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RE CDO MANAGEMENT LLC

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**This Brochure provides information about the qualifications and business practices of RE CDO Management LLC. If you have any questions about the contents of this Brochure, please contact us at 617-570-4600. The information in this brochure has not been approved by the United States Securities and Exchange Commission (the “SEC”) or by any state securities authority.**

**RE CDO Management LLC is a registered investment adviser. Registration does not imply a certain level of skill or training.**

**Additional information about RE CDO Management LLC also is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).**

## **ITEM 2. MATERIAL CHANGES**

This brochure contains the following material changes from the amended brochure filed by RE CDO Management LLC dated December 9, 2013:

Item 4. As of December 31, 2013, RE CDO Management LLC had assets of approximately \$126,000,000 under management pursuant to the Management Agreement.

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#### **ITEM 4. ADVISORY BUSINESS**

RE CDO Management LLC (**“RE CDO”**), a Delaware limited liability company is an investment management firm that was formed in June of 2011 to be the substitute collateral manager (**“Advisor”**) to Sorin Real Estate CDO III Ltd., (**“Sorin III”**) and Sorin Real Estate CDO IV Ltd (the **“Client”**). RE CDO Management resigned as the Advisor of Sorin III in February of 2013. RE CDO provides advisory, administrative, and monitoring functions for the Client.

RE CDO is directly owned by WRT-CDO LLC, a Delaware limited liability company and Gotham Hotel Funding LLC, a Delaware limited liability company (collectively, the **“Members”**). Gotham Hotel Funding LLC is owned 97% by Gotham Hotel Holding LLC, a Delaware limited liability company. WRT CDO LLC is wholly-owned by WRT Realty LP, a Delaware limited partnership. WRT Realty LP is wholly-owned by Winthrop Realty Trust, an Ohio trust and a public company traded on the New York Stock Exchange.

RE CDO does not have any direct employees. However pursuant to its operating agreement, it reimburses its administrative manager, WRP Submanagement LLC, for providing day-to-day functions for the Client. WRP Submanagement in turn has an agreement with First Winthrop Corporation (**“FWC”**) pursuant to which it utilizes five employees of, and shares facilities with, FWC. RE CDO, WRP Submanagement LLC, and FWC are related persons.

The Client is a collateralized debt obligation special purpose vehicle and an exempted company with limited liability incorporated under the laws of the Cayman Islands. The original capital structure of the Client included \$400 million of notes (**“Notes”**) and \$250 of issued shares (**“Shares”**). The Notes were issued in reliance on Rule 144A of the United State Securities Act of 1933 issued to Qualified Institutional Buyers. The issued shares are legally owned by Maples Finance Limited (**“Maples”**) who holds the shares for the benefit of one or more charities in the Cayman Islands. The Client is governed by a board of directors appointed by Maples.

The Client is subject to strict guidelines on the types of securities it may own. The Client holds a portfolio of real estate loans and securities which include, without limitation, commercial mortgage loans, participations in commercial mortgage loans, commercial mortgage backed securities, residential mortgage backed securities, other real estate CDO bonds and other structured finance real estate related securities and synthetic securities (the **“Assets”**). The Assets are managed pursuant to the terms of the Collateral Management Agreement (the **“Management Agreement”**) between the Client and RE CDO, and in accordance with the Indenture (the **“Indenture”**), dated as of September 7, 2006, among the Client, Sorin Real Estate CDO IV Corp. (the **“Co-Issuer”** and, together with the Client, the **“Co-Issuers”**), Wells Fargo Bank, National Association, as Trustee and Securities Intermediary and Sorin Capital Management, LLC, as Advancing Agent and Override Servicer (collectively, the **“Operative Documents”**). In accordance with the Operative Documents, prior to October 2011, RE CDO had the right to purchase, sell or replace assets on behalf of the Client. Subsequent to October 2011, the Client’s reinvestment period expired. As a result, the Advisor’s ability to purchase new Assets on behalf of the Client is very limited, and therefore, the Advisor’s primary activities currently consist of maintaining and disposing of the Client’s Assets. The Client’s fund is closed to direct investment.

The advisory services offered by RE CDO are tailored to the requirements of the Client's Operative Documents. These services include selecting Assets to be purchased or sold, providing the Trustee with information on a monthly basis with respect to the composition and characteristics of the Assets, monitoring the performance of the Assets, providing valuation of non-performing assets characterized as a Defaulted Security (as defined in the Indenture), consenting or refusing to consent to any modification of an Asset and advising the Client with respect to any hedge agreements, which set forth permitted investments and other restrictions based upon criteria such as type of asset, property type, interest rate, location of property, etc.

All investment advice offered by RE CDO is with respect to the Assets and interest rate derivatives. The officers of RE CDO, as Advisor, provide a recommendation to the Members of RE CDO that requires unanimous consent to execute. Upon obtaining requisite consent, RE CDO executes a trade on behalf of the Client, and notifies the Trustee. If the trade is in accordance with the Indenture, the Trustee settles the trade, if not, the Trustee would reject the trade and the trade would not be settled.

As of December 31, 2013, RE CDO had approximately \$126,000,000 under management pursuant to the Management Agreement.

RE CDO has full discretionary authority over the Assets to operate within the parameters of the Operative Documents with respect to its Assets subject to the consent of the Members.

#### **ITEM 5. FEES AND COMPENSATION**

Management fees are paid to RE CDO from the Client based on a percentage of AUM in the amount of 0.10% per annum. AUM is calculated in accordance with a contractual formula that values performing assets at their par value and defaulted interests are valued at the lower of market value, S&P Recovery Rate, Moody's Recovery Rate or Fitch Recovery rate. The fee is calculated by the Trustee and confirmed by the Advisor. The fee is paid by the Trustee to RE CDO in the monthly remittance.

The Advisor's fees can be altered only with the mutual consent of the Advisor and the Client. The Client should see Item 12 in this brochure regarding brokerage expenses. Other expenses the Client may pay besides management fees include, but are not limited to, (i) any reasonable expenses incurred by it to employ outside lawyers or consultants in accordance with the Management Agreement and (ii) any reasonable expenses incurred by it (including any reasonable expenses incurred by it to employ outside lawyers or consultants) in connection with the performance of due diligence and (iii) brokerage commissions, transfer fees, registration costs, taxes and other similar costs and transaction-related expenses and fees arising out of transactions effected for the Client's account and the fees and expenses of the other service providers providing services to the Client.

RE CDO does not deduct fees directly from the Client's account. Fees are paid by the Trustee from the accounts of the Client quarterly in arrears in accordance with the Operative Documents.

Neither RE CDO nor any of its supervised persons accepts compensation for the sale of securities or other investment products.

## **ITEM 6. PERFORMANCE-BASED FEES AND SIDE-BY-SIDE MANAGEMENT**

The Advisor does not receive performance-based fees.

## **ITEM 7. TYPES OF CLIENTS**

RE CDO does not have a minimum client fund size requirement. The Client is the only client to whom RE CDO provides investment advice, and RE CDO currently does not anticipate taking any other clients.

## **ITEM 8. METHODS OF ANALYSIS, INVESTMENT STRATEGIES AND RISK OF LOSS**

Since the end of the reinvestment periods under the Indenture, the Advisor has not purchased new Assets on behalf of the Client. The Advisor's activities in maintaining and selling the Assets largely are controlled by the provisions of the Operative Documents with the intent to maximize proceeds to the Fund. Thus, the Advisor's primary strategy does not involve frequent trading of securities. The Client's portfolio consists, as required by the Operative Documents, of the Assets.

The investment strategies of RE CDO pose the following material risks to the Client:

- **Limited Flexibility:** Due to the restrictions imposed on the Advisor by the Operative Documents, the Advisor may not be able to manage the assets in the manner that the Advisor believes would be most beneficial to the Client.
- **Limited Liquidity:** There is limited ability to sell the Assets as secondary markets often do not exist and the ability to transfer ownership to another entity is restricted. This risk may be heightened in times of economic downturn or in response to a specific economic event. In addition, loans to middle market companies or special purpose vehicles may trade less frequently than loans to larger companies and, in some instances, have no, or only a limited, trading market.
- **High Leverage:** The Client is highly leveraged and this may result in situations where the interest expense due is greater than interest income collected.
- **Concentration:** The Assets are concentrated in the real estate sector and therefore a downturn in the real estate sector could have a disproportionate negative impact on the Assets.
- **Credit:** A borrower with respect to an Asset may not make required principal or interest payment under its borrowing terms.
- **Nonrecourse:** Commercial mortgage loans generally are nonrecourse loans and in the event of a default generally there will be recourse only against the specific properties and other assets that have been pledged to secure such mortgage loans. Even if a commercial mortgage loan provides for recourse to a borrower or its

affiliates, the Client is not likely to ultimately recover any amounts not covered by the commercial property. Therefore, the ability of a borrower to repay a loan secured by an income producing property typically is dependent primarily upon the successful operation of such property rather than upon the existence of independent income or assets of the borrower.

- **Interest Rate and Prepayment:** Companies are likely to prepay their outstanding loans during periods of declining interest rates, and since the termination of the reinvestment period, the Advisor's ability to reinvest prepayment proceeds in additional Assets is very limited.
- **Non-Investment Grade Investments:** Non-investment grade loans will have greater credit and liquidity risk than investment grade obligations and are more likely to be impaired during periods of economic downturn.

The Client (and investors who purchased its securities) should be prepared to bear the risk of loss of principal as a result of investment in the Assets.

### **Risk Related to the Notes**

**Limited Assets to Make Payments on the Notes.** The Notes are limited recourse debt obligations of the Issuer and the Co-Issuer. The Notes will be payable solely from and to the extent of the available proceeds from the Collateral (including the Collateral Debt Securities owned by the Issuer and pledged to secure the Notes as well as Substitute Collateral Debt Securities to be purchased from time to time as described herein). The Issuer, as a special purpose company, has no significant assets other than the Collateral Debt Securities, the Collection Account, the Interest Reserve Account, the Expense Reserve Account, the Future Advance Obligations Account, the Effective Date Excess Account and the rights of the Issuer under the Collateral Management Agreement, the Collateral Administration Agreement, the Grantor Trust Documents, any Asset Transfer Agreements, any EC CDO servicing agreements and any Hedge Agreements, all of which are to be pledged to secure the Notes. Except for the Co-Issuers, no person or entity will be obligated to make any payments on the Notes. Consequently, Holders of the Notes must rely solely upon distributions on the Collateral Debt Securities and any other collateral pledged to secure the Notes for the payment of amounts payable in respect of the Notes. If distributions on such collateral are insufficient to make payments on the Notes, all in accordance with the Priority of Payments, no other assets of the Issuer or any other person or entity will be available for the payment of the deficiency. After the disposition of all proceeds of the Collateral, any remaining obligations of or claims against, the Co-Issuers, will be extinguished and will not revive thereafter, which may result in a loss of some or all of a Holder's investment.

**Subordination of the Notes.** Payments of principal of and interest on the Notes are subject to the Priority of Payments. All Classes of Notes are subordinated to certain other payments under the Priority of Payments. In addition, the Class A2 Notes are subordinated to the Class A1 Notes and to the payment of certain fees and expenses. The Class A3 Notes are subordinated to the Class A1 Notes and the Class A2 Notes and to the payment of certain fees and expenses. The Class B Notes are subordinated to the Class A Notes and to the payment of certain fees and

expenses. The Class C Notes are subordinated to the Class A Notes and the Class B Notes and to the payment of certain fees and expenses. The Class D Notes are subordinated to the Class A Notes, the Class B Notes and the Class C Notes and to the payment of certain fees and expenses. The Class E Notes are subordinated to the Class A Notes, the Class B Notes, the Class C Notes and the Class D Notes and to the payment of certain fees and expenses. The Class F Notes are subordinated to the Class A Notes, the Class B Notes, the Class C Notes, the Class D Notes and the Class E Notes and to the payment of certain fees and expenses. Any amounts applied to make payments on the Class G Notes or distributions on the Income Notes will not be available to support payments of principal and interest subsequently payable in respect of the Notes.

So long as a more senior Class of Secured Notes is Outstanding, to the extent that funds are not available in accordance with the Priority of Payments on any payment date to pay the full amount of interest on the Class C Notes, the Class D Notes, the Class E Notes, the Class F Notes or the Class G Notes, the amount available will be paid and any unpaid amount of interest will not be due and payable on such payment date and, for so long as a Class of Secured Notes that is more senior to such Class is still Outstanding, the failure to pay such interest will not be a Default or an Event of Default under the Indenture and such unpaid interest will be deferred and capitalized

The Issuer has nominal equity capitalization in the form of its Ordinary Shares. To the extent that any elimination, deferral or reduction in payments on the Secured Notes occurs, such elimination will be borne first, by the Income Notes and then by the Secured Notes in reverse order of seniority. To the extent that a default occurs with respect to any Collateral Debt Security and the Trustee sells or otherwise disposes of such Collateral Debt Security, it is likely that the proceeds of such sale or other disposition will be less than the unpaid principal of and interest on such Collateral Debt Security.

**The Issuer.** The Issuer has no significant assets other than the Collateral Debt Securities, the Collection Account, the Interest Reserve Account, the Expense Reserve Account, the Future Advance Obligations Account, the Effective Date Excess Account and its rights under the Collateral Management Agreement, the Collateral Administration Agreement, the Grantor Trust Documents, any Asset Transfer Agreements, any EC CDO servicing agreements and any Hedge Agreements, all of which will be pledged to the Trustee to secure the Issuer obligations to the Secured Parties on the Closing Date. The Issuer will not engage in any activity other than the issuance of Ordinary Shares, the issuance of the Notes as described herein, the acquisition of and investment and reinvestment in Collateral Debt Securities as described herein, certain activities conducted in connection with the payment of amounts in respect of the Notes and the management of the Collateral and other activities incidental to the foregoing. Income derived from the Collateral is the Issuer's only source of cash. Because the Issuer is a Cayman Islands company, it may not be possible for investors to effect service of process within the United States or to enforce judgments against the Issuer in United States courts.

**The Co-Issuer.** The Co-Issuer does not have any substantial assets and will not pledge any assets to secure the Secured Notes. The Co-Issuer will not engage in any activity other than the co-issuance of the Secured Notes as described herein and other activities incidental to the foregoing and permitted by the Indenture.

**Limited Liquidity and Restrictions on Transfer of the Notes.** Notes are subject to certain



transfer restrictions, including with respect to ERISA and can only be transferred to certain transferees.

The Notes have not been and will not be registered under the Securities Act, under any U.S. state securities or “Blue Sky” laws or under the securities laws of any other jurisdiction and are being issued and sold in reliance upon exemptions from registration provided by such laws. No Secured Notes may be sold or transferred unless (i) such sale or transfer is exempt from the registration requirements of the Securities Act (for example, in reliance on exemptions provided by Rule 144A and Section 4(2) of the Securities Act or Regulation S) and applicable state securities laws and (ii) such sale or transfer does not cause the Co-Issuers to become subject to the registration requirements of the Investment Company Act.

**Leveraged Investment.** The Secured Notes represent leveraged investments in the Collateral Debt Securities and other underlying Collateral. Therefore, changes in the value of the Secured Notes of the respective Classes and the Income Notes would be anticipated to be greater than the change in the value or payment performance of the underlying Collateral Debt Securities, which themselves are subject to credit, liquidity and interest rate risks. Utilization of leverage is a speculative investment technique and involves certain risks to investors in the Notes. The use of leverage generally magnifies an investor’s opportunities for gain and risk of loss. Prospective investors in the Notes should recognize that indebtedness of the Co-Issuers under the Secured Notes will result in funding costs and other costs incurred in connection with such indebtedness that may not be covered by proceeds received from the Collateral.

**Average Lives, Redemption and Prepayment Considerations.** The average life of each Class of Notes is expected to be shorter than the number of years until their Stated Maturity Dates. The average lives of each Class of Notes will be affected by the financial condition of the obligors on or issuers of the Collateral Debt Securities and the characteristics of the Collateral Debt Securities, including the existence and frequency of exercise of any prepayment, optional redemption or sinking fund features, the redemption price, the actual default rate and the actual level of recoveries on any Defaulted Securities, the frequency of tender or exchange offers for the Collateral Debt Securities and any sales of and reinvestment in Collateral Debt Securities.

**Optional Redemption of Notes; Auction Call Redemption; Potential Illiquidity and Volatility of Collateral Market Value.** The Notes are subject to Optional Redemption by the Issuer, at the direction of the Collateral Manager with the consent of the Holders of not less than 66⅔% of the Outstanding Income Notes on any Payment Date on and after the earlier of (i) the Payment Date occurring in October 2010 and (ii) the Payment Date on which the aggregate outstanding principal amount of the Secured Notes is less than or equal to 10% of the original aggregate principal amount of the Secured Notes as of the Closing Date. If an Optional Redemption does not occur after any such vote because the Sale Proceeds expected to be received therefrom and all other funds in the Accounts available therefor do not at least equal the Total Redemption Amount, the consent of the Holders of the Income Notes to conduct an Optional Redemption, shall be deemed to have been given for the six month period following such original vote.

***Coverage Tests.*** If either of the Class A/B Coverage Tests is not satisfied on the Calculation Date related to a Payment Date, amounts that otherwise would have been paid to the Holders of

the Class C Notes, the Class D Notes, the Class E Notes, the Class F Notes and the Class G Notes or, potentially, distributed to the Holders of the Income Notes, will be used on such Payment Date to redeem the Class A1 Notes, the Class A2 Notes, the Class A3 Notes and the Class B Notes, in that order, to the extent necessary to restore the applicable Coverage Test to the minimum required level or until each such Class is paid in full.

If either of the Class C/D Coverage Tests is not satisfied on the Calculation Date related to a Payment Date, amounts that otherwise would have been paid to the Holders of the Class E Notes, the Class F Notes and the Class G Notes or, potentially, distributed to the Holders of the Income Notes, will be used on such Payment Date to redeem the Class A1 Notes, the Class A2 Notes, the Class A3 Notes, the Class B Notes, the Class C Notes and the Class D Notes, in that order, to the extent necessary to restore the applicable Coverage Test to the minimum required level or until each such Class is paid in full.

If either of the Class E/F Coverage Tests is not satisfied on the Calculation Date related to a Payment Date, amounts that otherwise would have been paid to the Holders of the Class G Notes or, potentially, distributed to the Holders of the Income Notes, will be used on such Payment Date to redeem the Class A1 Notes, the Class A2 Notes, the Class A3 Notes, the Class B Notes, the Class C Notes, the Class D Notes, the Class E Notes and the Class F Notes, in that order, to the extent necessary to restore the applicable Coverage Test to the minimum required level or until each such Class is paid in full.

**Modification of the Indenture; Noteholder Consent May Not Be Required.** Pursuant to the terms of the Indenture, the Trustee and the Co-Issuers may, from time to time, execute one or more supplemental indentures that add to, change, modify or eliminate provisions of the Indenture or modify the rights of the Holders of the Notes. Approval for entering into such supplemental indentures does not require the consent of all of the Holders of the Outstanding Secured Notes. Accordingly, supplemental indentures that result in material and adverse changes to the interests of Secured Noteholders may be approved without the consent of some of the Secured Noteholders adversely affected. In certain other circumstances, no Secured Noteholder consent is required with respect to supplemental indentures.

**Yield.** The yield to maturity of the Notes of each Class will be affected by, among other things, the timing of purchases of Collateral Debt Securities, the rates of repayment of the Collateral Debt Securities, the timing of reinvestment in Substitute Collateral Debt Securities and the rates available at the time of reinvestment as well as by the timing of any Special Amortization or any redemption of the Notes in a Redemption, a Mandatory Redemption or an Auction Call Redemption (and by the related Redemption Prices). The longer the period of time before reinvestment of cash in Collateral Debt Securities, the greater the adverse impact may be on the aggregate interest collected, thereby lowering yields. The yield to maturity of the Notes of each Class may also be affected by rates of delinquencies and defaults on and liquidations of the Collateral Debt Securities, sales of Collateral Debt Securities and purchases of Collateral Debt Securities having different scheduled payments and payment characteristics and by the effects of the Coverage Tests on payments of principal of the Notes pursuant to the Priority of Payments

## **Risks Related to the Collateral Debt Securities**

**Nature of the Collateral Debt Securities; Credit and Liquidity Risks.** The Collateral Debt securities pledged to secure the Secured Notes are expected to be subject to various types of risks including, but not limited to, credit, liquidity, currency and interest rate risks. The level of Collateral securing the Secured Notes has been established to withstand certain assumed deficiencies in payment occasioned by defaults of the Collateral Debt Securities. If any deficiencies exceed such assumed levels, however, payments on the Secured Notes could be adversely affected. To the extent that a default or impairment occurs with respect to any Collateral Debt Security securing the Secured Notes and the Trustee sells or otherwise disposes of such Collateral Debt Security, it is likely that the proceeds of such sale or other disposition will be less than the unpaid principal thereof and interest thereon. The actual default rates of the Collateral Debt Securities may exceed any hypothetical default rates assumed by investors in determining whether to purchase the Notes. An increased perception of defaults among investors may reduce the demand for securities such as the Collateral Debt Securities which could have a material adverse effect on the liquidation value of the Collateral Debt Securities. The Issuer is not aware of a central source for relevant data or standardized method for measuring default rates of securities such as those included in the Collateral Debt Securities and neither the Issuer nor the Trustee has made any investigation into the issuers of the Collateral Debt Securities, and prospective investors in the Notes should make their own assessment of the likelihood of defaults, the rate thereof and the level of recoveries upon such defaults. The credit risk associated with the Collateral Debt Securities will be heightened to the extent the Collateral Debt Securities are concentrated in particular issuers, industries or geographical regions. The value of the Collateral Debt Securities may fluctuate from time to time and neither the Issuer nor the Trustee is under any obligation to maintain the value of the Collateral Debt Securities at any particular level. None of the Issuer, the Co-Issuer, the Trustee, the Collateral Manager or the Dealers has any liability to the Holders of the Notes as to the amount or value of, or any decrease in the value of, the Collateral Debt Securities from time to time.

***Right to Reimbursement with Respect to Cure Rights.*** In certain circumstances, the holder of a Subordinate Mortgage Loan Interest, a Rake Bond or a Mezzanine Loan may cure a default on the related Commercial Mortgage Loan, subject to the rights of any junior participant, junior loan holder or mezzanine lender. Although the holder of a Subordinate Mortgage Loan Interest, Rake Bond or Mezzanine Loan would remain subordinate to the holder of, if applicable, any senior interest with respect to any subsequent recoveries, the holder of the Subordinate Loan Interest, Rake Bond or Mezzanine Loan may determine that the cure will result in a higher recovery than had the default on the related Commercial Mortgage Loan remained uncured. If such a cure right exists, the Holders of the Income Notes may, but are not obligated to, make a cash advance (each such advance, a “Cure Advance”), subject to the review of the override servicer, to the Trustee or to the trustee of the Grantor Trust to enable the Issuer or the Grantor Trust, as the case may be, to exercise the cure right but only to the extent the Collateral Manager reasonably believes that such cash advance, if made, would not be a Nonrecoverable Cure Advance. “Nonrecoverable Cure Advance” means a Cure Advance made or proposed to be made that the Collateral Manager has determined in its sole discretion, exercised in good faith, that the amount so advanced or proposed to be advanced will not be recoverable from subsequent collections from the specific Real Estate Interest with respect to which such Cure Advance was made or proposed to be made.

## ***Structured Finance Securities***

“Structured Finance Securities” are securities that entitle the holders thereof to receive payments that depend primarily on the cash flow from or sale proceeds of a specified pool of assets, either fixed or revolving, that by their terms convert into cash within a finite time period, together with rights or other assets designed to assure the servicing or timely distribution of proceeds to holders of such securities and the only types of Structured Finance Securities that may be included as Collateral Debt Securities are CMBS Securities and Real Estate CDO Securities.

***CMBS Securities.*** A portion of the Structured Finance Securities included as Collateral Debt Securities is expected to consist of CMBS Securities. “CMBS Securities” are, generally, securities backed by obligations (including certificates of participation in obligations) that are principally secured by Commercial Mortgage Loans having a multifamily or commercial use, such as shopping malls, other retail space, office buildings, industrial or warehouse properties, self storage properties, hotels, nursing homes, senior living centers and mobile home parks. Because issuers of CMBS Securities have no significant assets other than the underlying commercial real estate loans and because of the significant credit risks inherent in the underlying collateral, credit risk is a correspondingly important consideration with respect to the related CMBS Securities. Certain of the mortgage loans underlying CMBS Securities constituting part of the Collateral Debt Securities may be delinquent, in default or in foreclosure. Additionally, commercial real estate lending generally is viewed as exposing a lender (and the related Collateral Debt Security) to a greater risk of loss than certain other forms of lending because it typically involves making larger loans to single borrowers or groups of related borrowers.

***Real Estate CDO Securities.*** A portion of the Structured Finance Securities included as Collateral Debt Securities is expected to consist of Real Estate CDO Securities. “Real Estate CDO Securities” are collateralized debt obligations, collateralized bond obligations or collateralized loan obligations (including, without limitation, any synthetic collateralized debt obligations or synthetic collateralized loan obligations) that entitle the holders thereof to receive payments that depend (except for rights or other assets designed to assure the servicing or timely distribution of proceeds to holders of such Real Estate CDO Securities) on the cash flow from (and not the market value of) a portfolio of securities related to mortgage property, which may include commercial and residential mortgage property. Each Real Estate CDO Security may be subordinate in the right of repayment and rank junior to the other securities in the same issuance and/or is senior to other more subordinate classes of securities in the same issuance. Real Estate CDO Securities generally are limited recourse obligations of the issuer thereof payable solely from the underlying assets of the issuer or proceeds thereof (the “CDO Collateral”). Consequently, holders of Real Estate CDO Securities must rely solely on distributions on the underlying CDO Collateral or proceeds thereof for payment in respect thereof. If distributions on the underlying CDO Collateral are insufficient to make payments on the Real Estate CDO Securities, no other assets will be available for payment of the deficiency and following realization of the underlying assets, the obligations of the issuer to pay such deficiency shall be extinguished. Many subordinate classes of Real Estate CDO Securities provide that a deferral of interest thereon does not constitute an event of default and the holders of such securities will not have available to them any associated default remedies. During such periods of non-payment, such non-paid interest will generally be capitalized and added to the outstanding principal balance of the related security. Any such deferral will reduce the amount of current payments

made on such Real Estate CDO Securities. Real Estate CDO Securities are subject to credit, liquidity and interest rate risks. Issuers of Real Estate CDO Securities may acquire interests in loans and other debt obligations by way of assignment or participation. The purchaser of an assignment typically succeeds to all the rights and obligations of the assigning institution and becomes a lender under the credit agreement with respect to the debt obligation; *however*, its rights can be more restricted than those of the assigning institution. In purchasing participations, an issuer of Real Estate CDO Securities will usually have a contractual relationship only with the selling institution, and not the borrower. The issuer generally will have no right directly to enforce compliance by the borrower with the terms of the loan agreement, nor any rights of set-off against the borrower, nor have the right to object to certain changes to the loan agreement agreed to by the selling institution. The issuer may not directly benefit from the collateral supporting the related loan and may be subject to any rights of set-off the borrower has against the selling institution. In addition, in the event of the insolvency of the selling institution, under the laws of the United States of America and the states thereof, the issuer may be treated as a general creditor of such selling institution, and may not have any exclusive or senior claim with respect to the selling institution's interest in, or the collateral with respect to, the loan. Consequently, the issuer may be subject to the credit risk of the selling institution as well as of the borrower. Real Estate CDO Securities are subject to interest rate risk.

"RMBS Securities" are ownership or participation interests in pools of one-to-four-family residential mortgage loans. In addition to the risks described above, RMBS Securities are subject to particular risks. The loans underlying RMBS Securities generally do not restrict prepayments or require the payment of prepayment penalties. As a result, prepayments are likely to increase in lower interest rate environments, which may result in a reduction in yield to maturity for holders of RMBS Securities. Prepayments on the underlying residential mortgage loans in an issue of RMBS Securities will be affected by a variety of economic, geographic and other factors, including the difference between the interest rates on the underlying residential mortgage loans (giving consideration to the cost of refinancing) and prevailing mortgage rates and the availability of refinancing. The origination and servicing of the mortgage loans may be subject to various federal and state laws and regulations with respect to interest rates and other charges, or may require certain disclosures, require licensing of originators, prohibit discriminatory lending practices, regulate the use of consumer credit information and debt collection practices and may limit the servicer's ability to collect all or part of the principal of or interest on a residential mortgage loan, entitle the borrower to a refund of amounts previously paid by it or subject the servicer to damages and sanctions. Residential mortgage loans are obligations of the borrowers thereunder only and are not typically insured or guaranteed by any other person or entity. The rate of defaults and losses on residential mortgage loans will be affected by a number of factors, including general economic conditions and those in the area where the related mortgaged property is located, the borrower's equity in the mortgaged property and the financial circumstances of the borrower. If a residential mortgage loan is in default, foreclosure of such residential mortgage loan may be a lengthy and difficult process, and may involve significant expenses.

**Default Rates of Collateral Debt Securities.** The Issuer is not aware of a central source for relevant data or standardized method for measuring default rates of securities such as the Collateral Debt Securities. Furthermore, historical performance is not necessarily indicative of future performance. In certain circumstances, it is possible that investors in some Classes of

Notes will not recover their original investment. Prospective purchasers of the Notes should consider and assess for themselves the likely level and timing of defaults and recoveries on the Collateral Debt Securities and the likely levels of interest rates during the term of the Notes.

**Insolvency Considerations With Respect to Issuers of Collateral Debt Securities.** The Collateral Debt Securities consisting of obligations of non-U.S. issuers (“Non-U.S. Issuers”) may be subject to various laws enacted in the home countries of such issuers for the protection of creditors. These insolvency considerations will differ depending on the country in which each issuer is located and may differ depending on whether the issuer is a non-sovereign or a sovereign entity. Various laws enacted for the protection of creditors may apply to the Collateral Debt Securities issued by U.S. issuers (each, a “U.S. Collateral Debt Security”). If a court in a lawsuit brought by an unpaid creditor or representative of creditors of an issuer of a U.S. Collateral Debt Security, such as a trustee in bankruptcy, were to find that the issuer did not receive fair consideration or reasonably equivalent value for incurring the indebtedness constituting the U.S. Collateral Debt Security and, after giving effect to such indebtedness, the issuer (i) was insolvent, (ii) was engaged in a business for which the remaining assets of such issuer constituted unreasonably small capital or (iii) intended to incur, or believed that it would incur, debts beyond its ability to pay such debts as they mature, such court could invalidate, in whole or in part, such indebtedness as a fraudulent conveyance, subordinate such indebtedness to existing or future creditors of the issuer or recover amounts previously paid by the issuer in satisfaction of such indebtedness. The measure of insolvency for purposes of the foregoing will vary. Generally, an issuer would be considered insolvent at a particular time if the sum of its debts were greater than all of its property at a fair valuation or if the present fair saleable value of its assets were less than the amount that would be required to pay its probable liabilities on its existing debts as they became absolute and matured. There can be no assurance as to what standard a court would apply in order to determine whether the issuer was “insolvent” after giving effect to the incurrence of the indebtedness constituting the U.S. Collateral Debt Security or that, regardless of the method of valuation, a court would not determine that the issuer was “insolvent” upon giving effect to such incurrence. In addition, in the event of the insolvency of an issuer of a U.S. Collateral Debt Security, payments made on such U.S. Collateral Debt Security could be subject to avoidance as a “preference” if made within a certain period of time (which may be as long as one year and one day) before insolvency.

**Illiquidity of Collateral Debt Securities; Restrictions on Transfer.** There may be a limited trading market for many of the Collateral Debt Securities purchased by the Issuer, and in certain instances there may be effectively no trading market therefor. The Issuer’s investment in illiquid Collateral Debt Securities may restrict its ability to dispose of such investments if they become Defaulted Securities or Credit Risk Securities or have caused a Reinvestment Test Failure in a timely fashion and for attractive prices as well as its ability to take advantage of market opportunities, although the Issuer is generally prohibited by the Indenture from selling Collateral Debt Securities except under certain limited circumstances.

**Changes in Tax Law; No Gross Up in Respect of Collateral Debt Securities.** Under the Eligibility Criteria, a Collateral Debt Security will be eligible for purchase by the Issuer if, at the time it is purchased, either the payments thereon are not subject to U.S. withholding tax or foreign withholding tax or the issuer thereof (and the guarantor, if any) is required to make “gross up” payments that cover the full amount of any such withholding taxes. However, there

can be no assurance that, as a result of any change in any applicable law, treaty, rule, regulation or interpretation thereof, the payments on the Collateral Debt Securities would not in the future become subject to withholding taxes imposed by the United States or another jurisdiction. In that event, if the obligors of such Collateral Debt Securities were not then required to make “gross up” payments that cover the full amount of any such withholding taxes, the amounts available to make payments on the Notes would accordingly be reduced. There can be no assurance that remaining payments on the Collateral Debt Securities would be sufficient to make timely payments of interest on and payment of principal at the Stated Maturity Date of each Class of the Notes.

## **Other Risks Related to the Notes**

**Relationship to Prior Investment Results.** The prior investment results of the Collateral Manager and the services associated with the Collateral Manager or any other entity or person described herein are not indicative of the Issuer’s future investment results. The nature of, and risks associated with, the Issuer’s future investments may differ substantially from those investments and strategies undertaken historically by such persons and entities. There can be no assurance that the Issuer’s investments will perform as well as the past investments of any such persons or entities. In addition, Sorin may resign as the Collateral Manager upon 90 days’ notice or may be removed.

**Limited Authority to Dispose of Collateral Debt Securities.** The ability of the Issuer to dispose of Collateral Debt Securities is limited under the Indenture. No Collateral Debt Security may be sold or disposed of by the Issuer except in connection with a redemption of the Notes and except for sales or other dispositions of Defaulted Securities, Equity Securities, Credit Risk Securities and Credit Improved Securities, sales of Collateral Debt Securities in Discretionary Sales and sales of Collateral Debt Securities or a portion thereof if a Reinvestment Test Failure has occurred in accordance with the limitations set forth in the Indenture as described herein. Accordingly, except in respect of Defaulted Securities, Equity Securities, Credit Risk Securities and Credit Improved Securities, Discretionary Sales, sales of Collateral Debt Securities or a portion thereof if a Reinvestment Test Failure has occurred or upon a redemption of the Notes, the Issuer will not be able to dispose of Collateral Debt Securities, regardless of whether it may be advantageous for the Issuer and the Holders of the Notes to do so.

**Hedge Counterparty Risk.** Any Hedge Agreements involve the Issuer entering into contracts with counterparties. Pursuant to such contracts, the Hedge Counterparties agree to make payments to the Issuer as described therein and the Issuer will be exposed to credit risk of the Hedge Counterparties with respect to such payments. Unless the Hedge Counterparty has been required to post collateral to the Issuer and has actually done so, the Issuer will be treated as a general unsecured creditor in the event of the insolvency of the Hedge Counterparty.

**Sale of Collateral Upon Default of the Secured Notes.** The market value of the Collateral Debt Securities will generally fluctuate with, among other things, changes in market rates of interest, general economic conditions, world political events, developments or trends in any particular industry, the conditions of financial markets and the financial condition of the issuers of such Collateral Debt Securities. Therefore, if an Event of Default occurs with respect to the

Secured Notes, there can be no assurance that the proceeds of any sale by the Trustee of Collateral Debt Securities will be sufficient to pay in full any amounts payable to the Trustee, the Collateral Manager and any Hedge Counterparty and the expenses of the Issuer (all of which amounts (other than certain termination payments payable to any Hedge Counterparty pursuant to the Priority of Payments) are payable prior to payments in respect of the Notes) and the principal of and interest on the Secured Notes.

**Interest Rate Risk; Floating Rate Indices for Collateral Debt Securities; Currency Exchange Risks.** The Notes will bear interest based on Three-Month LIBOR determined as described herein. A portion of the Collateral Debt Securities may consist of obligations that bear interest based on the London interbank offered rate for U.S. Dollar deposits in Europe with a specified index maturity (“LIBOR”) or other floating rate indices (which are likely to adjust at different times than those applicable to the Secured Notes) and a portion of such Collateral Debt Securities will consist of debt securities and obligations that bear interest at a fixed rate. As a result, there may be a fixed/floating interest rate mismatch between the Secured Notes and the underlying Collateral Debt Securities and changes in the level of LIBOR or other floating rate indices could adversely affect the Issuer’s ability to make payments on the Secured Notes.

**Dependence on Collateral Manager and Key Personnel Thereof.** The Issuer has no employees and is dependent on the employees of the Collateral Manager to make decisions on its behalf in accordance with the terms of the Indenture and the Collateral Management Agreement. The success of the Issuer will be dependent on the financial and managerial expertise of the investment professionals of the Collateral Manager. In the event that one or more of the investment professionals of the Collateral Manager were to leave the Collateral Manager, the Collateral Manager would have to re-assign responsibilities internally and/or hire one or more replacement employees and such a loss could have a material adverse effect on the performance of the Issuer.

**Potential Conflicts of Interest Involving the Collateral Manager.** Various potential and actual conflicts of interest may arise from the overall investment activities of the Collateral Manager and its Affiliates for their own accounts and the accounts of others. The following briefly summarizes some of these conflicts, but is not intended to be an exhaustive list of all such conflict.

A portion of the Initial Collateral Debt Securities may be sold to the Issuer by an Affiliate of the Collateral Manager. The Collateral Manager and/or its Affiliates may have ongoing relationships with, render service to, finance and engage in transactions with, and may own debt or equity securities issued by issuers of certain of the Collateral Debt Securities. The Collateral Manager, its Affiliates and/or its clients may invest in securities that are senior or subordinated to, or have interests different from or adverse to, the Collateral Debt Securities. The interests of such parties may be different than or adverse to the interest of the Holders of the Notes. In addition, certain persons at the Collateral Manager may possess information relating to the Collateral Debt Securities which is not known to the employees of the Collateral Manager responsible for monitoring the Collateral Debt Securities and performing the other obligations under the Indenture and the Collateral Management Agreement. Such persons will not be required (and may not be permitted) to share such information or pass it along to the Issuer, the Collateral Manager or any Holder of any Note. Neither the Collateral Manager nor any of such



persons will have liability to the Issuer or any Holder of any Note for failure to disclose such information or for taking, or failing to take, any action based upon such information.

The Collateral Manager serves as advisor to and is responsible for the management of Sorin's proprietary portfolios and currently serves as advisor to other collateralized debt obligation issuers. In addition, the Collateral Manager and/or any of its Affiliates may engage in any other business and furnish investment management and advisory services to others which may include, without limitation, serving as advisor, consultant or servicer for, investing in, lending to, being affiliated with or have other ongoing relationships with, other entities organized to issue collateralized debt obligations secured by assets similar to the Collateral Debt Securities, and other trusts and pooled investments vehicles that acquire interests in, provide financing to, or otherwise deal with securities issued by issuers that would be suitable investments for the Issuer. In the course of monitoring the Collateral Debt Securities held by the Issuer, the Collateral Manager may consider its relationships with other clients (including entities whose securities (or those of its Affiliates) are pledged to secure the Secured Notes) and its Affiliates. In providing services to other clients, the Collateral Manager and its Affiliates may recommend activities that would compete with or otherwise adversely affect the Issuer. In addition, the Collateral Manager will be free, in its sole discretion, to make recommendations to others, or effect transactions on behalf of itself or for others, that may be the same as or different from those effected on behalf of the Issuer, and the Collateral Manager may furnish advisory services to others who may have investment policies similar to those followed by the Issuer and who may own securities and investments of the same class, or which are the same type as, the Collateral Debt Securities. The Collateral Manager may direct the Issuer to sell Collateral Debt Securities meeting the definition of Credit Risk Securities or Defaulted Securities, as well as other Collateral Debt Securities, subject to satisfaction of the conditions described in the Indenture. Such sales of Collateral Debt Securities may result in losses by the Issuer, which losses may result in the reduction or withdrawal of the rating of any or all of the Notes by either of the Rating Agencies. Such sales, and any purchases of Substitute Collateral Debt Securities, may be made to or from the Collateral Manager, its Affiliates or clients so long as such sales or purchases are made on arm's length terms for fair value and are otherwise consistent with Sorin's obligations under the Investment Advisers Act and the Collateral Management Agreement. See "The Collateral Management Agreement."

The Collateral Manager and/or its Affiliates may at certain times be simultaneously seeking to purchase or dispose of investments for their respective accounts or for another entity, including other collateralized debt obligation vehicles, at the same time as it is purchasing or disposing of investments for the Issuer. Accordingly, conflicts may arise regarding the allocation of purchase or sale opportunities.

The Collateral Manager and its Affiliates may have economic interests in or other relationships with respect to an underlying series of Collateral Debt Securities. In particular, such persons may make and/or hold an investment in an issuer's securities that may be *pari passu*, senior or junior in ranking to an investment in such issuer's securities made and/or held by the Issuer or serve as servicer, master servicer or special servicer or otherwise have ongoing relationships. Each of such ownership and other relationships may create conflicts of interest. In such instances, the Collateral Manager and its Affiliates may in their discretion make investment recommendations and decisions that may be the same as or different from those made with

respect to the Issuer's investments.

No provision in the Collateral Management Agreement prevents the Collateral Manager or any of its Affiliates from rendering services of any kind to the issuers of any Collateral Debt Securities or their affiliates, the Trustee, the Holders of the Notes, the Hedge Counterparties or any other entity. The Collateral Manager and its Affiliates, directors (whether supervisory or managing), officers, employees and agents may, among other things: (a) serve as directors, partners, officers, employees, agents, nominees or signatories for an issuer of any Collateral Debt Securities; (b) receive fees for services rendered to the issuer of any Collateral Debt Securities or any affiliate thereof, *provided* that with respect to such services, the Collateral Manager is not acting as an agent for the Issuer; (c) be retained to provide services unrelated to the Collateral Management Agreement to the Issuer or its Affiliates and be paid therefore; (d) be a secured or unsecured creditor of, or hold an equity interest in, any issuer of any Collateral Debt Securities; (e) subject to the Collateral Management Agreement, sell any Collateral Debt Security or Eligible Investment to, or purchase any Collateral Debt Security or Eligible Investment from, the Issuer while acting in the capacity of principal or agent; (f) underwrite, act as a distributor of or make a market in any Collateral Debt Security or Eligible Investment; (g) serve as a member of any "creditors' board" or "creditors' committee" with respect to any Collateral Debt Securities which have become or may become a Defaulted Security or Written-Down Security, or with respect to any Commercial Mortgage Loan or Mezzanine Loan underlying any Collateral Debt Security; (h) subject to the Eligibility Criteria, act as a servicer with respect to any Commercial Mortgage Loan and/or Mezzanine Loan underlying any Collateral Debt Security; (i) act as collateral advisor, investment manager and/or investment adviser or sub-adviser in other collateralized bond obligation vehicles, collateralized loan obligation vehicles and similar investment vehicles; (j) own or make loans to any borrower or affiliate of any borrower on any of the Commercial Mortgage Loans securing the Collateral Debt Securities; and (k) own equity in or own or make loans to any REIT including any REIT obligated on any of the Collateral Debt Securities. With respect to the foregoing and under the terms of the Collateral Management Agreement, the Collateral Manager will be permitted to so act regardless of the impact on the Collateral Debt Securities or the Issuer.

The Collateral Manager, its Affiliates or clients may own classes of the same issuances that are senior or junior in priority to the classes constituting part of the Collateral Debt Securities and, in such capacity, may have interests which are different from or adverse to those of the Issuer and/or the Holders of the Notes. In their capacities as owners of certain investments junior to certain of the Collateral Debt Securities, Affiliates or clients of the Collateral Manager may be empowered as the controlling class representative or other equivalent function for such a transaction to approve, consent to or require certain actions be taken by the trustees and/or servicers for such transactions. The actions of such Affiliates or clients of the Collateral Manager in such instances may conflict with the interest of the classes of Collateral Debt Securities that are senior to the classes of investments held by such Affiliates or clients.

The Collateral Manager and/or one or more of its Affiliates, employees or accounts managed by it will purchase all of the Class G Notes and the Income Notes on the Closing Date and may own from time to time additional Notes of one or more Classes. There is no assurance that the Collateral Manager or such Affiliates, employees or accounts will continue to hold any or all of such Notes. As a Holder of Income Notes and/or the Class G Notes, the Collateral Manager and

its Affiliates, employees and accounts may have interests adverse to the Holders of the Notes.

The Collateral Manager and/or one of its Affiliates, employees or accounts managed by it in their capacity as Holders of the Income Notes will have the right but not the obligation, to provide funds, subject to the review of the override servicer, to the Trustee or the trustee of the Grantor Trust in order to enable the Issuer to exercise any cure rights it may have under any Intercreditor Agreement with respect to a Subordinate Mortgage Loan Interest, Rake Bond or Mezzanine Loan included in the Collateral. The Issuer and the Grantor Trust will have no other source of funds with which to exercise any such cure right. In making its determination whether to make such a Cure Advance, the Holders of the Income Notes may act in their own interests only and are not required to take into account the interests of any other Noteholders. To the extent such Cure Advances are reimbursed pursuant to the terms of the related Real Estate Interest, such reimbursement will be forwarded to the Holders of Income Notes that made such Cure Advances. Additionally, if at any time a Cure Advance made by the Holders of the Income Notes is determined to be a Nonrecoverable Cure Advance, then the Holders of the Income Notes that made the Cure Advance will be entitled to recover all outstanding Cure Advances prior to any payment of interest or principal on the Notes (such reimbursement to be made first from Collateral Interest Collections and, then, to the extent Collateral Interest Collections were insufficient, from Collateral Principal Collections). The interests of Sorin and/or such Affiliates or employees in determining whether to make such a Cure Advance may be adverse to the interests of the Holders of the Notes.

Additionally, the Holders of the Income Notes will have the right to request that the Issuer exercise any purchase right (including any purchase right arising out of a buy/sell provision) with respect to any Senior Tranche under any Underlying Instrument with respect to a Subordinate Mortgage Loan Interest, Rake Bond or Mezzanine Loan included in the Collateral. The Senior Tranche will be transferred to the Holders of the Income Notes in exchange for payment of the related purchase price. The Senior Tranche will not be part of the Collateral and the interests of Sorin and/or its Affiliates or employees as the holder of such senior interest or note may be adverse to the interests of the Holders of the Notes.

The Collateral Manager will be reimbursed by the Issuer for certain of its expenses incurred in connection with the organization of the Issuer and the Co-Issuer (including legal fees and expenses) on the Closing Date and will be entitled to receive the Collateral Management Fee and reimbursed by the Issuer for certain of its expenses in its capacity as Collateral Manager on an ongoing basis in accordance with the Priority of Payments.

The Collateral Manager and its Affiliates and employees will not be entitled to vote the Income Notes or the Secured Notes held by them in any vote for removal for “cause” under the Collateral Management Agreement for so long as Sorin or any of its Affiliates is the Collateral Manager. However, Sorin and its Affiliates and employees will be entitled to vote the Income Notes and the Secured Notes held by them with respect to all other matters. The interests of Sorin and/or such Affiliates or employees in exercising such vote may be adverse to the interests of the Holders of the Secured Notes or the Holders of the Income Notes.

**Potential Conflicts of Interest Involving the Trustee.** Wells Fargo will act as Trustee, Principal Note Paying Agent and as the Collateral Administrator. In addition, Wells Fargo will

also act as the Note Transfer Agent and Note Registrar. In addition, it is likely that Wells Fargo will act as trustee with respect to a portion of the aggregate principal amount of Collateral Debt Securities that, as of the date of this Offering Circular (subject to change prior to the Closing Date), are expected to be acquired by the Issuer on the Closing Date or are acquired in the future. Nevertheless, Wells Fargo and any of its Affiliates providing services in connection with the contemplated transactions will only have the duties and responsibilities expressly provided in each capacity and will not, by virtue of its or any Affiliate acting in any other capacity, be deemed to have duties or responsibilities or be deemed to be held to a standard of care other than as expressly provided with respect to each such capacity.

**Changes in Tax Law; No Gross Up in Respect of Notes.** Although no withholding tax is currently imposed on the payments of interest on or principal of the Notes, there can be no assurance that, as a result of any change in any applicable law, treaty, rule, regulation, or interpretation thereof, the payments on the Notes would not in the future become subject to withholding taxes. In the event that any withholding tax is imposed on payments of interest or other payments on any Notes, no “gross-up” payments or additional amounts will be paid to the holders of the Notes.

**Investment Company Act Considerations.** The Co-Issuers have not registered with the U.S. Securities and Exchange Commission (the “Commission”) as an investment company pursuant to the Investment Company Act. The Issuer has not so registered in reliance on an exemption from registration as an investment company under the Investment Company Act for investment companies organized under the laws of a jurisdiction other than the United States or any state thereof whose investors residing in the United States are solely Qualified Purchasers or Knowledgeable Employees and which do not make a public offering of their securities in the United States. No opinion or no-action position has been requested of or received from the Commission with respect to the foregoing matters. To enforce the restrictions on transfers of interests in the Notes, the Indenture permits the Issuer to demand that the Holder thereof sell any interest in a Rule 144A Note if such Holder is a U.S. Person who is determined not to have been both (x) a Qualified Purchaser or a Knowledgeable Employee and (y) either (i) a QIB or (ii) in the case of a Restricted Certificated Note, an Accredited Investor, in each case, at the time of acquisition of such Note to a Holder permitted under the Indenture and, if the Holder does not comply with such demand within 30 days thereof, the Issuer may sell such Secured Note on such terms as the Issuer may choose. In addition, the Indenture also permits the Issuer to demand that the Holder of an interest in a Regulation S Global Note to sell to a Holder permitted under the Indenture any interest in a Regulation S Global Note held by such Holder who is determined to be a U.S. Person and, if the Holder does not comply with such demand within 30 days thereof, the Issuer may sell such Holder’s interest in the Regulation S Global Note on such terms as the Issuer may choose.

To rely on Section 3(c)(7) of the Investment Company Act, the Issuer must have a “reasonable belief” that all purchasers of the Notes that are U.S. Persons (including the Initial Purchaser and subsequent transferees) are Qualified Purchasers. Given that transfers of beneficial interests in the Class A Notes, the Class B Notes, the Class C Notes, the Class D Notes, the Class E Notes and the Class F Notes generally will be effected only through DTC and its participants and indirect participants without delivery of written transferee certifications to the Issuer, the Issuer will establish the existence of such a reasonable belief by means of the deemed

representations, warranties and agreements described under “Purchase and Transfer Restrictions,” the agreements of the Dealers referred to under “Plan of Distribution” and the procedures described herein. Although the Commission has stated that it is possible for an issuer of securities to satisfy the reasonable belief standard referred to above by establishing procedures to provide a means by which such issuer can make a reasonable determination as to status of the holders of its securities as Qualified Purchasers, the Commission has not approved, and has stated that it will not approve, any particular set of procedures including the procedures described herein. Accordingly, there can be no assurance that the Issuer will have satisfied the reasonable belief standard referred to above.

**Certain Legal Investment Considerations.** None of the Issuer, the Co-Issuer, the Collateral Manager or the Dealers makes any representation as to the proper characterization of the Notes for legal investment or other purposes, as to the ability of particular investors to purchase the Notes for legal investment or other purposes or as to the ability of particular investors to purchase the Notes under applicable investment restrictions. All institutions, the activities of which are subject to legal investment laws and regulations, regulatory capital requirements or review by regulatory authorities should consult their own legal advisors in determining whether and to what extent the Notes are subject to investment, capital or other restrictions.

**Emerging Requirements of the European Community.** As part of the harmonization of transparency requirements, the European Commission recently adopted a directive known as the Transparency Obligations Directive that, among other things, regulates issuers of securities that are offered to the public or admitted to trading on a European Union regulated market. The listing of the Notes on any European Union stock exchange, including The Irish Stock Exchange Limited would subject the Co-Issuers to regulation under this directive and the requirements applicable to the Co-Issuers are in the first stages of being applied.

**Anti-Money Laundering Provisions.** The Uniting and Strengthening America By Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the “USA PATRIOT Act”), signed into law on and effective as of October 26, 2001, imposes anti-money laundering obligations on different types of financial institutions, including banks, broker-dealers and investment companies. Title III of the USA Patriot Act makes a number of amendments to the anti-money laundering provisions of the Bank Secrecy Act that are intended to make it easier to prevent, detect and prosecute international money laundering and the financing of terrorism. The USA PATRIOT Act requires the Secretary of the United States Department of Treasury (the “Treasury”) to prescribe regulations to define the types of investment companies subject to the USA PATRIOT Act and the related anti-money laundering obligations.

**Ratings on the Notes.** The ratings on the Notes are based on each Rating Agency’s analysis of the Collateral Debt Securities, the terms of the Indenture, the other Transaction Documents and the Coverage Tests. The ratings on the Notes may be adversely affected by changes in the characteristics of the Collateral Debt Securities which may not result from delinquencies or defaults.

**Emerging Requirements of the European Community.**

As part of the harmonization of securities markets in Europe, the European Commission has adopted a directive known as the Prospectus Directive that regulates offers of securities to the public and admissions to trading to E.U. regulated markets. The European Commission has adopted a directive known as the Transparency Directive (which is expected to be implemented by Member States in 2007) that will, among other things, impose continuing financial reporting obligations on issuers that have certain types of securities admitted to trading on an E.U. regulated market, including the Irish Stock Exchange. In addition, the Market Abuse Directive harmonizes the rules on insider trading and market manipulation in respect of securities admitted to trading on an E.U. regulated market and requires issuers of such securities to disclose any non-public, price sensitive information as soon as possible, subject to certain limited exemptions.

### **Risks Related to Commercial Mortgage Loans**

The Issuer is permitted to purchase assets that constitute Real Estate Interests (including, without limitation, Whole Loans, Subordinate Mortgage Loan Interests, Rake Bonds and Mezzanine Loans), CMBS Securities, Real Estate CDO Securities, Real Estate Related Bank Loans, Synthetic Securities and REIT Debt. Many of the Collateral Debt Securities rely on payments related to commercial mortgage loans and as a result are dependent on the performance of commercial mortgage loans. Other Collateral Debt Securities rely on the successful operation of commercial real estate property, which are subject to risks similar to those described with respect to commercial real estate loans. The following is a general description of certain risks related to the commercial mortgage loans that will secure or comprise, directly or indirectly, certain of the Collateral Debt Securities and risks related to the operation of commercial real estate properties on which others of the Collateral Debt Securities rely for payment.

#### **Adjustable Rate Mortgage Loans.**

Certain of the commercial mortgage loans may bear interest at adjustable rates based on LIBOR for one-month Dollar deposits or other established interest indices. Accordingly, debt service for any such commercial mortgage loan will increase as interest rates rise. In contrast, rental and other income on the related mortgaged properties is not expected to rise significantly as interest rates rise. Accordingly, debt service coverage ratios of the underlying floating-rate commercial mortgage loans will generally be adversely affected by rising interest rates, and a borrower's ability to make all payments due on such floating-rate commercial mortgage loans may be adversely affected.

#### **Interest Rate Caps.**

The borrowers under certain of the commercial mortgage loans have obtained, may obtain or may be required to obtain an interest rate cap agreement (each an "Interest Rate Cap Agreement") to protect against significant movements in LIBOR during all or a portion of the term of such commercial mortgage loan.

Pursuant to each Interest Rate Cap Agreement, to the extent LIBOR increases above a certain specified level (the "Strike Price"), the applicable borrower will be entitled to receive payments calculated by applying an interest rate equal to the difference between LIBOR and the Strike Price to a notional amount at least equal to the outstanding principal balance of the related

commercial mortgage loan. As LIBOR rates increase above the Strike Prices, borrowers may be dependent on such Interest Rate Cap Agreements for income needed to pay interest due on the related commercial mortgage loan.

### **Environmental Considerations.**

Under the laws of certain states, contamination of real property may give rise to a lien on the property to assure the costs of cleanup. In several states, such a lien has priority over an existing mortgage lien on such property. In addition, under the laws of some states and under the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (“CERCLA”), a lender may be liable, as an “owner” or “operator,” for costs of addressing releases or threatened releases of hazardous substances at a property, if agents or employees of the lender have become sufficiently involved in the operations of the borrower, regardless of whether the environmental damage or threat was caused by the borrower or a prior owner. A lender also risks such liability on foreclosure of the mortgage, and the value of a mortgaged property can be reduced in part or in whole by releases or threatened releases of hazardous substances. In addition, the related borrower may be liable, as an “owner” or “operator,” for costs of addressing releases or threatened releases of hazardous substances at a mortgaged property or elsewhere, which may affect the borrower’s ability to make scheduled payments under the loans.

### **Rights Relating to Reserve Amounts.**

In connection with the origination of certain of the commercial mortgage loans, the related originator may have required that reserves be established upon the closing of the loans to fund identified deferred maintenance items, debt service and environmental remediation items. Certain of the commercial mortgage loans also may require that reserves be funded on a monthly basis from cash flow of the applicable mortgaged properties which may be used by the applicable borrower to fund ongoing capital improvements, tenant improvements, debt service and leasing commissions. There can be no assurance that the reserve amounts established at the closing of a commercial mortgage loan, deposited monthly or available through additional financing will be sufficient to offset the actual costs of the items for which the reserves or additional financing were established or that cash flow from the properties will be sufficient in the future to fully fund the ongoing monthly reserve requirements or that such ongoing monthly reserves or additional financing will be sufficient to offset the future capital expenditure and leasing costs of the properties.

### **Borrowers’ Recent Acquisitions of the Mortgaged Properties.**

Certain of the commercial mortgage loans may have been originated contemporaneously with the acquisition of the related mortgaged properties. Consequently, certain of the borrowers may have limited experience operating the particular mortgaged properties and, therefore, there is a risk that the net operating income and cash flow of such mortgaged properties may vary significantly from their operations, net operating income and cash flow generated by the mortgaged properties under prior ownership and management.

### **Availability of Insurance.**

Although the mortgaged properties generally are required to be insured against certain risks, there is a possibility of casualty loss with respect to each mortgaged property for which insurance proceeds may not be adequate (such as floods) or which may result from risks not covered by insurance (such as terrorism risks or hurricanes). In addition, certain of the mortgaged properties are located in states that have been historically at greater risk to acts of nature (such as hurricanes, floods and earthquakes) than properties located in other states. There can be no assurance borrowers have complied or will in the future be able to comply with requirements to maintain adequate insurance with respect to the mortgaged properties or that insurance coverage is required to with respect to all such risks. As with all real estate, if reconstruction (for example, following fire or other casualty) or any major repair or improvement is required to the property, applicable laws and governmental regulations may materially affect the cost to, or ability of, the borrower to effect such reconstruction, major repair or improvement. As a result of the occurrence of any of these events, the amount realized with respect to commercial mortgage loans could be reduced.

### **Mortgage Loans Not Insured.**

None of the commercial mortgage loans is or will be insured or guaranteed by the United States of America, any governmental entity or instrumentality, by any private mortgage insurer or by the Collateral Manager or any of its Affiliates. Therefore, payments on each commercial mortgage loan depend exclusively on the borrower and any guarantor(s) under the particular mortgage loan documents. If the borrower or any guarantor fails to make all payments when due on the mortgage loans, the yield on the related Collateral Debt Securities may be adversely affected and any resulting losses will be allocated to the Notes.

### **Non-Recourse Mortgage Loans.**

Although certain of the Collateral Debt Securities may have limited recourse provisions or guarantees, generally all of the commercial mortgage loans are expected to be non-recourse loans as to which recourse, in the event of a default, will be limited to the related mortgaged property. Consequently, payment on each such commercial mortgage loan prior to maturity is dependent primarily on the sufficiency of the cash flow of the related mortgaged property, and at maturity (whether at scheduled maturity or, in the event of a default, upon the acceleration of such maturity) upon the then market value of the related mortgaged property or the ability of the related borrower to refinance the mortgaged property.

### **Balloon Payments.**

The commercial mortgage loans may provide for balloon payments to be due at their respective stated maturity dates unless prepaid prior thereto. Commercial mortgage loans with balloon payments involve a greater likelihood of default than self-amortizing loans because the ability of a borrower to make a balloon payment typically will depend upon its ability either to refinance the loan or to sell the related mortgaged property. The ability of a borrower to accomplish either of these goals will be affected by a number of factors, including the value of the related mortgaged property, the level of available mortgage rates at the time of sale or refinancing, the borrower's equity in the related mortgaged property, the financial condition and operating history of the borrower and the related mortgaged property, tax laws, rent control laws (with respect to certain residential properties), prevailing general economic conditions and the availability of



credit for loans secured by multifamily or commercial, as the case may be, real properties generally. Neither the Collateral Manager nor any of its Affiliates will be required to refinance any commercial mortgage loan.

### **Leases and Rents.**

Each commercial mortgage loan secured by a mortgaged property that is subject to leases typically is secured by an assignment of leases and rents pursuant to which the borrower assigns to the lender its right, title and interest as landlord under the leases of the related mortgaged property, and the income derived therefrom, as further security for the related commercial mortgage loan, while retaining a license to collect rents for so long as there is no default. If the borrower defaults, the license terminates and the lender is entitled to collect rents. Some state laws may require that the lender take possession of the mortgaged property and obtain a judicial appointment of a receiver before being entitled to collect the rents. In addition, if bankruptcy or similar proceedings are commenced by or in respect of the borrower, the lender's ability to collect the rents may be adversely affected. If a lender is prevented or delayed in collecting rents, payments on the related commercial mortgage loan may be reduced or delayed. Moreover, with respect to certain of the mortgaged properties related to the mortgage loans underlying the Collateral Debt Securities, all or a significant number of tenant leases may expire prior to, at or soon after the maturity date of such mortgage loan. As a result, there may be difficulty refinancing any such mortgage loan, which may increase the likelihood of a default on any balloon payment due at maturity.

### **Ground Leases.**

Certain of the Collateral Debt Securities may be secured in whole or in part by a leasehold interest. On the bankruptcy of a lessor or a lessee under a ground lease, the debtor entity has the right to assume (continue) or reject (terminate) the ground lease.

Pursuant to Section 365(h) of the Bankruptcy Code, a ground lessee whose ground lease is rejected by a debtor ground lessor has the right to remain in possession of its leased premises under the rent reserved in the lease for the term (including renewals) of the ground lease but is not entitled to enforce the obligations of the ground lessor to provide any services required under the ground lease. In the event a ground lessee/borrower in bankruptcy rejects any or all of its ground lease, the leasehold mortgagee would have the right to succeed to the ground lessee/borrower's position under the lease only if the ground lessor had specifically granted the mortgagee such right. In the event of concurrent bankruptcy proceedings involving the ground lessor and the ground lessee/borrower, the mortgagee may be unable to enforce the bankrupt ground lessee/borrower's obligation to refuse to treat a ground lease rejected by a bankrupt ground lessor as terminated. In such circumstances, a ground lease could be terminated notwithstanding lender protection provisions contained therein or in the mortgage. A mortgagee could lose its security unless the bankruptcy court, as a court of equity, allows the mortgagee to assume the ground lessee's obligations under the ground lease and succeed to the ground lessee's position. Although not directly addressed by the 1994 amendment to the Bankruptcy Code, such a result would be consistent with the purposes of those amendments which grant leasehold mortgagees the right to succeed to the position of a leasehold mortgagor. Although consistent with the Bankruptcy Code, such position may not be adopted by a bankruptcy court.

### **Management.**

The successful operation of a real estate project is dependent on the performance and viability of the property manager of such project. The property manager is responsible for responding to changes in the local market, planning and implementing the rental structure, including establishing levels of rent payments, and ensuring that maintenance and capital improvements can be carried out in a timely fashion. Sound property management controls costs, provides appropriate service to tenants and ensures that improvements are maintained. Sound property management can also maintain cash flow, reduce vacancy, leasing and repair costs and preserve building value. Property management errors can impair the long term viability of a property.

Managers of mortgaged properties and the borrowers may experience conflicts of interest in the management or ownership of mortgaged properties. These conflicts of interest could result in realized losses on the commercial mortgage loans that may be allocated to the Collateral Debt Securities. These conflicts of interest may exist because:

- (i) the mortgaged properties may be managed by property managers affiliated with the borrowers;
- (ii) the mortgaged properties may be managed by property managers who also manage other properties that compete with the mortgaged properties; and
- (iii) affiliates of the managers or the borrowers, or the managers or the borrowers or both, may also develop or own other properties, including competing properties.

### **Limitations of Appraisals.**

It is expected that an appraisal or an update thereof was conducted in respect of the related mortgaged properties in connection with the origination of each commercial mortgage loan or thereafter. Those appraisals represent the analysis and opinion of the person performing the appraisal or market analysis and are not guarantees of present or future values. In addition, appraisals seek to establish the amount a typically motivated buyer would pay a typically motivated seller. Such amount could be significantly higher than the amount obtained from the sale of a mortgaged property under a distress or liquidation sale. Certain of the commercial mortgage loans are not or will not be newly originated when the related Collateral Debt Security is acquired by the Issuer and the appraisals of the underlying mortgaged properties may not be current or reflect the then current value of the mortgaged property. The values of the mortgaged properties may have changed significantly since the appraisal was performed. None of the Issuer, the Collateral Manager or the Trustee is under any obligation to obtain or update any appraisals.

### **Risks of Additional Secured or Mezzanine Financing.**

The commercial mortgage loans may prohibit the related borrower from encumbering the mortgaged property with additional secured debt or require the consent of the holder of the first lien prior to so encumbering such property. However, a violation of such prohibition may not become evident until the related commercial mortgage loan otherwise defaults. The existence of any additional indebtedness may increase the difficulty of refinancing the related commercial mortgage loan at maturity for the purpose of making any balloon payments and the possibility that reduced cash flow could result in deferred maintenance. If the holder of any subordinated debt secured by a mortgaged property has filed for bankruptcy or been placed in involuntary receivership, foreclosing on such mortgaged property in the event of a default under the related commercial mortgage loan could be delayed.

### **Set-off Rights Related to Additional Funding Obligations.**

Certain Collateral Debt Securities may have additional funding obligations payable by third parties. There can be no assurance, however, that any such person will have the ability to make such advance. In addition, there may be a disagreement as to whether the borrower has satisfied the conditions set forth in the related Underlying Instruments. In the event the party liable for funding such additional amount is unwilling or unable to satisfy its obligations, the related borrower may set-off or otherwise refuse to make payments on the funded portions of such Collateral Debt Securities which could materially and adversely affect the Issuer's ability to make timely payments to the Noteholders. Although the related borrowers may have agreed that any such liability is distinct from the funded portions of such Collateral Debt Securities, there can be no assurance that a failure to fund any additional funding obligation will not cause payments on the funded portion of the related Collateral Debt Security to be interrupted.

### **Related Borrowers; Concentration of Borrowers or Sponsors.**

Certain borrowers or sponsors under the commercial mortgage loans may be affiliated or under common control with one another. Any adverse circumstances relating to a borrower or sponsor or an affiliate thereof and affecting one of the related commercial mortgage loans or mortgaged properties could also affect commercial mortgage loans or mortgaged properties of the related borrower. In particular, the bankruptcy or insolvency of any such borrower, sponsor or affiliate could have an adverse effect on the operation of all of the mortgaged properties of that borrower and its affiliates and on the ability of such related mortgaged properties to produce sufficient cash flow to make required payments on the related commercial mortgage loans. For example, if a person that owns or controls several mortgaged properties experiences financial difficulty at one mortgaged property, it could defer maintenance at one or more other mortgaged properties, in order to satisfy current expenses with respect to the mortgaged property experiencing financial difficulty. Alternatively, the borrower could attempt to avert foreclosure by filing a bankruptcy petition. The bankruptcy or insolvency of a borrower or its affiliate could have an adverse effect on the operation of all of the mortgaged properties of that borrower and its affiliates and on the ability of those mortgaged properties to produce sufficient cash flow to make required payments on the commercial mortgage loan.

### **Zoning and Building Code Compliance.**

While it is expected that the originator of each commercial mortgage loan will have taken certain steps to establish at origination that the use and operation of mortgaged properties were in compliance in all material respects with all applicable zoning, land use, building, fire and health ordinances, rules, regulations and orders applicable to such mortgaged properties, no assurance can be made that such steps revealed all possible violations. Evidence of such compliance may have been in the form of legal opinions, certifications from government officials, title policy endorsements and/or representations by the related borrower contained in the related commercial mortgage loan documents.

### **Availability of Hazard Insurance and Terrorism Insurance.**

It is expected that the commercial mortgage loans typically will require the borrowers to maintain hazard insurance policies with respect to the related mortgaged properties, as well as comprehensive general liability and business interruption or rent loss insurance policies.

### **Risks Particular to Office Properties**

*Economic Decline in Tenant Businesses or Changes in Demographic Conditions Could Adversely Affect the Value and Cash Flow from Office Properties.* Economic decline in the businesses operated by the tenants of office properties may increase the likelihood that the tenants may be unable to pay their rent, which could result in realized losses on the mortgage loans. A number of economic and demographic factors may adversely affect the value of office properties, including:

- (i) the quality of the tenants in the building;
- (ii) the physical attributes of the building in relation to competing buildings;
- (iii) access to transportation;
- (iv) the availability of tax benefits;
- (v) in the case of medical office uses, access and proximity to ancillary demand generators such as hospitals and medical centers;
- (vi) the strength and stability of businesses operated by the tenant or tenants;
- (vii) the desirability of the location for business; and
- (viii) the cost of refitting office space for a new tenant, which is often significantly higher than the cost of refitting other types of properties for new tenants.

These risks may be increased if rental revenue depends on a single tenant, on a few tenants, if the property is owner occupied or if there is a significant concentration of tenants in a particular business or industry.

### **Risks Particular to Retail Properties**

*A Significant Tenant Ceasing to Operate at a Retail Property Could Adversely Affect its Value and Cash Flow.* The loss of a significant tenant may be the result of the tenant's voluntary decision not to renew a lease or to terminate it in accordance with its terms, the bankruptcy or insolvency of the tenant, the tenant's general cessation of business activities or other reasons (including co-tenancy provisions permitting a tenant to terminate a lease prior to its term). There is no guarantee that any tenant will continue to occupy space in the related retail property.

### **Risks Particular to Multifamily Properties**

*Reduction in Occupancy and Rent Levels on Multifamily Properties Could Adversely Affect their Value and Cash Flow.* A decrease in occupancy or rent levels at these properties could result in realized losses on the mortgage loans. Occupancy and rent levels at a multifamily property may be adversely affected by:

- (i) local, regional or national economic conditions, which may limit the amount of rent that can be charged for rental units or result in a reduction in timely rent payments;
- (ii) construction of additional housing units in the same market;
- (iii) local military base or industrial/business closings;
- (iv) the tenant mix (such as tenants being predominantly students, military personnel, corporate tenants or employees of a particular business);
- (v) developments at local colleges and universities;
- (vi) national, regional and local politics, including current or future rent stabilization and rent control laws and agreements;
- (vii) trends in the senior housing market;
- (viii) the level of mortgage interest rates, which may encourage tenants in multifamily properties to purchase housing; and
- (ix) a lack of amenities, unattractive physical attributes or bad reputation of the mortgaged property.

### **Risks Particular to Hospitality Properties**

*Reductions in Room Rates or Occupancy at a Hospitality Property Could Adversely Affect its Value and Cash Flow.* A decrease in room rates or occupancy at a hospitality property could result in realized losses on the mortgage loans. Room rates and occupancy levels may depend upon the following factors:

- (i) the proximity of a hospitality property to major population centers or attractions;
- (ii) adverse local, regional or national economic conditions or the existence or

construction of competing hospitality properties. Because hospitality property rooms typically are rented for short periods of time, the performance of hospitality properties tends to be affected by adverse economic conditions and competition more quickly than other commercial properties;

- (iii) a hospitality property's ability to attract customers and a portion of its revenues may depend on its having a liquor license, which may not be transferable if a foreclosure on the mortgaged property occurs;
- (iv) in many parts of the country the hotel and lodging industry is seasonal in nature. Seasonality will cause periodic fluctuations in room and other revenues, occupancy levels, room rates and operating expenses; and
- (v) limited service hospitality properties have lower barriers to entry than other types of hospitality properties, and over building could occur.

### **Risks Particular to Industrial Properties.**

Economic decline in the businesses operated by the tenants of industrial properties could result in realized losses on the mortgage loans.

These risks are similar to those of tenants of office properties.

Site characteristics at industrial properties may impose restrictions that may limit the properties' suitability for tenants, affect the value of the properties and contribute to losses on the mortgage loans. Site characteristics which affect the value of an industrial property include:

- (i) clear heights;
- (ii) column spacing;
- (iii) number of bays and bay depths;
- (iv) truck turning radius;
- (v) divisibility;
- (vi) zoning restrictions; and
- (vii) overall functionality and accessibility.

### **Risks Particular to Condominium Conversion Projects.**

The mortgaged properties underlying a portion of the Collateral Debt Securities will include properties that have been, or are expected to be, converted to condominium form of ownership for the purpose of re-development as, in whole or in part, residential condominium apartment or time share units (each such unit, a "Condo Conversion Property").

### **Compliance with Applicable Laws and Regulations May Result in Losses.**

A borrower may be required to incur costs to comply with various existing and future federal, state or local laws and regulations applicable to the related mortgaged real property securing a mortgage loan. Examples of these laws and regulations include zoning laws and the Americans with Disabilities Act of 1990 (the “ADA”), which requires all public accommodations to meet certain federal requirements related to access and use by disabled persons. The expenditure of such costs or the imposition of injunctive relief, penalties or fines in connection with the borrower’s noncompliance could negatively impact the borrower’s cash flow and, consequently, its ability to pay its mortgage loan.

### **Bankruptcy Proceedings Entail Certain Risks.**

Under federal bankruptcy law, the filing of a petition in bankruptcy by or against a borrower will stay the sale of the mortgaged real property owned by that borrower, as well as the commencement or continuation of a foreclosure action. In addition, even if a court determines that the value of the mortgaged real property is less than the principal balance of the mortgage loan it secures, the court may prevent a lender from foreclosing on the mortgaged real property (subject to certain protections available to the lender). As part of a restructuring plan, a court also may reduce the amount of secured indebtedness to the then current value of the mortgaged real property, which would make the lender a general unsecured creditor for the difference between the then current value and the amount of its outstanding mortgage indebtedness. A bankruptcy court also may: (i) grant a debtor a reasonable time to cure a payment default on a mortgage loan; (ii) reduce periodic payments due under a mortgage loan; (iii) change the rate of interest due on a mortgage loan; or (iv) otherwise alter the mortgage loan’s repayment schedule.

### **Risks Particular to Condominium Agreements.**

The mortgaged properties securing certain of the Collateral Debt Securities are subject to the terms of one or more condominium agreements. Due to the nature of condominiums, a default on the part of the related borrower will not allow the mortgagee the same flexibility in realizing on the collateral as is generally available with respect to commercial properties that are not condominiums. The rights of other unit owners, the condominium documents and the state and local laws applicable to condominium units must be considered and respected. In addition, mortgaged properties which are part of a condominium regime may not be readily convertible (or convertible at all) due to restrictive covenants imposed by the condominium declaration and other related documents

### **Litigation May Have Adverse Effect on Borrowers.**

From time to time, there may be legal proceedings pending or threatened against the borrowers and their affiliates relating to the business of, or arising out of the ordinary course of business of, the borrowers and their affiliates, and certain of the borrowers and their affiliates are subject to legal proceedings relating to the business of, or arising out of the ordinary course of business of, the borrowers or their affiliates. It is possible that such litigation may have a material adverse effect on any borrower’s ability to meet its obligations under the related mortgage loan.

## **ITEM 9.DISCIPLINARY INFORMATION**

RE CDO has no disciplinary information to report at this time.

## **ITEM 10. OTHER FINANCIAL INDUSTRY ACTIVITIES AND AFFILIATIONS**

Neither RE CDO nor any of its management persons are registered, or have an application pending to register, as a broker-dealer or a registered representative of a broker-dealer.

Neither RE CDO nor any of its management persons are registered, or have an application pending to register, as a futures commission merchant, commodity pool operator, a commodity trading advisor, or an associated person of the foregoing entities.

RE CDO and FWC are related parties, and RE CDO's relationship with FWC is material to its advisory business. There is no conflict of interest created by the relationship between RE CDO and FWC. RE CDO annually pays a fixed amount to FWC in respect of RE CDO's use of certain employees and facilities RE CDO shares with FWC.

RE CDO does not select or recommend other advisers for any client.

## **ITEM 11. CODE OF ETHICS, PARTICIPATION OR INTEREST IN CLIENT TRANSACTIONS AND PERSONAL TRADING**

RE CDO has adopted and is in the process of implementing a Code of Ethics (the "Code") that sets forth the ethical and fiduciary principles and related compliance requirements under which RE CDO operates and the procedures for implementing those principles. The Code, which is designed to comply with Rule 204A-1 under the Advisers Act of 1940, includes provisions that govern fiduciary duty, standards of business conduct, client opportunities and personal securities transactions, including certain pre-clearance and reporting obligations.

Every managing director, principal, partner or officer (or any person performing similar functions) or employee of RE CDO and every natural person (whether or not an employee) who is subject to RE CDO's supervision and control who (i) has access to nonpublic information regarding the Client's purchase or sale of securities, (ii) is involved in making securities recommendations to the Client, or (iii) has access to securities recommendations to the Client that are nonpublic (collectively, "Access Persons") may maintain personal securities accounts, provided that such accounts are disclosed to RE CDO and that any personal trading is consistent with applicable law and with the Code. Subject to compliance with the Code, employees may buy, sell or hold, for their own personal accounts, securities that RE CDO also may buy, sell or hold for the Client.

The Code contains policies and procedures that, among other things:

- Prohibit Access Persons from taking personal advantage of opportunities belonging to the Client;



- Place limitations on personal trading by Access Persons to avoid direct conflict with the Client's trading and impose, in certain cases, preclearance and reporting obligations with respect to trading;
- Require initial and annual reports of securities holdings and quarterly transaction reports by Access Persons;
- Require Access Persons to report violations of the Code of which they become aware; and
- Require Access Persons to certify annually compliance with the Code.

In limited circumstances, RE CDO sells for its client account the same or related securities to those recommended, bought or sold by related persons. In the unlikely event that a potential conflict of interest arises as a result of a related person recommending, buying or selling the same or similar securities as those that RE CDO may sell for its client account, RE CDO resolves any such potential conflicts on a case-by-case basis in accordance with its fiduciary duties.

A copy of the Code can be obtained by contacting Jay Cramer at (617) 570-4600.

### **ITEM 12. BROKERAGE PRACTICES**

RE CDO has full discretionary authority to place trades on behalf of its client subject to the consent of the Members. RE CDO is obligated to obtain best execution for client securities transactions. RE CDO considers best execution to be a duty to execute securities transactions so that a client's total costs or proceeds are the most favorable over the long term. Factors RE CDO may consider when selecting broker-dealers generally include price, the size of the transaction, the nature of the market for such security, the amount of the commission, the time constraints of the transaction, general market trends, the reputation, experience, and financial stability of any broker or dealer and the quality of service rendered by the broker or dealer in other transactions. Since the termination of the reinvestment period specified in the Indenture, the Advisor's brokerage activities have been almost exclusively with respect to the disposition of Assets.

In placing specific orders to sell Assets for the Client, RE CDO considers a number of factors in selecting the appropriate broker-dealer, such as:

- (i) determining which broker-dealers with whom RE CDO conducts business make an active market in the asset;
- (ii) determining what their respective current bid or offer prices, as applicable, are;
- (iii) comparing what, if any, assignment fees may be charged depending on which broker-dealer is selected; and
- (iv) taking into account whether the quoted prices are immediately actionable (i.e. whether the broker-dealer actually owns and is ready to sell an asset, or is ready to confirm an order for purchase).

Because of the nature of its business as a manager to a pool of fixed income real estate related assets, RE CDO does not enter into soft dollar arrangements or accept directions of brokerage from investors.

RE CDO does not consider, in selecting or recommending broker-dealers, whether RE CDO or a related person received client referrals from a broker-dealer or third party. RE CDO does not make or receive Client referrals.

### **ITEM 13. REVIEW OF ACCOUNTS**

Day-to-day monitoring of the Client's portfolio composition enables RE CDO to customize its services to the needs of the Client. Weekly reviews of the Client's performance and portfolio composition are performed by middle and senior management of RE CDO to ensure the Client's portfolio is managed in accordance with the Operative Documents. In addition, the Client has engaged an administrator, servicers, an independent accounting firm, and a trustee to perform various review functions with respect to its Assets.

On a monthly and quarterly basis, the Trustee prepares written reports that are distributed on the Trustee's website to the Client and its investors. RE CDO performs a detailed review of all reports for accuracy and provides approval to the Trustee prior to the posting of the reports. Once a year, the Client engages a certified public accountant to provide testing on the data on the note valuation report from February of the prior year and the aggregate principal amount of the collateral debt securities, eligible investments, and equity securities securing the secured notes as of the immediately preceding calculation date.

### **ITEM 14. CLIENT REFERRALS AND OTHER COMPENSATION**

Neither RE CDO nor its related persons operate under any arrangement where it or they receive compensation or any economic benefit from a non-client for providing advisory services to a client.

Neither RE CDO nor its related persons, directly or indirectly, compensate any person for client referrals.

### **ITEM 15. CUSTODY**

RE CDO does not have custody of the assets of the Client. Any cash and securities owned by the Client are maintained by the Trustee. The Client and its investors receive account statements prepared and provided by its trustee and investors should carefully review account statements provided by the trustee.

### **ITEM 16. INVESTMENT DISCRETION**

RE CDO has full discretionary authority over the Client's Assets to operate within the parameters of the Operative Documents subject to the consent of the Members. RE CDO performs a thorough review of the Operative Documents and engages in day-to-day monitoring of the Client's performance and portfolio composition to ensure customization of its services to best

meet the needs of the Client. Since the termination of the reinvestment periods specified in the Indentures, RE CDO's ability to purchase Assets on behalf of the Client is very limited, and therefore, RE CDO's primary activities currently consist of maintaining, monitoring and disposing of the Assets.

#### **ITEM 17. VOTING CLIENT SECURITIES**

The Adviser has established written policies and procedures setting forth the principles and procedures by which the Adviser votes or gives consent with respect to securities owned by the Funds ("Votes"). The guiding principle by which the Adviser votes all Votes is to vote in the best interests of each Fund by maximizing the economic value of the relevant Fund's holdings, taking into account the relevant Fund's investment horizon, the contractual obligations under the relevant Advisory Agreements or comparable documents, and all other relevant facts and circumstances at the time of the vote. The Adviser does not permit Voting decisions to be influenced in any manner that is contrary to, or dilutive of, this guiding principle.

It is the Adviser's general policy to vote or give consent on all matters presented to security holders in any Vote. However, the Adviser reserves the right to abstain on any particular Vote or otherwise withhold its vote or consent on any matter if, in the judgment of the Adviser's Chief Compliance Officer (the "CCO") or the relevant Adviser investment professional, the costs associated with voting such Vote outweigh the benefits to the relevant Funds or if the circumstances make such an abstention or withholding otherwise advisable and in the best interests of the relevant Funds.

Funds generally cannot direct the Adviser's Vote.

All Voting decisions initially are referred to the Adviser's CCO or appropriate investment professional for a voting decision. In most cases, the Adviser's CCO or investment professional covering the particular investment will make the decision as to the appropriate vote for any particular Vote. In making such decision, he or she may rely on any of the information and/or research available to him or her. If the investment professional is making the Voting decision, the investment professional will inform the CCO of any such Voting decision, and if the CCO does not object to such decision as a result of his or her conflict of interest review, the Vote will be voted in such manner. If the investment professional and the CCO are unable to arrive at an agreement as to how to vote, then the CCO may consult with the Adviser's Chief Executive Officer as to the appropriate vote, who will then review the issues and arrive at a decision based on the overriding principle of seeking the maximization of the economic value of the relevant Funds' holdings.

The Adviser's CCO has the responsibility to monitor Votes for any conflicts of interest, regardless of whether they are actual or perceived. All Voting decisions will require a mandatory conflicts of interest review by the Adviser's CCO in accordance with these policies and procedures, which will include consideration of whether the Adviser or any investment professional or other person recommending how to vote and/or the Adviser's affiliates and their clients has an interest in how the Vote is voted that may present a conflict of interest. In addition, all Adviser investment professionals are expected to perform their tasks relating to the voting of Votes in accordance with the principles set forth above, according the first priority to

the best interest of the relevant Funds. The Adviser's CCO will use his or her best judgment to address any such conflict of interest and ensure that it is resolved in accordance with his or her independent assessment of the best interests of the Funds.

Where the Adviser's CCO deems appropriate in his or her sole discretion, unaffiliated third parties may be used to help resolve conflicts. In this regard, the Adviser's CCO shall have the power to retain independent fiduciaries, consultants, or professionals to assist with Voting decisions and/or to delegate voting or consent powers to such fiduciaries, consultants or professionals.

Copies of relevant proxy logs, identifying how proxies were voted in connection with a Fund and copies of proxy voting policies are available to any client or prospective client upon written request to: Carolyn Tiffany at 617-570-4600 or [ctiffany@firstwinthrop.com](mailto:ctiffany@firstwinthrop.com) to obtain further information.

#### **ITEM 18. FINANCIAL INFORMATION**

As of the date of this report, to the best of RE CDO's knowledge, no financial condition exists that is reasonably likely to impair RE CDO's ability to meet contractual commitments to the Client.