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August 8, 2011

VIA ELECTRONIC MAIL

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

Re: Release No. 34-64514; File No. S7-18-11

Ladies and Gentlemen:

Clayton Holdings LLC (“Clayton”) is pleased to have the opportunity to submit this letter in response to the request of the Securities and Exchange Commission (the “Commission”) for comments regarding Release No. 34-64514; File No. S7-18-11 (the “Proposing Release”), relating to the implementation of Section 932 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the “Act”). We commend the Commission for its efforts to propose regulations requiring the disclosure to investors of asset-backed securities (as defined in the Exchange Act of 1934, “ABS”) due diligence findings and conclusions. Furthermore, we thank the Commission for seeking comment from industry participants regarding this important issue.

Clayton is one of the largest providers of residential mortgage loan due diligence services in the United States. Traditionally, our services have been used by loan purchasers to make better decisions about how they price portfolios and manage risk. Prospectively, we anticipate playing a valuable role by independently validating the information used by market participants to make decisions relating to loans being included in securitization transactions. Clayton’s skill, knowledge and experience enable us to provide independent reviews to the marketplace and thus can help restore investor confidence and restart the mortgage securitization market in earnest. We are therefore uniquely positioned to offer comment to the Commission regarding the implementation of Section 932 of the Act (“Section 932”). Our comments are limited to matters relating to residential mortgage-backed securities and we express no opinion concerning any other type of ABS.

Outline of Comments

We are offering comments in this letter on the following aspects of the Proposing Release:

1. The content of Form ABS Due Diligence-15E and the definition of “due diligence services”;
2. The method of making the findings and conclusions of the due diligence report publicly available; and
3. The timeframe for delivery of Form ABS Due Diligence-15E.

I. Content of Form ABS Due Diligence-15E; Definition of “Due Diligence Services”

Rule 17g-10, as proposed, would require a third-party due diligence provider reviewing assets to provide a written certification executed by a duly authorized person to any nationally recognized statistical rating organization (“NRSRO”) that produces a rating in connection with ABS to which such diligence services relate. A summary of the findings and conclusions of such provider’s due diligence and the certification would be included on Form ABS Due Diligence-15E.

After carefully reviewing the contents of Form ABS Due Diligence-15E, we are suggesting revisions to the form and the certification that we have marked on Exhibit A attached hereto. Exhibit A shows our suggested revisions as compared to the form contained in the Proposing Release. The purpose of these revisions to the form is to more accurately describe the nature and scope of the review undertaken by third-party due diligence providers. Moreover, as this form must be signed by an individual authorized signer of the due diligence provider, we believe it is appropriate, as well as consistent with other forms required by the Commission, that the certifications contained therein be based on objective standards that can be verified by the signer. We also note generally that, subject to the revisions being proposed herein, we agree with the Commission that the summary of the due diligence services provided in Item 4 of the form will be useful to the ABS investors, other users of credit ratings and NRSROs producing a credit rating for the ABS.

In Item 3 of the form, we made revisions to clarify that the third-party due diligence provider endeavors to satisfy NRSRO criteria, if applicable and identified in the Item 3 table, but it is up to the NRSRO to determine if such criteria were, in fact, “satisfied.” We also note that we believe that Item 3 (with our suggested revision) does provide each NRSRO and ABS investors with useful information and does not require expansion. Each NRSRO publishes its own criteria and the ABS investors are very familiar with the various criteria published by each different NRSRO. Therefore, it should not be necessary to go into any more detail in Item 3.

In both Item 4 and Item 5 of the form, we have removed the phrase “sufficiently detailed” and have proposed revisions without a subjective standard. We believe that the required certification by an authorized signer as to the accuracy of Items 4 and 5 will ensure that the ABS investors have sufficient information to evaluate the scope of the due diligence review. For similar reasons, we have removed the reference to “quality or integrity” in clause (4) of the Item 4 description of due diligence services and replaced it with “accuracy” which we believe more accurately reflects the role of the due diligence provider and the nature of its objective review. “Quality” and “integrity” are subjective terms that do not reflect the objective comparison of the data and information about the assets to the related loan and credit files or other third-party sources (e.g., information from property appraisal services). We have also clarified in two places in Item 4 that the due diligence review described in the form is only the review of the assets in connection with the issuance of the asset-backed securities as specifically requested by the issuer, underwriter or NRSRO. The same changes should be made to the proposed definition of “due diligence services” contained in Proposed Rule 17g-10.

We believe that the proposed definition of “due diligence services” (with the modifications shown on Exhibit A and described herein) captures the scope of due diligence services provided to issuers or underwriters by third-party due diligence providers in connection with the rating of an issuance of ABS and therefore does not need to be further expanded. To be clear, we believe that it is also appropriate for the Commission to expressly provide in the final regulations that the scope of the definition of “due diligence services” is limited to those due diligence services provided *prior* to the issuance of the ABS. Section 15E(s)(4) of the Securities Exchange Act of 1934 (the “Exchange Act”) discusses a description of the due diligence services necessary for the NRSRO to “provide” or “produce” a rating. The Exchange Act does not refer to any services that are conducted post-issuance that may be utilized for the surveillance or maintenance of a rating, and we therefore believe that any expansion of the definition of due diligence services to include post-issuance due diligence services would exceed the scope of the intent and text of the Exchange Act.

With respect to the Certification paragraph in the form, in lieu of using the phrase “in all significant respects”, we believe a more universally accepted standard of “in all material respects” would be more appropriate and be more easily understood by those providing the certification as well as the certification’s recipients. We have also added two sentences to the certification paragraph to make it clear to the NRSRO and the ABS investors that the scope of the due diligence review is limited to what is specifically described in Item 4 of the form and that the due diligence provider did not undertake any additional reviews other than those expressly requested. This clarification is critically important to inform ABS investors about the nature of the review that they may be relying on. Without this suggested additional text, ABS investors may incorrectly assume that the due diligence provider conducted an exhaustive array of tests on all aspects of the data. Due diligence reviews, however, are designed to produce informative and useful conclusions in an efficient manner in a relatively short time frame based upon a finite number of tests on the data. Moreover, it is important for the ABS investor to understand that the scope of the review is set by the requesting party (i.e., the issuer, underwriter or NRSRO) and not the due diligence provider. The due diligence provider does not advise on the sufficiency of

the scope of the review. Finally, the certified form should be prepared and executed by the third party due diligence provider on a one-time basis per report and would not be addressed to any specific NRSRO.

We believe that it is appropriate for the Commission to adopt the proposed general definition of “due diligence services” (subject to our suggested revisions) as opposed to prescribing minimum standards of review per asset class or per type of asset class (e.g., prime versus non-prime residential mortgage loans). As discussed above, the proposed definition is broad enough to encompass the universe of types of reviews conducted. It is consistent with the intent and text of the Exchange Act to permit the market participants, whether NRSROs or ABS investors, to give the issuers and underwriters feedback on their expectations for the specific types of reviews to be conducted.

We do not believe that it is prudent for the Commission to attempt to prescribe asset-specific minimum due diligence requirements. Given the size and diversity of ABS assets (and the size and diversity of the types of assets), it would require a substantial investment of time and resources by the Commission and the market to develop, review and comment on asset-specific standards, and without any guarantee that such standards would be sufficient or appropriately tailored for each particular asset class. The Commission would likely create unnecessary costs by prescribing minimum review standards that the market participants may later find less valuable. We believe that the ABS market is best served by allowing the market (specifically, the ABS investors) to dictate the necessary level of review within the framework of the proposed due diligence services requirement.

II. Method of Making the Due Diligence Findings and Conclusions Publicly Available

Pursuant to Rule 17g-7, an NRSRO would be required to include with the publication of a credit rating any written certification related to the credit rating received from a third-party due diligence provider no less than five business days prior to the first sale in the offering. In the event that an NRSRO fails to comply with its representation to the issuer or underwriter to publicly disclose such findings and conclusions, then the issuer or underwriter would have to furnish to the Commission a Form ABS-15G with the information required under proposed Rule 15Ga-2 no less than two business days prior to the first sale in the offering.

For the reasons set out in this Section, we do not believe that the proposed method of distribution is compatible with the manner in which a third-party due diligence provider is engaged for an ABS issuance and it also incorrectly assumes that such third-party due diligence provider will always have information about whether the issuer has solicited a rating from a particular NRSRO. A third-party due diligence provider will not always know or be able to readily determine the identities of the NRSROs producing credit ratings to which its services relate, especially in cases where NRSROs produce unsolicited credit ratings, and when such certification must be provided to an NRSRO. We believe the proposed rules unfairly place a

heavy burden on the third-party due diligence provider to determine which NRSRO is rating the transaction when that information, and the decision-making regarding the selection of the NRSRO, lies with the issuer.

Therefore, we believe that Rule 17g-5 would be an appropriate mechanism for providing these certifications to all NRSROs producing a credit rating for the ABS, and that the hired NRSROs should obtain a representation from the issuer or underwriter that such issuer or underwriter will make any certifications received by the hired NRSRO available to other NRSROs through the process by which the issuer or underwriter already makes the information required by paragraph (a)(3) of Rule 17g-5 available to non-hired NRSROs. Currently there is a formalized process of information exchange from an issuer or underwriter to the NRSRO pursuant to which an identified password-protected internet website must be maintained that includes all information provided by an issuer or underwriter to a hired NRSRO, or by a third party contracted by the issuer or underwriter to provide information to a hired NRSRO, for the purpose of determining the initial credit rating and for undertaking credit rating surveillance, in each case at the same time the information is provided to a hired NRSRO. Accordingly, we do not believe there should be a reasonableness test in terms of assessing whether the third-party due diligence provider submitted the certification to all NRSROs required to receive the certification.

In the event that any NRSRO is required to describe the findings or conclusions of a third-party due diligence provider, such NRSRO should refer to or cross-reference Items 4 and 5 on Form ABS Due Diligence-15E in lieu of preparing its own description of such findings and conclusions. An NRSRO should not alter the description that was already prepared by the applicable third-party due diligence provider. We believe it is in the best interest of the ABS investor to have a single, consistent description of the due diligence services.

We believe the onus for making the certification publicly available should rest solely with the NRSRO providing a credit rating, not with the issuer or underwriter, and certainly not with the third party due diligence provider that has a limited role relative to the other parties involved in the securitization transaction. This would adequately allow for investors and other users of credit ratings to determine the adequacy and level of due diligence services provided by a third party. Utilizing Rule 17g-5 would also be the most efficient way to ensure that each NRSRO has access to the final due diligence report and certification in a timely manner. In sum, the due diligence provider would deliver its final due diligence report and certification to the issuer and the first identified NRSRO. Subsequent NRSROs rating the transaction would be able to access the report and certification through the existing Rule 17g-5 mechanism. Each NRSRO would then be responsible for the disclosure of what it chose to rely on with its credit rating report.

We do not believe that requiring the filing of the certification by the issuer advances in any way Congress's intent behind the mandate for the due diligence certification. Moreover, as described above, we believe the interest of the ABS investors and all interested NRSROs, as well as the intent of Congress, is easily satisfied by supplying the certification through the already-

established mechanism provided by Rule 17g-5. As long as the issuer or underwriter fulfills its obligation to post the due diligence report and certification pursuant to Rule 17g-5 and the final rules require the NRSRO to disseminate what it relied upon, then we believe that the final rules will also thereby have satisfied the requirement of Section 15E(s)(4)(A). However, to the extent that the Commission believes that it is necessary to have a back-up plan to provide the due diligence certification to the public, then we agree that it is sufficient for the issuer or underwriter to furnish that information to the Commission.

Finally, we do not believe that it is cost-effective for the Commission or the ABS community to have the industry adopt a new system for distributing the Form ABS Due Diligence-15E information nor do we believe it is cost-effective for such parties to have to utilize a for-profit centralized database service for such purposes, especially in light of the amount of time and resources that have already been directed to the development of the Rule 17g-5 system of distribution. And as we described above, the Rule 17g-5 system more fairly allocates responsibility for dissemination of the information among the issuer, underwriter and NRSRO.

III. Timeframe for Delivery of Form ABS Due Diligence-15E

With respect to the timeframe for providing its certification, we believe that the certification should be provided to the hired NRSROs that are required to receive it five business days after the third-party due diligence provider determines that it will no longer review any additional data in connection with its due diligence report. This time frame should allow sufficient time for the third-party due diligence provider to prepare the items required to be attached to Form ABS Due Diligence-15E. We believe that a time frame shorter than five business days will not provide due diligence providers with sufficient time to confirm their final findings and then prepare and seek internal approvals on the contents of the form. In light of the importance of Form ABS Due Diligence-15E to the NRSROs and the ABS investors, we believe it is fair and appropriate for the Commission to ensure that due diligence providers can accurately complete their form.

As proposed, third-party “due diligence report” means any report containing findings and conclusions of any “due diligence services” performed by a third party. We suggest that in lieu of “any report”, the definition be limited to the “final report” issued in connection with presecuritization due diligence, and we believe this alternative definition is consistent with the requirements of Section 15E(s)(4) of the Exchange Act as discussed in Section I above. Issuers, underwriters and NRSROs may review draft or preliminary due diligence reports and may provide feedback to the third-party due diligence provider, but neither transaction parties nor investors would expect such draft reports to be deemed “due diligence reports” for purposes of the final rule. Only the contents of a final due diligence report are used by an NRSRO in connection with determining a credit rating, and it would unnecessarily confuse ABS investors if such draft or preliminary due diligence reports are included in the definition of third-party “due diligence report” for purposes of the final rules.

Conclusion

Thank you for providing us with the opportunity to comment on the implementation of Section 932 and Form ABS Due Diligence-15E. If you have any questions concerning these comments, or would like to discuss them further, please feel free to contact Steven Cohen of Clayton at (203) 926-5600 or scohen@clayton.com. You may also contact our outside counsel on this matter, Ralph R. Mazzeo of Dechert LLP, at (215) 994-2417 or ralph.mazzeo@dechert.com. We would welcome an opportunity to meet with members of the Commission's staff to further discuss our comments and concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "St. Cohen", written in a cursive style.

Steven Cohen
Senior Vice President and General Counsel
Clayton Holdings LLC

Exhibit A

Marked Copy of Form ABS Due Diligence-15E

EXHIBIT A

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

**FORM ABS DUE DILIGENCE-15E
CERTIFICATION OF PROVIDER OF THIRD-PARTY DUE DILIGENCE SERVICES
FOR ASSET-BACKED
SECURITIES**

Pursuant 17 CFR 240.17g-10, this Form must be used by a person providing third-party due diligence services in connection with an asset-backed security to comply with Section 15E(s)(4)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-7(s)(4)(B)). Section 15E(s)(4)(B) of the Securities Exchange Act of 1934 requires a person providing the due diligence services to provide a written certification to any nationally recognized statistical rating organization that produces a credit rating to which such due diligence services relate.

Item 1. Identity of the person providing third-party due diligence services

Legal Name: _____

**Business Name (if
Different):** _____

**Principal Business
Address:** _____

Item 2. Identity of the person who paid the person to provide due diligence services

Legal Name: _____

**Business Name (if
Different):** _____

**Principal Business
Address:** _____

Item 3. Credit rating criteria

If the manner and scope of the due diligence were performed by the third party ~~satisfied~~ pursuant to the criteria for due diligence published by a nationally recognized statistical rating organization, identify the nationally recognized statistical rating organization and the title and date of the published criteria (more than one nationally recognized statistical rating organization can be identified).

Identity of NRSRO	Title and Date of Criteria

Item 4. Description of the due diligence performed

Provide a description of the scope and manner of the due diligence services provided in connection with the review of assets ~~that is sufficiently detailed to provide an understanding~~ prior to the issuance of an asset-backed security, including a description of the steps taken in performing the review. Include in the description: (1) the type of assets that were reviewed; (2) the sample size of the assets reviewed; (3) how the sample size was determined and, if applicable, computed; (4) whether the ~~quality or integrity of~~ accuracy of the information or data about the assets provided, directly or indirectly, by the securitizer or originator of the assets was reviewed and, if so, how the review was conducted; (5) whether the origination of the assets ~~conformed~~ conforming to stated underwriting or credit extension guidelines, standards, criteria or other requirements was reviewed and, if so, how the review was conducted; (6) whether the value of collateral securing such assets was reviewed and, if so, how the review was conducted; (7) whether the compliance of the originator of the assets with federal, state and local laws and regulations was reviewed and, if so, how the review was conducted; and (8) any other type of review conducted with respect to the assets requested by the issuer, underwriter or nationally recognized statistical rating organization in connection with the issuance of an asset-backed security. This description should be attached to the Form and contain the heading "Item 4." Provide this description regardless of whether the due diligence performed satisfied the criteria for minimum due diligence published by a nationally recognized statistical rating organization.

Item 5. Summary of findings and conclusions of review

Provide a summary of the findings and conclusions that resulted from the due diligence services that ~~is sufficiently detailed to provide an understanding of the findings and conclusions that~~ is were conveyed to the person identified in Item 2. This ~~description~~ summary should be attached to the Form and contain the heading "Item 5."

CERTIFICATION

The undersigned has executed this Form ABS Due Diligence 15E on behalf of, and on the authority of, the person identified in Item 1 of the Form. The undersigned, on behalf of the person, represents that the person identified in Item 1 of the Form conducted ~~a thorough~~the review ~~in performing the due diligence~~ described in Item 4 attached to this Form and that the information and statements contained in this Form, including Items 4 and 5 attached to this Form, which are part of this Form, are accurate in all ~~significant respects-~~material respects. The findings and conclusions in Item 5 attached to this Form are based upon information and data supplied by third parties to the party identified in Item 1. Except to the extent described in Item 4 attached to this Form, the person identified in Item 1 of the Form did not review or verify such information and data and has assumed the accuracy of such information and data.

Name of Person Identified in Item 1: _____

By: _____
(Print name of duly authorized person) (Signature)

Date: _____