We believe that current loan-level reporting is more appropriate in the CMBS context, as the relatively small number of loans in each transaction heightens the impact of individual loan performance on overall deal performance.

2. <u>RMBS</u>

We believe that the RMBS data points proposed by the SEC for Schedule L-D are appropriate. We also believe that the data points set forth on Exhibit A, Exhibit B and Exhibit C attached hereto should be added to Schedule L-D for the RMBS asset class.

The addition of the data fields on Exhibit A will help to align more closely the data on Schedule L-D and the data in the Project RESTART reporting package for residential mortgage loans released by the ASF in July, 2009 (the "RESTART Reporting Package"). This is important, because the RESTART Reporting Package was developed with extensive participation from investors, so the data contained in the RESTART Reporting Package reflect the views of investors as to what information is material.

We also recommend adding to Schedule L-D the data fields on Exhibit B, which are not currently included in the RESTART Reporting Package. We believe that the addition of these fields will enhance understanding of modifications that occur within a transaction.

In addition to these changes, we believe it would be beneficial to adopt the codes used in the RESTART Reporting Package for all applicable Schedule L-D data points.

Some parties have already begun to enhance their systems to handle the fields and related codes in the RESTART Reporting Package. Thus, utilizing RESTART Reporting Package codes would help reduce the cost of implementing the SEC's proposal.

Finally, we believe that if Schedule L-D contains all applicable "root" data, there should be no need to include data points that contain a calculation, as investors should be able to derive these numbers themselves from the related "root" data. Taking this approach will help limit the number of fields in Schedule L-D, making it less cumbersome and more efficient.

The proposed HAMP data points are appropriate; however, we believe that the HAMP indicator field should be re-named, and that certain additional data points should be added, as set forth on Exhibit C attached hereto.

The HAMP indicator field should be re-named "Modification Program Type". The codes utilized for this field will also need to be modified. The proposed Yes/No codes should to be changed to allow for designation of various applicable government programs (e.g., HAMP, FHA-HAMP, VA-HAMP, FDIC, and Null). The fields related to the HAMP indicator field can be used for the other programs, but an "N/A" option should be added in case the field does not apply to the program selected under "Modification Program Type".

In regard to the reporting of RMBS delinquency information pursuant to Item 1121(a)(9), we would propose reporting in 30/31 day increments through the 12th month of delinquency, and in annual increments thereafter. We believe there is limited benefit in continuing to report in 30/31 day increments after the first year of delinquency.

3. <u>Re-securitizations</u>

The SEC proposes that the periodic reporting for re-securitizations must include the same information as would be required for a new primary asset-backed securitization, meaning that data regarding the assets underlying the primary securitization must be provided. Re-securitizations were an important tool for issuers during the recent financial crisis, but the proposed rules will have a tremendous stifling effect on these transactions. We believe that the SEC's proposal in this regard needs to be revised to take into account the following issues:

First, as stated above, the reporting of the asset-level data required under the Proposed Rule would not be possible with respect to bonds from transactions that closed prior to the effective date of Regulation AB, as such data likely is not available for these bonds, and, to the extent such disclosure may be possible, it would be enormously costly and burdensome to require that the contracts for these underlying transactions be amended to include the Schedule L-D data going forward. Accordingly, the SEC should exempt from the asset-level reporting requirements of Regulation AB all bonds that are re-securitized that are from transactions which closed prior to the effective date of Regulation AB. Failure to allow such an exemption would eliminate the availability of re-securitizations as an important tool for investors to prudently restructure or de-risk legacy positions and could impair the value of such positions due the resultant illiquidity.

Secondly, with respect to bonds issued after the effective date of Regulation AB, we believe that the asset-level data required to be provided under Regulation AB in connection with the re-securitization of such bonds would be of little benefit to investors in cases where a re-securitization involved a mixture of bonds because they would have to understand in detail the payment structure of each underlying deal from which the separate bonds were taken. The effort involved in doing this would likely be prohibitive for most investors in such cases.

The Proposed Rule provides that credit card ABS issuers are exempt from the asset-level disclosure requirements, including the initial and periodic reporting requirements, because of the volume of data that would be required to be assembled and reported. The same reasoning should apply to re-securitizations. The collateral in a re-securitization consists of other securitized products, which would make it difficult to provide ongoing information on a timely basis that is otherwise required by Regulation AB because of the need to aggregate information from multiple sources. If asset-level disclosure is required in addition to pool-level disclosure, it is reasonable to expect that it would take a significant amount of time to retrieve and compile such information, thus creating the possibility that any such disclosure would be stale at the time of receipt by the requesting investor; many re-securitizations hold assets as collateral that themselves have thousands of underlying assets serving as the ultimate source of payment.

If, despite the serious concerns expressed above, the SEC adopts the provision to require Schedule L-D data for re-securitized bonds created after the effective date of Regulation AB, we would propose including the CIK number within the SEC filings for such re-securitization transaction, so that investors could locate Schedule L-D for the underlying transaction (since this schedule will already have been filed for the underlying transaction, it would be redundant to require that it be filed again). If the SEC were to opt not to allow the inclusion of CIK numbers in satisfaction of the new requirements, we would urge that the SEC's proposed rules apply only to each class of re-securitized bonds created after the effective date of the Proposed Rule that represents 10 percent or more of the asset pool, consistent with the concentration level triggering disclosure under Item 1112 of Regulation AB regarding a significant obligor. In addition, we would urge that any proposal requiring Schedule L-D data to be provided for re-securitized bonds created after the effective date of Regulation AB, whether by way of reference to CIK numbers as we suggest above or otherwise, would not expose the issuer, underwriter or any other re-securitization transaction party to securities law liability for such information because (i) such information has already been filed, subject to securities law liability, with respect to the underlying transactions, and (ii) there is no practical way for the re-securitization parties to do the due diligence with respect to the underlying filings that would need to be done to accept securities law liability for them.

4. Private Offerings

If the SEC decides to adopt its proposed reporting requirements for certain private transactions despite our strong concerns expressed in Section II above, then clarification will be needed on a number of issues related to periodic reporting.

First, as discussed in Section II above, there is substantial confusion regarding the information private issuers would be required to provide and how they should provide it. For example, would the requirement that asset-backed securities issuers provide to private investors all information required in the context of public transactions include distribution information and Schedule L-D data as well as "additional reportable items" defined in the initial implementation of Regulation AB, which typically appear on Form 10-D (e.g., Legal Proceedings, Sales of Securities and Use of Proceeds), Form 8-K (e.g., Change of Servicer or Trustee, Change in Credit Enhancement or Other External Support), or Form 10-K (e.g., Legal Proceedings, Affiliations and Certain Relationships and Related Transactions)? For most of these structures, we believe that the reporting of "additional reportable items" would be unnecessary and not particularly relevant to investors. On a related point, would private issuers be required to include an accountant's attestation and management assertion pursuant to Item 1122 of the existing Regulation AB? Providing such Item 1122 information is currently not possible, as existing platforms do not include private transactions, and would need to be developed. To generate such Item 1122 information upon request would not be feasible, both on account of cost and because the extent of the accountant's review required would prevent timely delivery of such information. Finally, it is not clear whether a Sarbanes-Oxley Certification on behalf of certain private issuers would be required or who would be responsible for executing one if it were required.

As noted in Section II above, the additional Regulation S-K requirements for private issuances that do not qualify as "asset-backed securities" for Regulation AB are equally awkward to interpret in the context of structured finance products and would need to be revised to specifically address these instruments. For instance, in the case of managed collateralized loan transactions, which are not serviced but rather have asset managers, would the Item 1122 servicing criteria be applicable to the managers? This issue also exists for the ongoing reporting requirements: Form 10-K has Instruction J and Form 8-K has instruction G, each of which informs Regulation AB issuers of certain exemptions or methods to avoid certain reportable events, but no amendments or instructions addressing structured finance products have been proposed leaving transaction participants in very uncertain terrain.

Also, we are concerned that a single request for information, potentially from a securityholder with a *de minimis* interest or even from a potential securityholder, could impose significant costs on the issuer. Any such additional costs ultimately will be borne by all securityholders whether they have any interest or use for such information. Even if such information request was not made at the inception of a transaction, since it could be made at any time, the potential cost will have to be priced into the deal structure up front.

Finally, the proposal is unclear as to what the actual disclosure requirement would be once such disclosure requirements were initiated by the request of an investor in a private transaction. Would the request date qualify as the start date for what information would thereafter need to be provided, or would investors be entitled to receive retrospective information? Presumably the information would then be required to be distributed to all investors. The proposal is unclear about the appropriate means of distribution of such information. Should investors thereafter be able to agree to cut off the ongoing disclosure, or will the rule requiring continuing disclosure through the life of the deal then also attach to the private transaction without the ability of the investors to elect otherwise?

In sum, as discussed in Section II, we believe that the disclosure regime as proposed for private transactions is unworkable. To the extent the SEC elects to institute disclosure and reporting requirements with respect to private transactions, we believe that the disclosure and reporting rules will need to be much further developed to be of any use in the securitization markets.

5. Data Formats and Other General Issues

We do not believe it is appropriate to require delivery of asset data in XML format at this time. Market participants will already be challenged to implement the dramatic changes in the SEC proposal without the added requirement that they convert their systems to provide or utilize all related data in XML format. We propose instead that all required transaction data be filed in CSV format initially, leaving open the possibility of changing to XML filings at a later time, should the market request it. The CSV format is widely used within the industry today, and most parties' systems are set to handle receipt and output of data in this format. The conversion to XML format would require far-reaching system changes and would substantially prolong the time needed for implementation of Regulation AB.

If the proposed switch to XML format is adopted by the SEC despite the concerns noted, we believe that significant industry participation would be required in order to determine the technical specifications necessary to effect such implementation. In addition, we believe that a transition period prior to the required compliance date would be needed to ensure that systems are functioning properly. Allowing for a testing period would avoid placing an issuer's shelf in jeopardy if its filings were not completed in a timely and accurate manner. This would also minimize the possibility of errors and potential costs to the transaction as a result of converting the data to this format without sufficient testing. Accordingly, we would recommend a transition period of not less than six months for testing, in addition to the time required for the industry to re-tool systems and processes.

We believe that the current Form 10-D template available on the SEC website is sufficient for the implementation of Regulation AB. However, if the SEC adopts the proposed requirement that third party opinions be attached to Form 10-D, the template would need to be updated to reflect such change.

We do not believe it is feasible to include line items of information from Item 1121 on Form 10-D. Our proposal would be to attach the monthly distribution statement to the Form 10-D filing, rather than itemizing Item 1121 information on the Form 10-D itself. The governing documents for transactions typically state what is required to be reported on the monthly distribution statement, and such provisions ordinarily include the vast majority of the data required under Item 1121.

In regard to timing, it would be inappropriate to require the Schedule L-D data on a daily basis. For both RMBS and CMBS asset classes, the Form 10-D to which Schedule L-D data would be attached is filed monthly; accordingly, requiring Schedule L-D data to be reported more frequently than monthly would be logistically unworkable. Requiring a more frequent reporting cycle for securitization transactions would result in costs far out of proportion to any marginal benefit to investors.

If the SEC adopts the requirement regarding the amount of repurchase demands made of the obligated party and the number of loans actually repurchased during a reporting period, we believe this information should be reported on a quarterly basis instead of on Form 10-D. This timing would be consistent with the proposed requirement that third party opinions of unsatisfied repurchase demands be provided on a quarterly basis (although we have concerns with providing such third party opinions and we have proposed an alternative to those opinions earlier in this letter). In addition, clarification is needed from the SEC as to whether a repurchase demand would be reported prior to or after any applicable cure period, along with what constitutes a legitimate demand. Also, while repurchases are reported under Item 1121 on the distribution statement, these repurchases typically do not reflect the demands made during the related reporting period. This discrepancy is due to the timing of when demands are made, when a determination is made that the demand is valid, and when the actual repurchase occurs.

B. Form 10-K/Servicer's Item 1122 Assessment

The SEC proposes additional disclosure to be required in Form 10-K as to whether an identified material instance of noncompliance ("MINC") involved the servicing of assets underlying such securitization. However, since the Item 1122 assessment and materiality determination with respect to any instances of noncompliance are required to be made at the platform level, it would be misleading for Form 10-K to emphasize the specific pool or pools whose testing resulted in discovery of a MINC. That is, the pools which were not tested are not necessarily less adversely impacted in this regard and, therefore, singling out the tested pools does not make sense in a platform-wide context. In addition, we do not believe there would be a material benefit to investors from adding a requirement that issuers report on Form 10-K whether an Item 1122 MINC applies to the particular transaction for which the Form 10-K is being filed.

Furthermore, the implementation of a transaction-specific reporting requirement related to Item 1122 MINCs also raises practical concerns. First, the scope of every MINC is determined on a platform basis. To confirm which transactions associated with a given platform are affected by a MINC would be extremely labor intensive. The timing for completion of the annual attestation process by the accountants and the deadline for completing such filing does not allow for an adequate review of the entire platform to determine all deals affected by a MINC. Another area of concern involves the Item 1122 certifications received from parties participating in the servicing function, such as third party vendors. Many of these entities are not parties to the applicable transaction, which would make it difficult for them to identify the transaction in which any affected loan is securitized, thus making it difficult to relate a MINC involving such parties participating in the servicing function to a particular deal.

A new separate servicing criterion would be added to Item 1122 stating that, if information obtained in the course of duty is required by any party or parties in order to complete their duties under the transaction agreements, the aggregation of such information, as applicable, is mathematically accurate and the information conveyed accurately reflects the information that was obtained. This is proposed in lieu of revising Item 1122 to provide that accurate conveyance of the information is part of the same servicing criterion under which the activity that generated the information is assessed. The SEC has also asked if timeliness of conveyance of this information should also be included as part of the proposed separate servicing criterion. We believe that the proposed new servicing criterion is already implicit in the other Item 1122 (d) servicing criteria and that establishing it as a separate criterion is unnecessary and would create ambiguities regarding the applicable materiality standard (i.e. whether the standard applicable to this criterion differs from that applicable to the other criteria to which this criterion relates). Making this a separate criterion would also necessitate separate testing and this would create possible testing overlaps and redundancies with testing of the other criteria to which it relates. Accordingly, we believe that it would be preferable not to create a separate criterion in this regard but to instead follow the SEC staff recommendation and revise Item 1122 to make it clear that accurate conveyance of the information is part of the same servicing criterion under which the activity that generated the information is assessed.

The SEC has issued a telephone interpretation of Item 1122 stating that the assessment should cover all asset-backed securities transactions involving such party that are backed by the same asset type backing the class of asset-backed securities which are the subject of the SEC filing. This interpretation also provides that (a) the asserting parties may take into account divisions among transactions that are consistent with their actual practices and (b) if the asserting party includes in its platform less than all of the transactions backed by the same asset type that it services, a description of the scope of the platform should be included in the assessment. The SEC has asked whether this staff interpretation should be codified by adding an instruction to Item 1122 to that effect. We have no objection to the codification of the referenced telephone interpretation through the addition of an instruction to Item 1122. We believe this interpretation is reasonable and practical.

V. OTHER ITEMS OF CONCERN

Wells Fargo also seeks clarification on whether single credit lease financing transactions are intended to be included in the proposed definition of "structured finance products." Unlike other asset-backed securities, such as commercial mortgage-backed securities, single credit lease financing transactions customarily (i) are supported by a single corporate or government credit, (ii) have no "depositor" of loans into the trust, and (iii) have a trustee that originates the loans at a single closing with a single borrower sponsor and a single credit tenant, and then holds the loans in trust for the benefit of the holders of a single class of pass-through certificates representing 100% of the beneficial ownership of the loans. Based on these reasons (which are not exhaustive), Wells Fargo believes that, while single credit lease financing transactions may have certain structural similarities in some limited respects to other asset-backed securities, they are different in substance from what may be generally considered to be structured finance products and should not be subject to the Proposed Rules. To the extent the SEC concludes that single credit lease financing transactions are included in the definition of "structured finance products," Wells Fargo seeks guidance as to whether these transactions under Rule 144A require the same level of disclosure as a registered public offering and clarification as to the specific reporting that would be required, i.e, financial statements, asset-level data, etc.

Sincerely,

Lawrence D. Rubenstein
Managing Counsel
Wells Fargo & Company

APPENDIX

EXHIBIT A

ADDITIONAL DATA FIELDS FOR SCHEDULE L-D (FROM PROJECT RESTART)

1	Property Value	The value of the subject property according to the most recently obtained property valuation
2	Most Recent Property Valuation Type	The type of valuation used to obtain the most recent value of the subject property
3	Most Recent Property Valuation Date	The date of the most recent subject property valuation.
4	Vacancy Type	The reason the property is vacant
5	Vacancy Date	The date on which the subject property was found to be vacant or was vacated
6	Property Condition Code	A code that indicates the condition of the property.
7	Property Inspection Date	The date the most recent property inspection was performed.
8	Occupancy Code	A code classifying how the property is occupied
9	Most Recent FICO Score	The most recently obtained FICO score (if the servicer has acquired one)
10	Most Recent FICO Score Date	The date of the most recently obtained FICO score (if the servicer has acquired one)
11	Most Recent VantageScore Score	The most recently obtained VantageScore score (if the servicer has acquired one)
12	Most Recent VantageScore Date	The date of the most recently obtained VantageScore score (if the servicer has acquired one)
13	Loan ID	Industry-standard unique identifier (Vendor TBD)
14	Postal Code	The postal code (zip code in U.S.) where the property is located.
15	Servicing Transfer Received Date	Effective month and year of a servicing transfer (or acquisition date)
16	Rental Receipts	Rental receipts collected by the servicer
17	Misc. Credits	Any credit that does not have a line item on the loss claim spreadsheet
18	Curtailment Amount	The curtailment amount scheduled to be applied in the current reporting cycle.
19	Curtailment Adjustment	The curtailment interest on the curtailment amount, if applicable.
20	Servicer-Placed Hazard Insurance	A yes/no field indicating whether the hazard insurance on the property is servicer-placed.
21	Fraud Loss Amount	A loss as a result of intentional misstatement, misrepresentation, or omission by an applicant or other interested parties, relied on by a lender or underwriter to provide funding for, o purchase, or to insure a mortgage loan.
22	SCRA Code	A code indicating the manner in which the servicer deals with loans subject to the Servicemembers Civil Relief Act.

23	SCRA Adjustment Amount	For cases where servicemember interest relief is handled via subsidy, as opposed to changing the rate to 6% in the system, the amount of the SCRA subsidy.
24	Other Loan level fees	Gross interest minus primary servicing fee minus special servicing fee minus other servicing fees minus net pass-through rate.
25	Delinquency Reporting Style - (MBA vs. OTS)	Indicates whether delinquency status is reported using the OTS/FFIEC rule or the MBA rule.
26	Senior lien Balance	Where the subject loan is a junior lien (and where possible), the balance of the corresponding senior lien.
27	Junior lien balances	Where the subject loan is a senior lien/and where possible, the balances of all junior liens.

EXHIBIT B

ADDITIONAL DATA FIELDS FOR SCHEDULE L-D (NOT IN PROJECT RESTART OR SEC PROPOSAL)

1	Modified Interest Only Last Payment Date	The date of the last interest only payment, as of the Modification Effective Date.
2	Modified ARM Interest Rate Teaser Period	The duration in months that the teaser interest rate is in effect, as of the Modification Effective Date.
3	Modified ARM Payment Teaser Period	The duration in months that the teaser payment is in effect, as of the Modification Effective Date.
4	Modified ARM Interest Rate Adjust Frequency	The interest rate change frequency of the loan (in months) as of the Modification Effective Date.
5	Modified ARM Payment Adjust Frequency	The payment change frequency of the loan (in months) as of the Modification Effective Date.
6	Modified ARM Payment Recast Frequency	The payment recast frequency of the loan (in months) as of the Modification Effective Date.
7	Modified ARM Next Payment Recast Date	The date on which the next payment recast will occur for the loan (in months) as of the Modification Effective Date.
8	Modified ARM Look Back Days	The number of days prior to the interest rate change date that the index rate used to calculate the loan's rate is obtained, as of the Modification Effective Date.
9	Modified ARM Rounding Type	The rounding method used when calculating the loan's interest rate, as of the Modification Effective Date. The acceptable values include: U (rounds up), D (rounds down), N (rounds to the nearest value), and Z (does not round).
10	Modified ARM Rounding Factor	The precision used when rounding the calculation of the loan's interest rate, as of the Modification Effective Date.
11	Modified ARM Gross Margin	The margin (fixed percentage that is added to the index on each interest rate change date) as of the Modification Effective Date.
12	Modified ARM Negative Amortization Indicator	Indicates whether or not a negative amortization feature is part of the loan as of the Modification Effective Date.
13	Modified ARM Negative Amortization Cap	The maximum percentage of negative amortization allowed on the loan as of the Modification Effective Date.
14	Modification Graduated Date(s)	The date(s) at which the next rate and/or payment change will occur per the loan modification agreement. All dates must be provided, not just the first change unless there is only a single change date.
15	Modification Graduated Rate(s)	The rate(s) that will apply at each change date as stated in the loan modification agreement. All rates must be provided, not just the first change rate unless there is only a single change date.

16	Modification Graduated Payment(s)	The payment(s) that will apply at each change date as stated in the loan modification agreement. All payments must be provided, not just the first change payment unless there is only a single change date.
17	Actual Ending Balance – Total Debt Owed	For a loan with principal forbearance, this field will be the sum of the actual ending balance field already supplied on the file plus the principal deferred amount. For all other loans, it is the actual ending balance.
18	Scheduled Ending Balance - Total Debt Owed	For a loan with principal forbearance, this field will be the sum of the scheduled ending balance field al-ready supplied on the file plus the deferred amount. For all other loans, it is the scheduled ending balance.
19	Non-Interest Bearing Deferred Paid in Full Amount	This value is to be reported when any principal forbearance loan modification either liquidates or is paid in full. This separate field is needed because most Servicers separately track the principal forbearance amount and thus the existing paid in full amount field will not work since it will incur interest on most Servicing systems and will only include the amount that is required to pay off the amortization balance.

EXHIBIT C

ADDITIONAL DATA FIELDS FOR GOVERNMENT-SPONSORED PROGRAMS

1	Principal Forbearance Loss / (Recovery)	(i) When the principal forbearance amount is not reported as a loss when the loan modification record is reported, then this field represents the total loss/gain that applies to the principal forbearance amount at liquidation. (ii) When the principal forbearance amount is reported as a loss when the loan modification record is reported, then this field represents the amount of the loss that the Servicer expects the MS or Trustee to process as a loss at the time of modification. (iii) Once the month in which the loan modification has been reported has passed, this column will be used to accurately reflect: a) changes in the principal forbearance amount due to a new, subsequent modification on the same loan or b) the effect of substantial curtailments on only those principal forbearance amounts that were reported as a loss when the loan modification was reported.
2	Ending Non-Interest Bearing Deferred Principal Balance	The ending balance that represents the outstanding Non-Interest Bearing Deferred Principal Balance as of the cut off date.
3	Non-Interest Bearing Deferred Principal Curtailment Amount	The amount of principal to be applied to reduce the outstanding Non-Interest Bearing Deferred Principal Amount. This field cannot be used when the Non-Interest Bearing Deferred Principal Amount is being Paid in Full. The previously requested Non-Interest Bearing Deferred Paid in Full Amount field must be used in that instance.
4	Principal Reduction Alternative Forbearance Amount	From Supplemental Directive 10-05, page 4: PRA is a deferred principal reduction program that allows a borrower to earn principal reduction over a three-year period by successfully making payments in accordance with the modified loan terms. If the loan is modified pursuant to PRA, the principal reduction amount should be initially treated as non-interest bearing principal forbearance (PRA Forbearance Amount). The PRA Forbearance Amount is separate and exclusive of any other forbearance that may be offered in conjunction with a HAMP modification.
5	Ending Principal Reduction Alternative Forbearance Balance	The ending balance that represents the outstanding Principal Reduction Alternative Forbearance Balance as of the cut off date.

6	Principal Reduction Alternative Forbearance Paid in Full Amount	(i) When the Principal Reduction Alternative Forbearance Amount is not reported as a loss at the time of modification, then this amount would not be populated until the last third of the outstanding amount is written off. (ii) When the Principal Reduction Alternative Forbearance Amount is reported as a loss at the time of modification, then this amount will be populated at the time of modification to ensure the balance of the loan is reflected accurately.
7	Principal Reduction Alternative Forbearance Loss / (Recovery)	(i) When the Principal Reduction Alternative Forbearance Amount is not reported as a loss at the time of modification, then this field will be populated on the anniversary date of each of the 3 years that the borrower earns the 1/3 write off of this amount. (ii) When the Principal Reduction Alternative Forbearance Amount is reported as a loss at the time of modification, then this field will be populated with the full Principal Reduction Alternative Forbearance Amount in the same month that the loan modification is reported. This field will also be populated to show any future recoveries, if applicable.

8	PRA Investor Incentive Amount	From Supplemental Directive 10-05, page 6: For each loan modified under PRA, investors receive the Investor Payment Reduction Cost Share and if applicable: (i) the one-time current borrower incentive payment described in Supplemental Directive 09-01 and (ii) the Home Price Decline Protection incentive payments described in Supplemental Directive 09-04. Additionally, investors will receive PRA investor incentive payments based on the delinquency status of the loan, the MTMLTV ratio used to complete the Alternative Waterfall analysis and the amount of principal reduction installment actually applied by the servicer. With respect to loans which were less than or equal to six months past due at all times during the 12 month period prior to the NPV evaluation date, investors will be entitled to receive $0.21 per dollar of principal reduction equal to or greater than 105 percent and less than 115 percent MTMLTV ratio; $0.15 per dollar of principal reduction equal to or greater than 115 percent and less than or equal to 140 percent MTMLTV ratio; and $0.10 per dollar of principal reduction in excess of 140 percent MTMLTV ratio. With respect to loans which were more than six months past due at any time during the 12 month period prior to the NPV evaluation date, irrespective of MTMLTV ratio range, investors will be paid $0.06 per dollar of principal reduction and will not be eligible for incentives in the above extinguishment schedule. PRA investor incentive payments will be earned by investors in the month in which the applicable principal reduction amount is actually applied to reduce the borrower's UPB as set forth above. While servicers may reduce principal below 105 percent MTMLTV ratio, no PRA incentive, including PRA incentives paid for Interim Period loans, will be paid for that portion of the principal reduction amount that reduces the MTMLTV ratio below 105 percent. Also, as provided in Supplemental Directive 09-01, servicers may substitute principal reduction for any step in the waterfall and may reduce principal at any time during the life of the loan. However, PRA investor incentives will only be paid in conjunction with principal reduction that is deferred over three years in accordance with the requirements of this Supplemental Directive.
9	Liquidation Program Type	Would indicate the type of government or industry program used for a loan liquidation, if applicable (for example, short sales and deeds-in-lieu done under the HAFA program). Some of the codes that would be applicable to this field would be "HMP3 – Deed-in-Lieu", "HMP5 – Short Sale", or "Null".

10	HAFA Investor Incentive Amount	This would be used to indicate the investor reimbursement payment made by the Treasury Department. This field would be populated with a dollar amount.