

Market Principles for Issuing European CMBS 2.0

**Commercial
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Introduction

By Nassar Hussain, Chair of the CMBS 2.0 Committee

The CMBS 2.0 Committee

The Commercial Real Estate Finance Council (CREFC) Europe established its CMBS 2.0 Committee to explore best practice principles for CMBS transactions with the goal of improving confidence in the European CMBS industry. The members of CREFC believe that improved CMBS structures will strengthen confidence by market participants and therefore encourage the further development of the CMBS market in Europe. An improved CMBS market in Europe will, in turn, provide an alternative source of capital and assist with the immediate need for capital in real estate transactions. The Committee has taken into account the views of a cross-section of both historical and active participants in the real estate capital markets, and comprises senior representatives from issuing banks, investors, loan servicers, financial advisers, borrowers, trustees, lawyers and other industry experts. Consensus was not reached on all issues and as such the principles attempt to reflect the majority view of participants. CREFC would like to thank everyone that participated in the production of these principles for their valuable time and contribution to the process. A list of certain participating firms and organisations is attached as Appendix 1.

Background for the Committee

Given the size of the commercial real estate funding gap facing the European real estate markets over the next several years and, to date, the limited availability of alternative funding sources, the capital markets are potentially an important source of capital for the real estate industry. However, macro-economic and broader market issues aside, successful issuance of future transactions will be dependent upon whether the various market participants have confidence in, and a proper understanding of, CMBS structures and the roles of the relevant transaction counterparties.



The recent credit crisis has exposed some of the weaknesses in historical CMBS transaction structures, including weaknesses relating to the direction and coordination of the various transaction counterparties and the availability of appropriate levels of information. The Committee has also identified a number of positive structural features in certain CMBS transactions which it believes should be more widely implemented in future CMBS transactions.

The CMBS 2.0 Committee has produced these principles to address some of the key features of CMBS. In summary, the principles generally cover the following:

- Disclosure (including pre-issuance disclosure, post-issuance disclosure, investor reporting and investor notices);
- Revenue Extraction in the form of excess spread monetisation (including Class X Note structures);
- Investor identification and Investor Forum;
- The role of servicers, special servicers and other transaction counterparties (including trustees and cash managers); and
- CMBS structural features (including controlling party rights, voting

provisions, liquidity facilities and synthetic securitisations);

Approach

The principles assume a certain degree of existing knowledge and experience of CMBS structures. They do not seek to incorporate all aspects of CMBS structuring but instead focus on areas of particular importance that have received the attention of various industry participants.

Each market participant approaches CMBS transactions from their own perspective. The purpose of these principles is to provide a balanced approach to specific issues in order to encourage the broadest market participation. The principles are only suggestions of best practice and it will ultimately be a matter for market participants to decide whether or not to endorse them by applying them to their transactions. In certain instances the principles refer to a range of options rather than a preferred option. Again, in these instances the participants are encouraged to negotiate the right option for their transaction and fully reflect that option by way of disclosure and in the pricing for the transaction. The European CMBS market benefits from a variety of real estate asset classes, deal types and

jurisdictions and the principles will need to be adapted accordingly.

The principles make reference, in certain instances, to the requirements of certain Central Banks such as the Bank of England for sterling denominated transactions and the European Central Bank for euro denominated transactions in relation to their respective eligibility collateral frameworks (e.g. the Bank of England CMBS Transaction Overview Template).

The ratings criteria or methodology applied by the rating agencies to new CMBS transactions continues to evolve. The potential ratings impact of any of the principles will need to be evaluated separately on a transaction by transaction basis with the relevant rating agencies.

The CMBS 2.0 Committee has tried not to overlap these principles with the

supplementary work carried out by other CREFC Committees, including the Lender, Servicer, Inter-Creditor, Hedging, Loan Due Diligence and E-IRP Committees. The focus of the Committee has been on matters purely related to transaction structures, transaction counterparties and disclosure of appropriate levels of information. These principles do not cover matters relating to loan or property underwriting, assessment of credit risk or due diligence standards or processes. Additionally, the principles do not endeavour to anticipate the form of interest rate structure or duration and related changes that new CMBS investors may require as this will evolve over time.

The CMBS 2.0 Committee's principles take into consideration the current market environment and they shall be revised periodically through updates and the issuance of appendices to address new

topics as industry best practices continue to evolve.

CREFC will also operate an ongoing CMBS 2.0 Principles Comments Section on the CREFC Europe Website so that industry participants can continue to provide feedback and receive updates on the principles.

These principles supplement and compliment laws and regulations applicable to the issue of securities such as CMBS as well as the rules of any applicable stock exchange. Issuers and arrangers of CMBS transactions should take their own advice on such matters to ensure that their CMBS transactions comply with the same.

Best Practice Principles

Part 1: Disclosure

1.1 Introduction

The purpose of this section is to encourage improved levels of pre- and post-issuance disclosure and transparency and to generate industry efficiencies. The guidelines in this section seek to:

- Promote the consistency of core reporting and uniformity of minimum information levels in European CMBS transactions in order to create a higher standard for reporting and a better means of comparing CMBS transactions; and
- Reduce the time required by market participants to reconcile reporting and the time information providers are required to respond to follow-up queries from investors.

Investors should be satisfied that disclosure matters are adequately addressed in the documentation at the time of issuance.

In addition to the disclosure principles set forth in this section, there are specific items of disclosure set out in each of the other sections contained in these principles.

Prior to the issuance of any CMBS the arranger of the CMBS transaction should make available to prospective investors all relevant pre-issuance materials in electronic format (e.g. preliminary Offering Circular, investor presentation, relevant transaction documentation, valuation report, data incorporated into the relevant E-IRP files, etc.) on a pre-issuance website. Such materials (updated to the final versions where appropriate) should be transferred to the relevant investor reporting website promptly following issuance.

1.2 Offering Circular Disclosure

- In transactions with a single loan or for any loans constituting more than 5% of the total assets, there should be detailed loan level disclosure in the Offering Circular and, where applicable, disclosure of any borrower level hedging.

- In order to improve transparency and facilitate comparison between transactions, information in respect of the loan(s), underlying property and notes should be presented in a standardised format (the “**Base Case**”). Summary tables should be used in the Offering Circular to display the Base Case in the form set out in Appendix 2.
- The Offering Circular should contain a transaction overview similar to or based on the Bank of England’s CMBS overview template (AFME/ESF version for UK stand-alone transactions), which is available at: www.crefc.org/eucmbs20/ but appropriately adapted on a transaction by transaction basis.
- Any transactions which incorporate revenue extraction through excess spread monetisation (including Class X Notes) or otherwise (as set out in more detail in section 2.2) should include a separate section in the Offering Circular providing full details of such extraction.
- Material conflicts of interest that are known to exist or are likely to or will exist in the future (e.g. on completion of the transaction) at each level of the structure should be clearly and fully disclosed in the Offering Circular (including conflicts relating to noteholders, junior and mezzanine lenders, the hedging provider, the revenue extraction holder, the servicer/special servicer and other transaction counterparties), clearly specifying which parties could be involved and how the potential conflict of interest could impact investors. Such disclosure would not apply to the disclosure of the activities of a party’s affiliates or other related entities or other internal departments which are separately operated and managed and which have established procedures and protocols for the implementation of information barriers to prevent the flow of information between such parties and their affiliates, related entities or other departments. Appropriate

provision should be made in the relevant documentation that would permit any transaction party that becomes aware of a material conflict of interest with respect to its own position after the date of the Offering Circular to be able to disclose such information to the cash manager in the periodical investor reporting, without the requirement to disclose activities of its affiliates, related entities or other departments which are separately operated and managed, and have established procedures and protocols for the implementation of information barriers to prevent the flow of information between such parties and their affiliates, related entities or other departments.

- If possible, information on the identity of the borrower and the ultimate sponsor(s) holding at least 20% of the equity should be disclosed in the Offering Circular. This excludes limited partners in a fund managed by a reputable and established investment manager. The purpose of the financing should be disclosed (whether acquisition or refinancing) together with the amount of outstanding equity of each sponsor that remains at risk. However, these principles acknowledge that the ability to make certain of these disclosures will rest with the relevant sponsor, who may have its own reasons for not wanting such detailed disclosure to be made in the Offering Circular.
- The existence and amount of any junior debt (including B notes, mezzanine loans or other subordinated loans or PIK type instruments), pari-passu debt and super-senior debt should be disclosed in the Offering Circular. Further, all rights of such holders of additional debt (including consent rights, purchase options, cure rights, enforcement rights and amendment rights) should be disclosed in the Offering Circular to the extent that such rights relate to modifications, waivers or enforcement of the

securitised debt. Such disclosure should set out the rights of the holders of the junior debt and whether the rights are entrenched or subject to limitations, such as control valuation events or the ability of the servicer to override such action based upon the servicing standard. Also, the security attached to such other debt should also be disclosed.

- The Base Case and ongoing reporting (as described below) should specify whether reported income is gross or net (and what deductions are made between gross and net).
- The CMBS 2.0 Committee will work with market participants in order to produce and publish a base set of best practice representations and warranties in the near future. The form of any representations and warranties should be detailed and objective. Any disclosure or exception to a representation and warranty should be set out immediately below the specific representation and warranty. For conduit and true sale transactions there should be detailed disclosure in the Offering Circular of all the representations and warranties contained in the loan sale agreement. For all transactions there should be detailed disclosure in the Offering Circular of all the representations and warranties relating to (i) disclosure of all material information, accuracy/omissions of information etc. to noteholders and (ii) general matters including due incorporation, authority, valid and binding obligations and insolvency.
- The Offering Circular should disclose the identity and key information in respect of the transaction counterparties including the business, experience, ratings (where relevant), financial standing and ownership of the key transaction parties including the servicer, special servicer, trustee and cash manager. In relation to the servicer and special servicer, there should be disclosure on their experience in relation to the loans and

collateral (and the country in which the collateral is located) which form part of the CMBS and the ability of the servicer or special servicer to implement potential work-out strategies with or without consent (e.g. restructuring, enforcement, sale of loan). There should also be disclosure of the servicer replacement mechanism and the circumstances in which servicer advances (if any) will be provided.

- The Offering Circular should disclose the fees payable to such transaction counterparties. CREFC is conscious of the potential sensitivity to the various transaction parties of disclosing such fees and, therefore, it would be acceptable in respect of only the ordinary, annual fees of the transaction parties (other than the servicer and special servicer) to only disclose an aggregated amount that represents the total, annual compensation for all of the transaction parties.
- The Offering Circular should also clarify the identity of the beneficiary of any material ancillary cash flows such as loan prepayment penalties, loan consent fees, loan default interest or gains on hedge terminations.

1.3 Transaction Documents

- All CMBS level transaction documents (including the servicing agreements) should be made publicly available in electronic format on an investor reporting website maintained by a party to the transaction, a third party website or both. The website address should be disclosed in the Offering Circular and in each quarterly investor report.
- In relation to loan documentation, the level of public disclosure will, to some extent, be determined by market forces and reflect a balance between the borrower's need for privacy and the note investors' need to be able to evaluate the credit quality of the notes. However, it is recommended that loan level documents which have

a material impact with respect to cash flows (e.g. the loan agreement, intercreditor agreement and hedge agreements) should be made publicly available. Regardless of whether any of the above documents are being made publicly available, the summaries in the Offering Circular should be detailed and should include all material information.

- The Offering Circular should contain detailed disclosure of the hedging instruments in the transaction and such disclosure should include, but should not be limited to, the following information:
 - The type of instruments and explanation of the hedging structure;
 - Borrower level or issuer level;
 - The ranking(s) in the payment waterfall (both pre and post acceleration);
 - Details of who the hedging counterparty is and any rights that they may have (including voting rights and the ability to terminate the instrument);
 - The notional profile of the instrument and any elements of overhedging or underhedging in the transaction;
 - Payment dates including, in particular, the maturity date;
 - Whether the liquidity facility/servicer advances are available to meet hedging payments;
 - Quarterly reporting of the mark-to-market valuation of the hedge by the hedge counterparty to investors (through the investor reporting of the servicer or cash manager, as the case may be); and
 - How changes in hedging or interest rates may impact the level of the mark to market valuation; and
 - Ongoing reporting of how much collateral under a credit support annex has been posted at any time.



Any material amendments to the profile, other than partial terminations as a result of partial redemptions, should be disclosed as and when they occur.

In the absence of the underlying hedge documentation, (including the schedule, confirmations and any credit support annex) being made publicly available, the summaries in the Offering Circular should be detailed and should include all material information.

1.4 Investor Reporting, Data and Cash Flow Model

■ **Investor Reporting** – The Offering Circular should contain information on the content, dates of availability, access (including any restrictions on access (such as registration of details or certification of interest)) and cost (if any) of investor reporting and which transaction counterparty will be responsible for each element of the investor reporting (e.g. servicer/special servicer for loan and collateral information and cash manager for note level information). The pro-forma form of the investor report should be disclosed at the time of the note issuance. A list of the recommended information/data requirements for investor reporting is attached as Appendix 3. The investor report should be made publicly available in a suitable electronic format (.pdf, .xls or

.csv file) on a reporting website maintained by an agent of the issuer or on a third party website or both.

- **Provision of Data** – The Offering Circular should contain information on the content, dates of availability, access (including any restrictions on access (such as registration of details or certification of interest)) and cost (if any) of transaction data in the form/template of CREFC Europe's Investor Reporting Package® (E-IRP®). The most recent version of E-IRP is v2.0. This contains the Loan Setup File, Loan Periodic File, Property File and Bond File and is available at: www.crefc.org/e-irp/. The E-IRP is in compliance with the latest requirements of the European Central Bank and the Bank of England at the time of issuance of these principles. The populated version should be made available in a suitable electronic format (.xls or .csv file) on a reporting website maintained by an agent of the issuer or a third party website or both.
- The data used to compile the loan information in the Base Case is in the same form as the E-IRP Loan Setup File and should be made available at the outset to prospective investors on the Arranger's pre-issuance website and appropriate transaction counterparties including the servicer, to assist in their ongoing reporting. All servicer quarterly reports and relevant interim RIS notices issued on behalf

of the servicer should be easily referable to the Base Case.

- **Issuer Waterfall Cash Flow Model** – The Offering Circular should contain information on the content, dates of availability, access (including any restrictions on access (such as registration of details or certification of interest)) and cost (if any) of an issuer waterfall cash flow model in order that investors can project future note level cash flows until the notes are repaid. The model may be provided in a variety of formats (e.g. website-hosted, downloadable program or spreadsheet) but should enable investors to input key variables using a recognisable spreadsheet format (e.g. .csv, .xls or .xlsx) and investors should be able to retain or record the results. The form of cash flow model should contain the information and functionality outlined in Appendix 4 and should at the outset encompass relevant transaction features including provision for liquidity facility or servicer advances, hedging structure and transaction triggers impacting the waterfall.
- The arranger of the CMBS issuance should arrange for such cash flow model to be provided directly or indirectly (through a delegated cash flow model provider) to the market at issuance and to the extent the base transaction structure changes the arranger should update it or procure that it is updated at the relevant time.
- The quarterly investor reporting should contain any relevant inputs for the cash flow model which reflect the current status of the transaction such as note balances, note margins, loan/loan portfolio balance, current liquidity facility drawing amount, balances of issuer level accounts and ledgers, fixed inputs required to calculate aggregate issuer costs and expenses etc. and details of any triggers that have been activated or deactivated. Certain assumption inputs required to operate the cash flow model to project future cash flows to the maturity or ultimate repayment date of the notes should

be determined and entered by the investor. Details of the appropriate inputs are contained in Appendix 4.

- In addition, on an optional basis and at an appropriate cost, the arranger or delegated cash flow model provider may provide to investors:
 - (i) An integrated or separate model to project loan portfolio cash flows which incorporates the coupons, hedging structure, balances, maturity/extensions, scheduled amortisation, prepayments etc. The outputs of such model should be capable of being used directly as inputs into the issuer waterfall cash flow model; and
 - (ii) An integrated or separate model to calculate the price of the notes based on the note cash flows produced by the issuer waterfall cash flow model and a discount margin determined and input by the investor (or vice versa using a price to determine the discount margin of the notes).
- All information made available to the investors at primary issuance should also be accessible by secondary market investors on the investor reporting website for the life of the transaction (including investor reports and investor marketing presentations).
- Each of the updated investor reporting, data (E-IRP files) and Issuer cash flow model should be made available free of charge on the relevant investor reporting website within 14 days of a note interest payment date.

1.5 RIS Notices

- RIS notices should be published as soon as reasonably possible upon the servicer or cash manager (as the case may be) becoming aware of a “Notifiable Event”. The servicer or cash manager should notify the issuer of the Notifiable Event and (if appropriate) prepare the draft form of RIS and the issuer should then be responsible for issuing the RIS Notice on a prompt basis. A suggested list of Notifiable Events is set out in Appendix 5.

- The publication of certain information in an RIS notice may be delayed for the reasons specified in section 1.9 below.
- Further detail on the Notifiable Event may be incorporated into the quarterly report when and where appropriate, provided that all material information has been disclosed in the relevant RIS notice.
- The filing requirements for an RIS notice will vary based upon the location of listing and issue for any CMBS transaction.
- RIS notices should be distributed simultaneously via the clearing systems and any other method required in the “Notices” condition in the Offering Circular.
- In addition to the publication required by law for any RIS notices, other information websites such as a reporting website maintained by an agent to the issuer or a third party website or both should be used together with electronic messaging systems such as Bloomberg (when and where appropriate).

1.6 Borrower Reporting

- In order to permit the transaction counterparties to comply with their disclosure obligations as outlined above, the underlying loan documentation should contain the appropriate information undertakings on the borrower and any other relevant obligors to provide the information and data in a manner consistent with the timing, nature and format of such reporting requirements of such transaction counterparties. A standardised form of borrower reporting should be encouraged across European CMBS transactions. The CREFC is working on appropriate borrower level reporting templates.
- Information and data provided by the borrower in its regular reporting should be in a format that can be used in the loan level reports prepared by the servicer (i.e. in an electronic and downloadable format).

- The arranger of the CMBS transaction should have sufficiently detailed discussions with the borrower to assist the borrower with (i) understanding the reporting requirements and (ii) being able to provide the relevant data and information.
- Borrowers should be required to provide information within a timeframe that enables servicers to prepare reports with adequate time prior to the note interest payment dates and in accordance with the principles set out in section 1.4.
- If borrowers have not agreed to complete certain basic fields, or provide enhanced reporting, or report by the usual reporting dates, this should be disclosed so that investors’ expectations as to ongoing disclosure can be managed.

1.7 Valuations and Property Inspections

- Pre-issuance: Recent valuations dated up to six months prior to the issuance date should be made available to prospective investors on the arranger’s pre-issuance website. If the original valuation is more than six months old, a bring-down desk-top valuation should also be provided to investors in each case by the arranger.
- Post-issuance: Any valuation completed post-issuance should be made available by the servicer or special servicer on the relevant investor reporting website.
- All valuations should be electronic format copies of the full valuation report or desk-top report (as appropriate), sanitised to reflect any exceptions provided for in section 1.9.
- The servicer/special servicer should undertake appropriate periodical property inspections using appropriately experience staff. Any relevant material findings during a property inspection should be disclosed in the next quarterly investor report or, if relevant, as a Notifiable Event.

1.8 Disclosure of and Reliance on Due Diligence Reports

- All material due diligence reports (including valuations, structural surveys, reports on title, environmental reports, legal opinions etc.) should provide for reliance and disclosure in a manner appropriate for a CMBS transaction. In particular:

- (i) Reliance should be provided to each finance party under the facility agreement as well as to any trustee with respect to any securities issued by any such finance party in connection with a securitisation of the loan facility or any part thereof.
- (ii) As set out in section 1.7, valuations should permit publication in connection with the issuance of the CMBS (both at the time of issuance and during the term of the CMBS). Therefore, the disclosure provisions should clearly state that such publication is permitted although reliance will be restricted to the appropriate counterparties.

For all other material due diligence, disclosure should clearly be available to:

- All successors and assigns of the addressees to the report;
- Their agents and advisors;
- Their affiliates, employees, officers, directors, agents;
- Any actual or prospective purchaser, transferee or assignee of, or participant in, the loan facility;
- Any servicer or special servicer of the loan facility;
- Any actual or prospective investor (including its agents and advisers) in any securities issued in connection with the CMBS transaction;
- Any rating agencies (actually or prospectively) rating such securities issued in connection with the CMBS transaction and their respective advisers;

- Any trustee of any finance party; and
- Where disclosure is required by law, court order, regulation, public authority or in respect of legal proceedings.

- In addition, the terms of due diligence reports should permit the report or a reference to the report (and the methodologies and results on which the same is based) being included or quoted or otherwise summarised in any information memorandum, offering circular, private placement memorandum, registration statement, prospectus or term sheet as may be required to comply with any applicable laws, regulations or official guidelines relating to the issuance of any CMBS transaction or for any investor or potential investor to be in compliance with any applicable law, regulation or requirements of any governmental, banking, taxation or similar body relating to maintaining an investment in, or the regulatory capital treatment of, any securities issued in such CMBS transaction.

1.9 Exceptions to Ongoing Due Diligence Disclosure Requirements

- Specific items of disclosure may be delayed, withheld or redacted if:
 - There is an ability to withhold such disclosure under the Market Abuse Directive or applicable law (e.g. for banking confidentiality/data protection reasons), and
 - Where either:
 - The release of information would prejudice ongoing commercially sensitive negotiations by the borrower (e.g. sale, lease renewal or re-gearing or rent review negotiations) which in the reasonable opinion of the servicer would be materially prejudicial to noteholders; or
 - Where the servicer, special servicer or other transaction party has received such information pursuant to a

confidentiality or other similar agreement.

- The information should be released promptly as soon as the legitimate reason or confidentiality no longer applies.

Part 2: Revenue Extraction: Use of Excess Spread Monetisation (Including Class X Notes and Other Mechanisms)

2.1 Introduction

- A CMBS transaction is typically structured so that the aggregate interest that accrues on the loans exceeds the aggregate amount of interest that accrues on the CMBS notes. This excess amount is commonly referred to as the “Excess Spread”.
- Many CMBS transactions provide revenue for the originating or arranging bank through the extraction or sale of at least a portion of this Excess Spread (“**Revenue Extraction**”). Sometimes part of the Revenue Extraction is utilised to recover certain upfront transaction costs of the arranger of the CMBS transaction.
- Revenue Extraction can be structured and defined in various ways including Class X Notes, deferred consideration, residual interest or retained interest. Revenue Extraction structures can be simple such as a skim on the loan margin or more complicated as with Class X Note structures. However, these structures may cause a shortfall on payments of note interest as a result of extraneous expenses not otherwise covered by Excess Spread.
- Revenue Extraction structures typically allocate to the beneficiary either:
 - (i) An amount payable by the CMBS issuer equal to the excess of all interest earned on the underlying loan or pool of loans over the costs of the CMBS transaction (these costs would typically include the interest payable on the CMBS notes and some level of expenses for the CMBS transaction); or

(ii) A proportion of the loan margin, which is paid outside the CMBS structure (resulting in a reduction in the amount of interest that is actually payable to the CMBS issuer).

- A summary example of a Class X Note formula is set forth below:

“**Class X Interest Amount**” for any period is equal to Loan Interest minus Bond Costs, with

“**Loan Interest**” for any period is equal to interest that has accrued or should have accrued on the loan for such period at its margin; and

“**Bond Costs**” for any period is equal to the aggregate of: (a) certain specified costs of the CMBS transaction; and (b) the aggregate of interest accrued on the notes at their respective margins.

- Other forms of Revenue Extraction can be calculated in a number of different ways, which can include the following:
 - **Two-Waterfall Structure:** As interest is received on a loan, a specified amount of interest is retained as an excess amount of interest and paid to the beneficiary of the Revenue Extraction. The remaining amount of collections on the loan are then paid to the CMBS issuer and deposited into a collection account, which is then distributed to pay expenses,

interest and principal on the CMBS notes. This structure results in Revenue Extraction being stripped from the loan outside of the CMBS structure.

- **Single Waterfall Structure:** All amounts collected on the loan are paid to the CMBS issuer and deposited into a collection account which is distributed in a specified priority to pay expenses, interest, principal and the Revenue Extraction from a single waterfall.

2.2 Revenue Extraction Disclosure

- The Offering Circular should contain clear and concise disclosure that sets forth the existence and nature of any Revenue Extraction structure, how it is calculated and whether it is to be retained by the originating bank, servicer/special servicer or the borrower or their affiliates.
- This disclosure should be made regardless of whether the Revenue Extraction is stripped from within the CMBS structure or outside of the CMBS structure at the loan level or otherwise.
- Further, the disclosure in the Offering Circular should provide the following:
 - (i) **Expenses:** There should be clear details as to which expenses will or will not be effectively absorbed by the Revenue Extraction. This

should result in a clear list of items that will be deducted or not deducted in the calculation for the Revenue Extraction from the cash flow.

- (ii) **Conflicts of Interest:** There should be clear disclosure as to any conflicts of interest with respect to the Revenue Extraction at issuance, including, in particular, as to whether the servicer/special servicer or any of its affiliates or the borrower is to be the owner of the Revenue Extraction.
 - (iii) **Priority of Payments:** There should be precise disclosure as to what payments are made to the Revenue Extraction, or effectively paid, senior or subordinate to payments due on the other CMBS notes.
 - (iv) **Liquidity Facility/Servicer Advances:** There should be clear disclosure as to whether the liquidity facility drawings or servicer advances can be used to support Revenue Extraction.
- The ongoing noteholder reporting for any CMBS transaction should clearly set forth the full breakdown of the various components of the calculation for the Revenue Extraction and provide precise amounts for its various components, such as the available cash flow, expenses and other components of such calculation.



2.3 Structural Recommendations

The Revenue Extraction should clearly be structured to take into account the following:

- **Default Rate Interest:** The Revenue Extraction should not increase in its calculated payment solely as a result of interest accruing at the default rate. The portion of interest payable to the beneficiary of the Revenue Extraction should be limited to interest accrued at the standard rate for the loans (and should exclude any interest that accrues at the default rate).
- **Modified Interest:** The Revenue Extraction should not increase in its calculated payment solely as a result

of an increase in margin that is the result of any restructuring of the loan. Again, the portion of the calculation of such amounts that relate to the amount of interest earned on the loan(s) should be limited to the interest accrued at its original interest rate (and exclude any increase in interest or margin that occurs after the initial issuance of the CMBS transaction to the extent that any such increase is the result of a subsequent modification or restructuring of the mortgage loan(s)).

- **Maturity Date:** The Revenue Extraction should not be entitled to receive any portion of interest earned on a mortgage loan after its original stated maturity (or its extended maturity date, solely to the extent that such extension is a result of application of an extension option that is contained in the original loan documentation at the time of the initial issuance of the CMBS transaction).
- **Loan Default:** The impact of a loan default on Revenue Extraction should be determined on a transaction by transaction basis and be fully disclosed and the CMBS issuance priced accordingly. Various options can be considered, including:
 - the recipient of the Revenue Extraction should not be entitled to receive interest upon the occurrence of specified defaults on a loan or
 - loan defaults should not have any impact on the Revenue Extraction until a loss on the loan is crystallised at which point the Revenue Extraction should be adjusted accordingly based upon that loss.

To the extent that the CMBS transaction receives any excess amounts on any mortgage loan as a result of the Revenue Extraction not receiving payments, pursuant to the guidance set forth above, such excess amounts should only be paid to the holder of the Revenue Extraction after all of the CMBS notes (other than any notes forming part of the Revenue Extraction) have been repaid in full. In the meantime these excess amounts can be applied in a number of different ways,

which should be determined on a transaction by transaction basis, which can include any of the following:

- Repayment of the most senior notes outstanding;
- Payment toward any outstanding shortfalls of any interest on the notes, prior to, and instead of, the utilisation of any liquidity facility advance or servicer advance that would otherwise have been applicable toward such shortfall; or
- The build-up of a reserve fund which can be applied to cover principal losses on the notes.

Any surplus residual cash amounts that may exist after all the CMBS notes (other than any notes forming part of the Revenue Extraction) have been paid in full as a result of the application of these excess amounts may be paid to the beneficiary of the Revenue Extraction.

Part 3: Investor Identification and Investor Forum

3.1 Introduction

The clearing systems should be encouraged to devise and implement a more efficient mechanism for noteholders to be identified so that interested parties may communicate with them in relation to their holdings. Pending the introduction of such a mechanism, a noteholder forum (the “**Forum**”) should be encouraged on a transaction by transaction basis as an interim measure to facilitate the identification of and communications between noteholders. The participating noteholders would be primarily responsible for the operation of any meetings and subsequent actions undertaken by the Forum.

The operation of the Forum is to facilitate informal noteholder communication and is not intended to replace the existing formal mechanisms in place with the clearing systems for noteholder communications or noteholder resolutions.

3.2 Identification

- A “**Forum Coordinator**” should be appointed in connection with the issuance of the CMBS notes. The

Forum Coordinator will have those responsibilities set forth in this section. The Forum Coordinator should be an entity with experience of interacting with and/or representing noteholders or they should be the party that manages the relevant investor reporting website (typically the cash manager, but in a standalone role).

- On the issue date of each transaction, the lead manager(s) should provide the Forum Coordinator with a list of the initial investors which would form the basis of the Forum.
- Noteholders should be invited to identify themselves to the Forum Coordinator. Only the Forum Coordinator can use this information to contact noteholders for the purposes of the Forum. Noteholders should be made aware that if they do not identify themselves, they will not be able to receive notices through the Forum and will instead have to rely on methods such as RIS notices, the clearing systems and Bloomberg.
- In order to prevent any conflicts of interests, the Forum Coordinator will be prohibited from taking on any advisory or other role relating to the CMBS transaction (other than purely administrative service functions such as cash manager or calculation agent).
- Borrowers, lenders and transaction counterparties should (promptly upon becoming aware) disclose to the Forum Coordinator holdings of notes in excess of three per cent. of the principal amount outstanding of any class (held by them directly or through affiliates or related entities). This information would only be made available to the Forum Coordinator, the cash manager and trustee. This disclosure principle would exclude holdings held by such party’s affiliates, related entities or other internal departments which are separately operated and managed and which have established procedures and protocols for the implementation of information barriers to prevent the flow of information between such parties and their affiliates, related entities or other departments.

- The Offering Circular should contain full descriptions of the mechanism for the appointment and responsibilities of the Forum Coordinator (both in the risk factors/investment considerations section and in the terms and conditions of the notes) and explain that there can be no assurance of the completeness or accuracy of the information maintained by the Forum Coordinator. The Offering Circular should also attempt to identify risks to noteholders of participating or not participating in the Forum.

3.3 Website

- The investor reporting website¹ for each transaction should require each person logging-on to certify whether they are a noteholder. All parties that identify themselves as a noteholder should be requested to:
 - Provide one or more email addresses at which they can be contacted;
 - Either (a) certify that they are not affiliated to the borrower or any other noteholder or lender in the transaction or (b) disclose the fact that they are affiliated to the borrower or a noteholder or lender but operate with appropriate Chinese walls in place; and
 - Specify which class or classes of notes they hold (but not the amount of their holding).

Any noteholder who validly completes this certification will be considered a member of the Forum for the transaction.

- Any noteholder not logging on to the investor reporting website for an agreed period of time will be sent a notice by email by the Forum Coordinator stating that unless they log on within two weeks they will be removed from the records and cease to be a member of the Forum.

3.4 Communications

- All notices to noteholders from any transaction party will be sent through

the Forum in addition to any other means of communication required in the terms and conditions of the notes.

- Subject to meeting the requirements for the form of the notice, any noteholder that is a member of the Forum or any transaction party (including the issuer, cash manager, trustee, servicer and special servicer) will have the right to request the Forum Coordinator to send a notice on its behalf to the other members of the Forum. The Forum Coordinator should be obliged to send notices as quickly as is practically possible.
- The Forum Coordinator should post such notices to the website and send them by email to the Forum members (or to Forum members holding particular classes of notes) as well as through the other communication methods sanctioned by the transaction in question. Notices should also be forwarded to the issuer for publication on the RIS system of the stock exchange on which the notes are listed.
- Such notices should²:
 - Have a short title which should seek to explain the subject matter of the notice;
 - Advise noteholders that they may suffer losses (and the Forum Coordinator, cash manager, trustee, servicer and special servicer will not be responsible for the same) if they ignore such notices;
 - Invite other Forum members to attend a meeting, conference call or website with appropriate details of the same;
 - Set out a short description of the purpose of the same;
 - Confirm that any discussions with other noteholders will commence with confirmation by the party initiating the discussions (or their advisers) as to whether any “price sensitive information” is expected to be

disclosed and any proposed mechanism for “cleansing” the same following which any noteholders not wishing to receive such information will be given the opportunity to retire from the discussion;

- Contain a warning to noteholders participating in the discussions that they will be responsible for any “price sensitive information” they may disclose to any other noteholders;
- Be in such format or formats as are compatible with systems maintained by the stock exchange on which the notes are listed and the relevant clearing systems; and
- In all other aspects comply with the International Central Securities Depository standards.

- No notice may contain a statement of opinion on the CMBS transaction, any transaction parties or otherwise. The Forum Coordinator will be instructed not to disseminate any notice containing a statement of opinion.
- Once the notice has been sent, the Forum Coordinator will have no further role in relation to the subject matter of the notice (unless requested by noteholders and if the Forum Coordinator is willing to do so) and it will be for the relevant noteholders to make the necessary arrangements.
- Prior to a meeting or conference call being held, any participating noteholder holding at least 10% of all the notes or the relevant class, as the case may be, may ask the Forum Coordinator to request proof of holdings from the other participating noteholders to ensure they hold a position in the underlying transaction. The Forum Coordinator will not be required to disclose the note amount or which class of notes any participating noteholder owns.

¹ Where the website for a particular transaction is not capable of being used in this way, alternative arrangements should be made

² Care will be needed to ensure that the content is not price sensitive, defamatory or otherwise problematic. The Forum Coordinator will have the right to decline to send out any notice the content of which it determines (in its sole discretion) to be problematic

3.5 Protective Provisions

- Forum Coordinators should be afforded the benefit of protective provisions in the CMBS transaction documents that would relieve them from any responsibility for the accuracy or completeness of information provided to them for the purposes of the Forum by any person, the contents of any such notice or the failure of any notice to reach any noteholder.
- Forum Coordinators will not be responsible for the release of any price sensitive information by participating noteholders or responsible for cleansing any such price sensitive information.
- Forum Coordinators should be entitled to charge an agreed fee for their work in establishing and maintaining Forums and be paid senior out of the CMBS transaction waterfall as with other transaction counterparties.

Part 4: Servicing, Transaction Counterparties and Controlling Party Rights

4.1 Servicer and Special Servicer Considerations

4.1.1 Servicing Standard

- The servicing standard should include a duty to maximise recoveries at the loan level on a present value basis taking into account the interests of the CMBS noteholders (or all the lenders if they also service junior debt) as a collective whole as opposed to any individual tranche (other than taking into account subordination).
- The interests of the Revenue Extraction holders should not be considered when analysing the maximisation of recoveries.
- The servicer and special servicer should have consistent principles for the evaluation of any discount rate to be applied for any “present value” calculation.
- The calculation of the maximisation of recoveries should take into account any hedge termination payments that reduce or increase the level of

recoveries at loan level but should not include the impact of liquidity facility drawings, servicer advances, sequential payment triggers or similar note level mechanics.

- Whilst the servicer or special servicer need not take into account such note level facilities or mechanisms in determining and applying their strategy under the servicing standard, they should be open to hearing representations from noteholders on the impact of the servicer’s proposed strategy on note level facilities or mechanisms.

4.1.2 Appointment, Function and Fees of Primary and Special Servicer

- A special servicer should always be appointed on the closing date and should become active, automatically, upon the occurrence of prescribed transfer events (“**Servicing Transfer Events**”). A Servicing Transfer Event would typically occur when there is a failure to pay, insolvency event, enforcement or other material default.
- Depending on the nature of the transaction, careful consideration should be given to which defaults or other conditions should result in a Servicing Transfer Event. For instance, while it might be determined that triggering a Servicing Transfer Event on a breach of a conservative LTV covenant might not be in the best interest of noteholders, consideration should be given as to whether it makes sense to provide that an LTV in excess of 90% be included as a Servicing Transfer Event.
- The respective roles of the servicer and the special servicer should be clearly defined so there is no ambiguity or overlap.
- The same entity may serve as both primary servicer and special servicer provided that the documents permit for the replacement of the role of special servicer by the Controlling Party or Replacing Noteholders (as defined in section 4.2.2 below).
- The remuneration of the servicer/special servicer should be designed to ensure that it always acts

in the interests of the lenders (for whom it services) and the amount and basis of calculations of such fees should always be adequately disclosed at the outset of a transaction. All details with respect to the fees payable to the special servicer, including liquidation and workout fees should be negotiated on a deal by deal basis taking into account factors such as the size of the loan and the complexity, nature and jurisdictions of the assets.

- Any special servicer appointed by the Controlling Party or Replacing Noteholders should be required to represent prior to its appointment that it has not offered any inducement or other incentives to any Replacing Noteholder, the Controlling Party or any transaction counterparty or their advisers or representatives involved in the appointment.
- For agented CMBS transactions it would be preferable to have an independent third party servicer and special servicer appointed or designated as part of the structure at the outset.

4.1.3 Ability of Servicer/Special Servicer to Raise Capital for Essential Capex or Opex

- The servicer/special servicer should have the ability, subject to certain controls, limitations and caps, to raise additional capital (where it is not already provided for in the liquidity facility or through a servicer advance facility) to fund costs and expenses necessary to improve or preserve the value of the underlying property (e.g. payment of property protection expenses, buildings insurance, capex to reposition a property) or short term opex to avoid insolvency in less creditor friendly jurisdictions. There should be clear and detailed disclosure in the offering circular of the relevant provisions and the servicer/special servicer remains subject to the overriding servicing standard to maximise recoveries.
- Such ability to raise capital should be:
 - (i) Subject to the application of the servicing standard;

- (ii) Based on analysis that clearly demonstrates on a “present value” basis that the use and cost of the additional capital will improve recovery levels by an amount which exceeds the aggregate amount and cost of the additional capital by at least 1.25x;
- (iii) On arm’s length and market terms after an appropriate bidding process;
- (iv) Have an appropriate security structure; and
- (v) Be subject to non-petition language where appropriate.

■ The servicer or special servicer, as applicable, should determine that it would be in the better interests of the issuer, as either lender or owner of any interest in any REO property, that such amounts were raised as opposed to such amounts not being raised, taking into account the relevant circumstances, which will include, but not be limited to, the related risks that the issuer would be exposed to if such amounts were not raised and whether any such amounts would ultimately be recoverable from the obligors of the related loan.

■ Where it can be appropriately structured into the transaction at the outset the servicer should use the most efficient form of capital in accordance with the servicing standard (e.g. super senior debt, mezzanine or equity) available at the time in relation to cost, terms and ranking of repayment and return.

4.2 Controlling Party and Controlling Class

4.2.1 Determination of the Controlling Party

- Typically, a “**Controlling Party**” is appointed with respect to each loan in a CMBS transaction.
- The Controlling Party for a particular loan typically has certain rights, most notably the ability to appoint an operating adviser, the ability to



replace the special servicer and have consultation rights in relation to amendments for such loan.

- Depending upon the particular loan, the Controlling Party might be another lender (other than the issuer of the CMBS transaction) or a noteholder or noteholders in the CMBS.
- If a lender, the Controlling Party is typically the holder of the most junior loan which has a principal amount outstanding at some specified level (typically 25% of the original principal amount). It is typical for loan level Controlling Parties to have some or all of their rights subject to a Control Valuation Event (see below).
- If the Controlling Party is the portion of the loan which has been securitised, control is typically held by the most subordinate class of notes (known as the “**Controlling Class**”). However, the Controlling Class may change upon a Control Valuation Event.
- The calculation of which party is the Controlling Party should always be dynamic and based on:
 - (i) A specified valuation process; and
 - (ii) The principal amount outstanding of the relevant tranche whether reduced due to amortisation, pre-payment or write-offs.

■ Whilst precise definitions need to be drafted on a transaction basis, the following best practice principles should be considered:

- The **Controlling Class** should be the most junior ranking class of notes then outstanding which has a principal amount outstanding of at least 25% of its principal amount outstanding at origination and which is not subject to a Control Valuation Event.
- A **Control Valuation Event** should relate to the current principal amount outstanding versus the current value of the properties and is deemed to have occurred in respect of a particular tranche of the notes or the loan, as applicable, if:
 - (i) The sum of the current principal amount outstanding of the relevant class or loan and all junior ranking classes or loans

LESS

- (ii) The sum of any **Valuation Reduction Amounts** and (without duplication) any losses realised with respect to any enforcement of security in

respect of the related properties is less than 25% of the current principal amount outstanding of the relevant class or loan

- A **Valuation Reduction Amount** should equal;

- (i) The outstanding principal balance of the loan

LESS

- (ii) The excess of
 - (a) 90% of the most recent valuation (net of any prior security interests but including all reserves and similar amounts which can be used to pay the loan) above
 - (b) The sum of all unpaid interest on the loan, any prior ranking fees and expenses (including due but unpaid ground rents and insurance)

4.2.2 Controlling Party, Controlling Class, Replacement of Special Servicer and Replacing Noteholders

- The concept of a Controlling Class is appropriate but it is important that the rights of the Controlling Class are reflective of its junior position and do not unduly empower the holder(s) of a single tranche of debt.
- Accordingly, while the Controlling Class should benefit from consultation rights, a transaction should consider (based on the impact on demand for junior notes and loans) if the right to replace the special servicer should be vested solely in the Controlling Class or assigned more broadly to a wider group or class of noteholders (the “**Replacing Noteholders**”).
- Several options have been proposed to define which noteholders should constitute the Replacing Noteholders. Prevailing market conditions and the specific transaction structure should determine which approach is used. Potential options are as follows:
 - (a) A majority of the Controlling Class has positive appointment rights

but other classes, as defined by one of the options below, have a ‘negative’ veto right:

- (i) A majority of all classes (including out of the money classes), in aggregate; or
 - (ii) A majority of all in-the-money classes, in aggregate;
- (b) The Controlling Class and any group of noteholders representing at least 10% of all notes would have nomination rights to put forward a candidate for the role of special servicer. Multiple classes (determined according to options (i) and (ii) above) then vote on the basis of proposals from the candidates. Options for a voting process with multiple candidates could be:
- (i) Simple majority, with a Controlling Class ‘casting vote’ in case of insufficient quorum or failed vote;
 - (ii) Simple majority with declining quorum, eventually with the Controlling Class holding a ‘casting vote’; or
 - (iii) Quorum plus “Alternative Vote” mechanism to deal with lack of outright majority.

- The above concepts relate to the rights of the Controlling Class of Noteholders. To the extent the loan includes a junior loan that is not part of the securitisation, the rights of the Controlling Party should be considered in line with these principles.
- If any borrower or equity sponsors or any (actual or prospective) transaction counterparty (in particular a special servicer) or their affiliates acquire or otherwise control loans or notes which have Controlling Party or Controlling Class rights, the relevant holder of the loan or notes should be restricted from exercising any such rights.
- Cost of the relevant transaction counterparties incurred in replacing the special servicer should be borne by the new special servicer or the Excess Spread.

4.2.3 Conditions for Replacing a Special Servicer

- With respect to the replacement of the special servicer by the Control Party or Replacing Noteholders, the transaction documents should provide for the following:

- **No Elective Actions by Outgoing Special Servicer**

The replaced special servicer should not have the ability to prevent or limit the transfer to the new special servicer if all specified conditions for termination and replacement have been met. In particular:

- (i) the outgoing special servicer should not have any right to negotiate any further indemnities in connection with its termination and replacement; and
- (ii) the elective or voting procedure along with the satisfaction of the other replacement conditions should be sufficient action to terminate the rights and obligations of the outgoing special servicer

- **No New Servicing Agreement**

- (i) the new, replacement special servicer should not be required to execute a new servicing agreement. Instead, the process for accession by the new special servicer to the existing servicing agreement should be simple and straightforward (for example, by way of an accession deed executed solely by the replacement special servicer).
- (ii) Documents should be drafted in a manner to permit a simple accession (e.g., the representations and warranties should be drafted to permit repetition by any successor special servicer and not drafted specifically for the initial special servicer).

- **No Conditions That Could be Utilised to Prevent Transfer by Outgoing Special Servicer**

- (i) Any conditions to be met by the replacement special servicer should be clear and objective

4.2.4 Servicer/Special Servicer inter-action with the Borrower

- The servicer (and special servicer, as the case may be) should appoint a suitably qualified and experienced loan manager to each loan and the contact details of the loan manager (and any changes to the identity of such loan manager) should be notified promptly to the borrower. The loan manager should be introduced to the borrower by the originator or the arranger of the CMBS transaction as soon as practicable on a servicer being engaged on a transaction.

4.2.5 Clarity around the appointment and role of the Operating Advisor

- With respect to any transaction in which an operating advisor can be appointed by any class of noteholders, the transaction documents should clearly provide for the following:
 - (i) The documents should permit the appointment of the operating adviser without the requirement of a full noteholder meeting. A written resolution will be acceptable, provided that such a written resolution does not require a 100 per cent. noteholder vote (although a quorum of 50 per cent. and a vote of 75 per cent of such quorum would be permissible);
 - (ii) If the appointment of the operating adviser is to occur by way of a written resolution of noteholders, the voting procedure should permit the possibility of only one noteholder voting, provided such noteholder meets a minimum holding threshold;
 - (iii) The transaction documents should clearly provide that the operating adviser will not be held responsible to any party for its actions taken as operating

advisor, provided that the servicing agreement also provides for a “servicing standard override” with respect to any direction or consultation provided by the operating advisor to either the servicer or special servicer;

- (iv) There should not be any requirement for the operating advisor to accede to any of the transaction documents in order for it to exercise any of its rights; and
- (v) The documents should clearly provide that, if the operating advisor is not appointed or if the operating advisor does not provide any direction or consultation to the servicer or special servicer, that the servicer/special servicer can take any action consistent with the servicing standard without regard to any requirement to consult/receive direction from the operating advisor.

4.3 Replacement of Transaction Parties with a Pure Service Function

- If requested by more than 10% of noteholders in aggregate, a noteholder vote can take place to replace certain transaction parties without cause (including the primary servicer, the cash manager, forum coordinator, the note trustee and if appropriate mechanisms are put in place, the security trustee). A resolution to replace a transaction party may be passed if approved by more than 50% of each class of notes.

- **No Elective Actions by Outgoing Transaction Counterparty**

The replaced transaction counterparty should not have the ability to prevent or limit the transfer to the new transaction counterparty, on the basis that all specified conditions for termination and replacement have been met. In particular:

- (i) The outgoing transaction counterparty should not have any right to negotiate any

further indemnities in connection with its termination and replacement; and

- (ii) The elective or voting procedure along with the satisfaction of the other replacement conditions should be sufficient action to terminate the rights and obligations of the outgoing transaction counterparty

- **No New Agreements**

- (i) If possible, the new replacement transaction counterparty should not be required to execute a new agreement. Instead, the process for accession by the new transaction counterparty to the existing agreement should be simple and straight forward (for example, by way of an accession deed executed solely by the replacement transaction counterparty).
- (ii) Documents should be drafted in a manner to permit a simple accession (e.g. the representations and warranties should be drafted to permit repetition by any successor transaction counterparty and not drafted specifically for the initial transaction counterparty).

- **No Conditions That Could be Utilised to Prevent Transfer by Outgoing Transaction Counterparty**

Any conditions to be met by the replacement transaction counterparty should be clear and objective

- **Delivery of Certain Advice**

Certain written advice received by a transaction party during the time it is party to the transaction will be specific to the transaction and not specific to the actual transaction party. An example of this would be a security review report prepared by a law firm and delivered to a special servicer. This type of advice remains of value to the

transaction, even if the transaction party has been replaced. Therefore, every transaction party should require, when instructing advisors in the preparation of such reports or other forms of advice, that such information can be delivered to the issuer and any replacement transaction party, even if on a non-reliance basis.

4.4 Replacement of Transaction Parties with a Credit Function

- Transaction documents should detail the process for replacing parties (e.g. bank account provider, hedge counterparty, etc.) if they are downgraded or become insolvent. This should also include clear reference for who needs to manage the process and which other parties need to provide approval.

4.5 Fees, Costs and Expenses of Transaction Counterparties

- The Offering Circular should detail the ordinary fees payable to any transaction counterparty to the transaction (as set out in 1.2) and any ability to vary these fees or request additional fees on an ad-hoc basis. Ongoing investor reporting should promptly detail any additional fees invoiced by any transaction counterparty to the transaction with some brief narrative on the nature and the purpose of the work completed for the additional fees.
- The fees payable to any professional advisers out of transaction cash flows by any of the transaction counterparties including legal, financial, property/valuation or hedging should be promptly disclosed on an aggregated basis for each transaction counterparty in the ongoing quarterly investor reporting with some brief narrative on the nature and the purpose of the advice. The primary purpose of any professional advice should be to support such transaction party with respect to its obligations under the transaction (but for the avoidance of doubt should not be primarily focussed on liability issues for transaction counterparties).

- Transaction counterparties should avoid appointing affiliated entities to provide services to the transaction including financial, property/valuation, agency, LPA receivership and asset/property management unless they are suitably qualified and competitively priced. If any affiliated entities are utilised, full disclosure of this should be made together with all fees being received by the transaction counterparty and the affiliates.

4.6 Trustee Considerations

4.6.1 Action to be Taken by the Trustee

- The role of the trustee should be limited to oversight of mechanical processes and passive monitoring of prescribed objective criteria. Any such processes should be clearly laid out and defined to limit any ambiguity. CMBS transactions should be structured so that trustees are generally not required to exercise any discretion, but where trustees are asked to exercise any discretion then the trustees should have the ability to obtain appropriate expert advice including legal, accounting, financial or property advice at a reasonable cost which is charged to the transaction. The trustee should place primary reliance on the use of the expert advice to make any determination and rely on the standard market liability terms of professional advisers rather than seeking additional indemnities in addition to the standard deal level senior ranking indemnity already provided.
- The documentation should establish at the outset, whether any role of the trustee allows the trustee to request additional indemnification (and from whom).
- A trustee should only be permitted to withhold exercising discretion in the absence of an indemnification where both the reliance on expert professional advice and the standard deal indemnity are clearly insufficient in relation to the level of any potential claim they may face.

Part 5: Transaction Structural Features

5.1 Principal Payments – Definitions and Sequential Triggers

- The Offering Circular should include full disclosure of how different types of principal receipts should be allocated in all scenarios including application of both the allocated loan amounts and release premiums whether due to property sales or property refinancings.
- The transaction documents should ensure that the party responsible for determining the allocation receives all information required in order to determine how to treat the allocation of the relevant principal.
- In general, preference should be given for simple waterfalls with a limited numbers of determinations and triggers.
- Sequential payment triggers should be based on the percentage (based on the principal balance) of loans which have cumulatively entered and remain in special servicing (as opposed to separately defining the different types of loan defaults that would apply). Also, loans which are subject to the following scenarios should typically be included towards the sequential trigger threshold:
 - Loans that are subject to a material payment default after any applicable grace or cure period; and
 - Loans that reach their original maturity date (unless an extension is specifically provided for and permitted in the original loan documentation), regardless of whether a standstill or extension is agreed by all of the parties.
- The Offering Circular for a transaction should include a detailed description of the sequential payment trigger calculation. In particular, the Offering Circular should disclose whether the sequential payment trigger has the ability to “switch back”, or if once the sequential payment trigger has been breached, it is not subject to a possible cure.

- The responsibility for calculating, checking and reporting on the sequential payment trigger should be clearly allocated to a single party (either the servicer or cash manager) and reported to noteholders on a regular basis. If the sequential payment trigger is directly linked to the definition of Servicing Transfer Event, it is suggested that the servicer undertakes the role of determining whether a sequential payment trigger has occurred and providing appropriate notification to the market. The servicer should not be responsible for making any payment calculations in such instances at note level.

5.2 Interest Shortfalls on Notes

- Where an available funds cap applies to particular tranches of notes, this typically results in a shortfall of interest on those notes due to the level or order of prepayments of the underlying loans. In such situations, there should be clear disclosure of which classes of notes are potentially impacted, whether the shortfall will ever be recoverable (e.g. use of default interest) or reversible, the level of prepayments required to cause a shortfall and the identification of which loans (should they prepay early) are most likely to cause the shortfall.
- There should also be disclosure of any structural reasons why a shortfall of interest may occur on classes of notes such as the occurrence of a sequential trigger event which may lead to an increased risk of non-payment of interest on junior notes due to the weighted average cost of the notes increasing as the principal balance of the senior notes reduce over time but the loan margin remains the same.

5.3 Liquidity Facilities

- An appropriate mechanism should be considered which restricts the amount that can be drawn from the liquidity facility to pay interest on certain notes if there has been a decline in the collateral performance/value. Such a limitation on the available amounts on a liquidity facility can help to avoid a situation where liquidity drawings are

being utilised to make payment on notes that have been valued-out. This is because liquidity drawings are reimbursed in priority to all notes. Therefore, liquidity drawings can result in senior ranking liabilities being created as a result of providing liquidity for the benefit of out-of-the-money junior notes, ultimately resulting in a shortfall to senior noteholders.

- The specific trigger levels or structure for limiting liquidity facility drawings can be determined on a transaction by transaction basis with due consideration to any ratings impact. Such structures may include:
 - (i) Reducing or eliminating availability of the liquidity facility to pay interest shortfalls on any notes that have been valued out in accordance with the definition of Control Valuation Event set out above (but based on value alone and not due to the principal amount outstanding being less than 25%);
 - (ii) Reducing or eliminating availability of the liquidity facility to pay interest shortfalls on any notes which, on the basis of a calculation of estimated recovery proceeds from time to time, will likely suffer a principal loss of at least 90% of their principal amount outstanding; or
 - (iii) Reducing or eliminating the availability of the liquidity facility to pay interest shortfalls on any notes that have been written down (actually or notionally) as a result of an actual loss suffered.
 - (iv) If a Control Valuation Event or other event referred to above no longer applies then liquidity may be drawn again to pay interest shortfalls on notes that were valued out, including accrued but unpaid interest from previous interest payment dates.

- The above restriction of payments should only apply to drawings from the liquidity facility. In other words, these restrictions should not apply with respect to the actual application of interest received on the loans.

- Repayment of any drawing outstanding on the liquidity facility should be repaid from both principal and interest collections on the loans, rather than solely from interest collections.
- The maximum principal amount available under the liquidity facility on each payment date from time to time should be equal to the lower of the agreed amount as at the closing date and an agreed percentage of the aggregate principal amount outstanding of the notes subject to a floor.
- The liquidity facility should be available to make payments of senior expenses, appropriate interest rate hedging (whether at borrower or issuer level), certain tax payments, property protection expenses and certain types of essential capital expenditure or essential corporate expenditure to avoid insolvency.
- The procedure for renewing the liquidity facility should be clearly laid out in the documentation with clear responsibility allocated to a single transaction counterparty (typically the cash manager) to deal with the renewal process.
- The procedure for drawing on the liquidity facility should contemplate scenarios of operation disruption with the various transaction parties, such as the servicer. Therefore, the procedure should permit other methods to calculate and implement drawings during any such disruption (e.g., such as providing that the issuer may make a drawing in the circumstance where the cash manager or other party has failed to do so).
- The relevant provisions above would also be applicable to servicer advance facilities.

5.4 Hedging

- In general, the hedging instruments that are utilised in a CMBS transaction should be appropriate for the term, payment profile and structure of the transaction.
- To the extent possible under the relevant governing law, payments to



the hedge counterparty should be subordinated in the case of a default by the hedge counterparty or a termination event that is the result of a downgrade of the hedge counterparty.

- To the extent that the term of any hedging arrangements extends beyond loan maturity, consideration should be given to including the hedging termination costs in the calculation of any LTV or Control Valuation Event calculations.
- There should be full disclosure of the hedging details and structure pursuant to the principles in 1.3.
- There should be clarity on which transaction counterparty is responsible for managing or overseeing each specific hedging instrument at both borrower and issuer level in a CMBS transaction and dealing with any related amendments. The hedging counterparty should be duly authorised to communicate with that transaction counterparty as they may not be a party to the relevant hedging documentation.

5.5 Note Maturity

The CMBS transaction documents should contain adequate provisions to address what will happen if the notes are not repaid at their maturity date. The precise provision

should be determined on a transaction by transaction basis, but potential solutions may include the following;

- (i) **Note Maturity Plan:** If a loan remains outstanding twelve months prior to the final maturity date of the CMBS notes, the special servicer (if it has not already done so) should be charged with providing various options for noteholders to consider, including analysis of the optimum method of enforcement and which type of insolvency procedure to use. The transaction structure will set forth how any such proposed plan can be approved.
- (ii) **Appoint a Receiver/Administrative Receiver/Administrator (or equivalent insolvency practitioner):** If no option proposed by the special servicer receives approval by the requisite number of noteholders, the note trustee for the CMBS should be deemed to be directed by the noteholders to appoint the relevant insolvency practitioner based on the analysis of the special servicer, or, if none, its own professional advisers, in order to realise the secured assets of the issuer at such time as the security for the CMBS becomes enforceable in accordance with its terms. The note trustee should have no liability if, having used its reasonable endeavours, it is

unable to find a person who is willing to be appointed as insolvency practitioner without additional recourse back to the note trustee.

5.6 Cash Management Considerations

5.6.1 Time Lag between Loan and Note Interest Payment Dates

- A balance should be struck between minimising basis swap costs and ensuring that the time lag between the loan interest payment date and note interest payment date is long enough to ensure the smooth calculation and processing of the transaction cash flows. Suitable time periods (to be determined by the originating bank together with the relevant transaction counterparties) should be built in between the various key dates (calculation, drawdown of facilities, report production, payment dates, etc.) to avoid causing defaults in payments and delivery of information to noteholders.

5.6.2 Fee Netting Off

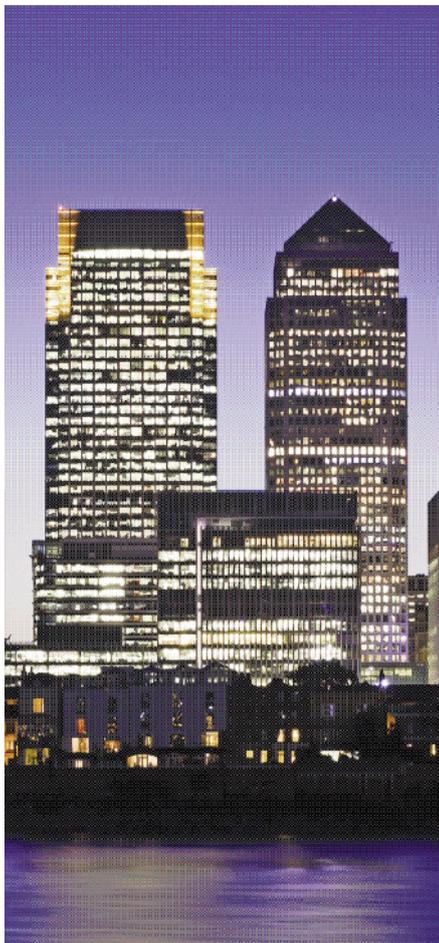
- No party should perform any netting off or similar arrangement outside of the prescribed waterfalls or the parameters of the transaction documents.

5.6.3 Cure Periods

- Consideration should be given to structuring and documenting around any potential cure periods under the terms of the loans so that such loan cure periods do not have the effect of causing unintended results with respect to potential triggers or defaults.

5.7 Asset and Property Management

- An asset manager and a property manager should be appointed with respect to any property that secures a loan in a CMBS transaction. Such managers should be reputable firms with relevant experience in managing properties of a similar nature. The terms of their appointments should be set out in separate agreements and such terms should be in line with market standards, particularly in relation to fees, termination on a material breach and the duties of the parties.



- It is recommended that should the asset management and property management be carried out by the borrower or one of its affiliates, the terms of such appointment are on an arm's length basis and can be terminated on a loan event of default occurring.
- Duty of Care agreements should be put in place, which should include the provision of termination rights to the finance parties, particularly in relation to breach of duties under the management agreements. Where possible, the finance parties should have the ability to terminate the agreements upon a loan event of default (especially if the asset manager or property manager is the borrower or one of its affiliates). If the finance parties do not have the direct ability to terminate the agreements they should, at the very least, have the ability to direct the borrower to terminate the agreements.

5.8 Frequency of Valuations

- Each transaction and underlying loan agreement should provide for full annual valuations commissioned by the servicer. However, the servicer should have the discretion to waive the provision of an annual or full valuation pursuant to the servicing standard, provided the servicer sets out the reasons for the exercise of such waiver in the next quarterly noteholder report. A valuation should always be obtained every 12 months where a loan event of default has occurred and is continuing.
- Whilst the potential identity of any valuer can be discussed with the borrower and the Controlling Party or Controlling Class the determination of which valuer to be used and the instruction letter to the valuer should only be made by the servicer or special servicer.
- If the servicer or special servicer reasonably believes that there has potentially been a material decline in the value of the underlying property it may also request an additional valuation (except within six months of the annual valuation), which should (unless an event of default has occurred) be a desktop valuation.
- Noteholders should be able to direct the servicer or the special servicer to request either a desktop valuation or a full valuation, if a valuation has not been obtained within 12 months, such direction effective upon request by 25% of the noteholders. In no case should there be more than two valuations, whether a full valuation or a desktop valuation, in any year.
- The costs of any such valuations should be borne as follows:
 - (i) The borrower should bear the costs of:
 - (a) The initial valuation at origination of the loan;
 - (b) The full annual valuation commissioned by the servicer;
 - (c) Any valuation in relation to a compulsory purchase order; and
 - (d) Any valuation obtained at any time when a default is continuing or is likely to occur as a result of the valuation;
 - (ii) The costs of any valuation not referred to in (i) above should be paid as a servicer expense as a senior item in the payment waterfall and should preferably be absorbed by the Excess Spread. The servicer should be mindful of not incurring unnecessary valuation costs and should request desktop valuations where appropriate.
- Loan-to-value testing should be dependent on the most recent full valuation.
- Transactions should disclose whether the Controlling Party has the right to ask the servicer or special servicer, if applicable, to instruct a further valuation at the respective Controlling Party's cost for the purpose of determining whether they are the Controlling Party. In these cases, the servicer or special servicer, if applicable, should retain the ultimate discretion acting reasonably as to which valuation to accept. Also, until the new valuation is obtained and tested, the transaction documents should clarify who remains as Controlling Party during the intervening period.

5.9 Less Creditor Friendly Jurisdictions

- Where properties are located in less creditor-friendly jurisdictions, the corporate structure of the borrower group and the related security structure should be designed to provide the lenders with an efficient and effective process for taking enforcement. In particular, off-shore holding companies or trust or fiduciary structures should, if possible, be put in place together with appropriate share pledges to allow enforcement proceedings to take place in creditor-friendly jurisdictions. In addition, measures should be taken to ensure that the Centre of Main Interest of the holding company will remain in the creditor-friendly jurisdiction. Further, all intercreditor

agreements with other subordinate creditors should contain release provisions in order to allow the servicer or special servicer to enforce over its security without obstruction as a result of these other subordinate debt positions.

5.10 Synthetic Securitisations

- Note that the scope of factors which affect synthetic transactions are very broad and this guideline is limited in scope.
- The servicing arrangements for synthetic CMBS securitisations should be structured to adequately protect the parties with the economic interest in the transaction, including in particular the noteholders (and, where applicable, the junior lender) as well as (if that be the case) the lender of record. The servicer should be appointed by the issuer and the note trustee (and, where applicable, the junior lender) under a servicing agreement conferring on the servicer market standard rights to agree amendments and waivers to the loan(s), rather than by the originator, so that the servicer will act in the best interest of those parties. The servicer should be required to service the loans in accordance with a servicing standard similar to that used on cash CMBS transactions. As far as possible, the servicing arrangements should be designed to closely match the arrangements used on cash CMBS and create adequate incentives for the servicer to act in the best interests of the noteholders (and, where applicable, the junior lender) without creating any conflict between the duties of the servicer and the interests of the lender of record as swap counterparty, even where the lender of record is itself performing servicing functions (whether as master servicer or delegate servicer).
- The ability of the credit default swap protection buyer (typically the lending bank) to influence any amendments or modifications to a loan and the definition of credit events in the credit default swap documentation should be fully disclosed in detail. In



particular, careful consideration should be given to the definition of restructuring event so that it also reflects the nature of restructurings that have occurred in recent years, which have primarily involved extensions where the determination of future receipts of principal or interest is not always certain.

5.11 Rating Agency Considerations

5.11.1 Rating Agency Confirmations

- Careful consideration should be given on a deal by deal basis as to which events in a transaction should require a Rating Agency Confirmation ("RAC"). Based upon recent market practice of the rating agencies, the number of scenarios which require a transaction counterparty to obtain a RAC before acting should be limited.
- However, if a RAC is deemed necessary, the transaction should provide that if the relevant rating agency either fails to provide a RAC within a specified number of days of a request being made or provides a waiver or acknowledgement stating that it will not provide a RAC, the requirement for a RAC will be deemed to be waived.

Part 6: Restructuring and Realisation Issues

6.1 Amending the Trust Documents

- The process for amending the commercial terms of the trust documents after issuance should be detailed. Trustees generally have the power to agree changes to documentation where they are of a technical or minor nature without the consent of noteholders where, in the opinion of the trustee, such changes are not materially prejudicial to the interests of noteholders. In the event of manifest errors in the documents, including conforming the issuer documents and the Offering Circular, the trustee should be authorised and directed to implement such amendment without the requirement to obtain the consent of any noteholders provided that the other relevant parties to the document are in agreement with respect to such amendment. It is not proposed that other standard processes for modifications to documentation by the trustee be changed.

6.2 The Role of the Servicer in Making Loan Amendments/Restructuring Discussions

- The servicing agreement should explicitly state that the servicer, on

behalf of the issuer, can and is expected to take such action to agree amendments to loan documentation that the servicer believes are consistent with its obligations under the servicing standard. This authority should be clearly defined so that the servicer is confident that it has the requisite power to act on a wide range of matters through engaging appropriate professional advice and organising and liaising with noteholders.

6.3 Restructuring Negotiations without the Servicer or Special Servicer

- The servicer and special servicer should be informed of any meetings between the borrower and noteholders and preferably should have the right (but not the obligation) to attend such meetings. The borrower should have the right to meet with the noteholders without the servicer or special servicer, as applicable, being present, if the servicer does not confirm attendance within a reasonable time frame.

6.4 Ability of Servicer and Borrower to Enter into Open Discussions

- Historically, facility agreements have stated that there will be an event of default if the borrower “commences discussions with one or more of its creditors with a view to rescheduling any of its indebtedness”. Such language can inhibit discussions between a borrower and a servicer as to potential restructuring strategies.
- Borrowers should approach the servicer in advance of any discussions and request a waiver of this clause in order to have an open dialogue. The servicing agreement should clearly permit the servicer to waive such a provision in advance of such discussions or allow for “without prejudice” discussions to take place.

6.5 Realisation of Security

- The transaction documents should contain adequate provisions to permit the possibility for a loan sale or the holding of REO Property (rather than solely focusing on loan enforcement). In either situation, where and when

appropriate, the servicer or special servicer should explain to noteholders the rationale for the preferred strategy instead of other conventional methods of realisation.

(i) Sale of Loan

The servicer or special servicer, as applicable, should have the ability to sell a loan on behalf of the issuer if they determine that such action would be consistent with the applicable servicing standard. The relevant transaction documents for the CMBS should address the following:

(a) No Restrictive Covenants of the Issuer:

The negative covenants of the issuer will need to permit the potential sale of the loan;

(b) Sales for Less Than Par:

The servicer or special servicer should be permitted to sell a loan for less than its outstanding amount, provided that it has determined that the sale of the loan would be the optimal realisation method after considering the estimated proceeds for all other potential methods of realisation along with the risks, timing and costs with respect to such other methods;

(c) Sales to Interested Persons:

Sales of a loan to an entity affiliated with a servicer, special servicer or another party affiliated with any of the transaction parties should only be permitted if the note trustee has determined that certain objective criteria has been met (which can be based upon advice received from an independent advisor), such as:

- If appropriate a suitable period of public marketing has passed;
- The purchase price offered is higher than any other offer received; and
- The net proceeds exceed the value of any other

method of realisation or the other methods of realisation are viewed as “high” risk;

- (d) **Highest Offer:** The sale of the loan does not need to be for the highest offer if the servicer or special servicer, as applicable, determines that such action would be consistent with the servicing standard. An example of this situation could arise where the lower offer is for cash while the highest offer would require vendor financing from the issuer (thereby delaying the time until the issuer can obtain full realisation of the offer price).

(ii) REO Property

The special servicer should have the authority, on behalf of the issuer, to acquire or take control over the property that is security for a loan, if it determines that such action would be consistent with the servicing standard. The relevant transaction documents for the CMBS should address the following:

- (a) **No Restrictive Covenants of the Issuer:** The negative covenants of the issuer should not contain any restrictions on the issuer holding an interest in any Property;

- (b) **Risks Related to Property Ownership:** In making its determination as to whether it would be in the best interest of the transaction to acquire or take control over the property, the special servicer should consider all potential risks and liabilities to the issuer with respect to such action and should attempt to structure such acquisition in a manner to eliminate or limit such risks and liabilities. The risks and liabilities to be considered should include the tax implications for the CMBS issuer to hold an interest in property instead of a debt instrument;

(c) Management of REO

Property: The transaction documents should create clear authority for the special servicer to arrange for the management of such REO Property. Management of the REO Property should be arranged in a manner designed to maximise the net after-tax proceeds from the REO Property;

(d) Sale of REO Property: The acquisition of an REO Property should be coupled with the goal to achieve a quick disposition of the property. The transaction documents may contain a time period for sale, as long as such time period is reasonable (e.g., three years upon acquisition of the REO Property). In any event, such REO Property should be sold prior to the final maturity date of the notes. The sale procedure for an REO Property should be similar to the sale of any loan, as described above; and

(e) REO Loans: Upon acquisition of any REO Property, the transaction documents for the CMBS shall allocate all net after-tax proceeds from such REO Property toward interest and principal based upon the terms of the loan as they existed on the date prior to the acquisition of such REO Property. The special servicer will be required to allocate such amounts in such manner and report such allocations to the cash manager for proper distribution on the notes.

reimbursement of restructuring, enforcement and contingency costs of transaction counterparties and their professional advisers to be met by the borrower.

- The CMBS transaction documents should provide for the payment or reimbursement of restructuring or enforcement costs incurred by certain transaction parties through the revenue waterfall on a senior basis and ahead of the payment of Revenue Extraction where such costs cannot be recovered from the relevant borrowers.
- On multi-borrower CMBS transactions the transaction documentation should be clear as to the responsibility for any costs at issuer level which are not specific to a single loan (e.g. such amounts are paid from ordinary cash flow or, instead, are first paid from amounts allocable to the Excess Spread).

Part 7: Voting Issues

7.1 Disclosure of Voting Provisions

- Voting provisions, including details of quorums and whether resolutions passed by a certain tranche will be binding on others should be clearly disclosed for initial and subsequent meetings (including where adjourned). Where appropriate a voting diagram should be included.

7.2 Voting Rights: Negative Consent

- A negative consent process should be considered for certain limited matters to reduce the time taken to pass resolutions, therefore saving time and costs. In this process, a meeting of the noteholders does not take place. A formal notice detailing the resolution should be distributed simultaneously as an RIS, through the clearing systems and through other electronic mediums such as Bloomberg. The notice will contain a statement requiring noteholders to inform the note trustee in writing

within 30 calendar days if they object to such a resolution and stating that unless more than a specified percentage makes a written objection to the resolution, it will be deemed to be passed. Some suggestions for the specified percentages are 25% for an extraordinary resolution and 50% for an ordinary resolution. These specified percentages, together with the process for negative consent, must be outlined in the disclosure section of the offering circular and in the relevant transaction documents.

- A negative consent process should only be used for technical or administrative matters by the transaction counterparties or where a servicer would prefer to obtain noteholder input with respect to a difficult issue. The process should not be used as a default method for a servicer to obtain consent from noteholders. These limitations should be clearly defined in the servicing agreement and the trust deed.
- The following matters should not be decided by negative consent:
 - (i) Basic Terms Modifications³;
 - (ii) Waiver of a note event of default;
 - (iii) Acceleration of the notes;
 - (iv) Enforcement of the issuer security; and
 - (v) Loan maturity extensions.

7.3 Voting Rights of Connected Parties

- If any borrower or equity sponsors or any actual/prospective transaction counterparty or their affiliates acquire or otherwise control notes, the relevant holder of the notes should be prohibited from exercising any voting rights or attending any meeting of the noteholders. In the case of an actual or prospective transaction counterparty the same should apply where the subject matter of the vote or meeting relates to their current or prospective appointment.

6.6 Restructuring and Enforcement Costs of CMBS Parties

- The underlying loan facility agreements should provide for a borrower indemnity in relation to the

³ Basic Terms Modifications shall include any modifications to the following; note maturity date, interest payment dates, interest rates, principal payment amounts and schedule, interest and principal priority of payments, security package, currency of payment, the definition of a Basic Terms Modification and the majority needed to pass an extraordinary resolution. A Basic Terms Modification should not include any amendment, waiver of a loan that is permitted by the servicer or special servicer according to the terms of the servicing agreement

Appendix 1

List of certain participant firms in the CMBS 2.0 Committee

- Allen & Overy LLP
- Bank of America Merrill Lynch
- Barclays
- Benson Elliot
- Berwin Leighton Paisner LLP
- Brookland Partners LLP
- Cairn Capital
- Capita Asset Services
- Capita Fiduciary
- CBRE Limited
- Chalkhill Partners LLP
- Clifford Chance LLP
- Cordea Savills
- Deutsche Bank AG, London
- Deutsche Trustee Company Limited
- Eurohypo AG
- European Credit Management
- Hatfield Philips International
- HSBC Bank Plc
- J.P. Morgan
- Lloyds Banking Group
- M&G Investment Management
- Neuberger Berman Europe Ltd
- Paul Hastings (Europe) LLP
- Realstar Group
- Reed Smith
- Rothschild
- Sidley Austin LLP

Appendix 2

Base Case

Pre Issuance Disclosure

Loan, Property and Note Information

The CRE Finance Council takes no responsibility for the following material which has been produced by a third party and is reproduced here for the purpose of reference only. The tables set out in this Appendix contain terms and concepts, the meaning and application of which may vary considerably in particular transactions. Care should be taken when using this Appendix to disclose and explain transaction-specific features which affect the meanings or applications of the same.

Loan Information

	Senior	Junior	Mezzanine/Other
Borrower	[•]	[•]	[•]
Borrower domicile	[•]	[•]	[•]
Sponsor(s) / Guarantors	[•]	[•]	[•]
Loan Purpose	[•]	[•]	[•]
Origination Date	[•]	[•]	[•]
Maturity Date	[•]	[•]	[•]
Cut-Off Date	[•]	[•]	[•]
Remaining Term	[•]	[•]	[•]
Extension Option(s) ^{*Conditions}	[•]	[•]	[•]
Interest Payment Dates	[•] [Jan, Apr, Jul, Oct]	[•]	[•]
Original Loan Balance	[•]	[•]	[•]
Cut-Off Date Balance	[•]	[•]	[•]
Undrawn Balance (e.g. Capex) ^{*Conditions}	[•]	[•]	[•]
Expected Maturity Balance	[•]	[•]	[•]
Amortisation Type	[•]	[•]	[•]
Currency	[•]	[•]	[•]
Interest Rate Type	[•]	[•]	[•]
Hedging Type	[•]	[•]	[•]
Hedging Maturity	[•]	[•]	[•]
Hedge / Swap / Cap Rate	[•]	[•]	[•]
Margin	[•]	[•]	[•]
Cut-off All in Rate / Fixed Rate Coupon	[•]	[•]	[•]
Day Count Basis	[•]	[•]	[•]

	Senior	Junior	Mezzanine/Other
Origination LTV	[•]	[•]	[•]
Cut-Off LTV	[•]	[•]	[•]
LTV Covenant	[•]	[•]	[•]
Cut-Off Debt Yield	[•]	[•]	[•]
Origination ICR / DSCR	[•] / [•]	[•] / [•]	[•] / [•]
Cut-Off ICR / DSCR	[•] / [•]	[•] / [•]	[•] / [•]
ICR / DSCR Covenant	[•] / [•]	[•] / [•]	[•] / [•]
Other Financial Covenant ^{*Comment}	[•]	[•]	[•]
Call Protection / Prepayment Penalty	[•]	[•]	[•]
Substitution / Disposal ^{*Conditions}	[•]	[•]	[•]
Disposals Release Premium ^{*Conditions}	[•]	[•]	[•]
Cash flow Control			
■ Lockbox	[•]	[•]	[•]
■ Cash Sweep ^{*Conditions}	[•]	[•]	[•]
■ Cash Trap ^{*Conditions}	[•]	[•]	[•]
■ Dividend Trap ^{*Conditions}	[•]	[•]	[•]
Reserves / Escrow Accounts ^{*Conditions}	[•]	[•]	[•]
Primary Loan Security	Mortgage Pledged Rent Account Assigned Property Insurance [•]	[•]	[•]
Governing Law			
■ Loan Agreement / Intercreditor	[•]	[•]	[•]
■ Security Agreement	[•]	[•]	[•]

In addition the above data items should also be disclosed in respect of debt which ranks pari-passu or super senior to the CMBS (in the case of multiple super senior debt facilities summary aggregate portfolio information may be provided).

Property Information

Single Assets/Portfolio	[•]
Main Property Type(s)	[•]
Location	[•]
Tenure	[•]
Leasehold maturity (term) and annual rent	[•] / [•] p.a. [•]
Year Built / Refurbished	[•]
Total Net Lettable Area	[•] sq. ft./sqm.
Property Grading	[•]
Number of Leases / Number of Tenants	[•] / [•]
Weighted Average Lease Term (Years) to First Break/Expiry	[•]
Economic Occupancy (weighted average by ERV)	[•]
Physical Occupancy (by Area)	[•]
Total Gross Rental Income p.a.	[•]
Net Operating Income p.a.	[•]
Valuer	[•]
Valuation Date / Cut off Date	[•] / [•]
Estimated Rental Value p.a. (ERV per sq ft / sqm)	[•] ([•] per sq.ft./sqm) [•]
Appraised Value	[•]
Vacant Possession Value	[•]
Gross Yield / Net Initial Yield	[•] / [•]
Total Cost (if acquisition financing)	[•]
Property Management	[•]
Asset Management	[•]

Top 5 Commercial Tenants	NLA	Gross Rent p.a.	% Total Gross Rent	Rent Review Type	Next Rent Review Date	Weighted Average Lease Expiry Date	Weighted Average Next Break Date
[•]	[•]	[•]	[•]	[•]	[•]	[•]	[•]
[•]	[•]	[•]	[•]	[•]	[•]	[•]	[•]
[•]	[•]	[•]	[•]	[•]	[•]	[•]	[•]
[•]	[•]	[•]	[•]	[•]	[•]	[•]	[•]
[•]	[•]	[•]	[•]	[•]	[•]	[•]	[•]
[•]	[•]	[•]	[•]	[•]	[•]	[•]	[•]
All Tenants	[•]	[•]	100%				

Notes & Reporting Information

To include for example:

Class

Initial Principal Amount

Issue Price

Interest Reference Rate

Margin

ISIN

CUSIP

Rating

Expected Maturity Date

Final Maturity Date

Expected Average Life

Day Count

Business Day Convention

Denomination

Note interest Payment Dates

First Note Interest Payment Date

CRD II Retained Amount and Method (If Applicable)

Loan Interest Payment Dates

Collection Period

Calculation/Determination Date

Investor Reporting and Data Provision Dates

Investor Reporting Websites

Appendix 3

Post Issuance Disclosure

Investor Reporting

Investor reporting typically comprises loan and collateral reporting by the servicer and note level reporting by the cash manager

1. General

1.1 Transaction Details (Applicable To All Reports)

- Reporting date;
- Reporting period start;
- Reporting period end/accrual period;
- Next interest payment date;
- Transaction party contact details – names, addresses, email addresses and telephone numbers in case of queries related to both the report and the transaction generally for the servicer, special servicer, issuer, note trustee, cash manager or calculation agent; and
- Web link(s) to applicable transaction information (glossary, Offering Circular, transaction documents, valuation report(s), E-IRP data files, cash flow models).

1.2 Glossaries

Both the servicer and note level reports should contain a glossary of all definitions used in the report or make reference to the appropriate pages in the Offering Circular where such definitions can be found. Examples of terms that should be defined include, but are not restricted to:

- Default definitions (e.g. 90/180/360 days or when a borrower is classified as insolvent);
- LTVs – whether these include capitalised interest or fees. For indexed LTVs, the method used for indexing;
- ICR (interest coverage ratio), DSCR (debt service coverage ratio) including details of whether they are calculated on a backward or forward looking basis and whether rent payments from delinquent tenants are included;
- Sequential payment triggers;
- Available funds caps;
- Control Valuation Events; and
- Appraisal Reduction Amounts.

2. Servicer Reporting

Servicer reporting should incorporate the relevant Base Case data at loan and property level (as referred to in Appendix 2) in order that easy comparisons can be made between loans in the same transaction and loans in different transactions. This only encompasses base data and the requirements below are more detailed and should be adapted where appropriate to suit the relevant transaction, loan and/or property collateral.

Reporting on multi-conduit transactions should include:

- (I) Portfolio level reporting, including a summary of the aggregated loan portfolio and property characteristics and performance, with portfolio level commentary; and
- (II) Loan level reporting, including more detailed information/commentary on individual loan performance and the properties on which each loan is secured.

For single loan transactions, only certain sections of the portfolio level reporting may be pertinent (e.g. the loan summary table, portfolio redemptions, financial covenant performance tables and property summaries).

2.1 Portfolio Level Reporting

Summary Loan Portfolio Characteristics

Summary information on the loan pool should be provided, including tabular information on the following:

- Aggregate principal balance at the beginning and end of the period;
- Aggregate number of mortgage loans;
- A loan summary table setting out for each loan:
 - The original and current whole and securitised loan balances;
 - Current loan to value ratio and covenants;
 - Current interest coverage ratios and covenants;
 - Current debt service coverage ratios and covenants;
 - Amortisation type;
 - Margin and all in rate (securitised loan only);
 - Loan maturity date / remaining loan term;
 - Loan collateral country;
 - Number of properties in the loan;
 - Number of leases;
 - Property type for the overall portfolio;
 - Aggregate current/latest market value for properties in each loan;
 - Weighted average occupancy rate for each loan; and
 - Weighted average remaining lease term (to next break date)
- Portfolio loan stratification tables setting out in aggregate for the loan portfolio (by number of loans, % of number of loans in portfolio, by balance and by % of total balance)¹ : amortisation / repayment type; remaining loan term; interest rate; interest payment type;
- Portfolio property tables¹ setting out in aggregate for the property portfolio: the number of properties; portfolio net rental income; portfolio estimated rental value; current/latest portfolio market value; current/latest portfolio vacant possession value; current weighted average remaining term to break and current weighted average yield;
- Portfolio property stratification tables¹ (by current market value or net rental income and % of value/ net rental income as appropriate): Location; property type; tenure (freehold/leasehold); valuation date; remaining lease term; occupancy rate;
- Details of any other collateral / cash balances on a portfolio basis; and
- Portfolio lease maturity chart showing rent roll-off on the portfolio.

Portfolio Performance Tables

- Summary tables setting out the number and % of loans (by current balance):
 - With covenant breaches;
 - In payment default;
 - Subject to a cash sweep;
 - In special servicing;
 - On the servicer watch list; and
 - That have repaid.
- Current arrears stratification table setting out number of % (by current balance) of loans in arrears more than one month, one to three months, three to six months, greater than six months;
- Summary financial covenant performance table setting out for each loan the last quarters ICR, DCSR and LTV performance and including the covenant requirement;
- Details of loans currently on the servicer watchlist;
- Details of loans currently in special servicing; and
- Current period and cumulative defaults and losses (following any recoveries) (all by number and balance).

¹ For all stratification tables with numerical values (e.g. principal balance, lease term) the maximum, minimum and weighted average values for the given variables should also be shown with the tables

Portfolio Redemption Information

Tabular information on any redemption related events including:

- Aggregate loan collections (scheduled and unscheduled principal and interest) during the period for the portfolio;
- Details of any loan disposals or substitutions during the period, including the number and balances;
- The number, last reported market value and net rental income of any properties added to/removed from the pool during the period and the name of the loan on which the property was secured;
- Aggregate voluntary prepayments from cash and the method of allocation (pro-rata, sequential, reverse sequential);
- Application of disposal proceeds and the method of allocation;
- Release premium allocations and calculations; and
- Any other recoveries (e.g. from proceeds from enforcement, insurance, legal claims etc.) and their allocation to repayment of principal, rolled up interest, etc.).

Portfolio Commentary

The majority of commentary is anticipated to be completed at the loan level as this provides investors with the granular detail required to fully assess performance. However, relevant portfolio level commentary should be included providing up to date information to noteholders on the overall portfolio, including commentary on:

- Any significant changes to overall portfolio performance;
- Watch listed loans and events, including the reasons for transfer to the list;
- Specially serviced loans and events, including the reasons for transfer to the list; and
- Recoveries and application of proceeds on any property or loan disposals, including the application basis (i.e. pro-rata, sequential or reverse sequential as between loans).

Loan Level Reporting:

In addition to the overall portfolio reporting, servicers should report on the performance of each loan in the transaction and the associated properties.

Summary Information for Each Loan

Information relating to the loan, including:

- A summary table setting out the securitised, junior and whole loan balances at origination, currently and expected balance at maturity;
- Date of origination;
- Loan maturity date and details of any loan extensions and any conditions/hurdles relating to such extensions and any change to the loan terms following extension;
- Details of any syndication of the whole loan or parts thereof;
- Details of any hedging arrangements, including any hedge liabilities (i.e. current hedge termination costs), hedge maturity dates, swap fixed rates;
- Amortisation basis for the securitised loan;
- All in rate for the period and current securitised loan margin;
- Key covenants at the securitised and whole loan level (e.g. minimum interest cover and debt coverage ratios and maximum loan to value levels) and the definitions for such calculations per the transaction documents or references to the relevant pages of the Offering Circular;
- Tables/graphs/charts setting out at the securitised and whole loan levels:
 - The 12 month trailing interest cover and debt coverage ratios at origination and currently;
 - The forward looking 12 month interest cover and debt coverage ratios at origination and currently; and
 - The loan to value ratio (at origination, current and estimated exit).

Property/Asset Details for Each Loan

Information relating to the underlying properties and leases for the relevant Loan, including:

- A summary table setting out by property in the loan
 - The property name, location (town and country), type;
 - The property net rental income and estimated rental value;
 - The top three tenants and their % contribution to net rental income;

- Occupancy by net lettable area;
 - Original market value;
 - Current/latest market value;
 - Current/last vacant possession value;
 - Date of last valuation and name of valuer; and
 - Weighted average unexpired lease term
- Summary lease information on either (i) all leases in the loan, including top 10 leases, setting out net rental income, % of total loan rental income; all (and not just the next) break dates; rent review dates and lease expiration dates; or if practical depending on the size and granularity of the property portfolio (ii) summary lease information by property, including the top five leases in each property setting out net rental income, % of total property net rental income, lease break dates, rent review dates and lease expiration dates
 - Details of any properties added, substituted or sold in the period, including the name of the property; last reported market value; date of addition or sale; % of last market value; and where such information is not confidential, the net disposal proceeds (for a sale);
 - Details of any material lease events (e.g. breaks, renewals, maturities etc.);
 - Lease maturity summary for the loan broken down by percentage contribution to the total number of leases;
 - Details of any additional collateral (including cash held on deposit or trapped cash);
 - Details of Controlling Party (where there is an A/B structure) or Controlling Class; and
 - Details of any Control Valuation Events that may have occurred in the period and details of the basis on which control passes from the junior loan to the securitised loan.

Copy Valuation reports should be provided as per the principles in section 1.7 of the CMBS 2.0 Market Principles

Loan and Property Level Commentary

Relevant servicer loan level commentary, providing up to date information to bondholders on individual loans, including commentary on:

- Any large variances in rental income, senior property costs paid and net collateral cash flow available to cover principal and interest;
- Action on key leases (to the extent agreed by the borrower), including exercise of tenant breaks, rent review outcomes, lease maturities, new tenants;
- Any property disposals, substitutions or additions;
- Any capital expenditure projects announced or completed;
- Any property site visits undertaken by the servicer;
- Loan covenant breaches and causes as well as any cures or remedies by the borrower or junior lender (to the extent not covered in portfolio level reporting);
- Any recovery action taken in relation to a loan, including enforcement/foreclosure, loan sale(s) and restructurings/work-outs; rationale for selecting a particular recovery option over another (all to the extent publically disclosable) (this may alternatively be included in the portfolio level commentary above);
- For worked-out loans, a detailed loss determination including cost items and distribution of recoveries. Breakdown of the collateral sale proceeds, e.g. sale price, sale costs, receiver cost, special servicer costs (special/work out/liquidation fees), legal costs, and allocation of the net sales proceeds in the waterfall of payment;
- Any loan extensions exercised (or exercisable) in the period or historically; and
- Any previous restructurings agreed between the finance parties.

Cash flow model inputs in the appropriate format as set out in Appendix 4 (to the extent not provided above)

3. Issuer Level (Cash Manager) Reporting

Transaction Details

In addition to the general transaction details, details of the notes should be provided, including ISINs, stock exchange listing, CRD II retained amount and method of retention (if applicable).

Issuer Loan / Asset Details

Summary information on the loan pool, including tabular information on the following:

- Aggregate number of loans;
- Summary table(s) setting out by securitised loan and in aggregate for the issuer (on a weighted average basis) and showing the % by balance and number of:
 - The original, period start and end loan balance;
 - Current margin and all in rate; and
 - Loan maturity date / remaining loan term;
- Details of any other collateral / cash balances on a portfolio basis; and
- Details of applicable exchange rates.

Cash Reconciliation and Portfolio Performance

Issuer cash reconciliation (i.e. cash flow sources and application of waterfalls) including:

- Issuer receipts / sources, including:
 - Interest and principal collections on the securitised loan (by type of collection, e.g. available interest receipts, principal recovery funds, prepayment redemption funds, final redemption funds etc.);
 - Net hedge payments /receipts;
 - Interest on issuer accounts;
 - Other cash receipts; and
 - Liquidity facility drawings;
- Issuer payments / uses, including:
 - Liquidity facility repayments;
 - Issuer costs;
 - Note interest payments;
 - Note principal payments; and
 - The various components of the calculation for the Revenue Extraction and precise amounts for its various components, such as the available cash flow, expenses and other components of such calculation
- A list of all pertinent ledgers (e.g. current and cumulative appraisal reduction amount, prepayment penalty allocation), transaction accounts, liquidity facilities and servicer advances, showing their opening balances, any aggregated debits/credits for each period, targeted values and closing balances;
- For any accounts from which eligible investments are made, the balance of investments in each of the eligible investment classes as opposed to cash, for example: sovereigns, own name securities, RMBS, ABS, commercial paper;
- A summary table setting out the number and % (by current loan balance) of loans which have repaid;
- Details of any loan interest shortfalls;
- List of all material triggers/events referred to in the Offering Circular, such as counterparty-related triggers, performance triggers, issuer events of default and available funds caps, and in particular sequential payment triggers (as per the glossary above). This should include a brief summary of the consequences if it is breached (referring to the Offering Circular for details if appropriate), and the current status of the trigger/event;
- Details of issuer level fees and costs in the period including transaction counterparties; and professional advisers as recommended in the CMBS 2.0 Market Principles; and
- Details of the Controlling Class.

Loan Redemption Information

Information on any securitised loan redemption related events including:

- Loan collections (scheduled and unscheduled principal and interest) during the period;
- Application of any voluntary prepayments on the securitised loan and the method of allocation to the notes (pro-rata, sequential, reverse sequential);
- Application of any mandatory prepayments on the securitised loan and the method of allocation to the notes (pro-rata, sequential, reverse sequential); and
- A clear statement of which priority of payments is being applied in the current period.

Note Distribution and Rating Information

- Summary table(s) setting out by each class of note (including the Class X Note) and in aggregate for the issuer:
 - Note class and ISIN;
 - Current period coupon rate and any step up coupon and step up date;
 - Original, period start and end loan balance;
 - Currency
 - Current period principal distribution;
 - Current period interest distribution;
 - Current pool factor;
 - Any principal deficiency amounts or losses on the notes;
 - The original and current rating of the notes;
 - Expected maturity date and legal final maturity date; and
 - The credit enhancement and liquidity support derived from different supporting components (e.g. note subordination, over-collateralisation and reserve funds).
- The identity of any specific carve out classes such as securitised interest-only classes and their method of payment (i.e. based upon what is due or what is received), residual class notes and any class of notes which are backed by different security to the rest of the CMBS capital structure (e.g. class V) including details of such different security and any subordinated loans which have a junior lien on the CMBS assets.

Counterparty Information and Their Ratings

- List of all key parties and their current ratings (both short-term and long-term) together with any related trigger levels
- Examples of counterparties to be included are: issuer; servicer; cash manager; account bank(s); guaranteed investment contract provider(s); liquidity facility provider(s); master servicer; special servicer; hedge provider(s) and any related back-up/standby providers; and
- Details of any hedging, including: counterparty and notional, applicable rates, payments made/received, any collateral postings.

Conflicts of Interest of Transaction Counterparties

- Details of any declared conflicts of interest of a transaction counterparty to the transaction.

Issuer Level Commentary

Appropriate Issuer level commentary including commentary on:

- Any liquidity facility drawings in the period;
- Any sequential payment mechanism triggers in the period;
- The application of any available funds caps, deferred interest or similar interest shortfall mechanisms; and
- Details of any rating actions.

Cash Flow Model Inputs in the appropriate format as set out in Appendix 4 (if not already provided above)

Appendix 4

Pre and Post Issuance Disclosure

Issuer Waterfall Cash Flow Model Functionality and Inputs

1 General

1. Access to the model should preferably be free to all end-users.
2. The Cash flow model may be provided in a variety of formats (e.g. website-hosted, downloadable program or spreadsheet).
3. The model should enable the end-user to input key data from a pre-configured table of inputs and output results using a recognisable spreadsheet format (e.g. .csv, .xls or .xlsx) for the relevant notes to their legal final maturity date. The results of the model should be capable of being retained or recorded by the end-user.
4. Whilst inputs and outputs are bespoke to each transaction, at a minimum the inputs should cover asset specific (e.g., principal and interest received, delinquencies and defaults), liability specific (e.g., note balances, trigger breaches) and sundry factors (e.g., interest and exchange rates). The output of the cash flow model should clearly show the items such as the waterfall payments, the account balances, the note balances etc. for the life of the transaction.
5. The model should incorporate all the static features of the transaction (e.g., note interest margins, waterfall mechanisms, costs and fees of the transaction service providers, liquidity facility commitment amounts, and any appraisal reduction mechanism etc.).
6. The model itself will be required to be updated should there be any changes to the structure which may impact the cash flows. For example, updates to the model would not be required to reflect the amortisation of notes (note balances should be an input to the model) or to reflect certain transaction features that may have occurred (e.g., the breach of a given trigger, liquidity facility standby drawing) facility for which should already have been incorporated into the model structure. Updates will be required if there are changes which impact core structural elements (e.g. issuance of tap notes, any amendments which affect the waterfall, changes to the liquidity facility structure or hedging structure).
7. The provider of the model may have reasonable legal liability disclaimers on the cash flow models.
8. Calculations being undertaken in the model should be transparent to the user (either in the model or through separate notes). The provider of the model should accompany the model with guidance notes, including instructions, assumptions made and further information as well as setting out in clear detail how the model operates.

2 Model Inputs and Outputs

All models should include the following example inputs and outputs where relevant to a given transaction. This list is not intended to be exhaustive and is provided as a guide only.

2.1 Model Inputs

Inputs can be classified generally as:

- **Current Inputs:** Any inputs reflecting the current status of the transaction at the outset and on a quarterly basis, e.g., note balances, note margins, loan portfolio balance, current liquidity facility drawing amount, balances of issuer level accounts and ledgers, fixed inputs required to calculate aggregate issuer costs and expenses and details of any triggers that have been activated or deactivated
- **Projected Inputs:** Any inputs comprising future assumptions for each period of the cash flow run required to operate the cash flow model to project future cash flows to the maturity of the notes, e.g., projected principal amounts to be applied to the waterfall, projected revenue amounts to be applied to the waterfall, future LIBOR or exchange rates, future occurrence of any prepayments, stress events, trigger breaches, etc.
- The quarterly investor reporting should provide the input values for all the Current Inputs required by any end-user to operate the cash flow model.
- The input values for the Projected Inputs should be determined and entered by the end-user. The loan portfolio model, if provided, will facilitate with the generation of certain of the Projected Inputs for the end-user.
- **Transaction related Inputs**
 - Opening Balances; portfolio, outstanding notes, cash/account balances, ledgers, liquidity facility (currency) commitment and drawn amounts
 - Starting GIC / cash balances – reserve fund, accumulation (currency)
 - Inputs related to all the third party costs and expenses of the issuer

■ **Economic Variables**

- Interest rate (e.g. 3M LIBOR rate) (% per period)
- Currency exchange rates (e.g. £/\$ or £/€ per period)

■ **Cash Flows**

- Underlying portfolio balances (currency per period)
- Principal & revenue received by the issuer from the underlying collateral (currency per period). The model should provide facility for separate lines of inputs for different items of the principal and revenue streams if these different items are applied to the issuer's waterfall differently (e.g. principal receipts from different loan buckets may be applied differently to note amortisation, prepayment fees on the loans may be applied in a different manner to the loan coupon and the default interest on the loans may be applied in a different manner to the regular loan coupon).
- Losses allocated (currency per period)
- Other income streams (e.g. recoveries, GIC interest etc.) in the event they are applied any differently in the waterfall (currency per period).
- If applicable to the waterfall or structure, performance variables which may influence payment rules (e.g., CPR, arrears or delinquency percentages, NAI amounts, etc.)

■ **Stress Events**

- Insolvency event or post enforcement waterfall trigger breach (Yes/No)
- Standby drawing of liquidity facility (Yes/No)
- Transaction specific trigger event dates – where such triggers may not be driven by the liabilities model (e.g., delinquency trigger breach, sequential amortisation trigger breach) (Yes/No)
- Appraisal reduction amounts (%) – any mechanisms designed to reduce servicer advances or liquidity facility draws to loans which have had their value eroded.

■ **Counterparty**

- Counterparty Downgrade (e.g. AAA, A) or Default (Yes/No) (e.g. hedge counterparty default occurring in a given period, downgrade of any other counterparties such as liquidity facility provider, GIC provider or account bank) (Yes/ No)
- Downgrade event related to key tenant if the cash flow waterfall rules change due to such downgrade (Yes/No)
- Stressed service provider fees (e.g. servicer, account bank) (ccy per month/year as applicable or as a % of the portfolio balance)

Model Outputs

- Waterfall payments (currency per period);
- Note, account and ledger balances (currency per period);
- Interest due, paid and accrued on each class of Notes (currency per period)
- Principal payments on each class of notes (currency per period)
- Weighted Average Lives (WALs) of the Notes (years)
- Hedge payments if such payments are outside the waterfall (currency per period)

Appendix 5

Post-Issuance Disclosure Notifiable Events

1. The determination by the servicer that a default has occurred;
2. The formal declaration by the servicer of an event of default;
3. The formal waiver of any default or event of default;
4. The curing of any default or event of default;
5. The appointment of a receiver or other insolvency practitioner or the commencement of insolvency proceedings in relation to any obligor;
6. A change of control in relation to any obligor (regardless of change of control covenants);
7. A change of property or asset manager (regardless of change of property or asset manager covenants);
8. Any modification to the amount or date of any payment of principal or interest due to be made by a borrower under a loan agreement;
9. Any change to a financial covenant;
10. Any change to prescribed cash flows or payment waterfalls;
11. Any other loan amendments that relate to provisions described in the Base Case;
12. Any release of a property subject to security in circumstances not expressly contemplated by the finance documents (e.g. the release of a property for less than the specified release price);
13. The instigation of any legal proceedings against any professional adviser in connection with the origination of a material loan (to include details of party against whom a claim is being made and brief details of the claim);
14. Any prepayment of more than 10 per cent of a loan;
15. The surrender of any lease affecting more than 10 per cent. of the net lettable area of all the properties securing a particular Loan;
16. A change in COMI of any obligor;
17. A failure of a major tenant;
18. The presence of a material environmental hazard at any property;
19. Any material buildings insurance claims made by the borrower in respect of a property;
20. Any compulsory purchase orders in respect of a property;
21. Change of 10% or more in the value of a property (by reference to the last publicly-available valuation figure) of which the servicer becomes aware based on professional valuations commissioned by it in the course of performing its duties including:
 - (a) New market value
 - (b) Vacant possession value
 - (c) Date of previous value
 - (d) Date of new market value
 - (e) Reduction/increase amount
 - (f) Any change in the valuer

- (g) Changes in the assumptions upon which the last valuation was prepared
 - (h) Number of properties being valued (if part of a portfolio) and also the actual property address(es)
 - (i) Any special conditions in the valuation
 - (j) Any special events occurred (such as a subordinate lender control valuation event etc.)
22. Any legal proceedings launched against the issuer in its capacity as lender;
23. Control Valuation Events;
24. Appraisal Reductions;
25. Special servicing transfer events;
26. The first liquidity facility drawing;
27. Sequential trigger switches; and
28. A loan becoming a corrected loan.

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