



AMERICAN SECURITIZATION FORUM
ASF PROJECT RESTART
ASF MODEL RMBS REPRESENTATIONS AND WARRANTIES
DECEMBER 15, 2009

I. INTRODUCTION

On July 16, 2008, the American Securitization Forum (“ASF”)¹ announced the public launch of ASF’s Project on Residential Securitization Transparency and Reporting (“ASF Project RESTART” or the “Project”), which is a broad-based industry-developed initiative to help rebuild investor confidence in mortgage and asset-backed securities, restore capital flows to the securitization markets, enhance market lending discipline and, ultimately, increase the availability of affordable credit to all Americans. It has been recognized by senior policymakers and market participants as a necessary industry initiative to improve the securitization process by developing commonly accepted and detailed standards for transparency, disclosure and diligence that each appropriate market participant will be recommended to implement. ASF Project RESTART alone, however, will not bring back the securitization market, as home prices nationwide and values of outstanding securities will also need to normalize for securitization issuance to meet appropriate consumer demand for mortgage credit. ASF members participating actively in the Project include institutional investors, issuers, originators, financial intermediaries, servicers, rating agencies, due diligence professionals, trustees, outside counsel, outside consultants, data modelers and vendors, as well as ASF’s professional staff.

The Project has sought to identify areas of improvement in the process of securitization and refashion, in a comprehensive and integrated format, the critical aspects of securitization with market-based solutions and expectations. On July 15, 2009, the ASF released (i) final versions of the first two deliverables of the Project, a disclosure package of loan-level information to be provided by issuers prior to the sale of private-label residential mortgage-backed securities (“RMBS”) transactions (the “ASF RMBS Disclosure Package”) and a reporting package of loan-level information to be updated on a monthly basis by RMBS servicers throughout the life of an RMBS transaction (the “ASF RMBS Reporting Package”), and (ii) a request for industry

¹ The American Securitization Forum is a broad-based professional forum through which participants in the U.S. securitization market advocate their common interests on important legal, regulatory and market practice issues. ASF members include over 340 firms, including issuers, investors, servicers, financial intermediaries, rating agencies, financial guarantors, legal and accounting firms, and other professional organizations involved in securitization transactions. The ASF also provides information, education and training on a range of securitization market issues and topics through industry conferences, seminars and similar initiatives. For more information about ASF, its members and activities, please go to www.americansecuritization.com.

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comment on the proposed ASF RMBS Model Representations and Warranties.² The ASF had previously released proposed versions of the ASF RMBS Disclosure and Reporting Packages in July, 2008 and February, 2009.

Today, the ASF releases the final version of the ASF Model RMBS Representations and Warranties (collectively, the “Model Reps,” attached hereto as Attachment I), which represents the third deliverable of the Project. Given the importance of enhancement and standardization of representations and warranties to restoring investor confidence in the RMBS markets, the development of the Model Reps is an important phase of the Project and vital to drawing investor capital back to the residential securitization industry. A broad-based working group, consisting of issuers, originators, credit rating agencies, financial guarantors, primary mortgage insurance companies and investors, has met extensively to develop the Model Reps, which provide substantial enhancements to the traditional representations and warranties provided in securitization transactions. The Model Reps also seek to allocate the risk associated with origination and underwriting practices in light of the originator’s ability to monitor, process and verify critical borrower and loan information.

The allocation of origination risks begins when a mortgage loan is sold by an originator for inclusion in a securitization trust. This sale is typically accompanied by representations and warranties regarding the mortgage loans being sold, including representations and warranties relating to the mortgaged property securing the loan, the documentation for the loan, the manner in which the loan was originated and its compliance with applicable law. This sale also requires the delivery of the related mortgage loan files, which must contain, at a minimum, specific loan and mortgage documents. These requirements are important to ensure, among other things, that the securitization trust contains mortgage loans having expected characteristics and terms which can be serviced in accordance with accepted servicing standards. Generally, if a “defect” is later found in the loan resulting in a material breach of the representations and warranties, the loan can be “put back” or returned to the seller who is obligated to repurchase it at the price it was sold, effectively a 100% risk retention. In securitizations, representations and warranties are used to allocate the risk of “defective” mortgage loans between the issuers of the securities and the investors who purchase them. Much like a defective product is returned to the store from which it was sold, a defective mortgage loan will be “returned” to the issuer through its removal from a securitization trust for the applicable repurchase price or a qualified substitute loan.

A. MODEL REPS AS RISK RETENTION

As one leading indicator of the current economic crisis, some commentators believe that mortgage loan originators did not sufficiently mitigate or retain sufficient risk in the loans they were making to borrowers, especially in situations where those loans were sold into securitization trusts. These critics point to a lack of “skin in the game,” which they believe

² For more information on ASF Project RESTART, including the July 15, 2009 Final Release of the ASF RMBS Disclosure and Reporting Packages, the July 15, 2009 Request for Comment on the ASF RMBS Model Representations and Warranties, and a blackline showing the changes made to the Model Reps since the RFC was released, see www.americansecuritization.com/restart.

misaligned incentives between originators and investors and failed to ensure the loans underlying RMBS were of adequate credit quality. For this reason, there has been significant discussion among the Administration, Congress and regulators about the importance of “risk retention” in securitization transactions. Ultimately, these concerns have led to significant policy proposals, beginning on June 17, 2009 when the Treasury Department released its “Financial Regulatory Reform” proposal which called for “loan originators or sponsors to retain five percent of the credit risk of securitized exposures” and prohibited “hedging or otherwise transferring” the retained risk.³ About a month later, the Administration proposed legislation that sought to specifically implement the risk retention requirements contained in the broader Financial Regulatory Reform proposal.⁴ Since then, separate versions of this legislation have been released as discussion drafts by members of the Senate Banking Committee⁵ and the House Financial Services Committee.⁶ Among other provisions, each of these bills requires, or directs the appropriate regulator to require, (i) creditors and securitizers to retain an economic interest of up to 10%⁷ of the credit risk of any loan that they transfer to a third party and (ii) the prohibition of hedging or transferring such credit risk.⁸

The ASF strongly supports appropriate initiatives to align the economic interests of asset originators and securitization sponsors with investors. However, a 5-10% retention requirement will be, for many asset classes and institutions, an economically unmanageable level that is not correlated with the risk presented by those assets. Different types of loans and securitized assets present wide variations in expected credit and performance characteristics. For example, mortgage loans made to prime borrowers will have vastly different credit risks than those made to non-prime borrowers. Given this variability, any blanket, one-size-fits-all retention requirement will be arbitrary in its application to any particular asset type, and will not reflect important differences in the expected credit and performance characteristics of that asset versus other types of assets. Moreover, a 5-10% retention requirement coupled with a prohibition on transferring or hedging the risk conflicts with numerous other valid goals and purposes of securitization, including the ability to redeploy capital to fund credit for consumers, the reduction and management of risk held by financial institutions, and achieving legal isolation of transferred financial assets. The ASF does not believe that deposits alone can support the credit needs of consumers and small businesses, and a 5-10% retention requirement will further reduce the

³ See “Financial Regulatory Reform, A New Foundation: Rebuilding Financial Regulation and Supervision,” Department of the Treasury, pages 44-45, at http://www.financialstability.gov/docs/regs/FinalReport_web.pdf

⁴ The provisions of the proposed legislation relating to securitization can be found at <http://www.treasury.gov/press/releases/reports/title%20ix%20subt%20e%20securitization%207222009%20fnl.pdf>

⁵ See Title IX, Subtitle D “Improvements to the Asset-Backed Securitization Process” at http://banking.senate.gov/public/_files/AYO09D44_xml.pdf

⁶ See Title I, Subtitle F “Improvements to the Asset-Backed Securitization Process” at http://financialservices.house.gov/Key_Issues/Financial_Regulatory_Reform/FinancialRegulatoryReform/Bills_as_reported/hr4173.pdf

⁷ The House Financial Services Committee bill currently sets the risk retention requirement at 5% and allows for a decrease below 5% or an increase above 5% in certain situations.

⁸ This is meant to be a summary of the most pertinent provisions of these bills. However, each bill contains its own specific requirements and exemptions and should be reviewed in its entirety.

ability of lenders to finance new credit required for economic recovery, growth and job creation, as valuable capital will need to be maintained against the retained positions. The current economic environment requires the implementation of policies that lead to credit creation, not credit reduction.

Instead, the principal goal of any risk retention initiative should be to establish and reinforce commercial incentives for originators and sponsors to create and fund assets that conform to stated underwriting standards and securitization eligibility criteria, thereby making those parties economically responsible for the stated attributes and underwriting quality of securitized loans. For this reason, the ASF continues to advocate that risk retention or skin in the game for originators and issuers of RMBS be implemented through the representations and warranties that originators and issuers provide with respect to the mortgage loans sold into the securitization trust coupled with meaningful remedial mechanisms designed to ensure their enforcement. Strong representations and warranties facilitate responsible lending and more disciplined and efficient funding of consumer assets via securitization. The ASF and its members fully support the origination of quality loans underwritten with sound underwriting standards and believe the best way for an originator to stand behind the quality of its loans is to provide representations and warranties that are designed to ensure that the loans are generally free of undisclosed origination risks.

Without exception, our originator, issuer and investor members view representations and warranties as risk retention for RMBS transactions. We support a 100% repurchase of a loan where its characteristics do not materially conform to the stated characteristics set forth by the originator. For this reason, we believe that risk retained through representations and warranties results in an even greater amount of skin in the game than the 5-10% risk retention requirements proposed by the House Financial Services Committee and the Senate Banking Committee. Risk retention requirements based on a percentage of each loan in a securitization trust do not stand up to a full repurchase of the defective loans at which risk retention requirements are aimed. One may argue that the two concepts could be combined to achieve an optimal level of issuer skin in the game. However, if a 5-10% risk retention requirement were implemented along with enhanced representations and warranties, the economic incentives for securitization may be effectively eliminated which, in turn, would radically reduce credit for Americans at a time when credit is needed the most.

The Model Reps significantly enhance the representations and warranties that are contained in existing RMBS transactions and are based on the detailed findings of a broad cross-section market participants over the past two years. The Model Reps include many new provisions which were not included in existing market representations and warranties, including the coverage of fraud of origination parties such as originators, borrowers, brokers and appraisers, the requirement that an originator evaluate the reasonableness of a borrower's intention to occupy a home, the qualifications and independence of the person performing a property appraisal, and the requirement that originators employ reasonable processes to authenticate documentation and verify income for loans with less than full documentation. The ASF believes that the Model Reps, combined with another ASF initiative designed to overhaul the repurchase

process for defective loans⁹, will provide a significant level of risk retention for securitization transactions.

Our release today of the Model Reps represents over a year's worth of detailed efforts of the ASF and its members to enhance and standardize the process for which risk is retained in RMBS transactions. The Model Reps were developed primarily to express customary market representations and warranties in the same, transparent language across transactions and provide a "baseline" against which investors and rating agencies can measure the representations and warranties contained in a particular transaction. They have also been developed to more clearly allocate origination risks between issuers and investors and provide enhanced investor protections over what had been previously provided in "pre-crisis" transactions. Through industry adoption of the Model Reps as a baseline set of representations and warranties, market participants will be able to easily determine whether departures from the Model Reps have occurred. This will add much-needed transparency to the negotiation process among the parties to a given transaction and will enable issuers and investors to more easily and better assess their willingness or unwillingness to assume origination risks.

B. ORIGINS OF THE MODEL REPS

One of the drivers of future success of the RMBS market will be an increase in the standardization of the agreements governing transactions. Capital commitment decisions by loan originators, financial intermediaries and fixed-income investors, as well as risk assessments by rating agencies, are more easily and efficiently made when contractual provisions are consistent across issuers. Increased standardization in a securitization transaction creates additional liquidity in the market because the due diligence process required to make an investment decision becomes more efficient. For these reasons, investors expressed a desire for a standardization of the representations and warranties that issuers provide to help ensure that the mortgage loans in a given pool are of a certain quality. The type and form of representations and warranties in past transactions varied greatly, and investors have often complained about a lack of transparency of the representations and warranties given across issuers. The Model Reps were developed to address those concerns by providing (i) a baseline set of representations and warranties that investors would like to receive in RMBS transactions and (ii) a more transparent process for determining whether departures from that baseline have occurred in a given transaction. The Model Reps will enable investors to more easily and better assess the allocation of origination risk in a given transaction.

The development of the Model Reps began with a consolidation and analysis of all current representations and warranties given by issuers in the RMBS market. This preparation produced an expansive list of forms and types of representations and warranties which served as the starting point for the process. The ASF invited its members to participate in a broad-based ASF Model RMBS Representations and Warranties Working Group (the "Working Group"), which served to represent each constituency within the RMBS market, including issuers, originators, investors, rating agencies, financial guarantors, insurers and third party vendors. The Model Reps were born out of the ideas and comments provided by each of the constituencies within the

⁹ See discussion of Model Repurchase Provisions in Section III below.

Working Group. After extensive in-person meetings and conference calls consisting of comments, negotiation and further review and revision, the Model Reps began to reflect a consensus among the constituencies of the types and forms of representations and warranties that should be present in RMBS transactions.

On July 15, 2009, the ASF issued a request for comment on the proposed Model Reps to market participants, regulators and other trade associations whose members are active in the securitization market. At the conclusion of the comment period, which ended on September 4, 2009, the ASF had received comment letters from many market participants, including investors, issuers, rating agencies, third-party vendors and a trade association. These comments, along with others raised during meetings of the various subgroups organized within the Working Group, were considered and the applicable changes were made to the Model Reps. Two meetings of the entire Working Group, which were attended by issuers, investors, financial guarantors, rating agencies and insurers, took place in early December 2009 and final comments were considered. At the conclusion of this extensive development process, the Model Reps have been designed to (i) standardize many representations and warranties that were included in various forms in prior transactions, (ii) enhance significantly many representation and warranties that were seen as inadequate by the market, and (iii) add several new representations and warranties that did not exist on a regular basis in prior transactions. This final release of the Model Reps (the “Final Release”) reflects all comments and refinements resulting from the ongoing discussion and negotiation among the Working Group and its subgroups.

C. INTENDED FOR PLAIN VANILLA TRANSACTIONS

During the development of the Model Reps, it became clear that a baseline set of representations and warranties would not necessarily work for all types of RMBS transactions. The parties and the types of loans in a particular transaction can vary to such a degree that the Model Reps would have to be reformulated. For instance, the Model Reps are not intended for transactions containing seasoned loans, which do not have the same risk profile as newly originated loans. Generally, if a borrower has been current for an extended period of time, the chances of the borrower defaulting due to a latent origination defect or the loan having been fraudulently originated become considerably smaller. For this reason, a model set of representations and warranties for seasoned loans would likely exclude or limit many of the assurances provided in the Model Reps.¹⁰ The Model Reps are also not intended for “aggregator” securitization transactions, in which an issuer purchases loans from several different, usually unaffiliated, originators. These types of transactions have unique characteristics that the Model Reps are not intended to address, including the capacity of the issuer to monitor and verify certain information held by third party originators. The Model Reps are also not intended for subordinate lien loans, as certain of the Model Reps may have to be revised to incorporate the characteristics of subordinate liens. The Model Reps are also not intended for unrated transactions. For these reasons, the Model Reps have been developed solely for “plain vanilla” transactions consisting of first lien, newly issued loans that have been originated by an affiliate (usually the sponsor of the securitization) of the issuer. The Working Group believes that these plain vanilla

¹⁰ Similarly, the Model Reps are not intended for “scratch and dent” or “re-performing pools” which would require representations and warranties that are tailored to the risks present in those deals.

transactions will represent the bulk of RMBS deals as the RMBS market returns. Over time, the ASF will work to modify the Model Reps for other forms of RMBS transactions.

D. A STARTING POINT FOR NEGOTIATION

The Model Reps represent a broad-based industry response to a representation and warranty process that has been perceived, whether accurately or not, as inadequate. Consistent with the other phases of ASF Project RESTART, the Model Reps were not created to encourage a regulatory or legislative mandate. Market participants believe that self regulation, through industry-wide consensus, is the most effective way to improve the securitization process. The Model Reps are not being released or adopted as an industry requirement nor are they meant to be a minimum standard for RMBS transactions or any regulatory purpose. Securitization transactions vary based on many factors, including the underlying collateral, the associated transaction parties, the types of bonds issued and the ultimate investors. The Model Reps provide a starting point in the negotiation process among issuers, investors and other transaction parties and should be considered living and flexible within a broad range of RMBS transactions. Investors have differing needs and risk tolerances and depending on the transaction, investors and/or issuers may be willing or unwilling to assume certain risks and certain Model Reps may be inapplicable. Parties to a given transaction are free to determine which of the Model Reps are appropriate for such transaction and whether modifications to the language or form of the Model Reps should be made. In fact, the representations and warranties ultimately included in a transaction will likely deviate from the Model Reps. The extent of that deviation will depend on, among other things, the issuer, the investor, the price of the MBS, the desired rating and the particular collateral involved. The purpose of the Model Reps is to enable market participants to easily determine the type of representations and warranties included in a transaction and the extent to which they are more or less expansive than the Model Reps. By making departures from an accepted market standard more transparent to investors, rating agencies and other transaction parties, the Model Reps enable those parties to more easily and better assess their willingness or unwillingness to assume risk.

E. TRANSPARENT KNOWLEDGE QUALIFICATIONS

There was ample discussion among issuers, investors and ratings agencies concerning whether, and to what extent, knowledge qualifiers would be used for certain of the Model Reps. Effectively, knowledge qualifiers require that the issuer be cognizant of the fact that causes a breach of a representation and warranty and are often used in situations where an issuer cannot adequately determine whether a piece of information or a conclusion is accurate. For example, if a knowledge qualifier was used in a fraud rep, actual fraud would not be enough to cause a breach. Instead, the liability of the issuer would be limited to situations where the issuer knew of the fraud. In existing transactions, knowledge qualifiers were incorporated into representations and warranties by including the words “to the best of the [issuer’s] knowledge” or “to the [issuer’s] knowledge.” However, many commentators, including investors and regulators, have concerns that knowledge qualifiers were often buried within the language of the representations and warranties, making them difficult to identify. The Working Group sought to address this concern and make knowledge qualifiers completely transparent through provision of the Model Reps. Knowledge qualifiers in the Model Reps are to be clearly specified in an exhibit, which lists each clause for each Model Rep and whether any such clause will be qualified by

knowledge. For situations when a knowledge qualifier exists, it also lists whether a repurchase obligation exists despite an issuer's lack of knowledge.¹¹ The purpose of this approach is to make the provision of knowledge qualifiers more transparent and enable rating agencies and investors to identify knowledge qualifications at a glance for comparison across issuers.

Issuers believe that knowledge qualifiers are necessary because some origination processes and pieces of information are truly out of their control. Originators do not always possess the information necessary to give a particular Model Rep and sometimes an investigation around such information would be financially or logistically unfeasible. For example, the No Default Rep makes certain representations as to nonmonetary defaults, which are not tracked in any fashion by the originator. Similarly, the No Damage/Condemnation Rep includes a representation that no condemnation proceedings are threatened, which issuers would not be aware of unless they had knowledge of such legal proceedings. Issuers need to have the ability to transfer these specific risks from time to time through knowledge qualifiers to ensure that they do not become a systemic problem. On the other hand, investors believe that issuers, as the originators of the loans, are in the best position to access certain information and should be responsible whether or not they can verify it. Ultimately, whether a particular Model Rep or clause is qualified by knowledge will depend on an issuer's ability to monitor and verify certain information, the risk allocation negotiated and the effect that such risk allocation will have on the ratings of the transaction. Through our discussions, it has become clear that certain Model Reps or portions thereof are more likely to include knowledge qualifiers than others.

F. MODEL REPS DO NOT DETERMINE MATERIALITY FOR SECURITIES LAW PURPOSES

The Model Reps are being released solely to provide increased transparency and diligence to the representation and warranties provided for in "plain vanilla" RMBS transactions. The Model Reps represent a baseline that will enable market participants to compare and evaluate the representations and warranties given in a particular transaction. Nothing in this Final Release should be read as any statement or acknowledgment as to the materiality of the Model Reps in the aggregate or in any individual Model Rep for securities law purposes as such materiality can only be determined on a case by case basis after analysis of the particular circumstances involved, including, but not limited to, the underlying mortgage loans, the offered securities and the individual circumstances of the investor.

G. MODEL REPS DO NOT CREATE ENFORCEABLE RIGHTS

The ASF is recommending the implementation of the Model Reps to provide increased transparency and diligence to the RMBS market. As noted above, this recommendation is not meant to be viewed as a requirement and the ASF is not mandating the implementation or adoption of any recommendation contained in this Final Release. Furthermore, this Final

¹¹ In certain situations, an issuer may choose to qualify a representation and warranty by knowledge, but still agree to repurchase a loan that breaches such representation and warranty irrespective of that knowledge. This is done in situations where an issuer is willing to accept the risk of repurchase, but not willing to accept accusations of, and potential liability for, fraud by virtue of making unqualified representations as to matters of which it has no knowledge.

Release should not be interpreted to create or grant any enforceable rights, including repurchase rights, to any party nor should any party read any statement contained herein as creating or granting to such party any such enforceable rights. The enforceable rights of parties to a particular transaction, including repurchase rights, continue to be governed by the contracts and agreements associated with such transaction.

H. THE MODEL REPS ARE DYNAMIC

The ASF expects that the return of the securitization market will bring with it new ideas and challenges. For this reason, it is important that the Model Reps be updated from time to time to remain relevant and strong in this ever-changing environment. As such, the Working Group will meet on a periodic basis to review the Model Reps and ensure that they are appropriately modified to reflect shifts and changes in the market. We expect that the first review meeting will occur in the middle of 2010.

II. DISCUSSION OF THE MODEL REPS

Many of the Model Reps were included in various forms in securitization transactions for a number of years, and in those cases, the best attributes of each permutation were used to produce the Model Rep. However, certain of the Model Reps have been enhanced significantly due to comments from market participants while other Model Reps did not exist at all in prior transactions. Although all of the Model Reps received at least some attention, the enhanced and new Model Reps were the most discussed among market participants. Below is a discussion of the Model Reps that received the most attention and commentary from the Working Group.

A. FRAUD

Historically, only a small percentage of RMBS transactions included a representation and warranty relating to fraud. In addition, these existing fraud reps might only cover fraud on the part of the depositor or seller or the liability of the depositor or seller might be limited to situations where the depositor or seller knew of the fraud, which decreases repurchases due to fraud by third party originators, appraisers or other parties involved in the origination process.

With the economic and housing crisis now in full force, instances of mortgage fraud are being discovered in mortgage origination and although many anti-fraud initiatives have been established, it continues to trouble the mortgage lending community. In a securitization, increasing amounts of fraud result in realized losses on the issued RMBS. To combat this trend, the Model Fraud Rep covers fraud by many parties involved in the origination, including originators, borrowers, brokers, correspondents, appraisers, escrow agents, closing attorneys and title companies.¹² Obviously, these parties have differing roles in the origination process, and some will be less important or inapplicable depending on the types of loans in a pool.

¹² Note that the standard for fraud under a primary mortgage insurance contract may be different than fraud as contemplated by the Model Fraud Rep.

Furthermore, originators are not able to effectively monitor all of the above parties and do not have the means to completely guard or insure against their committing fraud. For these reasons, the extent to which certain parties will be covered by an “unqualified” fraud rep or a fraud rep that is subject to the knowledge of the issuer (and listed on the “Knowledge Qualifications” chart on Exhibit II to the Model Reps), may be individually negotiated by the issuer, investors and other parties to a transaction. While the breadth of the Model Fraud Rep can change from transaction to transaction, it still provides coverage for a certain degree of fraud, which was lacking in past RMBS transactions.

B. INCOME/EMPLOYMENT/ASSET VERIFICATION

Another main concern in the origination of mortgage loans has been the verification of a borrower’s income, employment and assets for documented loans. This information is most indicative of a borrower’s ability to pay on a loan and historically, no representation and warranty was given as to this information. The new Model Rep is meant to be consistent with the related ASF RMBS Disclosure Package verification fields and to provide a backstop for such information (see Fields 107-112 in the ASF RMBS Disclosure Package and the ASF Market Standard and Practice for “Full Documentation”). The Model Income/Employment/Asset Verification Rep requires that verification be done in accordance with an originator’s underwriting standards, that an originator employ procedures reasonably designed to authenticate the documentation and that the originator employ a commercially reasonable process to test the reasonableness of a borrower’s income where W-2s or tax returns are not provided.

C. PROPERTY VALUATION

One prominent issue regarding mortgage loan origination relates to the integrity of the appraisal process used in determining a home’s value, including the qualification or certification of the appraisers, their independence with respect to the property and their incentive or compensation for the appraisal. Historically, representations and warranties relating to appraisals varied greatly, with many failing to include licensing requirements and indicators of independence. The Model Property Valuation Rep requires that the appraiser be licensed, certified or recognized by an appropriate government body, that the appraiser has no interest in the property and that the appraiser received no benefit from or compensation for the mortgage loan’s approval or disapproval. Similar qualification and independence requirements are also made applicable to real estate brokers providing “broker price opinions.”

D. UNDERWRITING

Underwriting guidelines describe the circumstances in which originators will extend credit to borrowers. Existing representations and warranties relating to underwriting guidelines generally require that loans be underwritten in all material respects in accordance with the originator’s underwriting guidelines. The Model Underwriting Rep takes this concept a step further by also requiring that, where loans have not been underwritten in conformance with an originator’s underwriting guidelines, the originator document any compensating factors in the mortgage loan file. This documentation requirement is an important enhancement as it provides a record of the compensating factors and a potential source of evidence in the case of a repurchase request.

E. OCCUPANCY

The Model Occupancy Rep enhances traditional occupancy representations and warranties by requiring that the originator evaluate the reasonableness of the borrower's indicated occupancy status by giving due consideration to factors such as other real estate owned, commuting distance to work, comparison of the borrower's mailing address to the mortgage property address and appraiser notes.

F. DATA

Historically, the data rep required the issuer to ensure that the information contained in the mortgage loan schedule was true and correct in all material respects. The Model Data Rep retains this original concept by requiring that the issuer represent that certain terms of the loan are true and correct in all material respects. The baseline set of these terms has been set forth on Exhibit I to the Model Reps but such terms may be added to from transaction to transaction. The Model Data Rep has been enhanced to also require that the expanded data fields contained in the ASF RMBS Disclosure Package conform to the originator's records. The Model Data Rep has also been enhanced to require that the most recent FICO score for each mortgage loan be no more than 4 months old and that all appraisals listed on the mortgage loan schedule be no more than 6 months old unless the exact dates are given in the ASF RMBS Disclosure Package for the transaction.

G. EARLY PAYMENT DEFAULT

Covenants requiring the repurchase of mortgage loans that experience early payment defaults (“EPD”) are included in transactions to provide a bright line indicator for fraud. The theory behind this covenant is that if a mortgage loan becomes delinquent within a short time after origination, then it is likely that some sort of fraud existed in the origination of the loan because the borrower failed to make even the first few payments. However, this theory becomes more tenuous as the loan becomes more seasoned and credit events, such as loss of employment, become a more likely cause of delinquency. This relationship is recognized by attorneys and accountants when considering whether a securitization meets the requirements for a “sale.”¹³ Generally, arrangements that insure against the credit risk of the borrower are considered “recourse” to the seller of the loans, making it more difficult to consider the securitization a sale and less likely to achieve off-balance sheet treatment for accounting purposes. The Model EPD Covenant provides a baseline for the industry and requires repurchase of loans that become delinquent during the first 3 months after the first due date on the loan. It also recognizes that certain credit events, caused by material financial or personal adversity, could also cause a borrower to become delinquent in the first 3 months. Where these credit events have been found to have occurred, a repurchase of the loan would not be required.

¹³ It is important to note that this consideration must be done for each individual transaction as other factors may weigh on whether a “sale” has occurred.

III. MODEL REPURCHASE PROVISIONS

Throughout the development process, the Working Group also considered changes that needed to be made to the “repurchase provisions” which serve to enforce the representations and warranties in a transaction. Each of the constituencies involved was very much aware that a standardized set of representations and warranties was only half of the equation. For these Model Reps to truly be effective, the repurchase process in place for breaches needs to be reformulated. In most existing transactions, PSAs call for the trustee or another specified party to demand repurchase when defects have been discovered. However, investors believe that most PSAs do not provide a strong enforcement mechanism for the party making the repurchase demand and also do not clearly provide sufficient means and guidance needed to enable the party with a repurchase claim or the party enforcing a repurchase obligation to pursue such matters. In a benign economy, these inadequacies are far less significant because the loans in a pool generally perform well and repurchase demands are minimal. However, the current economic situation has caused a significant increase in loan defaults, and the ensuing increase in repurchase demands has required depositors and loan sellers to contest repurchase demands where appropriate. In light of these issues, members of ASF Project RESTART have begun developing a uniform set of procedures (the “Model Repurchase Provisions”) to enforce the Model Reps by, among other things, clearly delineating the roles and responsibilities of transaction parties in the repurchase process and allowing greater access¹⁴ into the mortgage loan files so that breaches can be discovered. The ASF hopes to release a request for comment on proposed Model Repurchase Provisions in early 2010.

IV. CONCLUSION

We wish to thank the hundreds of individual members participating in ASF Project RESTART for the thousands of collective hours that have been devoted to the Project thus far to help reinvigorate this critical component of American mortgage finance. In particular, we would like to extend special thanks to the Project’s outside counsel, Jordan Schwartz of Cadwalader, Wickersham and Taft LLP.

Questions regarding this Final Release, the ASF Model RMBS Representations and Warranties or ASF Project RESTART should be directed to Tom Deutsch, Deputy Executive Director of the ASF, at 212.313.1135 or at tdeutsch@americansecuritization.com, and Evan Siegert, Associate Director, Advocacy of the ASF, at esiegert@americansecuritization.com or at 212.313.1178.

¹⁴ Providing greater access to the mortgage loan files will create many challenges for the Working Group. These include, among other things, how to balance the need to discover and remedy breaches with concerns relating to cost and certain privacy and legal issues.



ATTACHMENT I

I. Representations and Warranties

As of the closing date (or such other date set forth below), with respect to the Mortgage Loans, or each Mortgage Loan, as the case may be, the Seller hereby represents and warrants to the Trustee, for the benefit of the certificateholders, the following; provided that, with respect to the clauses indicated as “Y” under the heading “Contains Knowledge Qualifier” in Exhibit II, the representation and warranty of the Seller is made to the best of the Seller’s knowledge:

(a) Property Valuation:

(1) Each Mortgage Loan with a written appraisal as indicated on the Mortgage Loan Schedule contains a written appraisal prepared by an appraiser licensed, certified or recognized by the applicable governmental body in which the Mortgaged Property is located and in accordance with the requirements of Title XI of the Financial Institutions Reform Recovery and Enforcement Act of 1989 (FIRREA). The appraisal was written, in form and substance, to (A) customary Fannie Mae or Freddie Mac standards applicable at the time of origination for mortgage loans of the same type as the Mortgage Loans and (B) USPAP standards, and satisfies applicable legal and regulatory requirements. The appraisal was made and signed prior to the final approval of the mortgage loan.

(2) For each Mortgage Loan where the property valuation consisted of a broker price opinion, as indicated on the mortgage loan schedule, the opinion was provided by a real estate broker or realtor licensed, certified or recognized in the jurisdiction in which the subject property is located.

(3) The person performing any property valuation (including an appraiser) had no ownership interest, direct or indirect, in the Mortgaged Property or in any loan made on the security thereof and received no benefit from, and such person’s compensation or referral of further business from the loan originator was not affected by, the approval or disapproval of the Mortgage Loan. The selection of the appraiser met Fannie Mae’s or Freddie Mac’s criteria for selecting an independent appraiser.

(b) Income/Employment/Assets:

With respect to each Mortgage Loan whose document type on the Mortgage Loan Schedule indicates documented income, employment and/or assets, the originator verified the borrower’s income, employment and/or assets in accordance with its written underwriting guidelines and employed procedures reasonably designed to authenticate the documentation supporting such income, employment and/or assets. With respect to each Mortgage Loan other than a Mortgage

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Loan for which the borrower documented his or her income by providing Form W-2 or tax returns, the originator employed a commercially reasonable process designed to test the reasonableness of the income used to approve the loan, which process may include, for example, (1) obtaining IRS Form 4506 or 4506-T or (2) reviewing public and/or commercially available information (such as salary.com).

(c) Occupancy:

With respect to each Mortgage Loan, the originator gave due consideration, which need not be documented, at the time of origination to factors, such as other real estate owned by the borrower, commuting distance to work, appraiser comments and notes, and any difference between the mailing address in the servicing system and the Mortgage Property address, to evaluate whether the intended occupancy status of the property as represented by the borrower was reasonable.

(d) Source of Loan Payments:

With respect to each Mortgage Loan (1) no portion of the loan proceeds has been escrowed for the purpose of making monthly payments on behalf of the borrower and (2) no payments due and payable under the terms of the note and mortgage or deed of trust, except for seller or builder concessions or amounts paid or escrowed for payment by the borrower's employer, have been paid by any person (other than the borrower and any guarantor) who was involved in, or benefited from, the sale or purchase of the Mortgaged Property or the origination, refinancing, sale, purchase or servicing of the Mortgage Loan.

(e) Data:

The data on the Mortgage Loan Schedule¹ correctly and accurately reflects the data contained in the Seller's records (including, without limitation, the mortgage loan file) in all material respects. In addition, the information contained under each of the headings in the Mortgage Loan Schedule identified on Exhibit [I] to this Agreement is true and correct in all material respects. With respect to each Mortgage Loan, any seller or builder concession in excess of the allowable limits established by Fannie Mae or Freddie Mac and applicable at the time of origination has been subtracted from the appraised value of the Mortgaged Property for purposes of determining the LTV and CLTV. [With respect to each Mortgage Loan and as of the Closing Date, the most recent credit score listed on the Mortgage Loan Schedule was no more than 4 months old.] [As of the date of funding of the Mortgage Loan to the borrower, no appraisal or other property valuation listed on the Mortgage Loan Schedule was more than 6 months old.]²

¹ The Mortgage Loan Schedule should consist of the data elements set forth in the ASF RMBS Disclosure Package.

² The bracketed clauses should be included to the extent the dates associated with credit scores and/or property valuation are not listed on the Mortgage Loan Schedule.

(f) Fraud:

No fraud, material misrepresentation or gross negligence has taken place in connection with the origination of the Mortgage Loan on the part of (1) the originator, (2) the borrower, (3) any broker or correspondent, or (4) any appraiser, escrow agent, closing attorney or title company involved in the origination of the Mortgage Loan.

(g) Underwriting:

Alternative 1

[Each Mortgage Loan was either (1) underwritten in conformance to the originator's underwriting guidelines in effect at the time of origination without regard to any underwriter discretion or (2) if not underwritten in conformance to the originator's guidelines, has compensating factors which are documented in the mortgage loan file.]

or

Alternative 2

[Each Mortgage Loan was either (1) underwritten in conformance to the summary of underwriting guidelines attached as Exhibit [___] hereto or (2) if not underwritten in conformance with such guidelines, has compensating factors which are documented in the mortgage loan file.]

(h) Mortgage Insurance:

With respect to each Mortgage Loan listed as having mortgage insurance on the Mortgage Loan Schedule, such Mortgage Loan has the benefit of a valid, binding and enforceable primary mortgage insurance policy issued by a Qualified Insurer³. The form and substance of such mortgage insurance policy is in substantial conformance with primary mortgage insurance policies acceptable to Fannie Mae and Freddie Mac at the time of origination.⁴

(i) Regulatory Compliance:

At the time of origination or, if subsequently modified, the effective date of the modification, each Mortgage Loan complied in all material respects with all then-applicable federal, state and local laws including, without limitation, truth-in-lending, real estate settlement procedures, consumer credit protection, equal credit opportunity, predatory and abusive lending laws and

³ A "Qualified Insurer" means either (i) a primary mortgage insurer acceptable to Fannie Mae and Freddie Mac or (ii) a primary mortgage insurer that has a general policy rating of [___] or better in Best's Key Rating Guide.

⁴ This Model Rep is not intended to require repurchase of any Mortgage Loan where a mortgage insurance policy is rescinded after the closing date of the transaction.

disclosure laws, or such noncompliance was cured subsequent to origination, as permitted by applicable law.

The servicing of each Mortgage Loan prior to the Closing Date complied in all material respects with all then-applicable federal, state and local laws.

(j) Borrower:

With respect to each Mortgage Loan, (1) unless otherwise indicated on the Mortgage Loan Schedule, each borrower is a natural person, (2) at the time of origination, the borrower was legally entitled to reside in the United States, (3) unless otherwise indicated on the Mortgage Loan Schedule, no borrower was the subject of a bankruptcy proceeding that was dismissed or discharged in the [4] years prior to the origination of the Mortgage Loan, (4) unless otherwise indicated on the Mortgage Loan Schedule, no borrower previously owned a property with respect to which a foreclosure sale was completed or with respect to which title was conveyed to the originator or a deed in lieu of foreclosure was given in the [5] years prior to the origination of the Mortgage Loan.⁵

(k) Downpayment:

Unless otherwise indicated on the Mortgage Loan Schedule, with respect to each Mortgage Loan whose purpose is listed on the Mortgage Loan Schedule as “purchase”, the borrower and/or co-borrower paid at least [3]% of the purchase price with his/her own funds.⁶

(l) No Prior Liens:

Immediately prior to the transfer and assignment contemplated herein, the Seller was the sole owner and holder of the Mortgage Loan free and clear of any and all liens (other than any senior lien indicated on the Mortgage Loan Schedule), pledges, charges or security interests of any nature and the Seller has good and marketable title and has full right and authority to sell and assign the same.

(m) Enforceability and Priority of Lien:

The Mortgage is a valid, subsisting and enforceable first lien on the property therein described and, except as noted in the Mortgage Loan Schedule, the Mortgaged Property is free and clear of all encumbrances and liens having priority over the lien of the Mortgage except for (1) the lien of current real property taxes and assessments not yet due and payable, (2) covenants, conditions and restrictions, rights of way, easements and other matters of public record as of the

⁵ The actual number of years included in this Model Rep should be based on the originator’s underwriting guidelines.

⁶ This rep should only be included if ASF RMBS Disclosure Package Field Number 118 (Percentage of Down Payment from Borrower Own Funds) is not populated. The actual percentage included in this Model Rep should be based on the originator’s underwriting guidelines.

date of recording of such Mortgage acceptable to prudent mortgage lending institutions in the area in which the Mortgaged Property is located, (3) liens created pursuant to any federal, state or local law, regulation or ordinance affording liens for the costs of clean-up of hazardous substances or hazardous wastes or for other environmental protection purposes and (4) such other matters to which like properties are commonly subject which do not individually, or in the aggregate, materially interfere with the benefits of the security intended to be provided by the Mortgage; and any security agreement, chattel mortgage or equivalent document related to, and delivered to the Trustee or to the Custodian with, any Mortgage establishes in the Seller a valid and subsisting lien on the property described therein, such lien is a first lien and the Seller has full right to sell and assign the same to the Trustee.

(n) Complete Mortgage Files:

The instruments and documents with respect to each Mortgage Loan required to be delivered to the Custodian on or prior to the closing date in accordance with Section [] have been delivered to the Custodian.

(o) No Prior Modifications:

Unless otherwise indicated on the Mortgage Loan Schedule, neither the Seller nor any prior holder of the Mortgage or the related Mortgage Note has modified the Mortgage or the related Mortgage Note in any material respect, satisfied, canceled or subordinated the Mortgage in whole or in part, released the Mortgaged Property in whole or in part from the lien of the Mortgage, or executed any instrument of release, cancellation, modification or satisfaction, except in each case as is reflected in an agreement included in the loan file. If a Mortgage Loan has been modified, the modified terms are reflected on the Mortgage Loan Schedule.

(p) Taxes Paid:

All taxes; governmental assessments; insurance premiums; water, sewer and municipal charges; leasehold payments; and ground rents which previously became due and owing have been paid, or an escrow of funds has been established, to the extent permitted by law, in an amount sufficient to pay for every such item which remains unpaid and that has been assessed but is not yet due and payable.

(q) No Damage/Condemnation:

(1) The Mortgaged Property is not materially damaged by water, fire, earthquake, earth movement other than earthquake, windstorm, flood, tornado or other casualty (excluding casualty from the presence of hazardous wastes or hazardous substances, as to which no representation is made), so as to affect adversely the value of the Mortgaged Property as security for the Mortgage Loan or the use for which the premises were intended or would render the property uninhabitable and, (2) there is no proceeding pending or threatened for the total or partial condemnation of the Mortgaged Property.

(r) No Mechanics Liens:

The Mortgaged Property is free and clear of all mechanics' and materialmen's liens that have a higher priority than the lien of the Mortgage; provided, however, that this warranty shall be deemed not to have been made at the time of the initial issuance of the Certificates if a title policy affording, in substance, the same protection afforded by this warranty is furnished to the Trustee by the Seller.

(s) No Encroachments / Compliance with Zoning:

Except for Mortgage Loans secured by Co-op Shares and Mortgage Loans secured by residential long-term leases (1) the Mortgaged Property consists of a fee simple estate in real property; (2) all of the improvements which are included for the purpose of determining the appraised value of the Mortgaged Property lie wholly within the boundaries and building restriction lines of such property and no improvements on adjoining properties encroach upon the Mortgaged Property (unless insured against under the related title insurance policy); and (3) the Mortgaged Property and all improvements thereon comply with all requirements of any applicable zoning and subdivision laws and ordinances.

(t) Certificate of Occupancy:

All inspections, licenses and certificates required to be made or issued with respect to all occupied portions of the Mortgaged Property and, with respect to the use and occupancy of the same, including, but not limited to, certificates of occupancy and fire underwriting certificates, have been made or obtained from the appropriate authorities.

(u) Loans Current / Prior Delinquencies:

Unless otherwise indicated on the Mortgage Loan Schedule, all payments required to be made up to the Due Date immediately preceding the Cut-Off Date for such Mortgage Loan under the terms of the related Mortgage Note have been made and no Mortgage Loan was 30 days Delinquent⁷ more than once in the 12 months preceding the Cut-Off Date.

(v) Mortgage Loan Legal and Binding:

(1) The Mortgage Note, the related Mortgage and other agreements executed in connection therewith are genuine, and each is the legal, valid and binding obligation of the maker thereof, enforceable in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally and by general equity principles (regardless of whether such enforcement is considered in a proceeding in equity or at law); and (2) all parties to the Mortgage Note, the related Mortgage and other agreements executed in connection therewith had legal

⁷ Delinquent should be defined in the PSA in accordance with the MBA method.

capacity to execute such documents and such documents have been duly and properly executed and delivered by such parties.

(w) Proceeds Fully Disbursed / Recording Fees Paid:

The proceeds of the Mortgage Loan have been fully disbursed, there is no requirement for future advances thereunder and any and all requirements as to completion of any on-site or off-site improvements and as to disbursements of any escrow funds therefor have been complied with (except for escrow funds for exterior items which could not be completed due to weather and escrow funds for the completion of swimming pools scheduled to be completed within 12 months following the Closing Date); and all costs, fees and expenses incurred in making, closing or recording the Mortgage Loan have been paid, except recording fees with respect to Mortgages not recorded as of the closing date.

(x) Existence of Title Insurance:

The Mortgage Loan (except (1) any Mortgage Loan secured by a Mortgaged Property located in any jurisdiction as to which an opinion of counsel of the type customarily rendered in such jurisdiction in lieu of title insurance is instead received and (2) any Mortgage Loan secured by Co-op Shares) is covered by an American Land Title Association mortgagee title insurance policy or other generally acceptable form of policy or insurance acceptable to Fannie Mae or Freddie Mac, issued by a title insurer acceptable to Fannie Mae or Freddie Mac insuring the originator, its successors and assigns, as to the first priority lien of the Mortgage in the original principal amount of the Mortgage Loan and subject only to (A) the lien of current real property taxes and assessments not yet due and payable, (B) covenants, conditions and restrictions, rights of way, easements and other matters of public record as of the date of recording of such Mortgage acceptable to mortgage lending institutions in the area in which the Mortgaged Property is located or specifically referred to in the appraisal performed in connection with the origination of the related Mortgage Loan, (C) liens created pursuant to any federal, state or local law, regulation or ordinance affording liens for the costs of clean-up of hazardous substances or hazardous wastes or for other environmental protection purposes and (D) such other matters to which like properties are commonly subject which do not individually, or in the aggregate, materially interfere with the benefits of the security intended to be provided by the Mortgage; the Seller is the sole insured of such mortgagee title insurance policy, the assignment to the Trustee of the Seller's interest in such mortgagee title insurance policy does not require any consent of or notification to the insurer which has not been obtained or made, such mortgagee title insurance policy is in full force and effect and will be in full force and effect and inure to the benefit of the Trustee, and no claims have been made under such mortgagee title insurance policy.

(y) Hazard Insurance:

The Mortgaged Property securing each Mortgage Loan is insured by an insurer acceptable to Fannie Mae or Freddie Mac against loss by fire and such hazards as are covered under a standard extended coverage endorsement, in an amount which is not less than [the lesser of 100% of the insurable value of the Mortgaged Property and the outstanding principal balance of the Mortgage Loan], but in no event less than the minimum amount necessary to fully compensate for any

damage or loss on a replacement cost basis]] [the lesser of (a) the full insurable value of the Mortgaged Property or (b) the greater of (i) the outstanding principal balance owing on the Mortgage Loan and (ii) an amount such that the proceeds of such insurance shall be sufficient to avoid the application to the Mortgagor or loss payee of any coinsurance clause under the policy]; if the Mortgaged Property is a condominium unit, it is included under the coverage afforded by a blanket policy for the project [which coverage protects the lesser of 100% of the insurable value of the condominium and the outstanding principal balance of the Mortgage Loan]; if upon origination of the Mortgage Loan, the improvements on the Mortgaged Property were in an area identified in the Federal Register by the Federal Emergency Management Agency as having special flood hazards, a flood insurance policy meeting the requirements of the current guidelines of the Federal Insurance Administration is in effect with a generally acceptable insurance carrier, in an amount representing coverage not less than the least of (1) the outstanding principal balance of the Mortgage Loan, (2) the full insurable value of the Mortgaged Property and (3) the maximum amount of insurance which was available under the National Flood Insurance Act of 1968, as amended; and each Mortgage obligates the Mortgagor thereunder to maintain all such insurance at the Mortgagor's cost and expense.

(z) No Default:

(1) There is no monetary default, monetary breach, monetary violation or event of acceleration existing under the Mortgage or the related Mortgage Note and no event which, with the passage of time or with notice and the expiration of any grace or cure period, would constitute a monetary default, monetary breach, monetary violation or event of acceleration and (2) there is no nonmonetary default, nonmonetary breach, nonmonetary violation or event of acceleration existing under the Mortgage or the related Mortgage Note and no event which, with the passage of time or with notice and the expiration of any grace or cure period, would constitute a nonmonetary default, nonmonetary breach, nonmonetary violation or event of acceleration; the Seller has not, with respect to either (1) or (2), waived any such default, breach, violation or event of acceleration; and no foreclosure action is currently threatened or has been commenced with respect to the Mortgage Loan.

(aa) No Rescission:

(1) No Mortgage Note or Mortgage is subject to any right of rescission, set-off, counterclaim or defense, including the defense of usury, nor will the operation of any of the terms of the Mortgage Note or Mortgage, or the exercise of any right thereunder, render the Mortgage Note or Mortgage unenforceable, in whole or in part, or subject it to any right of rescission, set-off, counterclaim or defense, including the defense of usury, and (2) no such right of rescission, set-off, counterclaim or defense has been asserted with respect thereto.

(bb) Enforceable Right of Foreclosure:

(1) Each Mortgage contains customary and enforceable provisions such as to render the rights and remedies of the holder thereof adequate for the realization against the Mortgaged Property of the benefits of the security, including realization by judicial foreclosure (subject to any limitation arising from any bankruptcy, insolvency or other law for the relief of debtors), and (2) except

with respect to Mortgaged Properties located in [____], there is no homestead or other exemption available to the Mortgagor which would interfere with the right to sell the Mortgaged Property at a trustee's sale or the right of foreclosure.

(cc) No Bankruptcy:

No Mortgagor is a debtor in any state or federal bankruptcy or insolvency proceeding.

(dd) Mortgaged Property is 1-4 Family:

Each Mortgaged Property is located in the United States or a territory of the United States and consists of a one- to four-unit residential property, which may include, but is not limited to, a single family dwelling, townhouse, condominium unit or a unit in a planned unit development or, in the case of Mortgage Loans secured by Co-op Shares, leases or occupancy agreements.

(ee) Mortgage Loan Qualifies for REMIC:

The Mortgage Loan is a "qualified mortgage" within the meaning of Section 860G(a)(3) of the Code.

(ff) Lost Note Affidavit:

With respect to each Mortgage where a lost note affidavit has been delivered to the Trustee in place of the related Mortgage Note, the related Mortgage Note is no longer in existence.

(gg) Doing Business:

With respect to each Mortgage Loan, (i) the originator is (or, during the period in which it held and disposed of its interest in such Mortgage Loan was), in compliance with any and all applicable licensing requirements of the laws of the state wherein the related Mortgaged Property is located and (ii) all other parties that have had any interest in such Mortgage Loan, whether as mortgagee, assignee, pledgee or otherwise, are (or, during the period in which they held and disposed of such interest, were) in compliance with any and all applicable licensing requirements of the laws of the state wherein the related Mortgaged Property is located, except, in the case of both clauses (i) and (ii), to the extent that failure to be so licensed would not give rise to any claim against the Trust or otherwise adversely affect the enforceability of the Mortgage Loan.

(hh) Environmental Laws:

At the time of origination, each Mortgaged Property was in material compliance with all then-applicable environmental laws pertaining to environmental hazards including, without limitation, asbestos.

(ii) Insurance Coverage Not Impaired:

With respect to any insurance policy including, but not limited to, hazard, title, or mortgage insurance, covering a Mortgage Loan and the related Mortgaged Property, neither (i) the originator nor (ii) any prior holder has engaged in any act or omission which would impair the coverage of any such policy, the benefits of the endorsement, or the validity and binding effect of either, including without limitation, no unlawful fee, commission, kickback or other unlawful compensation or value of any kind has been or will be received, retained or realized by any attorney, firm or other person or entity, and no such unlawful items have been received, retained or realized by the originator.

(jj) Deeds of Trust:

In the event the Mortgage constitutes a deed of trust, a trustee, duly qualified under applicable law to serve as such, has been properly designated and currently so serves and is named in the Mortgage, and no fees or expenses are or will become payable by the Seller or the Trust to the trustee under the deed of trust, except in connection with a trustee's sale after default under the Mortgage.

(kk) Mortgage Recorded:

Each original Mortgage was recorded or submitted for recordation in the jurisdiction in which the Mortgaged Property is located and all subsequent assignments of the original Mortgage have been delivered in the appropriate form for recording in all jurisdictions in which such recordation is necessary to perfect the ownership of the Mortgage by the Trust.

(ll) Due-On-Sale:

The Mortgage contains an enforceable provision, to the extent not prohibited by applicable law as of the date of such Mortgage, for the acceleration of the payment of the unpaid principal balance of the Mortgage Loan in the event that the Mortgaged Property is sold or transferred without the prior written consent of the mortgagee thereunder.

(mm) Leases:

The Mortgaged Property is either a fee simple estate or a long-term residential lease. If the Mortgage Loan is secured by a long-term residential lease and (1) the terms of such lease expressly permit the mortgaging of the leasehold estate, the assignment of the lease without the lessor's consent (or the lessor's consent has been obtained and such consent is in the Mortgage File) and the acquisition by the holder of the Mortgage of the rights of the lessee upon foreclosure or assignment in lieu of foreclosure or provide the holder of the Mortgage with substantially similar protection; (2) the terms of such lease do not (x) allow the termination thereof upon the lessee's default without the holder of the Mortgage being entitled to receive written notice of, and opportunity to cure, such default or (y) prohibit the holder of the Mortgage from being insured under the hazard insurance policy related to the Mortgaged Property; (3) the original term of such lease is not less than 15 years; (4) the term of such lease does not terminate

earlier than five years after the maturity date of the Mortgage Note; and (5) the Mortgaged Property is located in a jurisdiction in which the use of leasehold estates for residential properties is an accepted practice.

(nn) Manufactured Homes:

To the extent that any manufactured home is included as part of the Mortgaged Property: Such manufactured home is (1) together with the related land, subject to the Mortgage, (2) deemed to be a part of the real property on which it is located pursuant to the applicable law of the jurisdiction in which it is located, and (3) treated as a single-family residence under Section 25(e)(10) of the Internal Revenue Code.

The following additional representations will be required in transactions rated by S&P:

(oo) S&P Glossary; Georgia Fair Lending:

No loan has a percentage listed under the Indicative Loss Severity Column; according to its criteria, Standard & Poor's rates transactions that include the loan, as reflected in the then-current version of Standard & Poor's Anti-Predatory Lending Law Update Table (included as Appendix E of the U.S. Residential Mortgage Input File Format, Glossary, And Appendices To The Glossary For LEVELS), and no loan originated on or after Oct. 1, 2002, through March 6, 2003 is governed by the Georgia Fair Lending Act.

(pp) Higher Cost Product; Underwriting:

No borrower was encouraged or required to select a loan product offered by the originator that was a higher cost product designed for less-creditworthy borrowers, unless at the time of the Mortgage Loan's origination, such borrower did not qualify, taking into account credit history and debt-to-income ratios, for a lower cost credit product then offered by the originator or any affiliate of the originator.

The following additional representation will be required in transactions rated by Fitch:

(qq) No High Cost Loan:

No Mortgage Loan in the Trust is a "high-cost" loan, "covered" loan, or any other similarly designated loan as defined under any state, local, or federal law, as defined by applicable predatory and abusing lending laws.

II. Covenant

Early Payment Default Repurchase:

With respect to any Mortgage Loan originated not more than 90 days prior to the Closing Date, the originator shall promptly repurchase any such Mortgage Loan that becomes and remains 30 days or more Delinquent within the first three months following the first due date (other than as a

result of documented (to the extent commercially reasonable) material financial or personal adversity since the date of the origination of the Mortgage Loan affecting the Mortgagor or the co-Mortgagor, such as unemployment, materially reduced pay, a material decline in self-employed business income, divorce, death, serious or chronic illness, permanent or short term disability, or materially increased medical and health care costs) unless the originator reasonably concludes, based on information provided by the servicer, that the default was the result of a servicing issue which has subsequently been corrected or is likely to be corrected and such default has been cured within 60 days following the missed payment date.

Exhibit I

List of ASF RMBS Disclosure Package Field Numbers and Field Names for Data Rep

<u>Field Number</u>	<u>Field Name</u>
5	Originator
7	Loan Number
8	Amortization Type
9	Lien Position
10	HELOC Indicator
25	Origination Date
26	Original Loan Amount
27	Original Interest Rate
28	Original Amortization Term
29	Original Term to Maturity
30	First Payment Date of Loan
31	Interest Type Indicator
32	Original Interest Only Term
33	Buy Down Period
34	HELOC Draw Period
35	Current Loan Amount
36	Current Interest Rate
37	Current Payment Amount Due
40	Index Type
42	Gross Margin
45	Initial Fixed Rate Period
46	Initial Interest Rate Cap (Change Up)
47	Initial Interest Rate Cap (Change Down)
48	Subsequent Interest Rate Reset Period
49	Subsequent Interest Rate (Change Down)
50	Subsequent Interest Rate Cap (Change Up)
51	Lifetime Maximum Rate (Ceiling)
52	Lifetime Minimum Rate (Floor)
53	Negative Amortization Limit
54	Initial Negative Amortization Recast Period
55	Subsequent Negative Amortization Recast Period
56	Initial Fixed Payment Period
57	Subsequent Payment Reset Period
58	Initial Periodic Payment Cap
60	Initial Minimum Payment Reset Period
61	Subsequent Minimum Payment Reset Period
63	Options at Recast
64	Initial Minimum Payment
65	Current Minimum Payment
67	Prepayment Penalty Type
68	Prepayment Penalty Total Term
69	Prepayment Penalty Hard Term
72	Total Number of Borrowers

119	City
120	State
121	Postal Code
138	Mortgage Insurance Company Name
139	Mortgage Insurance Percent



Exhibit II

**Representations and Warranties
Knowledge Qualifications**

For example:

Representation or Warranty	Contains Knowledge Qualifier	Repurchase Remedy Despite Lack of Knowledge
(f) Fraud		
Clause (1)	N	N/A
Clause (2)	Y	N
Clause (3)	Y	N
Clause (4)	Y	N

Representation or Warranty	Contains Knowledge Qualifier	Repurchase Remedy Despite Lack of Knowledge
(a) Property Valuation Clause [___]	[Y][N]	[Y][N] or [N/A]
(b) Income/Employment/Assets Clause [___]	[Y][N]	[Y][N] or [N/A]
(c) Occupancy Clause [___]	[Y][N]	[Y][N] or [N/A]
(d) Source of Loan Payments Clause [___]	[Y][N]	[Y][N] or [N/A]
(e) Data Clause [___]	[Y][N]	[Y][N] or [N/A]
(f) Fraud Clause [___]	[Y][N]	[Y][N] or [N/A]

(g)	Underwriting Clause [___]	[Y][N]	[Y][N] or [N/A]
(h)	Mortgage Insurance Clause [___]	[Y][N]	[Y][N] or [N/A]
(i)	Regulatory Compliance Clause [___]	[Y][N]	[Y][N] or [N/A]
(j)	Borrower Clause [___]	[Y][N]	[Y][N] or [N/A]
(k)	Downpayment Clause [___]	[Y][N]	[Y][N] or [N/A]
(l)	No Prior Liens Clause [___]	[Y][N]	[Y][N] or [N/A]
(m)	Enforceability and Priority of Lien Clause [___]	[Y][N]	[Y][N] or [N/A]
(n)	Complete Mortgage Files Clause [___]	[Y][N]	[Y][N] or [N/A]
(o)	No Prior Modifications Clause [___]	[Y][N]	[Y][N] or [N/A]
(p)	Taxes Paid Clause [___]	[Y][N]	[Y][N] or [N/A]
(q)	No Damage/Condemnation Clause [___]	[Y][N]	[Y][N] or [N/A]
(r)	No Mechanics Liens Clause [___]	[Y][N]	[Y][N] or [N/A]
(s)	No Encroachments/Compliance with Zoning Clause [___]	[Y][N]	[Y][N] or [N/A]
(t)	Certificate of Occupancy Clause [___]	[Y][N]	[Y][N] or [N/A]
(u)	Loans Current/Prior Delinquencies Clause [___]	[Y][N]	[Y][N] or [N/A]

(v)	Mortgage Loan Legal and Binding Clause [___]	[Y][N]	[Y][N] or [N/A]
(w)	Proceeds Fully Disbursed/Recording Fees Paid Clause [___]	[Y][N]	[Y][N] or [N/A]
(x)	Existence of Title Insurance Clause [___]	[Y][N]	[Y][N] or [N/A]
(y)	Hazard Insurance Clause [___]	[Y][N]	[Y][N] or [N/A]
(z)	No Default Clause [___]	[Y][N]	[Y][N] or [N/A]
(aa)	No Rescission Clause [___]	[Y][N]	[Y][N] or [N/A]
(bb)	Enforceable Right of Foreclosure Clause [___]	[Y][N]	[Y][N] or [N/A]
(cc)	No Bankruptcy Clause [___]	[Y][N]	[Y][N] or [N/A]
(dd)	Mortgaged Property is 1-4 Family Clause [___]	[Y][N]	[Y][N] or [N/A]
(ee)	Mortgage Loan Qualifies for REMIC Clause [___]	[Y][N]	[Y][N] or [N/A]
(ff)	Lost Note Affidavit Clause [___]	[Y][N]	[Y][N] or [N/A]
(gg)	Doing Business Clause [___]	[Y][N]	[Y][N] or [N/A]
(hh)	Environmental Laws Clause [___]	[Y][N]	[Y][N] or [N/A]
(ii)	Insurance Coverage Not Impaired Clause [___]	[Y][N]	[Y][N] or [N/A]
(jj)	Deeds of Trust Clause [___]	[Y][N]	[Y][N] or [N/A]

(kk)	Mortgage Recorded Clause [___]	[Y][N]	[Y][N] or [N/A]
(ll)	Due-On-Sale Clause [___]	[Y][N]	[Y][N] or [N/A]
(mm)	Leases Clause [___]	[Y][N]	[Y][N] or [N/A]
(nn)	Manufactured Homes Clause [___]	[Y][N]	[Y][N] or [N/A]
(oo)	S&P Glossary; Georgia Fair Lending Clause [___]	[Y][N]	[Y][N] or [N/A]
(pp)	Higher Cost Product; Underwriting Clause [___]	[Y][N]	[Y][N] or [N/A]
(qq)	No High Cost Loan Clause [___]	[Y][N]	[Y][N] or [N/A]