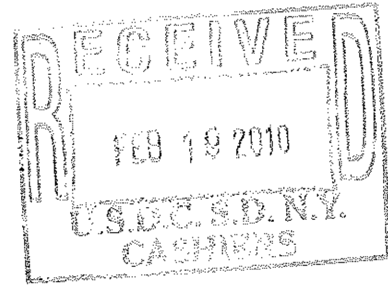

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE BEAR STEARNS MORTGAGE PASS-THROUGH CERTIFICATES LITIGATION **This Document Relates To:** All Actions	MASTER FILE NO.: 08 Civ. 8093 (LTS) (KNF) ECF CASE **CONSOLIDATED CLASS ACTION COMPLAINT**

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Plaintiffs, as defined in paragraph 1 below, allege the following upon personal knowledge as to themselves and their own acts and upon information and belief as to all other matters. Plaintiffs' information and belief is based on the investigation of their counsel. The investigation included, for example: (i) review and analysis of the offering materials for the Certificates; (ii) examination of the SEC filings, press releases and other public statements of Bear Stearns & Co., Inc. ("Bear Stearns"); (iii) review and analysis of court filings cited herein; (iv) review and analysis of media reports, congressional testimony and additional material; and (v) analysis of the Securities and Exchange Commission's Summary Report of Issues Identified in the Commission Staff's Examinations of Select Credit Rating Agencies ("SEC Report") and additional documents cited herein. Many of the facts related to Plaintiffs' allegations are known only by the Defendants named herein, or are exclusively within their custody or control. Plaintiffs believe that substantial additional evidentiary support for the allegations set forth below will be developed after a reasonable opportunity for discovery.

I. SUMMARY OF THE ACTION

1. Court-Appointed Co-Lead Plaintiffs Public Employees' Retirement System of Mississippi ("Mississippi PERS") and New Jersey Carpenters Health Fund ("New Jersey Carpenters") along with plaintiff Boilermaker Blacksmith National Pension Trust ("Boilermakers") (collectively "Plaintiffs") bring this securities class action individually, and on behalf of a class consisting of all persons or entities who purchased or otherwise acquired beneficial interests in the Certificates identified herein issued pursuant and/or traceable to Structured Asset Mortgage Investments II, Inc.'s (the "SAMI Depositor") March 10, 2006 Registration Statement and/or Bear Stearns Asset Backed Securities I, LLC's (the "Bear Stearns Depositor") March 31, 2006 Registration Statement (the "Class").

2. Plaintiffs assert claims for violations of Sections 11, 12(a)(2) and 15 of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. §§ 77k, 77l(a)(2) and 77o. Accordingly, this action involves solely strict liability and negligence claims brought pursuant to the Securities Act. The Complaint does not allege fraud on the part of any Defendant.

3. This action arises from the sale of $37.85 billion of mortgage-backed certificates ("Certificates") to Plaintiffs and the Class pursuant to the Registration Statements. The Certificates are securities entitling the holder to income payments from pools of mortgage loans and/or mortgage-backed securities ("MBS"). To facilitate the Certificates' sale, Bear Stearns formed the Depositors for the sole purpose of issuing mortgage-backed securities. The Certificates, which were based on 126,884 largely subprime mortgages, were sold in forty-two (42) Offerings completed between May 23, 2006 and September 18, 2007.

4. On March 10, 2006, the SAMI Depositor filed a Registration Statement (No. 333-132232) with the Securities and Exchange Commission ("SEC") indicating its intention to sell $50 billion in mortgage-backed certificates (the "SAMI Registration Statement"). On March 31, 2006, the Bear Stearns Depositor filed a Registration Statement (No. 333-131374) with the SEC indicating its intention to sell $50 billion in mortgage-backed certificates (the "Bear Stearns Registration Statement"). The SAMI Registration Statement and Bear Stearns Registration Statement are collectively referred to herein as the "Registration Statements." The Registration Statements, along with their accompanying Prospectus and Prospectus Supplements, are collectively referred to herein as the "Offering Documents."

5. The Certificates were supported by pools of mortgage loans that Bear Stearns originated or purchased from third-party originators. Bear Stearns owned and operated three residential mortgage loan origination subsidiaries – EMC Mortgage Corporation ("EMC"), Bear

Stearns Residential Mortgage Corporation ("Bear Stearns Mortgage Corp.") and Encore Credit Corp. ("Encore"). In addition to securitizing loans originated through its subsidiaries, Bear Stearns purchased and securitized "bulk" quantities of loans from third-party subprime lenders at auction, including Countrywide Home Loans, Inc. ("Countrywide"), American Home Mortgage ("American Home"), Ameriquest Loan Sellers (as defined below), Town & Country Credit Corporation ("T&C"), Argent Mortgage Company, LLC ("Argent"), GreenPoint Mortgage Funding, Inc. ("GreenPoint"), Aegis Mortgage Corporation ("Aegis") and Fieldstone Mortgage Corporation ("Fieldstone") (collectively, the "Originators").

6. Fundamentally, the value for pass-through certificates depends on the ability of borrowers to repay the principal and interest on the underlying loans and the adequacy of the collateral in the event of default. In this regard, rating agencies played an important role in the sale of such securities to investors. Credit rating agencies were supposed to evaluate and report on the risk associated with investment alternatives. Based on the rating agencies' purported analysis of the loan pools, the certificates received high ratings, including "triple-A," categorizing them as investment-grade securities. As alleged below, however, Defendants misrepresented the quality of the loans in the loan pools and gave unjustifiably high ratings to the Certificates

7. Defendants Moody's Investors Services, Inc. ("Moody's") and McGraw-Hill Companies, Inc. through its division, Standard & Poor's ("S&P") (collectively, the "Rating Agencies") provided ratings for the Certificates. These ratings, which were expressly included in each of the Prospectus Supplements, determined, in part, the price at which these Certificates were offered to Plaintiffs and the Class. Moody's highest investment rating is "Aaa." S&P's highest rating is "AAA." These ratings signify the highest investment-grade, and are considered

to be of the "best quality," and carry the smallest degree of investment risk. Ratings of "AA," "A," and "BBB" represent high credit quality, upper-medium credit quality and medium credit quality, respectively. These ratings are considered "investment-grade ratings." Any instrument rated lower than BBB is considered below investment-grade. As alleged below, Defendants misrepresented the quality of the underlying mortgage loan pools and assigned the Certificates unjustifiably high ratings.

8. The Certificates were marketed to institutional investors – public pension funds, banks, insurance companies, and mutual funds – who were prohibited by regulation from purchasing securities not rated "investment-grade." Accordingly, the sale of the Certificates was expressly conditioned on the Rating Agencies assigning them the highest investment-grade rating. Moody's and S&P originally assigned their highest rating of "AAA"/maximum safety to over 90%, or $34.07 billion, of the Certificates.

9. The Rating Agencies held themselves out publicly in the Offering Documents as having participated in the structuring and rating of the Certificates. Specifically, the Rating Agencies not only "rated" the Certificates, but directly participated in the creation and structuring of the Certificates. Although not disclosed to Plaintiffs and the Class, the Rating Agencies participated in the determination of which mortgage loans Bear Stearns would purchase at auction and at what price, the loans that should be included in the underlying Certificate mortgage pools and the structure of the Certificates themselves – *i.e.,* the number and kind of classes or tranches and the amount and kind of investment protections or "credit enhancement" built into the Certificates' structure. These activities – which were historically reserved for investment banking underwriters – departed substantially from the role the Rating Agencies traditionally played in financial markets.

10. The Offering Documents contained untrue statements of material fact, or omitted to state material facts necessary to make the statements therein not misleading, regarding: (1) the underwriting and appraisal standards purportedly used in connection with the origination of the underlying mortgages; (2) the true loan-to-value ratios used to qualify borrowers; (3) the amount of credit support for each Offering; (4) the description of the mortgage servicer's duties and obligations; and (5) the ratings of the Certificates.

11. The true facts that were omitted from the Offering Documents were:

- The EMC Originators and third-party Originators systematically disregarded the stated underwriting standards when issuing loans to borrowers;
- The underlying mortgages were based on collateral appraisals that overstated the value of the underlying properties;
- EMC and Bear Stearns engaged in systematic violations of the laws governing mortgage servicing and debt collection;
- The ratings stated in the Prospectus Supplements were based on outdated assumptions, relaxed ratings criteria, and inaccurate loan information - S&P's models had not been materially updated since 1999 and Moody's models had not been materially updated since 2002; and
- There were exacerbated conflicts of interest between the Rating Agencies and Bear Stearns, as detailed in the July 2008 SEC Report.

12. As a result of these untrue statements and omissions, Plaintiffs and the Class purchased Certificates that were far riskier than represented, not of the "best quality" and not equivalent to other investments with the same credit ratings. Contrary to representations in the Offering Documents, the Certificates exposed purchasers to increased risk with respect to absolute cash flow and the timing of payments.

13. The Rating Agencies have now downgraded virtually all of the Certificates to below investment-grade. The value of the Certificates has collapsed. In downgrading the Certificates from the highest investment-grade to junk bond investments, the Rating Agencies

specifically attributed the downgrades to "aggressive underwriting" in the origination of the loans. Specifically, the Rating Agencies have downgraded 99.2%, or $37.55 billion of the Certificates, of which 93.9%, or $35.54 billion, have been downgraded to below investment-grade. ¶202. Moreover, 93.0%, or $31.81 billion, of the $34.20 billion of Certificates initially rated AAA/maximum safety rating, have been downgraded to "junk bond" investments. *Id.* As of January 1, 2010, over 70% of the mortgage loans underlying the Certificates are in delinquency, default, foreclosure, bankruptcy or repossession. The Certificates, therefore, are no longer marketable near the prices paid by Plaintiffs and the Class.

II. JURISDICTION AND VENUE

14. The claims asserted herein arise under and pursuant to Sections 11, 12(a)(2), and 15 of the Securities Act, 15 U.S.C. §§ 77k, 771(a)(2) and 77o. This Court has jurisdiction over the subject matter of this action pursuant to Section 22 of the Securities Act, 15 U.S.C. § 77v and 28 U.S.C. § 1331.

15. Venue is proper in this District pursuant to Section 22 of the Securities Act and 28 U.S.C. § 1391(b) and (c). Many of the acts and conduct complained of herein occurred in substantial part in this District, including the dissemination of the materially false and misleading statements complained of herein. In addition, Defendants conduct business in this District.

16. In connection with the acts and conduct alleged herein, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including the mails and telephonic communications.

III. PARTIES

17. Co-Lead Plaintiff, the Public Employees' Retirement System of Mississippi ("Mississippi PERS"), is a governmental defined benefit pension plan qualified under Section 401(a) of the Internal Revenue Code, and is the retirement system for nearly all non-federal

public employees in the State of Mississippi. Mississippi PERS acquired Certificates pursuant to the Offering Documents. As reflected in its Certification, filed November 10, 2009, Mississippi PERS purchased Bear Stearns Alt-A Trust, Series 2006-6 directly from Bear Stearns.

Certificates Purchased	Units Purchased	Price Per Unit
Bear Stearns Alt-A Trust, Series 2006-6, Class 31A1	$8,800,000	$0.9949
Bear Stearns Alt-A Trust, Series 2006-6, Class 32A1	$15,400,000	$1.0008
Bear Stearns ARM Trust, Series 2006-4, Class 2A1	$2,875,000	$0.9476
Structured Asset Mortgage Investments II, Series 2006-AR6, Class 2A1	$3,900,000	$0.6073
Bear Stearns ARM Trust, Series 2007-3, Class 1A1	$900,000	$0.6123
Bear Stearns ARM Trust, Series 2007-3, Class 2A1	$6,575,000	$0.9707

As detailed in its Certification, Mississippi PERS sustained damage as a result of its Certificate purchases. For example, Mississippi PERS purchased Certificates from the Bear Stearns ARM Trust, Series 2006-4, at a price of $0.9476 and later sold at a price of $0.4275. Additionally, Mississippi PERS purchased Certificates from the Bear Stearns ARM Trust, Series 2007-3, at a price of $0.9707 and later sold at a price of $0.6382. None of the Certificates are currently marketable at or near the prices paid by Plaintiffs and the Class.

18. Co-Lead Plaintiff New Jersey Carpenters is a Taft-Hartley Pension Fund. The New Jersey Carpenters purchased the following Certificates pursuant and/or traceable to the Offering Documents and has been damaged thereby.

Certificates Purchased	Units Purchased	Price Per Unit
Bear Stearns Mortgage Funding, Series 2006-AR1 Trust, Class 1B3	145,000.00	$0.9997

19. Plaintiff Boilermakers is a Taft-Hartley Pension Fund. The Boilermakers purchased the following Certificates pursuant and/or traceable to the Offering Documents and has been damaged thereby.

Certificates Purchased	Units Purchased	Price Per Unit
Structured Asset Mortgage Investments II, Series 2006-AR5 Trust, Class 1A1	269,114.44	$0.9581
Structured Asset Mortgage Investments II, Series 2006-AR5 Trust, Class 2A1	235,696.47	$0.9575
Structured Asset Mortgage Investments II, Series 2006-AR6 Trust, Class 1A1	2,423,365.66	$0.9578

20. Defendant Bear Stearns & Co., Inc. (previously defined as "Bear Stearns") was an SEC-registered broker-dealer and a wholly-owned subsidiary of The Bear Stearns Companies, Inc. ("BSI"). By the end of 2005, Bear Stearns was the single largest underwriter of mortgage-backed securities in the world. Bear Stearns served as the underwriter for all of the Certificates here, and assisted in drafting and disseminating the Offering Documents. Bear Stearns was located at 383 Madison Avenue, New York, New York 10179. Pursuant to a Merger Agreement effective May 30, 2008, BSI merged with Bear Stearns Merger Corporation, a wholly-owned subsidiary of JPMorgan Chase, Inc. ("J.P. Morgan"), making BSI a wholly-owned subsidiary of J.P. Morgan. J.P. Morgan is an investment banking holding company incorporated in Delaware,

and principally located at 270 Park Avenue, New York, New York 10017. Defendant J.P. Morgan Securities, Inc. ("J.P. Morgan Securities") is a wholly owned subsidiary of J.P. Morgan, and is the successor-in-interest to Bear Stearns.

21. Defendant Structured Asset Mortgage Investments II, Inc. (previously defined as the "SAMI Depositor") was the Depositor for certain Offerings as detailed in ¶33, and was a wholly-owned subsidiary of Bear Stearns. The SAMI Depositor maintained its principal offices at 383 Madison Avenue, New York, New York 10179, until mid-2008. The SAMI Depositor's principal offices are now located at 270 Park Avenue, New York, New York 10017. The SAMI Depositor filed the following Registration Statement and accompanying Prospectus with the SEC on Form S-3, as subsequently amended on Form S-3/A as follows:

Date Filed	Form Type	Amount Registered
March 6, 2006	S-3	$50,000,000,000
March 10, 2006	S-3/A	$50,000,000,000

22. Defendant Bear Stearns Asset Backed Securities I, LLC (previously defined as the "Bear Stearns Depositor") was the Depositor for certain Offerings as detailed in ¶33, and was a wholly-owned subsidiary of Bear Stearns. The Bear Stearns Depositor maintained its principal offices at 383 Madison Avenue, New York, New York 10179, until mid-2008. The Bear Stearns Depositor's principal offices are now located at 270 Park Avenue, New York, New York 10017. The Bear Stearns Depositor filed the following Registration Statement and accompanying Prospectus with the SEC on Form S-3, as subsequently amended on Form S-3/A as follows:

Date Filed	Form Type	Amount Registered
January 30, 2006	S-3	$1,000,000
March 31, 2006	S-3/A	$50,000,000,000

23. Defendant EMC was the Sponsor for each of the Offerings identified in ¶33. As set forth in the Registration Statements, EMC conveyed the mortgages to special purpose entities, including the Depositors, which were created for the sole purpose of creating, and

thereafter depositing the collateral into, the issuing trusts. EMC's principal office is located at 2780 Lake Vista Drive, Lewisville, Texas 75067-3884.

24. Defendant Jeffrey L. Verschleiser ("Verscheleiser") was, at all relevant times, President (Principal Executive Officer) of the SAMI Depositor. Verscheleiser signed the SAMI Registration Statement. Verschleiser ran the Asset-Backed Securities Trading Desk and reported to Defendant Matthew E. Perkins who was the head of asset-backed securities at Bear Stearns.

25. Defendant Michael B. Nierenberg ("Nierenberg") was the Treasurer (Principal Financial Officer and Principal Accounting Officer) of the SAMI Depositor at all relevant times. Nierenberg was responsible for the ARM/Alternative-A ("Alt-A") Trading Desk which controlled the securitization of ARMs and Alt-A loans. Nierenberg signed the SAMI Registration Statement.

26. Defendant Jeffrey Mayer ("Mayer") was a Director of the SAMI Depositor at all relevant times. Defendant Mayer oversaw the Fixed Rate/Subprime Mortgage Trading Desk ("Subprime Desk"). Mayer signed the SAMI Registration Statement.

27. Defendant Thomas F. Marano ("Marano") was a Director of both the SAMI Depositor and the Bear Stearns Depositor at all relevant times. Morano was the head of Bear Stearns' residential mortgage-backed securities operations. Marano signed both the SAMI and Bear Stearns Registration Statements.

28. Defendant Matthew E. Perkins ("Perkins") was, at all relevant times, President (Principal Executive Officer) and a Director of the Bear Stearns Depositor. Perkins signed the Bear Stearns Registration Statement.

29. Defendant Joseph T. Jurkowski, Jr. ("Jurkowski") was, at all relevant times, Vice President of the Bear Stearns Depositor. Jurkowski signed the Bear Stearns Registration Statement.

30. Defendant Samuel L. Molinaro, Jr. ("Molinaro") was the Treasurer (Principal Financial and Accounting Officer) and a Director of the Bear Stearns Depositor at all relevant times. Molinaro signed the Bear Stearns Registration Statement.

31. Defendant Kim Lutthans ("Lutthans") was an Independent Director of the Bear Stearns Depositor at all relevant times. Lutthans signed the Bear Stearns Registration Statement.

32. Defendant Katherine Garniewski ("Garniewski") was an Independent Director of the Bear Stearns Depositor at all relevant times. Garniewski signed the Bear Stearns Registration Statement.

33. For each offering, the following chart identifies: (1) the issuing trust; (2) the principal amount of Certificates issued; (3) the offering date; and (4) the Depositor/Issuer:

Trust	Approximate Principal Amount	Offering Date	Depositor/Issuer
Bear Stearns Asset Backed Securities, Series 2006-HE5	$396,674,000	May 23, 2006	Bear Stearns Depositor
Bear Stearns Asset Backed Securities, Series 2006-AC4	$357,522,000	June 28, 2006	Bear Stearns Depositor
Bear Stearns Mortgage Funding, Series 2006-AC1	$241,704,000	July 27, 2006	Bear Stearns Depositor
Bear Stearns Asset Backed Securities, Series 2006-AC5	$260,663,000	November 28, 2006	Bear Stearns Depositor
Bear Stearns Asset Backed Securities, Series 2006-AQ1	$593,225,000	November 29, 2006	Bear Stearns Depositor
Bear Stearns Asset Backed Securities, Series 2006-HE9	$1,007,791,000	November 29, 2006	Bear Stearns Depositor
Bear Stearns Asset Backed Securities, Series 2006-HE10	$1,096,352,000	December 28, 2006	Bear Stearns Depositor

Trust	Approximate Principal Amount	Offering Date	Depositor/Issuer
Bear Stearns Asset Backed Securities, Series 2007-AQ1	$333,732,000	January 26, 2007	Bear Stearns Depositor
Bear Stearns Asset Backed Securities, Series 2007-AC1	$448,027,000	January 29, 2007	Bear Stearns Depositor
Bear Stearns Asset Backed Securities, Series 2007-AC2	$381,278,000	February 23, 2007	Bear Stearns Depositor
Bear Stearns Asset Backed Securities, Series 2007-FS1	$364,767,000	February 27, 2007	Bear Stearns Depositor
Bear Stearns Asset Backed Securities, Series 2007-HE2	$685,929,000	February 27, 2007	Bear Stearns Depositor
Bear Stearns Asset Backed Securities, Series 2007-AC3	$368,568,000	March 29, 2007	Bear Stearns Depositor
Bear Stearns Asset Backed Securities, Series 2007-HE3	$916,696,000	March 29, 2007	Bear Stearns Depositor
Bear Stearns Asset Backed Securities, Series 2007-HE4	$821,614,000	April 26, 2007	Bear Stearns Depositor
Bear Stearns Asset Backed Securities, Series 2007-AC4	$401,056,000	April 27, 2007	Bear Stearns Depositor
Bear Stearns Asset Backed Securities, Series 2007-HE5	$634,345,000	May 29, 2007	Bear Stearns Depositor
Bear Stearns Asset Backed Securities, Series 2007-AC5	$439,552,424	June 28, 2007	Bear Stearns Depositor
Bear Stearns Asset Backed Securities, Series 2007-HE6	$648,390,000	August 29, 2007	Bear Stearns Depositor
Bear Stearns Asset Backed Securities, Series 2007-AC6	$252,208,997	September 18, 2007	Bear Stearns Depositor
Structured Asset Mortgage Investments II, Series 2006-AR5	$951,921,000	May 30, 2006	SAMI Depositor
Structured Asset Mortgage Investments II, Series 2006-AR4	$1,564,950,000	June 29, 2006	SAMI Depositor
Bear Stearns Mortgage Funding, Series 2006-AR1	$973,112,000	July 28, 2006	SAMI Depositor
Bear Stearns Alt-A Trust, Series 2006-5	$1,384,969,000	July 31, 2006	SAMI Depositor
Structured Asset Mortgage Investments II, Series 2006-AR6	$1,524,376,000	August 3, 2006	SAMI Depositor
Structured Asset Mortgage Investments II, Series 2006-AR7	$2,867,019,000	August 31, 2006	SAMI Depositor
Bear Stearns Mortgage Funding, Series 2006-AR2	$1,097,323,000	September 27, 2006	SAMI Depositor

Trust	Approximate Principal Amount	Offering Date	Depositor/Issuer
Bear Stearns ARM Trust, Series 2006-4	$1,306,358,150	September 28, 2006	SAMI Depositor
Bear Stearns Alt-A Trust, Series 2006-6	$1,893,943,000	September 29, 2006	SAMI Depositor
Structured Asset Mortgage Investments II, Series 2006-AR8	$1,718,595,000	October 27, 2006	SAMI Depositor
Bear Stearns Mortgage Funding, Series 2006-AR3	$795,165,000	October 30, 2006	SAMI Depositor
Bear Stearns Alt-A Trust, Series 2006-7	$1,252,719,000	October 30, 2006	SAMI Depositor
Bear Stearns Mortgage Funding, Series 2006-AR4	$496,614,000	November 28, 2006	SAMI Depositor
Bear Stearns Mortgage Funding, Series 2006-AR5	$1,831,882,000	December 28, 2006	SAMI Depositor
Bear Stearns Alt-A Trust, Series 2006-8	$1,353,897,000	December 28, 2006	SAMI Depositor
Bear Stearns Mortgage Funding, Series 2007-AR1	$1,078,030,000	January 29, 2007	SAMI Depositor
Structured Asset Mortgage Investments II, Series 2007-AR1	$680,345,000	January 29, 2007	SAMI Depositor
Bear Stearns Alt-A Trust, Series 2007-1	$849,807,000	January 29, 2007	SAMI Depositor
Structured Asset Mortgage Investments II, Series 2007-AR2	$510,918,000	February 26, 2007	SAMI Depositor
Bear Stearns ARM Trust, Series 2007-1	$992,996,150	February 27, 2007	SAMI Depositor
Bear Stearns Mortgage Funding, Series 2007-AR3	$1,294,229,000	March 29, 2007	SAMI Depositor
Bear Stearns ARM Trust, Series 2007-3	$807,120,150	April 26, 2007	SAMI Depositor

34. Defendant The McGraw-Hill Companies, Inc. ("McGraw-Hill") is a New York corporation with its principal place of business located at 1221 Avenue of the Americas, New York, New York 10020. S&P, a division of Defendant McGraw-Hill, is a Nationally Recognized Statistical Ratings Organization which provides credit ratings, risk evaluation, investment research and data to investors. S&P acted as an Underwriter of the Certificates within the meaning of the Securities Act, 15 U.S.C. § 77b(a)(11). The Complaint does not allege that S&P acted as an expert within the meaning of the Securities Act, 15 U.S.C. § 77k(a)(4). S&P participated in the drafting and dissemination of the Prospectus Supplements pursuant to

which the Certificates were sold to Lead Plaintiffs and other Class members. In addition, S&P publicly held itself out as having participated in the Offerings, including assigning pre-determined credit ratings, as set forth in the Prospectus Supplements.

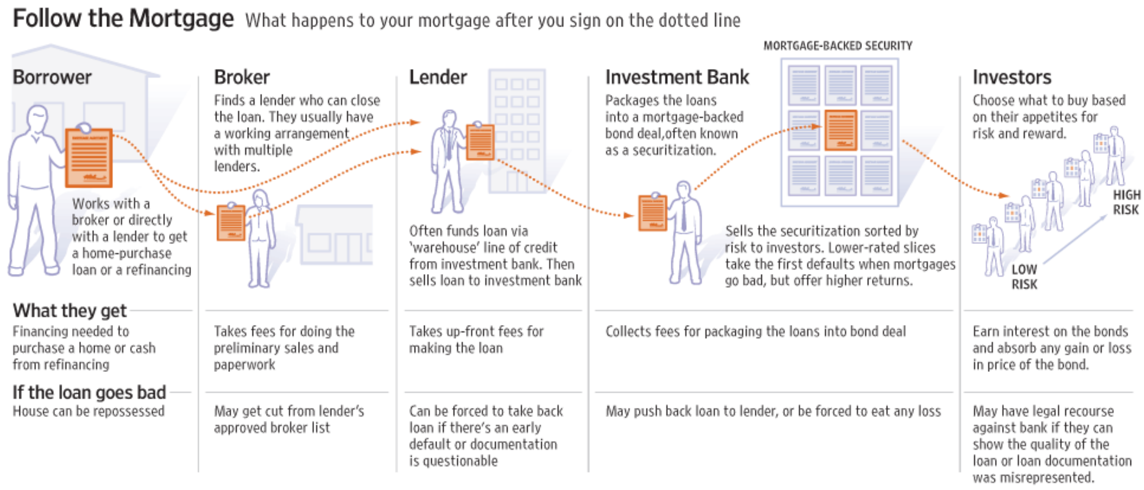
35. Defendant Moody's Investors Service, Inc. (defined herein as "Moody's") is a Nationally Recognized Statistical Ratings Organization principally located at 250 Greenwich Street, New York, New York 10007. Defendant Moody's, a division of Moody's Corporation, provides credit ratings, risk evaluation, investment research and data to investors. Moody's acted as an Underwriter of the Certificates within the meaning of the Securities Act, 15 U.S.C. § 77b(a)(11). The Complaint does not allege that Moody's acted as an expert within the meaning of the Securities Act, 15 U.S.C. § 77k(a)(4). Moody's participated in the drafting and dissemination of the Prospectus Supplements pursuant to which the Certificates were sold to Lead Plaintiffs and other Class members. In addition, Moody's publicly held itself out as having participated in the Offerings, including assigning pre-determined credit ratings, as set forth in the Prospectus Supplements.

36. The Rating Agencies are not being sued herein pursuant to Section 11(a)(4) as persons who prepared or certified the ratings portion of the Registration Statements since, pursuant to Securities Act Rule 436(g), the ratings assigned to a class of debt securities shall not be considered part of the Registration Statement "prepared or certified by a person within the meaning of Section 11 of the Securities Act." Instead, the Rating Agencies acted as underwriters and control persons within the meaning of Sections 11 and 15 of the Securities Act.

IV. BACKGROUND

A. Bear Stearns Emerges As A Major Issuer And Underwriter Of Mortgage-Backed Securities

37. As illustrated below, a mortgage securitization is where mortgage loans are acquired, pooled together, and then sold to investors, who acquire rights in the income flowing from the mortgage pools.



38. When mortgage borrowers make interest and principal payments, the cash flow is distributed to the holders of the MBS certificates in the order of priority based on the specific tranche held by the MBS investors. The highest tranche (also referred to as the senior tranche) is first to receive its share of the mortgage proceeds and is also the last to absorb any losses should mortgage borrowers become delinquent or default on their mortgage. Of course, because the lower tranches are designed to provide a cushion, diminished cash flow to the lower tranches results in impaired value of the higher tranches.

39. The securitization of loans fundamentally shifts the risk of loss from the mortgage loan originator to the investor who purchased an interest in the securitized pool of loans. When the originator holds the mortgage through the term of the loan, it profits from the borrower's

payment of interest and repayment of principal, but it also bears the risk of loss if the borrower defaults and the property value is not sufficient to repay the loan. As a result, traditionally, the originator was economically vested in establishing the creditworthiness of the borrower and the true value of the underlying property through appraisal before issuing the mortgage loans. In securitizations where the originator immediately sells the loan to an investment bank, it does not have the same economic interest in establishing borrower creditworthiness or a fair appraisal value of the property in the loan origination process.

40. In the 1980s and 1990s, securitizations were generally within the domain of Government Sponsored Enterprises ("GSE"), *i.e.,* the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac"), which would purchase loans from originators. Investors in these early GSE securitizations were provided protections since the underlying loans were originated pursuant to strict underwriting guidelines.

41. Between 2001 and 2006, however, there was dramatic growth in non-GSE loan originations and securitizations. According to *Inside Mortgage Finance* (2007), in 2001, GSE originations were $1.433 trillion and securitizations were $1.087 trillion – far outpacing non-GSE originations of $680 billion and securitizations of $240 billion. In 2006, GSE originations grew to $1.040 trillion while securitizations declined to $904 million. However, in that same period, non-GSE originations had grown 100% to $1.480 trillion, and non-GSE securitizations had grown 330% to $1.033 trillion in 2006. Further, non-GSE origination of subprime loans grew 315% – from $190 billion in 2001 to $600 billion in 2006; and non-GSE Alt-A origination grew 566% – from $60 billion in 2001 to $400 billion in 2006. Non-GSE securitizations of subprime loans had also grown 415% – from $87.1 billion in 2001 to $448 billion in 2006.

42. The market for adjustable rate mortgages ("ARMs"), including interest-only and negative amortization loans, grew concurrently with the boom in subprime and Alt-A loan originations and securitizations. ARMs increased from $355 billion in 2001 to $1.3 trillion in 2006. *Mortgage Market Statistical Annual* (2007, Vol. 1, p. 4). Such growth coincided with the increase in popularity of so called "exotic" or non-traditional ARMs which had fixed interest rates for a limited period before "resetting" during the life of the loan to significantly higher adjustable rates. These non-traditional ARMs included "2/28 or 3/27 ARMs" (many with below-market teaser rates for two or three years and then conversion to the fully-indexed rate); interest-only ARMs (permitting interest-only payments for a set period of time during which the rate may fluctuate, resulting in negative amortization and rising principal); option payment ARMs (offering up to four payment options, including minimum and interest-only payments, which, if chosen, result in negative amortization and rising principal); and 40-year ARMs (in which payments are calculated based on a 40-year payment term but where the loan terminates in 30 years, resulting in a final balloon payment). Origination of non-traditional ARMs increased 278% between 2004 and 2006 – from $205 billion to $775 billion. *Mortgage Market Statistical Annual* (2007, Vol. 1, p. 6).

43. The Certificate collateral was composed of significant non-traditional adjustable mortgages, interest-only and negative amortization loans. These types of loans presented the greatest potential for "payment shock" to the borrower since they provided for initially small monthly payments based on low fixed rates which then reset thereafter to significantly higher monthly payment amounts based on adjustable interest rates. In particular, Bear Stearns securitized – and the Rating Agencies assigned AAA ratings to – Certificates largely composed of negative amortization loans. Specifically, these loans permitted the borrower to pay less than

even the full monthly interest payment with the unpaid interest and principal being added back on top of the outstanding principal balance. These small payments were permitted only until the loan's Loan-To-Value ("LTV") ratio (which initially was around 80%) reached approximately 110%. At that point, the loan "reset," requiring the borrower to make monthly payments based on significantly higher adjustable rates and outstanding principal. While this type of loan was designed for high net worth investors who were capable of earning higher returns through investment than in making interest and principal payments upfront, Bear Stearns and the Originators routinely sold these loans to unsophisticated borrowers who were unable to make the required payments after the loan reset.

44. As set forth below, the Rating Agencies' models used to determine the requisite credit enhancement required for the AAA ratings on the Certificates not been sufficiently updated by S&P since 1999 or by Moody's since 2002. The models did not include sufficient quantities of loans reflective of the loans underlying the Certificates, *e.g.,* no documentation, Alt-A, adjustable rate, interest-only and Neg. Am. Loans. Thus the credit enhancement was insufficient.

B. Bear Stearns' Securitization And Underwriting Operations

1. Bear Stearns' Bulk-Loan Purchases From Third-Party Originators

45. Bear Stearns made substantial bulk loan purchases from third-party originators through silent auctions. Originators set a date and time for competing investment banks to submit bids to purchase a block of mortgage loans. In advance of the auction, the Originator would send each bidding investment bank a "Loan Level File" in the form of a spreadsheet, which contained numerous fields of non-borrower sensitive information regarding the loans to be

auctioned. The spreadsheet would include information such as FICO scores, LTV ratio, property location and the level of documentation supporting the loan, and many other loan characteristics.

46. At the same time, the originator provided Bear Stearns with a Bid Stipulation Sheet (the "Bid Sheet"). The Bid Sheet described the general characteristics of the loan pool being auctioned, the variance rate of the pool and, most importantly, the maximum size of the pool sample on which the investment banks were permitted to conduct due diligence and the number of loans which the banks could "kick-back" to the originator due to borrower deficiencies, payment delinquencies or first/early payment defaults on the loan.

2. "Flow Loans" From Bear Stearns' Subsidiary And Correspondent Lenders

47. Loans purchased from the EMC Originators were acquired through "flow agreements." The flow basis loans immediately became part of Bear Stearns' database or "loan warehouse" and EMC serviced these flow basis loans. Traders at Bear Stearns' trading desk priced these loans on a loan-by-loan basis with the assistance of computer pricing models.

48. Once the flow loan was approved and finalized, the lender or mortgage broker would send the loan file directly to EMC's servicing division. Simultaneously, an electronic record would be sent to Bear Stearns at which point it became part of Bear Stearns' loan warehouse and recorded in the ledger of the specific Bear Stearns desk responsible for that type of loan, *i.e.*, subprime, Alt-A, etc. While the flow of loans occurred daily, and the Bear Stearns' trading desk would price the loans on a loan-by-loan basis, the flow agreements themselves set a weekly or monthly settlement date with the underlying lender.

3. The Rating Agencies' Role In The Securitization Process

49. As a condition to the issuance of the Certificates, the Rating Agencies had to assign pre-determined ratings to the Certificates. Over 90% of the Certificates were originally

assigned the highest AAA, or "maximum safety," rating. ¶51. To ensure the Certificates received the necessary ratings, Bear Stearns involved the Rating Agencies in the securitization process long before the Rating Agencies assigned ratings to the actual Certificates.

50. Prior to auction, Bear Stearns sent the "Loan Level File" to the Rating Agencies to enable them to advise Bear Stearns as to the appropriate price to pay for the loans. S&P and Moody's performed this work, referred to at S&P as "bid package" work, without compensation in an effort to ensure that Bear Stearns would engage the Rating Agency to rate the Certificates. Indeed, Bear Stearns traders had S&P's and Moody's (outdated) models on their desktop computers. Upon receipt of the "Loan Level File," S&P would run the loan tape through both its "LEVELS" and "SPIRE" Models. Moody's would run the loan tape through its M-3 Model. These models analyzed 50-80 loan characteristics (*e.g.,* FICO score, LTV ratio, property location, etc.), in order to estimate the number of loans that were likely to default and the corresponding amount of the dollar loss resulting from such default. Despite a substantial expansion in subprime Alt-A, no documentation, non-traditional ARMS, interest-only and negative amortization loans, S&P and Moody's did not update their models after 1999 and 2002, respectively. Therefore, the models' estimate of the number of loans that were likely to default and the corresponding amount of the dollar loss from such default lacked any reasonable basis and were materially inaccurate.

51. The models purported to calculate the amount of "credit enhancement" required to assign a specific set of Certificates "AAA" ratings. For example, S&P utilized the LEVELS Model to advise Bear Stearns that 94.25% of the Certificates would be rated AAA/maximum safety as long as 5.75% of the total collateral balance supporting those Certificates was

subordinate. This 5.75% was the amount of loss coverage required. In fact, as reflected in the chart below, over 90% of the Certificates were assigned AAA/maximum safety ratings:

Series	Offering Amount	AAA	%
BSABS 2006-AC4	$357,522,000.00	$336,459,000.00	94.11%
BSABS 2006-AC5	$260,663,000.00	$243,171,000.00	93.29%
BSABS 2006-AQ1	$593,225,000.00	$482,997,000.00	81.42%
BSABS 2006-HE5	$396,674,000.00	$317,010,000.00	79.92%
BSABS 2006-HE9	$1,007,791,000.00	$785,907,000.00	77.98%
BSABS 2006-HE10	$1,096,352,000.00	$875,360,000.00	79.84%
BSABS 2007-AC1	$448,027,000.00	$423,187,000.00	94.46%
BSABS 2007-AC2	$381,278,000.00	$358,393,000.00	94.00%
BSABS 2007-AC3	$368,568,000.00	$346,500,000.00	94.01%
BSABS 2007-AC4	$401,056,000.00	$379,422,000.00	94.61%
BSABS 2007-AC5	$439,552,424.00	$412,783,424.00	93.91%
BSABS 2007-AC6	$252,208,997.00	$238,606,997.00	94.61%
BSABS 2007-AQ1	$333,732,000.00	$264,301,000.00	79.20%
BSABS 2007-FS1	$364,767,000.00	$288,533,000.00	79.10%
BSABS 2007-HE2	$685,929,000.00	$534,517,000.00	77.93%
BSABS 2007-HE3	$916,696,000.00	$715,790,000.00	78.08%
BSABS 2007-HE4	$821,614,000.00	$641,737,000.00	78.11%
BSABS 2007-HE5	$634,345,000.00	$501,731,000.00	79.09%
BSABS 2007-HE6	$648,390,000.00	$506,311,000.00	78.09%
BSMF 2006-AC1	$241,704,000.00	$226,798,000.00	93.83%
BSMF 2006-AR1	$973,112,000.00	$901,030,222.00	92.59%
BSMF 2006-AR2	$1,097,323,000.00	$1,033,433,000.00	94.18%
BSMF 2006-AR3	$795,165,000.00	$751,444,000.00	94.50%
BSMF 2006-AR4	$496,614,000.00	$477,465,000.00	96.14%
BSMF 2006-AR5	$1,831,882,000.00	$1,733,778,000.00	94.64%

Series	Offering Amount	AAA	%
BSMF 2007-AR1	$1,078,030,000.00	$994,971,000.00	92.30%
BSMF 2007-AR3	$1,294,229,000.00	$1,201,619,000.00	92.84%
SAMI 2006-AR4	$1,564,950,000.00	$1,432,032,000.00	91.51%
SAMI 2006-AR5	$951,921,000.00	$896,069,000.00	94.13%
SAMI 2006-AR6	$1,524,376,000.00	$1,422,131,000.00	93.29%
SAMI 2006-AR7	$2,867,019,000.00	$2,672,201,000.00	93.20%
SAMI 2006-AR8	$1,718,595,000.00	$1,601,814,000.00	93.20%
SAMI 2007-AR1	$680,345,000.00	$630,785,000.00	92.72%
SAMI 2007-AR2	$510,918,000.00	$480,695,000.00	94.08%
BALTA 2006-5	$1,384,969,000.00	$1,290,408,000.00	93.17%
BALTA 2006-6	$1,863,943,000.00	$1,672,819,000.00	89.75%
BALTA 2006-7	$1,252,719,000.00	$1,126,381,000.00	89.91%
BALTA 2006-8	$1,353,897,000.00	$1,270,327,000.00	93.83%
BALTA 2007-1	$849,807,000.00	$755,991,000.00	88.96%
BSARM 2006-4	$1,306,358,150.00	$1,247,757,150.00	95.51%
BSARM 2007-1	$992,996,150.00	$951,915,150.00	95.86%
BSARM 2007-3	$807,120,150.00	$777,483,150.00	96.33%
TOTAL	**$37,846,382,871.00**	**$34,202,063,093.00**	**90.37%**

52. In addition to participating in a necessary role in the Certificates' structure and distribution, the Rating Agencies exercised substantial control over many parties to the securitization transaction, including the Depositors. For example, the Offering Documents explicitly stated that the Depositor was a wholly-owned subsidiary of Bear Stearns, and "was organized for the sole purpose of serving as a private secondary mortgage market conduit." As detailed herein, however, the Rating Agencies decided whether the necessary and pre-determined ratings would be assigned, and therefore whether the Certificates would be issued. If the Rating Agencies did not assign credit ratings in accordance with the representations in the Offering

Documents, the Depositors could not legally issue, market or sell the Certificates. The Rating Agencies, therefore, controlled the Depositors' sole corporate purpose – the sale of mortgage pass-through securities.

53. Additionally, the Prospectuses explicitly stated that the Master Servicer was not allowed to resign from its duties unless it received a letter from each relevant Rating Agency stating that the resignation would not result in a downgrade of the Certificates:

> …the master servicer may not resign from its obligations and duties except upon a determination that performance of the duties is no longer permissible under applicable law or except (1) in connection with a permitted transfer of servicing or (2) upon appointment of a successor servicer reasonably acceptable to the trustee ***and upon receipt by the trustee of letter from each Rating Agency generally to the effect that the resignation and appointment will not, in and of itself, result in a downgrading of the securities.***

(Emphasis added).

54. The Rating Agencies also had the ability to control, in certain instances, whether the Pooling and Servicing Agreement could be amended. For example, if a REMIC election was made with respect to any trust, the parties could amend the Pooling and Servicing Agreement to modify, eliminate or add to any of its provisions "…to restrict the transfer of the REMIC Residual Certificates, ***provided that the depositor has determined that the then-current ratings of the classes of the certificates that have been rated will not be adversely affected, as evidenced by a letter from each applicable Rating Agency***, and that the amendment will not give rise to any tax with respect to the transfer of the REMIC Residual Certificates to a non-permitted transferee." (Emphasis added).

55. The Rating Agencies also controlled which entities could be selected as successor Master Servicers. In certain instances, the Trustee was empowered to appoint a successor Master Servicer, provided that the Trustee obtained a letter from each Rating Agency that the

Certificates' ratings would not be downgraded, qualified or withdrawn as a result of the selection of the successor to the Master Servicer.

V. THE OFFERING DOCUMENTS CONTAINED MATERIAL MISSTATEMENTS AND OMISSIONS REGARDING STATED UNDERWRITING AND APPRAISAL STANDARDS

56. The Registration Statements provided that underwriting was to include assessments of borrower or mortgagor creditworthiness and appraisals of the mortgaged properties, as follows:

> ***The underwriting standards to be used in originating the mortgage loans are primarily intended to assess the creditworthiness of the mortgagor, the value of the mortgaged property and the adequacy of the property as collateral for the mortgage loan.***
>
> * * *
>
> The primary considerations in underwriting a mortgage loan are the mortgagor's employment stability and whether the mortgagor has sufficient monthly income available (1) to meet the mortgagor's monthly obligations on the proposed mortgage loan (generally determined on the basis of the monthly payments due in the year of origination) and other expenses related to the home (including property taxes and hazard insurance) and (2) to meet monthly housing expenses and other financial obligations and monthly living expenses. However, the Loan-to-Value Ratio of the mortgage loan is another critical factor. In addition, a mortgagor's credit history and repayment ability, as well as the type and use of the mortgaged property, are also considerations.
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> * * *
>
> High LTV Loans are underwritten with an emphasis on the creditworthiness of the related mortgagor. High LTV Loans are underwritten with a limited expectation of recovering any amounts from the foreclosure of the related mortgaged property.

SAMI Registration Statement at 17; *see also* Bear Stearns Registration Statement at S-42.

57. With respect to the importance of the appraisals of the mortgaged properties, the Registration Statements specifically provided:

> Mortgaged properties generally will be appraised by licensed appraisers or through an automated valuation system. A licensed appraiser will generally

> address neighborhood conditions, site and zoning status and condition and valuation of improvements. In the case of mortgaged properties secured by single family loans, the appraisal report will generally include a reproduction cost analysis (when appropriate) based on the current cost of constructing a similar home and a market value analysis based on recent sales of comparable homes in the area. With respect to multifamily properties, commercial properties and mixed-use properties, the appraisal must specify whether an income analysis, a market analysis or a cost analysis was used. An appraisal employing the income approach to value analyzes a property's projected net cash flow, capitalization and other operational information in determining the property's value.

SAMI Registration Statement at 18.

> Mortgaged properties that are to secure mortgage loans generally are appraised by qualified independent appraisers. These appraisers inspect and appraise the subject property and verify that the property is in acceptable condition.
>
> * * *
>
> All appraisals are required to conform to the Uniform Standard of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation and are generally on forms acceptable to Fannie Mae and Freddie Mac.

Bear Stearns Registration Statement at S-42.

58. The statements regarding underwriting and appraisal standards were materially untrue and contained omissions. As detailed below, the principal originators systematically disregarded their stated underwriting and appraisal standards.

A. <u>EMC Mortgage Corporation</u>

59. EMC was a principal originator for twenty-five (25) of the Offerings complained of herein.[1] The total value of the 25 Offerings for which EMC was a principal originator was $20.54 billion, of which the Rating Agencies assigned initial ratings of AAA/maximum safety to

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[1] EMC was a principal originator of the mortgage collateral underlying the BSABS Series 2006-AC4, 2006-AC5, 2006-HE10, 2007-AC1, 2007-AC2, 2007-AC3, 2007-AC4, 2007-AC5, 2007-AC6, 2007-HE2, 2007-HE4; BSMF Series 2006-AC1, 2006-AR1, 2006-AR2, 2006-AR3, 2006-AR4, 2006-AR5, 2007-AR1, 2007-AR3; SAMI Series 2007-AR2; and BALTA Series 2006-5, 2006-6, 2006-7, 2006-8 and 2007-1 Certificate Offerings.

91.1%, or $18.71 billion. EMC, which, at all relevant times, was a wholly-owned subsidiary of Bear Stearns, specializes in the acquisition, servicing and disposition of residential mortgage loans.

60. The Prospectus Supplements described EMC's underwriting standards in originating the underlying mortgages. For example, the July 28, 2006 Prospectus Supplement for the BSMF Series 2006-AR1 Certificate Offering stated:

> … ***underwriting standards are applied to evaluate the prospective borrower's credit standing and repayment ability and the value and adequacy of the mortgaged property as collateral***. . .Exceptions to the underwriting standards are permitted where compensating factors are present and are managed through a formal exception process.
>
> *   *   *
>
> In determining whether a prospective borrower has sufficient monthly income available (i) to meet the borrower's monthly obligation on their proposed mortgage loan and (ii) to meet the monthly housing expenses and other financial obligations on the proposed mortgage loan, each lender generally considers, when required by the applicable documentation program, the ratio of such amounts to the proposed borrower's acceptable stable monthly gross income. Such ratios vary depending on a number of underwriting criteria, including loan-to-value ratios, and are determined on a loan-by-loan basis.

Id. at S-31-32 (emphasis added); *see also* Appendix To Consolidated Class Action Complaint ("Appendix"), Chart A.

61. The Prospectus Supplements also described the importance of the appraisals of the mortgaged properties:

> Each mortgaged property relating to an EMC mortgage loan has been appraised by a qualified independent appraiser who is approved by each lender. All appraisals are required to conform to the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standard Board of the Appraisal Foundation. Each appraisal must meet the requirements of Fannie Mae and Freddie Mac. Fannie Mae and Freddie Mac require, among other things, that the appraiser, or its agent on its behalf, personally inspect the property inside and out, verify whether the property was in good condition and verify that construction, if new, had been substantially completed. The appraisal generally will have been based on prices obtained on recent sales of comparable properties, determined in

> accordance with Fannie Mae and Freddie Mac guidelines. In certain cases an analysis based on income generated from the property or a replacement cost analysis based on the current cost of constructing or purchasing a similar property may be used.

Id. at S-32; *see also* Appendix, Chart B.

62. The Prospectus Supplements also provided for prudent underwriting for mortgages where less borrower documentation was required:

> The mortgage loans have been underwritten under one of the following documentation programs: full/alternative documentation ("Full/Alt Doc"), stated income/verified asset documentation ("SIVA"), no ratio documentation ("No Ratio"), and stated income/stated assets ("SISA") documentation.
>
> Under a stated income/verified asset documentation program, more emphasis is placed on the value and adequacy of the mortgaged property as collateral, credit history and other assets of the borrower than on a verified income of the borrower. ***Although the income is not verified, the originators obtain a telephonic verification of the borrower's employment without reference to income. Borrower's assets are verified.***
>
> Under the no ratio documentation program the borrower's income is not stated and no ratios are calculated. ***Although the income is not stated nor verified, lenders obtain a telephonic verification of the borrower's employment without reference to income. Borrower's assets are verified.***
>
> Under the stated income/stated asset documentation program, the borrower's income and assets are stated but not verified. The underwriting of such mortgage loans may be based entirely on the adequacy of the mortgaged property as collateral and on the credit history of the borrower.

Id. at S-32 (emphasis added); *see also* Appendix, Chart C.

63. ***Misstated and Omitted Information:*** The statements in the Offering Documents related to EMC's underwriting standards contained material misstatements and omissions because, as described herein, EMC (1) systematically disregarded its stated underwriting standards and regularly made exceptions to its underwriting guidelines in the absence of sufficient compensating factors; (2) pursued loan volume at the expense of underwriting standards, thereby failing to take the steps necessary to safeguard the quality of the product; and

(3) largely disregarded appraisal standards and bought loans without regard to the riskiness of the loan because the values of the underlying mortgage properties were materially inflated in the loan underwriting process.

64. In late 2008, Ambac Assurance Corp. ("Ambac") commenced an action against EMC and Bear Stearns in the United States District Court for the Southern District of New York alleging that the companies had built a "house of cards" through rampant misrepresentation in the origination of mortgage loans used in securitizations. *Ambac Assurance Corp., v. EMC Mortgage Corp*., No. 08-cv-9464 (S.D.N.Y.) (the "Ambac Complaint"). On November 6, 2008, an article in the *Associated Press* reported the following with respect to the Ambac Complaint:

> Bear Stearns leveraged its reputation and dominance in mortgage finance to entice companies such as Ambac to insure loans plagued by rampant fraud … Bear Stearns promised that its mortgage loans originated through proper means and didn't result from fraud, misrepresentation or gross negligence. Yet … Ambac discovered widespread breaches of representations in almost 80 percent of the documents supporting 695 defaulted loans it studied.

Larry Neumeister, NY Lawsuit: Bear Stearns Built A 'House of Cards,' *Associated Press*, November 6, 2008.

65. According to the Ambac Complaint, after incurring more than $640 million in losses, Ambac conducted a study of 1,486 loans with an aggregate principal of approximately $86.9 million. The results of that review found:

> [o]f these 1486 loans, 1332, over 89%, breached one or more of the representations and warranties that EMC had made to Ambac. The most prevalent and troubling of the breaches identified by Ambac across all four Transactions involve (1) rampant misrepresentations about borrower income, employment, assets, and intentions to occupy the purchased properties, and (2) the loan originators' abject failures to adhere to proper and prudent mortgage-lending practices, including their own underwriting guidelines.

Ambac Complaint at ¶6.

66. The Ambac Complaint lays out, in detail, the Bear Stearns "securitization machine" and EMC's crucial, and damaging, role within that machine:

> [EMC] acted both as an "originator" and an "aggregator" of an enormous volume of residential mortgage loans, "with the ultimate strategy of securitization into an array of Bear Stearns's securitizations." EMC repeatedly executed on that strategy, in many cases retaining the rights to act as servicer of the mortgage loans that it securitized. In its role as aggregator, EMC prescribed loan origination standards and approved the underwriting guidelines of a large number of mortgage lenders…

Id. at ¶18.

67. EMC expanded its loan generation to supply its securitizations and, at the same time, reassured the market that it would maintain the quality of its securitizations. *Id.* at ¶26. But, in fact, "EMC's inventory of mortgage loans was replete with loans (i) originated by fraud, material misrepresentations, or omissions and (ii) underwritten without regard to prudent standards or the fundamental principles of mortgage lending, which require a good-faith assessment of the borrower's ability and willingness to repay the loan." *Id.* at ¶27. EMC "convince[ed] investors that the securities it sold were a safe and profitable investment, despite the fact that, unbeknownst to Ambac and the market at large, those securities were backed by unjustifiably risky loans." *Id.* at ¶25.

68. The Ambac Complaint further makes clear that EMC and Bear Stearns expanded acceptance and financing of "no doc" and "low doc" loan products "with a marked and dangerous decline in the rigor and discipline with which [the companies] approached loan origination and underwriting." *Id.* at ¶28. Thus, EMC's inventory of mortgage loans "was replete with loans originated by fraud or underwritten pursuant to imprudent or non-existent standards." *Id.* at ¶¶29-30.

69. EMC's systematic disregard for the underwriting guidelines led to dramatic downgrades of the Certificates where EMC acted as a principal originator. Currently, 94.6%

($17.70 billion) of the Certificates that were initially rated AAA have been downgraded to speculative "junk" status or below. Current delinquency and default rates on the EMC-originated collateral have risen exponentially since issuance of the Certificates – from 0.69% as of the cut-off dates, to approximately 60.5% as of January 1, 2010.

B. Bear Stearns Residential Mortgage Corporation And Encore Credit Corporation

70. Bear Stearns Mortgage Corp. was a principal originator for twelve (12) of the Offerings.[2] The total value of the Offerings for which Bear Stearns Mortgage Corp. was a principal originator was $11.61 billion, of which 91.2%, or $10.59 billion, had an initial rating of AAA/maximum safety. In February 2007, Bear Stearns Mortgage Corp. acquired Encore. Encore was the principle originator for the BSABS Series 2006-HE9, 2006-HE10, 2007-HE4, 2007-HE5 and 2007-HE6 Offerings. The total value of the five Offerings for which Encore was a principal originator was $4.21 billion, of which 78.9%, or $3.32 billion, had an initial rating of AAA/maximum safety.

71. The Prospectus Supplements described Bear Stearns Mortgage Corp.'s underwriting guidelines. For example, the July 28, 2006 Prospectus Supplement for the BSMF Series 2006-AR1 Certificate Offering stated:

> ***The BSRM Alt-A Underwriting Guidelines are intended to ensure that (i) the loan terms relate to the borrower's willingness and ability to repay and (ii) the value and marketability of the property are acceptable.***
>
> * * *
>
> All of the Alt-A mortgage loans originated by BSRM are based on loan application packages submitted through the wholesale or correspondent channel. Based on the documentation type each loan application package has an

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[2] BSABS Series 2006-HE10, 2007-AC5, 2007-AC6, 2007-HE2; BSMF Series 2006-AR1, 2006-AR2, 2006-AR3, 2006-AR4, 2006-AR5, 2007-AR1, 2007-AR3; and SAMI Series 2006-AR4.

> application completed by the prospective borrower that includes information with respect to the applicant's assets, liabilities, income, credit and employment history, as well as certain other personal information. During the underwriting process, BSRM calculates and verifies the loan applicant's sources of income (except documentation types, which do not require such information to be stated or independently verified), reviews the credit history of the applicant, calculates the debt-to-income ratio to determine the applicant's ability to repay the loan, and reviews the mortgaged property for compliance with the BSRM Underwriting Guidelines.
>
> * * *
>
> Exceptions to the BSRM Underwriting Guidelines are considered with reasonable compensating factors on a case-by-case basis and at the sole discretion of senior management…. Compensating factors may include, but are not limited to, validated or sourced/seasoned liquid reserves in excess of the program requirements, borrower's demonstrated ability to accumulate savings or devote a greater portion of income to housing expense and borrowers' potential for increased earnings based on education, job training, etc. Loan characteristics such as refinance transactions where borrowers are reducing mortgage payments and lowering debt ratios may become compensating factors as well.

Id. at S-33 (emphasis added); *see also* Appendix, Chart D.

72. The Prospectus Supplements described the importance of the appraisals of the mortgaged properties:

> Properties that secure BSRM mortgage loans have a valuation appraisal performed by a qualified and licensed appraiser. All appraisers providing services must comply with the respective state and federal laws. An appraisal must not be more than 120 days old at the closing date or a re-certification of value is required. The original appraiser must perform re-certification. As an alternative, a field review with comparable properties that sold in the last three months and support the value is also acceptable, in lieu of the re-certification of value. After 180 days, a new appraisal is required regardless of whether an existing or new construction property. All combined loan amounts greater than $650,000 and less than or equal to $1,000,000 require two original appraisals. The second appraisal must be from a BSRM nationally approved appraiser. The value used to determine the LTV/CLTV will be the lesser of the two values. BSRM combined loans amounts greater that $1,500,000 in the state of California will require two appraisals; the second appraisal must be from a BSRM nationally approved appraiser. The value used to determine the LTV/CLTV will be the lesser of the two values.
>
> Each appraisal is reviewed by a representative of BSRM, who has the right to request a second appraisal, additional information or explanations, lower the

> approved loan amount, reduce the maximum allowable loan-to-value ratio or deny the loan based on the appraisal.

Id. at S-36; *see also* Appendix, Chart E.

73. The Prospectus Supplements also provided for prudent underwriting for mortgages where less borrower documentation was required. For example, the July 28, 2006 Prospectus Supplement for the BSMF Series 2006-AR1 Certificate Offering provided:

> The BSRM mortgage loans were originated in accordance with guidelines established by BSRM with one of the following documentation types: "Full Documentation"; "Limited Documentation"; "Lite Documentation"; "Stated Income/Verified Assets"; "No Ratio/Verified Assets"; "Stated Income/Stated Assets"; "No Income/No Assets (NINA)"; "No Doc"; and "No Doc with Assets"….
>
> * * *
>
> *Limited Documentation:* …. Assets must be documented and independently verified by means of a written verification of deposit (VOD) with two (2) months' average balance; most recent bank statements, stocks or securities statements covering a two-(2) month period. The borrower must demonstrate that they have sufficient reserves (sourced and seasoned) of greater than or equal to three months principal, interest, taxes and insurance.
>
> *Lite Documentation:* …. Assets must be documented and independently verified by means of a written verification of deposit (VOD) with two (2) months' average balance; most recent bank statements, stocks or securities statements covering a two-(2) month period. The borrower must demonstrate that they have sufficient reserves (sourced and seasoned) of greater than or equal to three months principal, interest, taxes and insurance.
>
> *Stated Income*: …. Assets must be documented and independently verified by means of a written verification of deposit (VOD) with two (2) months' average balance; most recent bank statements, stocks or securities statements covering a two-(2) month period. The borrower must demonstrate that they have sufficient reserves (sourced and seasoned) of greater than or equal to three months principal, interest, taxes and insurance.
>
> *No Ratio:* …. Assets must be documented and independently verified by means of a written verification of deposit (VOD) with two (2) months' average balance; most recent bank statements, stocks or securities statements covering a two-(2) month period. The borrower must demonstrate that they have sufficient reserves (sourced and seasoned) of greater than or equal to three months principal, interest, taxes and insurance.

> *Stated Income/Stated Assets:* …. The applicant's income as stated must be reasonable for the related occupation, borrowers' credit profile and stated asset, in the loan underwriter's discretion. …. The borrower must demonstrate that they have sufficient reserves (sourced and seasoned) of greater than or equal to three months principal, interest, taxes and insurance.
>
> *No Income/No Assets (NINA):* …. Borrower's ability to repay the loan is based upon past credit history and FICO score.
>
> *No Doc:* …. Borrower's ability to repay the loan is based upon past credit history and FICO score.
>
> *No Doc with Assets:* …. Assets must be documented and independently verified by means of a written verification of deposit (VOD) with two (2) months' average balance; most recent bank statements, stocks or *securities* statements covering a two-(2) month period. The borrower must demonstrate that they have sufficient reserves (sourced and seasoned) of greater than or equal to three months principal, interest, taxes and insurance. Borrower's ability to repay the loan is based upon past credit history; FICO score and verified assets.

Id. at S-34-35; *see also* Appendix, Chart F.

74. ***Misstated and Omitted Information:*** The statements in the Offering Documents related to Bear Stearns Mortgage Corp. and Encore's underwriting standards contained material misstatements and omissions because, as described herein, Bear Stearns Mortgage Corp. and Encore: (1) systematically disregarded their stated underwriting standards and regularly made exceptions to their underwriting guidelines in the absence of sufficient compensating factors; (2) pursued loan volume at the expense of underwriting standards, thereby failing to take the steps necessary to safeguard the quality of the product; and (3) largely disregarded appraisal standards leading to the values of the underlying mortgage properties were materially inflated in the loan underwriting process.

75. The disclosure of Bear Stearns Mortgage Corp. and Encore's systematic disregard for the underwriting guidelines led to dramatic downgrades of the Certificates where Bear Stearns Mortgage Corp. and/or Encore acted as a principal originator. Currently, 93.1% ($9.85 billion) of the Certificates that were initially rated AAA have been downgraded to speculative

"junk" status or below. Current delinquency and default rates on the Bear Stearns Mortgage Corp.-originated collateral have risen exponentially since issuance of the Certificates – from 0.77% as of the cut-off dates, to 68.25% as of January 1, 2010. Additionally, 74.0% ($2.45 billion) of the Certificates that were initially rated AAA where Encore was a principal originator have been downgraded to speculative "junk" status and below. Moreover, current delinquency and default rates on the Encore-originated collateral have risen exponentially since issuance of the Certificates – from 4.2% as of the cut-off dates, to 77.4% as of January 1, 2010.

C. Countrywide Home Loans

76. Countrywide was a principal originator for the BSABS Series 2007-AC4, SAMI Series 2006-AR4, 2006-AR6, 2006-AR7, 2006-AR8 and 2007-AR1, BALTA Series 2006-5, 2006-6, 2006-7, 2007-1, BSARM 2006-4, 2007-1 and 2007-3 Offerings. The total value of the thirteen (13) Offerings for which Countrywide was a principal originator was $17.04 billion, of which 93%, or $15.84 billion, was initially rated AAA/maximum safety.

77. The Prospectus Supplements described Countrywide's underwriting guidelines. Countrywide generally required a description of the borrower's income, employment documentation, FICO scores and a credit report. For example, the Prospectus Supplement for the April 27, 2007 BSABS Series 2007-AC4 Certificate Offering stated:

> ***Countrywide Home Loans' underwriting standards are applied by or on behalf of Countrywide Home Loans to evaluate the prospective borrower's credit standing and repayment ability and the value and adequacy of the mortgaged property as collateral.***
>
> * * *
>
> As part of its evaluation of potential borrowers, Countrywide Home Loans generally requires a description of income. If required by its underwriting guidelines, Countrywide Home Loans obtains employment verification providing current and historical income information and/or a telephonic employment confirmation. Such employment verification may be obtained, either through analysis of the prospective borrower's recent pay stub and/or W-2 forms for the

> most recent two years, relevant portions of the most recent two years' tax returns, or from the prospective borrower's employer, wherein the employer reports the length of employment and current salary with that organization.
>
> * * *
>
> Exceptions to Countrywide Home Loans' underwriting guidelines may be made if compensating factors are demonstrated by a prospective borrower.

Id. at 40 (emphasis added); *see also* Appendix, Chart G.

78. The Prospectus Supplements described the importance of the appraisals of the mortgaged properties:

> Except with respect to the mortgage loans originated pursuant to its Streamlined Documentation Program, whose values were confirmed with a Fannie Mae proprietary automated valuation model, Countrywide Home Loans obtains appraisals from independent appraisers or appraisal services for properties that are to secure mortgage loans. ***The appraisers inspect and appraise the proposed mortgaged property and verify that the property is in acceptable condition***. Following each appraisal, the appraiser prepares a report which includes a market data analysis based on recent sales of comparable homes in the area and, when deemed appropriate, a replacement cost analysis based on the current cost of constructing a similar home. ***All appraisals are required to conform to Fannie Mae or Freddie Mac appraisal standards then in effect***.

Id. at 34 (emphasis added); *see also* Appendix, Chart H.

79. The Prospectus Supplement for the BSABS 2007-AC4 Certificate Offering details Countrywide's programs for issuing mortgage loans where less than full documentation was required. But, even those programs were subject to underwriting procedures and required appraisals. The Prospectus Supplement stated, in part:

> The Alternative Documentation Program permits a borrower to provide W-2 forms instead of tax returns covering the most recent two years, permits bank statements in lieu of verification of deposits and permits alternative methods of employment verification.
>
> Under the Reduced Documentation Program, some underwriting documentation concerning income, employment and asset verification is waived. Countrywide Home Loans obtains from a prospective borrower either a verification of deposit or bank statements for the two-month period immediately before the date of the mortgage loan application or verbal verification of employment. Since

> information relating to a prospective borrower's income and employment is not verified, the borrower's debt-to-income ratios are calculated based on the information provided by the borrower in the mortgage loan application. The maximum Loan-to-Value Ratio ranges up to 95%.
>
> * * *
>
> Under the No Income/No Asset Documentation Program, no documentation relating to a prospective borrower's income, employment or assets is required and therefore debt-to-income ratios are not calculated or included in the underwriting analysis, or if the documentation or calculations are included in a mortgage loan file, they are not taken into account for purposes of the underwriting analysis. ***This program is limited to borrowers with excellent credit histories***. Under the No Income/No Asset Documentation Program, the maximum Loan-to-Value Ratio, including secondary financing, ranges up to 95%. Mortgage loans originated under the No Income/No Asset Documentation Program are generally eligible for sale to Fannie Mae or Freddie Mac.
>
> Under the Stated Income/Stated Asset Documentation Program, ***the mortgage loan application is reviewed to determine that the stated income is reasonable for the borrower's employment and that the stated assets are consistent with the borrower's income***….

Id. at 43 (emphasis added); *see also* Appendix, Chart I.

80. ***Misstated and Omitted Information:*** The statements in the Offering Documents related to Countrywide's underwriting standards contained material misstatements and omissions because, as described herein, Countrywide: (1) systematically disregarded its stated underwriting standards and regularly made exceptions to its underwriting guidelines in the absence of sufficient compensating factors. Despite assurances that lesser loans were limited to borrowers with excellent credit histories, Countrywide routinely extended these loans to borrowers with weak credit histories; and (2) largely disregarded appraisal standards and did not prepare appraisals in conformity with Fannie Mae or Freddie Mac appraisal standards.

81. Confidential Witness ("CW") 1, a Senior Underwriter in Roseville, California, from September 2002 to September 2006, stated that Countrywide would regularly label loans as "prime" even if made to unqualified borrowers (including those who had recently gone through a

bankruptcy and were still having credit problems). According to CW1, Countrywide's lending practices got riskier in 2006 and Countrywide was more lax in enforcing its underwriting policies during that year.

82. According to CW2, an Executive Vice President of Production Operations and later an Executive Vice President of Process Improvement, who worked at Countrywide for 17 years before leaving in October 2005, Countrywide created a computer system (or "rules engine") that routed highly risky loans out of the normal loan approval process to a central underwriting group for evaluation. The system was called the Exception Processing System. According to CW2, the Exception Processing System identified loans that violated Countrywide's underwriting requirements. However, according to CW2, loans identified by the Exception Processing System as violating underwriting standards were ***not*** rejected. Rather, according to CW2, Countrywide executives wanted the Company's Central Underwriting group to review such loans to evaluate whether these loans should require a higher price (up-front points) or a higher interest rate in light of the violation at issue. Central Underwriting entered information into the Exception Processing System about its decisions to approve such loans and charge additional fees to the borrower.

83. According to CW3, an Underwriter from Long Island, New York, between March 2000 and January 2007, Countrywide extended loans to individuals with increasing debt-to-income ratios. Initially, Countrywide limited debt-to-income ratios to 38%, but this rose to 50%. According to CW3, Countrywide branch managers' compensation was tied to loan origination volume and not the quality of the loans. Thus, according to CW3, branch managers pushed originators to sell more loans despite the riskiness of these loans.

84. According to CW4, an underwriter for Countrywide in the Jacksonville, Florida, processing center between June 2006 and April 2007, as much as 80% of the loans originated involved significant variations from the underwriting standards that necessitated a signoff by management. CW4 stated that Countrywide was very lax when it came to underwriting guidelines. Management pressured underwriters to approve loans and this came from "up top" because management was paid based, at least in part, on the volume of loans originated. CW4's manager told CW4 to approve as many loans as possible and push loans through. According to CW4, most loans declined by underwriters would "come back to life" when new information would "miraculously appear" – which indicated to CW4 that Countrywide was not enforcing its underwriting standards.

85. Moreover, according to Mark Zachary, a former Regional Vice President of Countrywide Mortgage Ventures, LLC, Countrywide blatantly ignored its underwriting policies and procedures. Mr. Zachary stated that there was a problem with appraisals performed on homes being purchased with Countrywide loans. According to Mr. Zachary, the appraiser was being strongly encouraged to inflate appraisal values by as much as 6% to allow the homeowner to "roll up" all closing costs. According to Mr. Zachary, this inflated value put the buyer "upside down" on the home immediately after purchasing it, *i.e.*, the borrower owed more than the home's worth. Thus, the borrower was more susceptible to default. It also put the lender and secondary market investor at risk because they were unaware of the true value of their asset. According to Mr. Zachary, Countrywide performed an audit in January 2007 into these matters which corroborates his story.

86. Appraisals for properties that Countrywide originated were not obtained from independent appraisers because the appraisal amounts had to conform to pre-determined levels,

or the appraiser's association or employment with Countrywide might be at risk. Countrywide failed to confirm that appraisers were following the guidelines described by Fannie Mae and Freddie Mac. Combined with the implied or express pressures placed on appraisers to appraise to the desired value, there was enormous upward pressure on appraisal values, distorting loan-to-value ratios and making the mortgage loans in the pool much riskier than suggested by the Offering Documents. This was particularly true in 2006 and 2007 when real estate values in many of the areas where the mortgage pools were located had stopped increasing at the rapid pace of 2004 to 2005.

87. On or about March 10, 2008, the FBI disclosed that it had initiated a probe into Countrywide's mortgage practices, including manipulation of the subprime and non-traditional loan markets, knowledge of and disregard for underwriting inaccuracies and misrepresentations, and Countrywide's specific instructions to underwriters not to scrutinize certain types of loans it issued. Subsequently, on April 2, 2008, a Federal Bankruptcy Judge overseeing the proceedings of more than 300 Countrywide-related bankruptcies ordered a further inquiry into the misconduct, and specifically, the illegal inflation of fees throughout the loan process that had been occurring at Countrywide.

88. On April 11, 2008, an amended complaint for violations of the federal securities laws was filed in federal court in the Central District of California against Countrywide. *See Argent Classic Convertible Arbitrage Fund LP, et al. v. Countrywide Financial Corp., et al.*, No. 07-7097 (C.D. Cal.). The complaint identified specific deviations for Countrywide's stated underwriting guidelines. For example, in connection with the "No Income/No Asset Documentation Program," Countrywide represented that "[t]his program is limited to borrowers with excellent credit histories." However, Countrywide routinely extended these loans to

borrowers with weak credit and knew that such "low doc" or "no doc" loans, particularly when coupled with nontraditional products like ARMs, likely contained misinformation from the borrower, such as overstated incomes, that increased the likelihood of defaults. Because borrowers were advised that their representations on loan applications would not be verified, Countrywide employees referred to these products as "liar loans."

89. In addition, numerous Attorneys General have initiated investigations into Countrywide's lending practices and also have alleged that Countrywide systematically departed from the underwriting standards it professed using for originating residential loans.

90. The Illinois Attorney General initiated a lawsuit against Countrywide and Angelo Mozilo, Chairman of the Board and Chief Executive Officer through July 1, 2008, contending that the company and its executives sold borrowers costly and defective loans that quickly went into foreclosure. *See The People of the State of Illinois v. Countrywide Financial Corporation, et al.*, No. 08CH22994 (Cook County Ch. Ct.), (the "Illinois AG Complaint"). Additionally, the Illinois AG Complaint alleges that Countrywide employees were incentivized to increase the number of loan originations without concern for whether the borrower was able to repay the loan. Countrywide employees did not properly ascertain whether a potential borrower could afford the offered loan, and many of Countrywide's stated income loans were based on inflated estimates of borrowers' income. For example, according to the Illinois AG Complaint: (1) a Countrywide employee estimated that approximately 90% of all reduced documentation loans sold out of a Chicago office had inflated incomes; and (2) one of Countrywide's mortgage brokers, One Source Mortgage Inc., routinely doubled the amount of the potential borrower's income on stated income mortgage applications. Furthermore, to supplement an employee's judgment as to whether a potential borrower's income was "reasonable," Countrywide required

its employees to utilize a website, www.salary.com. Even if the stated salary was outside of the range provided by the website, Countrywide employees could still approve the loan. The Illinois AG alleged that the "reasonableness" test contravened proper underwriting practices.

91. As the Illinois Attorney General explained, "[t]his mounting disaster has had an impact on individual homeowners statewide and is having an impact on the global economy. It is all from the greed of people like Mozilo." *The New York Times* reported that the complaint, derived from 111,000 pages of Countrywide documents and interviews with former employees, "paints a picture of a lending machine that was more concerned with volume of loans than quality." (*See* Gretchen Morgenson, "Illinois to Sue Countrywide," *The New York Times,* June 25, 2008.)

92. California's Attorney General also commenced an investigation into Countrywide's lending activities and filed a complaint in the Northwest District of the Superior Court for Los Angeles County, entitled *The People of the State of California v. Countrywide Financial Corporation, et al*., No. LC081846 (Los Angeles Super. Ct.) (the "California AG Complaint"). The California AG Complaint also alleged that Countrywide departed from its stated underwriting standards. For example, the Complaint alleged that employees were incentivized to make exceptions to underwriting standards and failed to verify borrower documentation and information. According to the California AG Complaint, Countrywide used a system called CLUES (Countrywide Loan Underwriting Expert System), to provide a loan analysis report that indicated whether the loan was within Countrywide's underwriting guidelines. CLUES reports indicating a loan was not within Countrywide's underwriting guidelines often were ignored in order to effectuate the loan.

93. Jerry Brown, California's Attorney General, stated: "Countrywide exploited the American dream of homeownership and then sold its mortgages for huge profits on the secondary market."

94. Likewise, the Connecticut Attorney General (the "Connecticut AG") filed a complaint in Superior Court, Judicial District of Hartford, entitled *State of Connecticut v. Countrywide Financial Corporation, et al.*, No. CV08-40390945 (Hartford Super. Ct.), alleging that Countrywide's employees inflated borrowers' incomes in order to qualify them for loans they otherwise would not have received.

95. Investigations in other states such as Washington, West Virginia, Indiana and Florida confirmed many of the allegations in the Illinois, California and Connecticut complaints.

96. On July 24, 2008, *The Los Angeles Times* reported that "three big Southland lenders (are) under federal investigation; Sources say IndyMac, Countrywide and New Century [have been] subpoenaed." *The Los Angeles Times* further reported that officials have begun to investigate the value of mortgage-backed securities:

> A federal grand jury in Los Angeles has begun probing three of the nation's largest subprime mortgage lenders in the clearest sign yet that prosecutors are investigating whether fraud and other crimes contributed to the mortgage debacle.
>
> ***Grand jury subpoenas have been issued in recent weeks and months to Countrywide Financial Corp., New Century Financial Corp. and IndyMac Federal Bank*** seeking a wide range of information, according to sources with direct knowledge of the subpoenas.
>
> ***Officials have said they are beginning to investigate whether securities investors were defrauded about the value of subprime mortgages they purchased,*** as well as other possible crimes such as insider trading by corporate officials who sold stock knowing their holdings were about to deflate in value.

(Emphasis added.)

97. On September 30, 2008, MBIA Insurance Corp. ("MBIA") filed a complaint against Countrywide in New York state court, entitled *MBIA Insurance Corp. v. Countrywide, et*

al., No. 08/602825 (N.Y. Sup. Ct.). The MBIA complaint alleges that Countrywide fraudulently induced it to provide insurance for certain investment certificates. MBIA was able to obtain approximately 19,000 loan files for the Certificates it insured as a result of its contractual agreements with Countrywide. After reviewing the portfolios and re-underwriting each loan provided by Countrywide, MBIA discovered that there was "an extraordinarily high incidence of material deviations from the underwriting guidelines Countrywide represented it would follow." *Id.* at ¶78. MBIA discovered that many of the loan applications "lack[ed] key documentation, such as a verification of borrower assets or income; include[d] an invalid or incomplete appraisal; demonstrate[d] fraud by the borrower on the face of the application; or reflect[ed] that any of borrower income, FICO score, or debt, or DTI [debt-to-income] or CLTV, fail[ed] to meet stated Countrywide guidelines (without any permissible exception)." *Id.* at ¶79. Significantly, "MBIA's re-underwriting review . . . revealed that almost 90% of defaulted or delinquent loans in the Countrywide Securitizations show material discrepancies."

98. On October 6, 2008, Countrywide settled lawsuits brought by eleven Attorneys General, for $8.4 billion. The settlement provided a program by which existing loans would be modified:

> [B]orrowers were placed in the riskiest loans, including adjustable-rate mortgages whose interest rates reset significantly several years after the loans were made. Pay-option mortgages, under which a borrower must pay only a small fraction of the interest and principal, thereby allowing the loan balance to increase, also are included in the modification.

99. Countrywide's systematic disregard for its underwriting guidelines led to dramatic downgrades of the Certificates where Countrywide acted as a principal originator. Currently, 97.9% ($15.48 billion) of the Certificates that were initially rated AAA have been downgraded to speculative "junk" status or below. Current delinquency and default rates on the

Countrywide originated collateral have risen exponentially since issuance of the Certificates – from .33% as of the cut-off dates to 68% as of January 1, 2010.

D. American Home Mortgage

100. American Home was a principal originator for the SAMI Series 2006-AR5 Certificate Offering. The total value of the Offering for which American Home was a principal originator was $951.92 million, of which 94.13%, or $896.07 million, was initially rated AAA/maximum safety.

101. The Prospectus Supplements described American Home's underwriting guidelines. American Home purported to have rigorous underwriting standards designed to evaluate borrower creditworthiness. For example, the Prospectus Supplement for the SAMI Series 2006-AR5 Certificate Offering, filed May 30, 2006, provided:

> American Home's underwriting philosophy is to weigh all risk factors inherent in the loan file, giving consideration to the individual transaction, borrower profile, the level of documentation provided and the property used to collateralize the debt.
>
> * * *
>
> American Home underwrites a borrower's creditworthiness based solely on information that American Home believes is ***indicative of the applicant's willingness and ability to pay the debt they would be incurring.***
>
> * * *
>
> In addition to reviewing the borrower's credit history and credit score, American Home underwriters closely review the borrower's housing payment history. In general, for non-conforming loans the borrower should not have made any mortgage payments over 30 days after the due date for the most recent twelve months. In general, for Alt-A loans, the borrower may have no more than one payment that was made over 30 days after the due date for the most recent twelve months.
>
> * * *
>
> American Home's Alt-A loan products generally have been approved manually by contract underwriters provided by certain mortgage insurance companies or by

> American Home's senior underwriters. American Home Solutions products must receive an approval from the Assetwise automated underwriting system. For manually underwritten loans, the underwriter must ensure that the borrower's income will support the total housing expense on an ongoing basis. Underwriters may give consideration to borrowers who have demonstrated an ability to carry a similar or greater housing expense for an extended period. In addition to the monthly housing expense, the underwriter must evaluate the borrower's ability to manage all recurring payments on all debts, including the monthly housing expense. When evaluating the ratio of all monthly debt payments to the borrower's monthly income (debt-to-income ratio), the underwriter should be aware of the degree and frequency of credit usage and its impact on the borrower's ability to repay the loan. For example, borrowers who lower their total obligations should receive favorable consideration and borrowers with a history of heavy usage and a pattern of slow or late payments should receive less flexibility.

Id. at S-47-49 (emphasis added).

102. American Home purported to require and rely upon standard appraisals. For example, the Prospectus Supplement for the SAMI Series 2006-AR5 Certificate Offering, specifically provided:

> Every mortgage loan is secured by a property that has been appraised by a licensed appraiser in accordance with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation. The appraisers perform on-site inspections of the property and report on the neighborhood and property condition in factual and specific terms. Each appraisal contains an opinion of value that represents the appraiser's professional conclusion based on market data of sales of comparable properties and a logical analysis with adjustments for differences between the comparable sales and the subject property and the appraiser's judgment. In addition, each appraisal is reviewed for accuracy and consistency by American Home's vendor management company or an underwriter of American Home or a mortgage insurance company contract underwriter.
>
> * * *
>
> The appraiser's value conclusion is used to calculate the ratio (loan-to-value) of the loan amount to the value of the property. For loans made to purchase a property, this ratio is based on the lower of the sales price of the property and the appraised value. American Home sets various maximum loan-to-value ratios based on the loan amount, property type, loan purpose and occupancy of the subject property securing the loan. In general, American Home requires lower loan-to-value ratios for those loans that are perceived to have a higher risk, such as high loan amounts, loans in which additional cash is being taken out on a refinance transaction, loans on second homes or loans on investment properties. A lower loan-to-value ratio requires a borrower to have more equity in the

> property, which is a significant additional incentive to the borrower to avoid default on the loan. In addition, for all loans in which the loan-to-value ratio exceeds 80%, American Home requires that the loan be insured by a private mortgage insurance company that is approved by Fannie Mae and Freddie Mac. Loans with higher loan-to-value ratios require higher coverage levels. For example, non-conforming loans with loan-to-value ratios of 85%, 90% and 95% require mortgage insurance coverage of 12%, 25% and 30%, respectively. Alt-A loans with full or alternative documentation and loan-to-value ratios of 85%, 90%, 95% and 97% require mortgage insurance coverage of 12-20%, 25%, 30% and 35%, respectively. Alt-A loans with loan-to-value ratios up to 100% require 35% coverage.

Id. at S-49.

103. The Prospectus Supplements also provided for prudent underwriting for mortgages where less borrower documentation was required:

> Certain non-conforming stated income or stated asset products allow for less verification documentation than Fannie Mae or Freddie Mac require. Certain non-conforming Alt-A products also allow for less verification documentation than Fannie Mae or Freddie Mac require. For these Alt-A products, the borrower may not be required to verify employment income, assets required to close or both. For some other Alt-A products, the borrower is not required to provide any information regarding employment income, assets required to close or both. Alt-A products with less verification documentation generally have other compensating factors such as higher credit score or lower loan-to-value requirements.
>
> * * *
>
> American Home realizes that there may be some acceptable quality loans that fall outside published guidelines and encourages "common sense" underwriting. Because a multitude of factors are involved in a loan transaction, no set of guidelines can contemplate every potential situation. Therefore each case is weighed individually on its own merits and exceptions to American Home's underwriting guidelines are allowed if sufficient compensating factors exist to offset any additional risk due to the exception.

Id. at S-48-49.

104. ***Misstated and Omitted Information:*** The statements in the Offering Documents related to American Home's underwriting standards contained material misstatements and omissions because, as described herein, American Home systematically disregarded its stated

underwriting standards and regularly made exceptions to its underwriting guidelines in the absence of sufficient compensating factors. As such, American Home disregarded crucial risk factors in making determinations on loan applications, specifically approving loan applications for Option-Arm and loans with Negative Amortization features to borrowers with bad credit history or insufficient income to repay the loan once the rates adjusted upwards. Moreover, American Home's controls were inadequate to prevent it from originating suspect loans which were sure to default absent rapid, significant price appreciation of the underlying property; and largely disregarded its appraisal standards and the values of the underlying mortgage properties were materially inflated in the loan underwriting process.

105. American Home greatly reduced and/or eliminated its underwriting standards in order to approve as many mortgages as possible. For example, an internal American Home "Credit Update" presentation dated from October 2005 set forth revised credit factors which made clear that American Home's underwriting guidelines were to be either relaxed substantially or essentially rendered meaningless, in order to allow American Home to make loans to high-risk borrowers. Specifically, the Credit Update sets forth the previous "interpretation" of the underwriting guidelines under a heading entitled "What we observed in [our] prior history" alongside the new "interpretation" under a heading entitled "Where We Are Now." These new "guideline interpretations" included:

- Not requiring verification of income sources on stated income loans;
- Reducing the time that need have passed since the borrower was in bankruptcy or credit counseling;
- Reducing the required documentation for self-employed borrowers; and
- Broadening the acceptable use of second and third loans to cover the full property value.

106. Indeed, an internal American Home e-mail sent on November 2, 2006, from Steve Somerman, an American Home Senior Vice President of Product and Sales Support in California and co-creator of the American Home's "Choice Point Loans" program, to loan officers nationwide, stated that American Home would make a loan to virtually any borrower, regardless of the borrower's ability to verify income, assets or even employment. That e-mail specifically encouraged loan officers to make a variety of loans that were inherently risky and extremely susceptible to delinquencies and default, including (1) stated income loans, where both the income and assets of the borrower were taken as stated on the credit application without verification; (2) "NINA" or No Income, No Asset loans, which allowed for loans to be made without any disclosure of the borrower's income or assets; and (3) "No Doc" loans, which allowed loans to be made to borrowers who did not disclose their income, assets or employment history.

107. American Home also did not have appropriate controls in place to monitor and enforce compliance with underwriting guidelines. According to CW5, a staff member in American Home's repurchase department between November 2004 and August 2007, "[T]he underwriters didn't do their jobs. They were lax, very lax."

108. Moreover, American Home permitted numerous "exceptions" to its underwriting standards. CW6, an Assistant Vice President for Direct Consumer Lending in American Home's loan origination business segment between July 2006 and August 2007, explained that exceptions were always being made to the underwriting guidelines. When CW6's staff raised concern with the sales department about loans that did not meet the underwriting guidelines, the sales department would contact the Melville, New York headquarters to approve an exception to those guidelines so that the loan could be completed. Examples of such exceptions included

reducing the required credit score or increasing the loan-to-value ratio. CW6 stated that, when the exception at issue involved accepting a reduced credit score, it was commonplace to overrule the objections of the underwriters in order to complete the loan.

109. According to CW7, whose job at American Home from July 2005 through April 2007 was to review the underwriting of loans before they were sold to secondary market investors, exceptions to underwriting guidelines were made "all the time." For example, borrowers who claimed to be self-employed were not required to prove that they had been in business for a specified period of time, as the stated underwriting guidelines required.

110. According to CW8, a former Senior Underwriter at American Home from 2002 to 2007, underwriters' objections to loans were frequently vetoed. CW8 stated that underwriters would "say[] 'no way' on a lot of things, 'I would never give a borrower a loan like this,'" but the loans would be approved nonetheless. According to CW8, loans would be approved over the underwriter's objection if he refused to put his name on a loan, "[I]t happened more than it should have."

111. On August 2, 2007, the New Jersey Department of Banking and Insurance issued legal documents ordering American Home to stop doing business in the state and started the paperwork to revoke American Home's mortgage lender license. On August 6, 2007, American Home was forced to file for bankruptcy protection.

112. In addition to civil lawsuits, American Home is involved in several criminal probes and investigations. As early as March 2008, federal prosecutors had already convicted one American Home sales executive, Kourash Partow, of mortgage fraud. According to a March 11, 2008 *Wall Street Journal* article, after conviction, Partow, who worked for Countrywide before joining American Home, sought a lighter sentence on the grounds that his former

employers (Countrywide and American Home) not only had knowledge of the loan document inaccuracies but in fact encouraged manipulation by intentionally misrepresenting the performance of loans and the adequacy of how the loans were underwritten. Partow's attorney argued that Countrywide and American Home had competitive cultures that encouraged a blind eye mentality. In fact, American Home immediately hired Partow and appointed him as branch manager and loan officer even though he had been fired from Countrywide in June 2006 after FBI scrutiny of his loans provoked an internal audit. Patrow admitted that he would falsify clients' income or assets in order to get loans approved. Most of the loans did not require documentary verification of such figures.

113. Further, according to a May 5, 2008 article in *The Globe and News,* prosecutors from the Eastern District of New York were investigating American Home for criminal activity including reporting misrepresentations in securities filings about the company's financial position and quality of its mortgage loans, failing to disclose a rising number of loan defaults and engaging in questionable accounting to hide losses.

114. American Home's systematic disregard for its underwriting guidelines led to dramatic downgrades of the Certificates where American Home acted as a principal originator. Currently, 76.67% ($687.04 billion) of the Certificates that were initially rated AAA have been downgraded to speculative "junk" status or below. Current delinquency and default rates on the American Home originated collateral have risen exponentially since issuance of the Certificates – from 0.0% as of the cut-off dates to 75.1% as of January 1, 2010.

E. Ameriquest Loan Sellers

115. ACC Capital Holdings ("ACC Capital"), headquartered in Orange, California, was the nation's largest subprime lender. Argent Mortgage Capital ("Argent") was a wholly-owned wholesale mortgage subsidiary of ACC Capital. Citigroup purchased Argent on August

31, 2007. Ameriquest Mortgage Company ("Ameriquest") was ACC Capital's wholly owned retail lending subsidiary. On August 1, 2007, Ameriquest announced that it would no longer be accepting loans. Town & Country Credit Corp. ("T&C") was ACC Capital's wholly owned retail lender and sister to Ameriquest. T&C abruptly closed in May 2006 as part of a broader reorganization that closed 229 offices. Ameriquest, T&C and Argent are, at times, collectively referred to herein as the "Ameriquest Loan Sellers."

116. The Ameriquest Loan Sellers were principal originators for the BSABS Series 2006-AQ1, 2007-AQ1 and 2006-HE5 Offerings. The total value of the three (3) Offerings for which the Ameriquest Loan Sellers were principal originators was $1.32 billion, of which 80.4%, or $1.06 billion, was initially rated AAA/maximum safety.

117. The Prospectus Supplements described the Ameriquest Loan Sellers' underwriting guidelines used in originating Certificate Collateral. Ameriquest purported to follow guidelines assessing borrower creditworthiness and requiring standard appraisals which the Ameriquest Loan Sellers then reviewed. For example, the Prospectus Supplement for the BSABS Series 2006-AQ1 Certificate Offering filed October 18, 2006, provided:

> ***The Ameriquest Underwriting Guidelines are primarily intended to evaluate: (1) the applicant's credit standing and repayment ability and (2) the value and adequacy of the mortgaged property as collateral.*** On a case-by-case basis, the Ameriquest Loan Sellers may determine that, based upon compensating factors, a loan applicant, not strictly qualifying under one of the risk categories described below, warrants an exception to the requirements set forth in the Ameriquest Underwriting Guidelines. Compensating factors may include, but are not limited to, loan-to-value ratio, debt-to-income ratio, good credit history, stable employment history, length at current employment and time in residence at the applicant's current address.
>
> During the underwriting process, each Ameriquest Loan Seller reviews and verifies the loan applicant's sources of income (except under the Stated Income and Limited Documentation types, under which programs such information may not be independently verified), calculates the amount of income from all such sources indicated on the loan application, reviews the credit history of the applicant, calculates the debt-to-income ratio to determine the applicant's ability

> to repay the loan, and reviews the mortgaged property for compliance with the Ameriquest Underwriting Guidelines.

Id. at 47 (emphasis added); *see also* Appendix, Chart J.

118. The Ameriquest Loan Sellers purported to require and rely upon standard appraisals. For example, the December 1, 2006 Prospectus Supplement for the BSABS Series 2007-AQ1 Certificate Offering specifically provided:

> Properties that are to secure mortgage loans have a valuation obtained by an appraisal performed by a qualified and licensed appraiser who is a staff appraiser or an independent appraiser who is in good standing with the related Ameriquest Loan Seller's in-house appraisal department. Generally, properties below average standards in condition and repair are not acceptable as security for mortgage loans under the Ameriquest Underwriting Guidelines. Each appraisal includes a market data analysis based on recent sales of comparable homes in the area and, where deemed appropriate, replacement cost analysis based on the current cost of constructing a similar home. Every independent appraisal is reviewed by a representative of the applicable Ameriquest Loan Seller or a fee appraiser before the mortgage loan is funded.

Id. at 48; *see also* Appendix, Chart K.

119. The Prospectus Supplements also provided for prudent underwriting for mortgages where less borrower documentation was required. For example, the October 18, 2006 Prospectus Supplement for the BSABS Series 2006-AQ1 Certificate Offering provided:

> *Full Documentation.* The Full Documentation residential loan program is generally based upon current year to date income documentation as well as the previous year's income documentation (i.e., tax returns and/or W-2 forms and/or written verification of employment) for the previous 12 months (with respect to mortgage loans originated by Argent) or 24 months (with respect to mortgage loans originated by Ameriquest) or bank statements for the previous 12 months (with respect to mortgage loans originated by Argent) or 24 months (with respect to mortgage loans originated Ameriquest). The documentation required is specific to the applicant's sources of income. The applicant's employment and/or business licenses are generally verified.
>
> *Limited Documentation.* The Limited Documentation residential loan program is generally based on bank statements from the past 6 months (with respect to mortgage loans originated by Argent) or 12 months (with respect to mortgage loans originated by Ameriquest) supported by additional documentation provided

> by the applicant or current year to date documentation. The applicant's employment and/or business licenses are generally verified.
>
> *Stated Income.* The Stated Income residential loan program requires the applicant's employment and income sources to be stated on the application. The applicant's income as stated must be reasonable for the related occupation in the loan underwriter's discretion. However, the applicant's income as stated on the application is not independently verified.

Id. at 49; *see also* Appendix, Chart L.

120. ***Misstated and Omitted Information:*** The statements in the Offering Documents related to the Ameriquest Loan Sellers' underwriting standards contained material misstatements and omissions because, as described herein, the Ameriquest Loan Sellers systematically disregarded their stated underwriting standards and regularly made exceptions to their underwriting guidelines in the absence of sufficient compensating factors.

121. On August 20, 2007, *BusinessWeek* reported in an article titled "Did Big Lenders Cross the Line?" that lawsuits are increasingly blaming lenders' lax underwriting standards for loan delinquency. In one lawsuit against Ameriquest, plaintiff Mary Overton alleges that loan officers at a Brooklyn (NY) branch of Ameriquest coerced Overton into signing a loan. Unbeknownst to Ms. Overton, Ameriquest created fake tax returns, employment records, and a 401(k) to make it appear that the loan was affordable. According to other court filings, at least 40 other borrowers allege Ameriquest doctored loan documents or increased borrowers' income. According to *Businessweek*, the motive for a large lender such as Ameriquest to engage in such a practice is to keep up loan volume and generate sales.

122. On October 22, 2007, *MortgageDaily* reported that Wachovia filed a lawsuit against Ameriquest alleging that Ameriquest has not complied with repurchase requests on loans with fraudulent files. According to the complaint, the 135 nonperforming loans sold to Wachovia on December 29, 2005, contained incorrect credit scores, false employment status and

misstatements of the kind of home being financed. In addition, the complaint stated that the loans had not been underwritten pursuant to the underwriting procedures that Ameriquest agreed to apply and thus Ameriquest's representations and warranties regarding the loans were false and breached by Ameriquest. *Mortgage Daily*, "Wachovia v. Ameriquest," October 22, 2007.

123. According to a December 7, 2008, article in the *Miami Herald*, employees of Argent, including a vice president named Orson Benn, actively assisted mortgage brokers in falsifying borrowers' financial information by "tutoring . . . mortgage brokers in the art of fraud." Employees "taught [brokers] how to doctor credit reports, coached them to inflate [borrower] income on loan applications, and helped them invent phantom jobs for borrowers" so that loans could be approved. According to Mr. Benn himself, "the accuracy of loan applications was not a priority." The *Miami Herald* examined the applications for 129 loans funded by Argent and found at least 103 that contained "false and misleading information" and "red flags: non-existent employers, grossly inflated salaries and sudden, drastic increases in the borrower's net worth." As the article noted, "the simplest way for a bank to confirm someone's income is to call the employer. But in at least two dozen cases, the applications show bogus telephone numbers for work references . . . ." Argent's lack of verification was so poor that a "borrower [who] claimed to work a job that didn't exist . . . got enough money to buy four houses." Another borrower "claimed to work for a company that didn't exist – and got a $170,000 loan."

124. Moreover, according to a May 11, 2008 *Cleveland Plain Dealer* article, Jacqulyn Fishwick, who worked for more than two years at an Argent loan processing center near Chicago as an underwriter and account manager, noted that "some Argent employees played fast and loose with the rules" and stated "I personally saw some stuff I didn't agree with." Ms. Fishwick

"saw [Argent] account managers remove documents from files and create documents by cutting and pasting them."

125. Ameriquest Loan Sellers' systematic disregard for its underwriting guidelines led to dramatic downgrades of the Certificates where the Ameriquest Loan Sellers acted as a principal originator. Currently, 82.4% ($876.45 million) of the Certificates that were initially rated AAA have been downgraded to speculative "junk" status or below. Current delinquency and default rates on the Ameriquest Loan Sellers originated collateral have risen exponentially since issuance of the Certificates – from 1.43% as of the cut-off dates to 82.0% as of January 1, 2010.

F. GreenPoint Mortgage Funding

126. GreenPoint was a principal originator for the BSABS Series 2006-AC5 and 2007-AC3 Offerings. The total value of the two (2) Offerings for which GreenPoint was a principal originator was $629.23 million, of which 93.71%, or $589.67 million, was initially rated AAA/maximum safety.

127. The Prospectus Supplements described GreenPoint's underwriting guidelines. For example, the Prospectus Supplement for the BSABS Series 2006-AC5 Certificate Offering filed November 28, 2006 stated:

> ***Generally, the GreenPoint underwriting guidelines are applied to evaluate the prospective borrower's credit standing and repayment ability and the value and adequacy of the mortgaged property as collateral.*** Exceptions to the guidelines are permitted where compensating factors are present.
>
> * * *
>
> In determining whether a prospective borrower has sufficient monthly income available to meet the borrower's monthly obligation on the proposed mortgage loan and monthly housing expenses and other financial obligations, GreenPoint generally considers the ratio of those amounts to the proposed borrower's monthly gross income. These ratios vary depending on a number of underwriting criteria, including loan-to-value ratios ("LTV"), and are determined on a loan-by-

> loan basis. The ratios generally are limited to 40% but may be extended to 50% with adequate compensating factors, such as disposable income, reserves, higher FICO credit score, or lower LTV's.
>
> *   *   *
>
> As part of its evaluation of potential borrowers, GreenPoint generally requires a description of the borrower's income. If required by its underwriting guidelines, GreenPoint obtains employment verification providing current and historical income information and/or a telephonic employment confirmation. Employment verification may be obtained through analysis of the prospective borrower's recent pay stubs and/or W-2 forms for the most recent two years or relevant portions of the borrower's most recent two years' tax returns, or from the prospective borrower's employer, wherein the employer reports the borrower's length of employment and current salary with that organization. Self-employed prospective borrowers generally are required to submit relevant portions of their federal tax returns for the past two years.

Id. at S-34 (emphasis added).

128. GreenPoint purported to require and rely upon standard appraisals, as set forth in the Prospectus Supplement for the BSABS Series 2006-AC5 as follows:

> In determining the adequacy of the property as collateral, an independent appraisal is generally made of each property considered for financing. All appraisals are required to conform [to] the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standard Board of the Appraisal Foundation. Each appraisal must meet the requirements of Fannie Mae and Freddie Mac. The requirements of Fannie Mae and Freddie Mac require, among other things, that the appraiser, or its agent on its behalf, personally inspect the property inside and out, verify whether the property is in a good condition and verify that construction, if new, has been substantially completed. The appraisal generally will have been based on prices obtained on recent sales of comparable properties determined in accordance with Fannie Mae and Freddie Mac guidelines. In certain cases, an analysis based on income generated by the property or a replacement cost analysis based on the current cost of constructing or purchasing a similar property may be used. GreenPoint's Underwriting Guidelines require that the underwriters be satisfied that the value of the property being financed supports, and will continue to support, the outstanding loan balance, and provides sufficient value to mitigate the effects of adverse shifts in real estate values.

Id. at S-35.

129. The Prospectus Supplements also provided for prudent underwriting for mortgages where less borrower documentation was required:

> GreenPoint acquires or originates many mortgage loans under "limited documentation" or "no documentation" programs. Under limited documentation programs, more emphasis is placed on the value and adequacy of the mortgaged property as collateral, credit history and other assets of the borrower, than on verified income of the borrower. ***Mortgage loans underwritten under this type of program are generally limited to borrowers with credit histories that demonstrate an established ability to repay indebtedness in a timely fashion***, and certain credit underwriting documentation concerning income or income verification and/or employment verification is waived. Mortgage loans originated and acquired with limited documentation programs include cash-out refinance loans, super-jumbo mortgage loans and mortgage loans secured by investor-owned properties. Permitted maximum loan-to-value ratios (including secondary financing) under limited documentation programs are generally more restrictive than mortgage loans originated with full documentation requirements. Under no documentation programs, income ratios for the prospective borrower are not calculated. Emphasis is placed on the value and adequacy of the mortgaged property as collateral and the credit history of the prospective borrower, rather than on verified income and assets of the borrower. Documentation concerning income, employment verification and asset verification is not required and income ratios are not calculated. Mortgage loans underwritten under no documentation programs are generally limited to borrowers with favorable credit histories and who satisfy other standards for limited documentation programs.

Id. at S-34 (emphasis added).

130. ***Misstated and Omitted Information:*** The statements in the Offering Documents related to GreenPoint's underwriting standards contained material misstatements and omissions because, as described herein: (1) GreenPoint systematically disregarded its underwriting standards, granted exceptions in the absence of compensating factors, required less documentation, and granted no- or limited documentation loans to individuals without good credit histories; and (2) appraisals on properties originated by GreenPoint were inflated as appraisers knew if they appraised under certain levels they would not be hired again. Thus, the appraisals were inherently unreliable and there was little to support the value and adequacy of the mortgaged property.

131. According to the *Washington Business Journal,* as of August 2007, GreenPoint specialized in non-conforming and Alt-A mortgages which generated higher origination fees than standard loans. Furthermore, as stated in *Business Week Magazine* in November 2008, GreenPoint's employees and independent mortgage brokers, accordingly, targeted more and more borrowers who were less able to afford the loan payments they were required to make, and many had no realistic ability to pay off the loans.

132. GreenPoint's employees used this system to increase their own commissions at the expense of their underwriting guidelines. Exceptions to guidelines were granted in many circumstances – not just where compensating factors existed. The exceptions were granted when the borrower could not qualify. Many of the loans were granted by the over 18,000 brokers that were approved to transact with GreenPoint – a large enough number that GreenPoint could not exercise any degree of realistic control. Typically, new brokers were actively monitored for only the first five to seven loans submitted, usually during only the first 90 days of being approved. In addition, GreenPoint did not verify the income of borrowers as represented. Many of GreenPoint's Alt-A loans were actually subprime loans.

133. The practice of quantity over quality continued until December 2008 when Capital One Financial Corp. ("Capital One"), which had purchased GreenPoint less than a year earlier, took an $850 million charge, and shut down the mortgage wholesaler's operations, according to a *Washington Business Journal* dated August 21, 2007.

134. GreenPoint routinely extended "stated income" or "no doc" loans to borrowers with weak credit, and knew that such "low doc" or "no doc" loans, particularly when coupled with nontraditional products, such as ARMs, were highly likely to contain misinformation from

the borrower, such as overstated incomes, that would result in increased defaults in the loan application.

135. GreenPoint's CEO, S.A. Ibrahim, maintained that these no-doc loans were the preferred instrument in their arsenal including minimal losses even in times of economic slowdown, and that, although GreenPoint's guidelines claim that they do not calculate the borrowers loan-to-value ratio, Ibrahim has said that loan-to-value ratios of 70% or 80% are not uncommon.

136. GreenPoint is now a defendant in numerous lawsuits alleging misrepresentations regarding the quality of the loans GreenPoint underwrote and originated. For example, in *U.S. Bank Nat'l Ass'n, et al., v. GreenPoint Mortgage Funding, Inc.*, No. 09-600352 (N.Y. Sup. Ct.), a consultant concluded that 93% of the loans that GreenPoint sold contained errors, omissions, misrepresentations and negligence related to origination and underwriting. The consultant found that GreenPoint loans suffered from serious defects including:

- pervasive misrepresentations and/or negligence with respect to the statement of the income, assets or employment of the borrower;
- misrepresentations of the borrower's intent to occupy the property as the borrower's residence and subsequent failure to so occupy the property;
- inflated appraisal values; and
- violations of GreenPoint's own underwriting guidelines and prudent mortgage-lending practices, including loans made to borrowers (i) who made unreasonable claims as to their income, (ii) with multiple, unverified social security numbers, (iii) with credit scores below the required minimum, (iv) with debt-to-income and/or loan-to-value ratios above the allowed maximum or (v) with relationships to GreenPoint or other non-arm's-length relationships.

137. GreenPoint's systematic disregard for its underwriting guidelines led to dramatic downgrades of the Certificates where GreenPoint acted as a principal originator. Currently, 100% ($589.67 million) of the Certificates that were initially rated AAA have been downgraded

to speculative "junk" status or below. Current delinquency and default rates on the GreenPoint originated collateral have risen exponentially since issuance of the Certificates – from .37% as of the cut-off dates to 61.8% as of January 1, 2010.

G. Aegis Mortgage Corporation

138. Aegis was a principal originator for the BSABS Series 2007-HE4 and 2007-HE5 Offerings. The total value of the two (2) Offerings for which Aegis was a principal originator was $1.46 billion, of which 78.54%, or $1.14 billion, was initially rated AAA/maximum safety.

139. The Prospectus Supplements described Aegis' underwriting guidelines. For example, with regard to stated "General Underwriting Guidelines" applicable to the Aegis loans, the Prospectus Supplement for the BSABS Series 2007-HE4 Certificate Offering filed April 27, 2007, provided:

> ***The underwriting guidelines are primarily intended to assess the borrower's ability to repay the mortgage loan, to assess the value of the mortgaged property and to evaluate the adequacy of the mortgaged property as collateral for the related mortgage loan.*** While the originator's primary consideration in underwriting a mortgage loan is the value of the mortgaged property, the originator also considers, among other things, a mortgagor's credit history, repayment ability and debt service to income ratio as well as the type and use of the mortgaged property. Some of the mortgage loans bear higher rates of interest than mortgages loans that are originated in accordance with Fannie Mae and Freddie Mac standards, which is likely to result in rates of delinquencies and foreclosures that are higher, and that may be substantially higher, than those experienced by portfolios of mortgage loans underwritten in a more traditional manner. On a case-by-case basis, exceptions to the underwriting guidelines are made where compensating factors exist. It is expected that a substantial portion of the mortgage loans in the mortgage pool that were originated by the originators will represent these exceptions.

Id. at 38 (emphasis added); *see also* BSABS Series 2007-HE5 Trust Prospectus Supplement, filed May 30, 2007, at 36.

140. The general underwriting guidelines applicable to Aegis loans purported to require Aegis to rely upon standard appraisals of the underlying mortgaged property in making loan application determinations, stating, in part:

> Mortgaged properties that are to secure mortgage loans generally are appraised by qualified independent appraisers. These appraisers inspect and appraise the subject property and verify that the property is in acceptable condition. Following each appraisal, the appraiser prepares a report that includes a market value analysis based on recent sales of comparable homes in the area and, when deemed appropriate, market rent analysis based on the rental of comparable homes in the area. All appraisals are required to conform to the Uniform Standard of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation and are generally on forms acceptable to Fannie Mae and Freddie Mac.

BSABS Series 2007-HE4 Trust Prospectus Supplement, filed April 27, 2007, at 38; *see also* BSABS Series 2007-HE5 Trust Prospectus Supplement, filed May 30, 2007, at 36.

141. The Prospectus Supplements also provided for prudent underwriting for mortgages where less borrower documentation was required. For example, the April 27, 2007 Prospectus Supplement for the BSABS Series 2007-HE4 Certificate Offering provided:

> The mortgage loans were originated consistent with and generally conform to the underwriting guidelines' full/alternative documentation, stated income documentation and limited documentation residential loan programs. Under each of the programs, the originator reviews the applicant's source of income, calculates the amount of income from sources indicated on the loan application or similar documentation, reviews the credit history of the applicant, calculates the debt service to income ratio, if required, to determine the applicant's ability to repay the loan, and reviews the appraisal. In determining the ability of the applicant to repay the loan a qualifying rate has been created under the underwriting guidelines that generally is equal to the interest rate on that loan. The underwriting guidelines require that mortgage loans be underwritten in a standardized procedure that complies with applicable federal, state and local laws and regulations. The maximum amount loaned to a borrower and the maximum loan to value ratio allowed for that loan depends on, among other things, the purpose of the mortgage loan, a borrower's credit history, homeownership history, mortgage payment history or rental payment history, repayment ability and debt service to income ratio, as well as the type and use of the property.

* * *

> The underwriting guidelines require that the income of each applicant for a mortgage loan under the full/alternative documentation program be verified. The specific income documentation required for the originator's various programs is as follows: under the full/alternative documentation program, applicants are required to submit one written form of verification from the employer of stable income for at least 12 months. The documentation may take the form of a Verification of Employment form provided by the employer, the most recent pay stub with year-to-date earnings and the most recent W-2 or a copy of the borrower's federal tax returns. Under the limited documentation program the borrower may choose to submit 12 consecutive months of personal checking account bank statements. Under the stated income documentation program, an applicant may be qualified based upon monthly income as stated on the mortgage loan application if the applicant meets certain criteria. Income stated on the application is not verified under the stated income documentation program. All of the foregoing programs require that, with respect to salaried employees, there be a telephone verification of the applicant's employment. Verification of the source of funds to close the loan, if any, deposited by the applicant into escrow in the case of a purchase money loan is required.

Id. at 39; *see also* BSABS Series 2007-HE5 Trust Prospectus Supplement, filed May 30, 2007, at 36-37.

142. ***Misstated and Omitted Information:*** The statements in the Offering Documents related to Aegis's underwriting standards contained material misstatements and omissions because, as described herein: (1) Aegis managers and larger investment banks bullied Aegis' small underwriting department to disregard their underwriting guidelines and approve loans that should not have been considered. Credit scores became more of a suggestion than a requirement or guideline and many loans were approved for applicants who had no business receiving one; (2) Aegis employees often relaxed the documentation requirements, even in the absence of sufficient compensating factors, and therefore allowed applicants who did not qualify to obtain mortgages. This allowed the company to increase its loan volume, but ultimately served as its demise once the mortgage bubble burst; and (3) Aegis largely disregarded appraisal standards and the values of the underlying mortgage properties were materially inflated in the loan underwriting process.

143. According to a complaint filed by one of the founders of Aegis in District Court of Harris County, Texas, captioned *D. Richard Thompson v. Aegis Mortgage Corp.*, No. 07-33593 (Harris County Dist. Ct.) (the "Thompson Compl."), Aegis was founded in 1993 with a $500,000 investment. Initially, Aegis was a privately held mortgage banking company owned by three individuals. By 1998, the company was generating $1 billion in annual loan volume. In 1998 and 1999, Cerberus Capital Management, LP made a $45 million investment in Aegis, enabling the company to increase its subprime business. Thompson Compl. at 5.

144. With this substantial cash infusion, Aegis acquired two extremely distressed mortgage production operations, UC Lending and New America. These and subsequent acquisitions enabled Aegis to grow from 150 employees in nine locations in 1999 to 3,800 employees in over 100 locations in 2005. By 2006, Aegis was ranked as the 13th-largest subprime lender in the country, generating close to $20 billion in annual originations. In eight years, the company's subprime originations grew by an incredible 1,750%. Thompson Compl. at 6-9.

145. High-fee, high-risk mortgages fueled Aegis' astronomic growth. As the need for these mortgages increased, loan underwriting standards were loosened to the point of near abandonment by 2006. A large portion of the loans Aegis originated during this time were purchased from unlicensed mortgage brokers. Because investment banks like Bear Stearns purchased Aegis' loans, underwriting standards were disregarded and quantity became more important than quality. Aegis' Divisional head of underwriting, Helen Spavile, bullied the understaffed East Coast underwriting department in Jacksonville, Florida, to approve whatever loans were sent there for approval, resulting in the guidelines being ignored and the loans

approved. Thompson Compl. at 10. On August 13, 2007, the company was forced to file for bankruptcy protection.

146. Aegis's systematic disregard for its underwriting guidelines led to dramatic downgrades of the Certificates where Aegis acted as a principal originator. Currently, 87.18% ($996.89 billion) of the Certificates that were initially rated AAA have been downgraded to speculative "junk" status or below. Current delinquency and default rates on the Aegis originated collateral have risen exponentially since issuance of the Certificates – from 3.45% as of the cut-off dates to 70.0% as of January 1, 2010.

H. Fieldstone Mortgage Corporation

147. Fieldstone was a principal originator for the BSABS Series 2006-HE5, 2006-HE9, 2007-FS1 and 2007-HE3 Offerings. The total value of the four (4) Offerings for which Fieldstone was a principal originator was $2.69 billion, of which 78.45%, or $2.11 billion, was initially rated AAA/maximum safety.

148. The Prospectus Supplements described Fieldstone's underwriting guidelines. For example, with regard to Fieldstone's stated underwriting guidelines, the Prospectus Supplement for BSABS Series 2007-HE3 Certificate Offering dated March 29, 2007, provided:

> FMC originates both conforming and non-conforming loans…Non-conforming borrowers typically have good credit backgrounds, but tend to have higher LTV ratios, higher debt ratios than conforming borrowers or less income documentation.
>
> * * *
>
> FMC offers a variety of fixed-rate mortgage loans and ARMs to non-conforming borrowers. FMC considers a combination of factors in deciding whether to approve these loans, including the borrower's income documentation, the loan-to-value, or LTV, the borrower's mortgage and consumer credit payment history, the property type and the credit score necessary to qualify under a particular program. Nevertheless, each program relies upon the analysis of each borrower's ability to repay the loan according to its terms, the risk that the borrower will not repay, the fees and rates FMC charges, the value of the collateral, the benefit FMC believes

> it is providing to the borrower and the loan amounts relative to the risk FMC believes it is taking.
>
> *   *   *
>
> FMC's underwriting policy is to analyze the overall situation of the borrower and to take into account compensating factors that may be used to offset areas of weakness. These compensating factors include credit scores, proposed reductions in the borrower's debt service expense, employment stability, number of years in residence and net disposable income.
>
> *   *   *
>
> All of FMC's non-conforming loans are underwritten by its on-staff underwriting personnel. FMC does not delegate underwriting authority to any broker or third party. The underwriters review each non-conforming loan in one of FMC's regional funding centers. FMC believes that this regionalized underwriting process provides them with the ability to fund loans faster than many of its competitors, and the experience of their loan originators and branch managers, information systems and rigorous quality control process ***ensure the continued high quality of their loans.***

Id. at S-47-48 (emphasis added); *see also* Appendix, Chart M.

149. ***Misstated and Omitted Information:*** The statements in the Offering Documents related to Fieldstone's underwriting standards contained material misstatements and omissions because, as described herein: Fieldstone's "underwriting personnel" consistently modified mortgage loan applications in order to increase the volume of loans and fees derived from such mortgage loans. As such, the underwriting was generally not monitored by Fieldstone's supposed rigorous quality control process.

150. On March 17, 2006, according to *PR Newswire*, the National Community Reinvestment Coalition filed a civil rights complaint against Fieldstone and its parent, Fieldstone Investment Company, exposing Fieldstone's underwriting practice of using minimum loan values to "redline low to moderate income communities and/or exclude row houses that are

situated in African American or Latino communities." As alleged, Fieldstone had employed the practice of denying loans to applicants whose homes are valued at less than $100,000.

151. On September 13, 2007, *The Daily Record* reported that Morgan Stanley had filed a federal lawsuit seeking to recover millions from defaulted mortgages that the company had purchased over a three-year period. The lawsuit alleges that Fieldstone failed to follow through on its obligations to keep accounts current and to buy back any defaulted loans. Morgan Stanley sought to have 72 mortgages with no, or late payments with a total outstanding balance of $26.5 million repurchased.

152. On July 17, 2007, Fieldstone announced that Credit-Based Asset Servicing and Securitization, LLC ("C-BASS"), an issuer, servicer and investor specializing in credit-sensitive residential mortgage assets acquired it. The following month, Fieldstone stopped accepting new loan applications.

153. In November 2007, just four months after the C-BASS acquisition, *Yahoo Business* reported that Fieldstone was forced to seek bankruptcy protection due to mounting losses caused by delinquencies and foreclosures. At the same time, C-BASS itself went through a $3.8 billion out-of-court restructuring as a result of what the *Daily Deal* described on November 27, 2007 as "unprecedented margin calls caused by the weakened mortgage industry."

154. On March 27, 2009, *US Fed News* reported that an undercover operation had resulted in fraud charges against 24 defendants, including brokers, business owners and appraisers who dealt regularly with Fieldstone. The indictment in *United States v. Ruwaida Dabbouseh and Khalil Qandil*, No. 09-CR-231 (N.D. Ill.), whereby an undercover agent posed as a prospective buyer, alleges that brokers, in March 2007, prepared and submitted loan applications containing false statements pertaining to the agent's employment and identity to

Fieldstone. A business owner working with the brokers then submitted verification of employment falsely representing that his company employed the agent. Based on these representations, Fieldstone loaned the agent $153,000.

155. Fieldstone's systematic disregard for its underwriting guidelines led to dramatic downgrades of the Certificates where Fieldstone acted as a principal originator. Currently, 73.24% ($1.54 billion) of the Certificates that were initially rated AAA have been downgraded to speculative "junk" status or below. Current delinquency and default rates on the Fieldstone-originated collateral have risen exponentially since issuance of the Certificates – from 1.65% as of the cut-off dates to 73% as of January 1, 2010.

VI. THE OFFERING DOCUMENTS MISSTATED THE TRUE LOAN-TO-VALUE RATIOS OF THE UNDERLYING MORTGAGES

156. Each of the Prospectus Supplements contained detailed information about the LTV ratios of the loans underlying the trusts. In a series of charts, investors were provided with LTV ratio data, including information about the number of loans containing LTV ratios within a given range. The following chart, taken from the Prospectus Supplement for BSMF Series 2006-AR1 filed July 28, 2006, represents that the majority of loans had LTV ratios of 75% or above.

Original Loan-to-Value Ratios* of the Mortgage Loans as of the Cut Off Date in Group I

Original Loan-to-Value Ratios(%)	Number of Mortgage Loans	Aggregate Principal Balance Outstanding as of Cut-off Date	% of Mortgage Loans
0.00 - 30.00	2	$ 249,863	0.05 %
30.01 - 40.00	6	2,648,627	0.55
40.01 - 50.00	5	1,201,450	0.25
50.01 - 55.00	3	3,878,500	0.81
55.01 - 60.00	9	3,736,575	0.78
60.01 - 65.00	20	9,456,495	1.97
65.01 - 70.00	33	16,868,491	3.51
70.01 - 75.00	126	59,514,711	12.39
75.01 - 80.00	971	376,875,521	78.47
80.01 - 85.00	6	1,551,921	0.32
85.01 - 90.00	12	3,583,328	0.75
90.01 - 95.00	3	732,841	0.15
Total	1,196	$ 480,298,324	100.00 %

Weighted Average Original Loan-to-Value: 77.78%

Original Loan-to-Value Ratios* of the Mortgage Loans as of the Cut Off Date in Group II

Original Loan-to-Value Ratios(%)	Number of Mortgage Loans	Aggregate Principal Balance Outstanding as of Cut-off Date	% of Mortgage Loans
0.00 - 30.00	2	$ 234,000	0.05 %
30.01 - 40.00	9	2,963,260	0.58
40.01 - 50.00	11	3,414,765	0.66
50.01 - 55.00	9	1,988,336	0.39
55.01 - 60.00	19	6,326,091	1.23
60.01 - 65.00	24	7,898,068	1.54
65.01 - 70.00	39	14,068,467	2.74
70.01 - 75.00	81	30,945,457	6.02
75.01 - 80.00	1,356	446,370,786	86.81
Total	1,550	$ 514,209,230	100.00 %

Weighted Average Original Loan-to-Value: 78.11%

Id. at Schedule A-9; *see also* Appendix, Charts O, P.

157. The Prospectus Supplement for the BSMF Series 2006-AR1 also stated:

> Generally, each mortgage with an LTV at origination of greater than 80% is covered by a primary mortgage insurance policy issued by a mortgage insurance company acceptable to Fannie Mae or Freddie Mac. The policy provides coverage in the amount equal to a specified percentage multiplied by the sum of the remaining principal balance of the related mortgage loan, the accrued interest on it and the related foreclosure expenses.

Id. at S-36; *see also* Appendix, Charts O, P.

158. ***Misstated and Omitted Information*****:** As explained above, the appraisals of the properties underlying the mortgage loans were inaccurate and inflated. Furthermore, stated sales price of properties underlying the mortgage loans did not accurately reflect the true value of the properties. These inflated appraisals and misleading sales price figures were used to form the LTV ratios listed in the Prospectus Supplements. Incorporating an inflated appraisal into the LTV ratio calculation will result in a lower LTV ratio for a given loan. For instance, as described above, if a borrower seeks to borrow $90,000 to purchase a house worth $100,000, the LTV ratio is $90,000/$100,000 or 90%. If, however, the appraised value of the house is artificially increased to $120,000, the LTV ratio drops to just 75% ($90,000/$120,000). Due to the inflated appraisals, the LTV ratios listed in the Prospectus Supplements were artificially low, making it appear that the loans underlying the trusts had greater collateral and thus were less risky than they really were.

159. The Offering Documents also stated that exceptions to underwriting standards could be granted if the borrower's loan application reflected "compensating factors" including "loan-to-value ratio." As detailed above however, the LTV ratios were deflated and inaccurate, therefore the use of this metric as a "compensating factor" further violated the stated underwriting standards.

VII. THE OFFERING DOCUMENTS CONTAINED MATERIAL MISSTATEMENTS AND OMISSIONS REGARDING CREDIT SUPPORT

160. Credit support or credit enhancement represented the amount of "cushion" or protection the Certificate structure provided to the senior classes of the Certificates. With respect to Credit Support, the SAMI Registration Statement provided as follows:

> As set forth below and in the applicable prospectus supplement, credit enhancement may be provided by one or more of a financial guaranty insurance policy, a special hazard insurance policy, a mortgage pool insurance policy or a

> letter of credit. In addition, if provided in the applicable prospectus supplement, in lieu of or in addition to any or all of the foregoing arrangements, credit enhancement may be in the form of a reserve fund to cover the losses, subordination of one or more classes of subordinate securities for the benefit of one or more classes of senior securities, of cross-collateralization or overcollateralization, or a combination of the foregoing. The credit support may be provided by an assignment of the right to receive specified cash amounts, a deposit of cash into a reserve fund or other pledged assets, or by guarantees provided by a third-party or any combination thereof identified in the applicable prospectus supplement. Each component will have limitations and will provide coverage with respect to Realized Losses on the related mortgage loans. Credit support will cover Defaulted Mortgage Losses, but coverage may be limited or unavailable with respect to Special Hazard Losses, Fraud Losses, Bankruptcy Losses and Extraordinary Losses. To the extent that the credit support for the offered securities of any series is exhausted, the holders thereof will bear all further risk of loss.

SAMI Registration Statement at 49; *see also* Bear Stearns Registration Statement at 46.

161. Furthermore, the Prospectus Supplement for the BSMF Series 2006-AR1 Trust filed July 28, 2006, provided that:

> ***Credit enhancement*** provides limited protection to holders of specified certificates against shortfalls in payments received on the mortgage loans. This transaction employs the following forms of credit enhancement.
>
> *Excess Spread and Overcollateralization.* The mortgage loans are expected to generate more interest than is needed to pay interest on the related offered certificates because we expect the weighted average net interest rate of the mortgage loans to be higher than the weighted average pass-through rate on the related offered certificates. In addition, such higher interest rate is paid on a principal balance of mortgage loans that is larger than the principal balance of the related certificates. Interest payments received in respect of the mortgage loans in excess of the amount that is needed to pay interest on the offered certificates, related trust expenses and, with respect to the group I mortgage loans, on and after the distribution date occurring in July 2016, any amounts paid into the final maturity reserve account, will be used to reduce the total current principal amount of the related certificates until a required level of overcollateralization has been achieved.
>
> *Subordination; Allocation of Losses.* By issuing senior certificates and subordinate certificates, the trust has increased the likelihood that senior certificateholders will receive regular payments of interest and principal.

Id. at S-9-10; *see also* Appendix, Chart N.

162. ***Misstated and Omitted Information:*** The above statements failed to disclose that the amounts and kind of Credit Support the Rating Agencies determined was appropriate for the Certificates, as specifically set forth in each Prospectus Supplement, lacked any reasonable basis and were inaccurate since the Rating Agencies' models had not been updated and failed to accurately or adequately reflect the performance of the Certificate mortgage loans. Also, as detailed above, these statements failed to disclose that the Originators systematically disregarded their underwriting and appraisal standards and thus the supposed credit enhancement was deficient.

VIII. THE OFFERING DOCUMENTS CONTAINED MATERIAL MISSTATEMENTS AND OMISSIONS RELATED TO MORTGAGE SERVICING

163. The description of the Servicer's duties and obligations in the Offering Documents was material information because investors required collection of the mortgage payments. The Registration Statements provided that EMC was to serve as servicer or master servicer in connection with Offerings:

> With respect to any series of securities, if so specified in the related prospectus supplement, EMC will also act as servicer [or master servicer] for the mortgage pool. If so, EMC will service the mortgage loans in accordance with the description of the applicable servicing procedures contained in this prospectus under "Servicing of Mortgage Loans" and "Description of the Securities."

SAMI Registration Statement at 61.

> EMC has been servicing residential mortgage loans since 1990. From year end 2004 to year end 2005 EMC's servicing portfolio grew by 113%. As of August 31, 2005, EMC was acting as servicer for approximately 213 series of residential mortgage-backed securities with an aggregate outstanding principal balance of approximately $45.4 billion.

Id.

> EMC will service the mortgage loans in accordance with the description of the applicable servicing procedures contained in this section in the prospectus supplement.

Bear Stearns Registration Statement at S-47.

164. The Registration Statements set forth EMC's servicer activities to be as follows:

> As part of its servicing duties, the master servicer will be required to, and to cause each of the servicers to, make reasonable efforts to collect all payments called for under the terms and provisions of the mortgage loans that it services. The master servicer and each servicer will be obligated to follow the same collection procedures as it would follow for comparable mortgage loans held for its own account, so long as these procedures are consistent with the servicing standard of and the terms of the related pooling and servicing agreement or servicing agreement and the servicing standard generally described in the preceding paragraph, and do not impair recovery under any instrument of credit enhancement included in the related trust fund.

SAMI Registration Statement at 24.

> In instances in which a loan is in default, or if default is reasonably foreseeable, and if determined by the master servicer to be in the best interests of the related security-holders, the master servicer may engage, either directly or through subservicers, in a wide variety of loss mitigation practices including waivers, modifications, payment forbearances, partial forgiveness, entering into repayment schedule arrangements, and capitalization of arrearages rather than proceeding with foreclosure or repossession, if applicable.

Id. at S-48.

165. The Prospectus Supplements also described EMC's responsibilities as master servicer of the Certificate collateral:

> The master servicer for any mortgage pool will be obligated under the pooling and servicing agreement or servicing agreement to supervise, monitor and oversee the obligations of the servicers to service and administer their respective mortgage loans in the mortgage pool for the benefit of the related security-holders, in accordance with applicable law, the terms of the pooling and servicing agreement or servicing agreement, the mortgage loans and any instrument of credit enhancement included in the related trust fund, and, to the extent consistent with the foregoing, the customs and standards of prudent institutional mortgage lenders servicing comparable mortgage loans for their own account in the jurisdictions where the related mortgaged properties are located. Subject to the foregoing, the master servicer will have full power and authority to do any and all things in

> connection with servicing and administration that it may deem necessary and desirable.

BSMF Series 2006-AR4 Trust Prospectus Supplement, filed November 28, 2006, at 24-25.

> As part of its servicing duties, the master servicer will be required to, and to cause each of the servicers to, make reasonable efforts to collect all payments called for under the terms and provisions of the mortgage loans that it services. The master servicer and each servicer will be obligated to follow the same collection procedures as it would follow for comparable mortgage loans held for its own account, so long as these procedures are consistent with the servicing standard of and the terms of the related pooling and servicing agreement or servicing agreement and the servicing standard generally described in the preceding paragraph, and do not impair recovery under any instrument of credit enhancement included in the related trust fund. Consistent with the foregoing, the master servicer or any servicer will be permitted, to the extent provided in the related prospectus supplement, to waive any prepayment premium, late payment charge or other charge in connection with any mortgage loan.

Id.; *see also* Appendix, Charts R, S.

166. ***Misstated and Omitted Information***: The statements above failed to disclose that: (1) EMC disregarded mortgage lending and debt collection laws in its servicing duties, including the FDCPA, the FCRA and the TILA as it aimed to further increase the fees that it earned; (2) EMC assessed and collected fees from borrowers for services that it had not actually rendered and represented to borrowers that their loans were past due before it obtained complete loan information; and (3) EMC did not investigate or resolve consumers' disputes in a timely manner as required of the Servicer nor did it inform defaulted borrowers of impending debt collections.

167. The FTC Complaint described that, "in recent years, during the explosive growth of the mortgage industry, [EMC] acquired and securitized loans at a rapid pace, paying inadequate attention to the integrity of consumers' loan information and to sound servicing practices." According to the FTC Complaint, in servicing loans, EMC neglected to obtain timely and accurate information on consumers' loans, made inaccurate claims to consumers and engaged in unlawful collection and servicing practices.

168. Among other things, the FTC Investigation, as recounted in the FTC Complaint, found that:

> As a mortgage servicer, EMC makes various representations to borrowers, including on loans newly acquired by defendants. Specifically, in collection calls and notices, monthly statements, payoff statements, foreclosure notices, bankruptcy filings, and otherwise, EMC routinely makes representations to borrowers about their loans, including: (1) the unpaid principal balance; (2) the due date; (3) the interest rate; (4) the monthly payment amount; (5) the delinquency status; and (6) fees and corporate advances assessed by prior loan servicers. In many instances, EMC makes these representations to borrowers within days of the transfer of the loans for servicing to EMC. For example, EMC begins making collection calls on those transferred loans that are purportedly past due. In many instances, however, EMC makes these early collection calls and sends collection notices to consumers before it has obtained complete loan information from the seller and before it has conducted quality control and other data integrity checks to ensure the accuracy of the representations it makes to borrowers.
>
> In numerous instances, EMC has lacked a reasonable basis for its representations to borrowers, because it failed to obtain accurate and complete information about the consumer's loan account before making the representation. Despite indications that loan data obtained from prior loan servicers and loaded onto its servicing system was likely inaccurate or unverified, EMC nonetheless used that data to make representations to borrowers about their loans. As a result, defendants have made inaccurate claims to consumers and engaged in unwarranted collection practices.
>
> As a mortgage servicer, EMC receives consumers' disputes regarding the status and handling of their loans. In numerous instances, EMC has failed to investigate and resolve consumers' disputes in a timely manner. In addition, in numerous instances, EMC has failed to report consumers' loan accounts as disputed when furnishing information to consumer reporting agencies.
>
> In connection with loans that were in default when obtained by defendants, EMC has failed to disclose in initial communications with consumers that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose. In addition, EMC has failed to send consumers a written notice, or has sent untimely or defective notices, containing the amount of the debt, the creditor's name, and the consumer's rights to dispute the debt and obtain verification of the debt.
>
> * * *
>
> As a mortgage servicer, EMC "advances" money to a borrower to pay for items, such as property inspections, that it deems necessary to protect the note holder's

rights in the property. Pursuant to the mortgage contract, EMC adds these "corporate advances" to the consumer's loan balance. In many instances, however, EMC has charged borrowers for property inspections that were not authorized by the mortgage contract. For example, EMC has charged borrowers for alleged property inspection fees, where the purpose of the inspector's visit to the consumer's home was to attempt to collect on the loan. In addition, EMC has charged borrowers for property inspections on newly acquired loans notwithstanding that EMC lacked a reasonable basis for the need for a property inspection.

> As a mortgage servicer, EMC also charges borrowers other fees, such as late fees in connection with alleged defaults and prepayment penalties in connection with loan payoffs. In numerous instances, defendants have charged borrowers for fees, including late fees and prepayment penalties, in violation of state law.
>
> *   *   *
>
> When borrowers request the amount of money necessary to reinstate or payoff their loan, and in other instances where EMC seeks payment, EMC's demands often contain fees that have been assessed by EMC, including fees for property inspections, late fees, prepayment penalties, and loan modifications. In many instances, these demands include unauthorized fees.

FTC Compl. at 4-7.

169. On September 9, 2008, the Court entered a Stipulated Final Judgment and Order in settlement of the FTC Action (the "FTC Judgment"). Pursuant to the FTC Judgment, EMC and Bear Stearns agreed to pay $28 million in fines; abide by specific "Injunctive Relief" prohibiting them from engaging in prohibited servicing practices; and comply with certain "Data Integrity Requirements" regarding the maintenance of mortgage borrower data.

170. The *Originator Times* reported that the FTC Judgment also required EMC and Bear Stearns to redress consumers who had been injured by the illegal practices. In addition, the FTC Judgment permanently enjoined and restrained EMC and Bear Stearns from, among other things:

> a) Misrepresenting, expressly or by implication, the amount of any payment or fee due on a loan; b) Misrepresenting, expressly or by implication, that any payment or fee due on a loan is allowed under the loan instruments or permitted by law; c) Misrepresenting, expressly or by implication, the amount, nature, or terms of

> any fee or other condition or requirement of any loan; and d) Making any representation, expressly or by implication, about the amount of any payment or fee, the date that any payment or fee is due, or any other information regarding the terms, conditions, or status of a loan, unless, at the time of making such representation, such persons possess and rely on competent and reliable evidence that substantiates the representation.
>
> [A]ssessing and/or collecting any fee unless it is for services actually rendered and is a) expressly authorized, and clearly and prominently disclosed, by the loan instruments and not prohibited by law; b) expressly permitted by law and not prohibited by the loan instruments; or c) a reasonable fee for a specific service requested by a consumer that is assessed and/or collected only after clear and prominent disclosure of the fee is provided to the consumer and explicit consent is obtained from the consumer to pay the fee in exchange for the service, and such fee is not otherwise prohibited by law or the loan instruments.
>
> [A]ssessing and/or collecting fees for property inspections, provided that defendants may impose reasonable fees for property inspections actually performed if: (1) the consumer's loan payment has not been received within forty-five (45) calendar days of the due date; and (2) the inspections are limited to the initial inspection and to additional inspections during the period of continued delinquency not more frequent than every thirty (30) calendar days. Provided, however, that defendants may charge fees for property inspections actually performed if those inspections are otherwise required by law or regulation, or required by written handbook requirements issued by the Department of Housing and Urban Development ("HUD").

FTC Judgment at 6-7.

IX. THE OFFERING DOCUMENTS CONTAINED MATERIAL MISSTATEMENTS AND OMISSIONS REGARDING THE CERTIFICATES' RATINGS

171. The Offering Documents stated "[i]t is a condition to the issuance of each class of Offered Certificates that it receives at least the ratings set forth below." Thereafter, the Prospectus Supplements listed the ratings in tabular format. For example, the Prospectus Supplement for the BSMF Series 2006-AR1 filed July 28, 2006, included the following chart identifying each Series 2006-AR1 Certificate rating:

Group I Offered Certificates				
Class	Pass-Through Rate	Initial Current Principal Amount	Initial Rating (S&P/Moody's)	Designation
I-A-1	Variable Rate	$257,200,000	AAA/Aaa	Group I Super Senior
I-A-2	Variable Rate	$128,600,000	AAA/Aaa	Group I Senior Support
I-A-3	Variable Rate	$42,866,000	AAA/Aaa	Group I Senior Support
I-X	Fixed Rate	Notional	AAA/Aaa	Group I Senior Interest Only
I-B-1	Variable Rate	$13,689,000	AA+/Aaa	Group I Subordinate
I-B-2	Variable Rate	$9,126,000	AA/Aa1	Group I Subordinate
I-B-3	Variable Rate	$3,362,000	AA-/Aa2	Group I Subordinate
I-B-4	Variable Rate	$6,484,000	A+/Aa3	Group I Subordinate
I-B-5	Variable Rate	$3,362,000	A/A2	Group I Subordinate
I-B-6	Variable Rate	$6,724,000	BBB/Baa2	Group I Subordinate
I-B-7	Variable Rate	$2,401,000	BBB-/Baa3	Group I Subordinate
Total Group I Offered Certificates:		$473,814,000		

Group I Non-Offered Certificates				
Class	Pass-Through Rate	Initial Current Principal Amount	Initial Rating (S&P/Moody's)	Designation
I-XP	N/A	N/A	NR	Group I Subordinate
I-R	Variable Rate	$0	NR	Group I Residual
I-R-X	Variable Rate	$0	NR	Group I Residual
I-B-IO	N/A	$0	N/A	Group I Subordinate
Total Group I Non-Offered Certificates:		$0		

Group II Offered Certificates				
Class	Pass-Through Rate	Initial Current Principal Amount	Initial Rating (S&P/Moody's)	Designation
II-A-1	Variable Rate	$275,205,000	AAA/Aaa	Group II Super Senior
II-A-2	Variable Rate	$137,603,000	AAA/Aaa	Group II Senior Support
II-A-3	Variable Rate	$45,867,000	AAA/Aaa	Group II Senior Support
II-B-1	Variable Rate	$18,769,000	AA/Aa1	Group II Subordinate
II-B-2	Variable Rate	$11,570,000	A/Aa2	Group II Subordinate
II-B-3	Variable Rate	$7,456,000	BBB/A1	Group II Subordinate
II-B-4	Variable Rate	$2,828,000	BBB-/A3	Group II Subordinate
Total Group II Offered Certificates:		$499,298,000		

Id. at S-2; *see also generally,* Appendix, Chart Q.

172. The Offering Documents stated that the Certificates' ratings "address the likelihood of the receipt by certificateholders of all distributions to which the certificateholders are entitled. These ratings address the structural, legal and issuer-related aspects associated with the certificates and notes, the nature of the underlying mortgage assets and the credit quality of the guarantor, if any."

173. Each of the Prospectus Supplements also provided: (1) both S&P's and Moody's actual rating for each class of Certificate; or (2) stated that the Certificates in each class would

not be offered unless they received ratings from both Moody's and S&P that were at least as high as those set forth in the Prospectus Supplement. All of the ratings set forth in all of the Prospectus Supplements were within the "Investment Grade" range of Moody's (Aaa through Baa3) and S&P (AAA through BBB) and the vast majority of Certificate classes received the highest rating of AAA.

174. As detailed below, the representations in the Offering Documents about the Certificates' ratings contained materially false and misleading statements and failed to disclose facts necessary to make statements about the ratings not misleading. The ratings assigned to the Certificates were unjustifiably high and did not represent the true value of the Certificates, as they were based on insufficient information and faulty assumptions concerning how many underlying mortgages were likely to default. As a result, the Certificates were secured by assets that had a much greater risk profile than represented. Accordingly, the Certificates, despite the fact that the Rating Agencies assigned investment-grade ratings to them, were far riskier than other investments with the same ratings.

A. The Rating Agencies Relied On Outdated Models

175. The Rating Agencies used models that had not been materially updated since 1999 (for S&P) and 2002 (for Moody's). As a result, the models were based primarily on the performance of fixed interest loans and failed to consider the performance of subprime, Alt-A, no- or limited documentation loans, or loans with interest only, option ARM and negative amortization provisions. These faulty determinations were used to assign unjustifiably high AAA ratings to a substantial portion of the Certificates ($27.44 billion out of $31.33 billion Moody's rated Certificates, or 88.0%, and $26.71 billion out of $29.99 billion S&P rated Certificates, or just over 89.0%).

176. An April 2008 issue of *Mortgage Banking* explained that the Rating Agencies' models used statistical assumptions that were too heavily based on the performance of 30-year fixed mortgages – which were not the kinds of mortgages that had been securitized in the prior four years:

> S & P's Coughlin admits that "assumptions that went into decision-making [on credit ratings] were informed by what had happened in the past," and yet in this instance "previous loss data proved to be much less of a guide to future performance."
>
> But why? Drexel University's Mason believes it's because the CRAs relied on statistical models that were misleading, at best. "I think their [credit-rating] methodologies were demonstrably insufficient," he says.
>
> "Unlike the traditional rating processes for single-named issuers, which rely on empirical analysis at their core, structured-finance rating analysis is essentially driven by statistical models," write Mason and Rosner in their paper. And the data that the rating agencies used when evaluating mortgage-backed securities--including those backed by subprime mortgages--were heavily biased by over-reliance on traditional 30-year fixed prime mortgage loans. But it turns out that a subprime loan, as Mason explains during an interview, is a very different animal.
>
> "This is not your historical mortgage loan," he says. "This is more like a credit-card loan." Mason cites the increased popularity during the mortgage boom of so-called option ARMs, which are home loans that give the borrower a variety of monthly payment options and have variable cash-flow characteristics that are more like credit cards.

177. In an article appearing in *The New York Times* on April 8, 2008, entitled "Triple A Failure," *The New York Times* took note of Moody's April 2007 disclosure that it was "revising" its model which had not been revised since 2002:

> In April 2007, Moody's announced it was revising the model it used to evaluate subprime mortgages. It noted that the model "was first introduced in 2002. Since then, the mortgage market has evolved considerably." This was a rather stunning admission; its model had been based on a world that no longer existed.

178. The article explained that when Moody's had analyzed subprime delinquency data in 2007 it had found trends that its 2002 model never accounted for:

> Poring over the data, Moody's discovered that the size of people's first mortgages

> was no longer a good predictor of whether they would default; rather, it was the size of their first and second loans – that is, their total debt – combined. This was rather intuitive; Moody's simply hadn't reckoned on it. Similarly, credit scores, long a mainstay of its analyses, had not proved to be a "strong predictor" of defaults this time. Translation: even people with good credit scores were defaulting. Amy Tobey, leader of the team that monitored XYZ, told me, "it seems there was a shift in mentality; people are treating homes as investment assets." Indeed. And homeowners without equity were making what economists call a rational choice; they were abandoning properties rather than make payments on them. Homeowners' equity had never been as high as believed because appraisals had been inflated.

179. On October 22, 2008, the United States House of Representatives Committee on Oversight and Government Reform (the "House Oversight Committee") heard testimony from Frank Raiter (the "Raiter Testimony"), the former Managing Director and head of Residential Mortgage-Backed Securities at S&P from March 1995 through April 2005. Raiter testified that the ratings on S&P deals turn in part on the credit rating of the individual mortgages. It was from this credit analysis that S&P determined (1) the expected default probability of a loan and (2) the loss that would occur in the event of a default which, in turn, was used to establish the amount of AAA bonds that could be issued against the pool and amount of equity or "credit enhancement" needed to protect the AAA bonds from experiencing losses:

> A mortgages backed security consists of a pool of individual mortgage loans. Depending on the type of mortgage product (i.e., prime-jumbo, subprime, Alt-A or HEL) underlying a given security, the pool could consist of 1,000 to 25,000 loans. The ratings process consists of two distinct operations – the credit analysis of individual mortgages and a review of the documents governing the servicing of loans and the payments to investors in the securities.
>
> ***The credit analysis is focused on determining the expected default probabilities on each loan and the loss that would occur in the event of a default.*** These, in turn, establish the expected loss for the entire pool and determine the amount of AAA bonds that can be issued against the pool. It is analogous to your equity position in your home and the underlying mortgage. The loss estimate determines the equity needed to support the bond – it is intended to protect the AAA bonds from experiencing any losses, much the same as the homeowner's equity stake in a house protects the lender from loss in the mortgage loan.

Raiter Testimony at 3 (emphasis added).

180. Raiter testified that in 1995, S&P developed a sophisticated model to estimate the default and loss of individual loans and pools – a model based on approximately 500,000 loans with performance data going back five or more years. This "LEVELS" Model was updated in early 1999 based on a database of 900,000 loans. Raiter testified further that ***"[i]t was critical to maintain the best models as they were the linchpin of the rating process."*** Raiter Testimony at 4 (emphasis added). After the housing boom took off in 2001, S&P developed a far better model in 2001, with updated data in 2003 and 2004, based on approximately 9.5 million loans ***"cover[ing] the full spectrum of new mortgage products, particularly in the Alt-A and fixed/floating payment type categories."*** *Id.*

181. Nevertheless, S&P failed to implement this updated model, which, in Raiter's view, would have forewarned on the loan-losses from the new loan products, in particular:

> [T]he analysts at S&P had developed better methods for determining default which did capture some of the variations among products that were to become evident at the advent of the crisis. It is my opinion that had these models been implemented we would have had an earlier warning about the performance of many of the new products that subsequently lead to such substantial losses. That, in turn, should have caused the loss estimates mentioned above to increase and could have thus caused some of these products to be withdrawn from the market as they would have been too expensive to put into bonds.

Id. at 4.

182. As Raiter explained, the unfortunate consequences of continuing to use outdated versions of the rating model included "the failure to capture changes in performance of the new non-prime products" and "the unprecedented number of AAA downgrades and subsequent collapse of prices in the RMBS market." S&P's current President, Deven Sharma, agreed with Raiter's explanation in his own testimony in front of the House Oversight Committee on October 22, 2008, noting: "It is by now clear that a number of the assumptions we used in preparing our ratings on mortgage-backed securities issued between the last quarter of 2005 and the middle of

2007 did not work … [E]vents have demonstrated that the historical data we used and the assumptions we made significantly underestimated the severity of what has actually occurred."

183. Executives at Moody's also acknowledged the failure of Moody's ratings models to capture the decrease in lending standards. In a confidential presentation to Moody's Board of Directors from October 2007, released by the House Oversight Committee on October 22, 2008 during the Committee's "Hearing on the Credit Agencies and the Financial Crisis" (the "House Oversight Committee Hearing"),[3] Raymond McDaniel, the current Chairman and CEO of Moody's, noted that underfunding can put ratings accuracy at risk and acknowledged that "Moody's Mortgage Model (M3) needs investment." McDaniel also acknowledged that Moody's models did not sufficiently capture the changed mortgage landscape. *Id.* Brian Clarkson – the former President and Chief Operating Officer of Moody's – also recognized Moody's failure to incorporate decreased lending standards into their ratings, stating: "We should have done a better job monitoring that [decrease in underwriting standards]."

B. The Ratings Set Forth In The Offering Documents Misstated <u>The Quality Of The Certificates</u>

184. In a September 25, 2008 *Bloomberg* article, titled "Race to Bottom at Moody's, S&P Secured Sub-prime's Boom, Bust," a former S&P Managing Director – Richard Gugliada – explained the easing of standards as a "'*market-share war where criteria were relaxed*'" and admitted, "'*I knew it was wrong at the time ... [i]t was either that or skip the business.* That wasn't my mandate. My mandate was to find a way. Find the way.'" According to Gugliada,

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[3] All exhibits released by the House Oversight Committee from the Committee's "Hearing on Credit Agencies and the Financial Crisis" can be found on the Committee's website at www.oversight.house.gov.

when the subject of tightening S&P's ratings criteria came up, the co-director of CDO ratings, David Tesher, said: "Don't kill the golden goose." *Id*.

185. An "instant message" conversation on April 5, 2007, between S&P analysts Rahul Shah ("Shah") and Shannon Mooney ("Mooney") related to the rating of a structured security similar to the Certificates typifies the loosening of the Rating Agencies' standards:

Shah: btw – that deal is ridiculous

Mooney: i know right ... model def does not capture half of the rish [sic]

Mooney: *risk*

Shah: we should not be rating it

Mooney: we rate every deal

Mooney: it could be structured by cows and we would rate it

Shah: but there's a lot of risk associated with it – I personally don't feel comfy signing off as a committee member.

186. In an email released during the House Oversight Committee Hearing, an S&P analytical manager in the same group as Shah and Mooney wrote that the "[r]ating agencies continue to create and [sic] *even bigger monster – the CDO market. Let's hope we are all wealthy and retired by the time this house of cards falters.*"

187. On October 28, 2008, former Moody's Managing Director Jerome S. Fons ("Fons") testified before the House Oversight Committee. Fons had been an executive at Moody's for 17 years, in various positions including Managing Director of Credit Policy. Fons testified that due to profit concerns, a loosening of ratings standards took place at his company: "[T]he focus of Moody's shifted from protecting investors to being a marketing-driven [sic]

organization" and "management's focus increasingly turned to maximizing revenues" at the expense of ratings quality.

188. Fons explained that the originators of structured securities were free to shop around for the rating agency that would give them the highest rating and "typically chose the agency with the lowest standards, engendering a race to the bottom in terms of rating quality." Fons Testimony, at 3. Fons noted that the Rating Agencies' "drive to maintain or expand market share made [them] willing participants in this [rating] shopping spree" and made it "relatively easy for the major banks to play the agencies off one another." *Id.* Fons said it was this business model that "*prevented analysts from putting investor interests first*." *Id.*

189. Raymond McDaniel, the current CEO of Moody's, also acknowledged the degradation of ratings standards. In the same confidential presentation to Moody's Board of Directors in October 2007, cited *supra*, McDaniel told the Board: "The real problem is not that the market ... underweights ratings quality but rather that, in some sectors, it actually penalizes quality ... It turns out that *ratings quality has surprisingly few friends*." He noted the pressure exerted on analysts to come up with high ratings, explaining "[a]nalysts and MDs [managing directors] are continually 'pitched' by bankers, issuers, investors" and sometimes "we 'drink the kool-aid.'" In fact, *The Wall Street Journal,* in an article published on April 24, 2007, found that in at least one instance, Moody's increased the proportion of AAA ratings within a mortgage after its client complained and said it might go with a different ratings firm.

C. The Ratings Were Based On Inaccurate Mortgage Loan Data

190. The Rating Agencies rated the Certificates based in large part on data about each mortgage loan that Bear Stearns provided to them – including appraisal values, LTV ratios, and borrower creditworthiness and the amount of documentation provided by borrowers to verify

their assets and/or income levels. As discussed above, much of this data was inaccurate due to the inflated appraisal values, inaccurate LTV ratios, borrower income inflation, and the systemic disregard for the stated underwriting standards. During Moody's September 2007 "Town Hall Meeting," hosted by Moody's Managing Director, Raymond McDaniel, executives at Moody's acknowledged that the Rating Agencies used inaccurate data to form their ratings:

> We're on notice that a lot of things that we relied on before just weren't true... [W]e relied on reps and warrantees that no loans were originated in violation of any state or federal law. We know that's a lie.
>
> * * *
>
> There's a lot of fraud that's involved there, things that we didn't see ... We're sort of retooling those to make sure that we capture a lot of the things that we relied on in the past that we can't rely on, on a going forward basis.
>
> * * *
>
> [W]e're being asked to figure out how much everybody lied. ... [I]f all of the information was truthful and comprehensive and complete, we wouldn't have an issue here ...
>
> What we're really being asked to do is figure out how much lying is going on and bake that into a credit ... which is a pretty challenging thing to do. I'm not sure how you tackle that from a modeling standpoint.

Moody's Town Hall Meeting Transcript, at 16, 58-59.

191. In response to the "Town Hall Meeting," a Moody's employee noted:

> [W]hat really went wrong with Moody's subprime ratings leading to massive downgrades and potential more downgrades to come? We heard 2 answers yesterday: 1. people lied, and 2. there was an unprecedented sequence of events in the mortgage markets. As for #1, it seems to me that *we had blinders on and never questioned the information we were given*. Specifically, why would a rational borrower with full information sign up for a floating rate loan that they couldn't possibly repay, and why would an ethical and responsible lender offer such a loan? As for #2, *it is our job to think of the worst case scenarios and model them ... Combined, these errors make us look either incompetent at credit analysis, or like we sold our soul to the devil for revenue, or a little bit of both.*

Moody's Town Hall Meeting Transcript, at 79 (emphasis added).

192. Because Moody's and S&P used flawed information and models to generate their ratings, the ratings assigned to the Certificates lacked any reasonable basis, did not accurately reflect their risk, and were given investment-grade ratings when in reality they were not of investment-grade quality.

D. The Rating Agencies' Role In Structuring The Certificates

193. In the April 2008 issue of *Mortgage Banking*, critics began to note the role of the Rating Agencies in providing "structuring advice":

> But serious concerns have also been voiced by members of Congress about whether the CRAs' business model--where the large investment banks that underwrite mortgage-backed securities (MBS) and collateralized debt offerings actually pay to have their deals rated by the agencies, and the agencies in turn provide feedback to the underwriters on how to boost their deals' credit rating to the highly coveted triple-A status – may have prejudiced their objectivity and integrity.
>
> "It seems to me that the credit-rating agencies are playing both coach and referee," said Sen. Robert Menendez (D-New Jersey), during a September 2007 hearing by the Senate Banking Committee on the collapse of the subprime market.
>
> Critics also argue that the CRAs are actively involved in the structuring of RMBS and CDO deals, and thus can hardly claim that their ratings are merely "opinions" on the likelihood that a debt security might go into default – or, as one agency official has called them, "the world's shortest editorials."
>
> Joseph Mason, an associate professor of finance at Drexel University in Philadelphia and a former economist at the Office of the Comptroller of the Currency (OCC), says ***it is indisputable that the CRAs provide underwriters with "active structuring advice" on how to get a triple-A credit rating for their deals. While the CRAs insist they're merely providing information to the investment bankers during the underwriting process, Mason says they're trying to draw "an artificial line between advice and communication."***

(Emphasis added.)

194. An article appearing in *The Financial Times* on October 17, 2008 entitled "When Junk Was Gold," addressed the unique role of the Rating Agencies in structured finance deals such as mortgage-backed securities:

> The first mortgage-backed bonds were created in the late 1980s, well before Clarkson's time, by a trader called "Lewie" Ranieri. Ranieri, the head of the mortgage trading desk at the former investment bank Salomon Brothers, was famous for the huge sums of money he netted for his employer and for the quantity of cheeseburgers he ate. What he struck upon in structured finance was a process of pure alchemy: a way of turning myriad messy mortgage loans into standardized, regimented and easy-to-assess bonds.
>
> Ranieri knew that the magic of structuring was in the packaging. Packaged in the right way, mortgages could come to create a huge, new tradable bond market. And this is where the rating agencies came in. Structured bonds, like any other bond, needed ratings in order to be sold. ***But with a structured bond, the pools of debt could be built or modified in order to attain a particular rating. This wasn't a matter of disguising the risk, rather a way of reapportioning it and allowing investors with different risk appetites to buy the right product for them. "The rating is what gives birth to the structure in the first place," explains Sylvain Raynes, a financial modeling expert who was with Moody's in the 1990s, when Clarkson joined. In some cases, the ratings are known before the bonds have even been inked. "You start with a rating and build a deal around a rating," Clarkson told an investment magazine last year.***

(Emphasis added.)

195. The Rating Agencies' unique role in influencing the structure of the securitization was more fully discussed in the July 2008 SEC Report. The SEC Report confirmed that S&P and Moody's provided "feed back" to the Sponsor of the Offerings as to the structure, which would result in the highest rating:

> The three examined rating agencies generally followed similar procedures to develop ratings for subprime RMBS and CDOs. ***The arranger of the RMBS initiates the ratings process by sending the credit rating agency a range of data on each of the subprime loans to be held by the trust (e.g., principal amount, geographic location of the property, credit history and FICO score of the borrower, ratio of the loan amount to the value of the property and type of loan: first lien, second lien, primary residence, secondary residence),*** the proposed capital structure of the trust and the proposed levels of credit enhancement to be provided to each RMBS trance issued by the trust.

> Typically, if the analyst concludes that the capital structure of the RMBS does not support the desired ratings, this preliminary conclusion would be conveyed to the arranger. ***The arranger could accept that determination and have the trust issue the securities with the proposed capital structure and the lower rating or adjust the structure to provide the requisite credit enhancement for the senior tranche to get the desired highest rating. Generally, arrangers aim for the largest possible senior tranche, i.e., to provide the least amount of credit enhancement possible, since the senior tranche – as the highest rated tranche – pays the lowest coupon rate of the RMBS' tranches and, therefore, costs the arranger the least to fund.***

Id. at 7-8 (emphasis added).

196. Recent revelations demonstrate that the "potential" conflicts of interest inherent in the issuer pays model became reality when the Rating Agencies rated structured securities such as the Certificates. The July 2008 SEC Report disclosed that Moody's and S&P "do not appear to take steps to prevent considerations of market share and other business interests from the possibility that they could influence ratings or ratings criteria."

197. The Report also found that a number of factors unique to the rating of mortgage-backed securities may have "exacerbated" the effect of conflicts of interest inherent in the fact that the issuer or arranger pays for the ratings. These factors include that the arranger of the deal has:

- ***"[M]ore flexibility to adjust the deal structure to obtain a desired credit rating as compared to arrangers of non-structured asset classes."***
- "Second, there is a high concentration in the firms conducting the underwriting function…While 22 different arrangers underwrote subprime RMBS deals, 12 arrangers accounted for 80% of the deals, in both number and dollar volume."
- With a fast-changing market, rating processes are frequently and quickly changed. The high concentration of arrangers with the influence to determine the ***choice of rating agency has "heightened the inherent conflicts that exist in the 'issuer pays' compensation model."*** Compensation is calculated by volume of deals and total dollar volume, as a result arrangers prefer fast and predictable ratings processes.

- Rating Agencies may be pressured by arrangers to produce a more ***favorable outcome or reduce credit enhancement levels,*** thus reducing ***"the cost of the debt for a given level of cash inflows from the asset pool."*** When the arranger also sponsors the RMBS or CDO trust, pressure can influence an agency's decision to update a model when the update would lead to a less favorable outcome.

- ***High profit margins may have provided an incentive for rating agencies to encourage the arrangers to route future business its way.*** Unsolicited ratings were not available to provide independent checks on the rating agencies' ratings, nor was information regarding the structure of the security or portfolio of assets readily available to parties unrelated to the transaction, especially before issuance.

Id. at 31-32 (emphasis added).

198. The SEC found that "key participants" in the securitization process negotiated fees that the rating agency would receive. *Id.* at 23-24. The SEC noted, *inter alia*, that analysts are "aware" of the rating firm's "business interests in securing the rating of the deal" as follows:

- ***"While each rating agency has policies and procedures restricting analysts from participating in fee discussions with issuers,*** these policies still allowed key participants in the ratings process to participate in fee discussions."

- ***"Analysts appeared to be aware, when rating an issuer, of the rating agency's business interest in securing the rating of the deal.*** The Staff notes multiple communications that indicated that some analysts were aware of the firm's fee schedules, and actual (negotiated) fees. There does not appear to be any internal effort to shield analysts from emails and other communications that discuss fees and revenue from individual issuers."

- ***"Rating agencies do not appear to take steps to prevent considerations of market share and other business interests from the possibility that they could influence ratings or ratings criteria."***

Id. at 24-25 (emphasis added).

199. As reported in *The Washington Post* on June 6, 2008, the New York State Attorney General's Office announced that it had reached an agreement with the credit-rating companies, including S&P and Moody's to:

> … change the way they evaluate mortgage securities that have roiled financial markets for the past year.

> The deal with Moody's Investors Service, Standard & Poor's and Fitch Ratings aims to restore confidence among investors -- who saw top-rated securities lose much of their worth in a matter of months -- by revising how the agencies are paid for issuing ratings. The agreement also requires credit-rating agencies to direct investment banks to provide them with more data on the pools of mortgages that make up the bonds.
>
> The agencies have been under fire for the role they played in the subprime mortgage crisis by awarding top ratings to securities that soured. Regulators and investors have alleged that the agencies have a conflict of interest because they are paid by the investment banks issuing the securities, thus encouraging the credit agencies to give high ratings to win business.
>
> The agreement seeks to end this practice by having the issuers pay the credit-rating agencies at four points during the rating process, not just at the end when the rating is given.
>
> Credit-rating agencies will also be required to disclose information about all securities submitted for review, allowing investors to determine whether issuers sought, but subsequently decided not to use, ratings from a specific agency. This will allow investors to see whether investment banks shopped around for the agency that would give their securities the best rating, said Andrew M. Cuomo, New York's attorney general.

200. The NYAG further stated that:

> "The mortgage crisis currently facing this nation was caused in part by misrepresentations and misunderstanding of the true value of mortgage securities," Cuomo said in a statement. "By increasing the independence of the rating agencies, ensuring they get adequate information to make their ratings, and increasing industry-wide transparency, these reforms will address one of the central causes of that collapse."

Id. at 2.

X. THE COLLAPSE OF THE CERTIFICATES' PERFORMANCE AND VALUE

201. The Rating Agencies rated the Certificates pursuant to the following twenty-three (23) level rating system:

		Definition	Moodys	S & P	Fitch
		Investment Grade			
	10.0	US Treasuries	***	***	***
	9.5	Prime, maximum safety	Aaa	AAA	AAA
	9.0	Very high grade/quality	Aa1	AA+	AA+
	8.5	"	Aa2	AA	AA
	8.0	"	Aa3	AA-	AA-
	7.5	Upper medium quality	A1	A+	A+
	7.0	"	A2	A	A
	6.5	"	A3	A-	A-
	6.0	Lower medium grade	Baa1	BBB+	BBB+
	5.5	"	Baa2	BBB	BBB
	5.0	"	Baa3	BBB-	BBB-
Color code	Number	Definition	Moodys	S & P	Fitch
		Speculative grade			
	4.5	Speculative	Ba1	BB+	BB+
	4.0	"	Ba2	BB	BB
	3.5	"	Ba3	BB-	BB-
	3.0	Highly speculative	B1	B+	B+
	2.5	"	B2	B	B
	2.0	"	B3	B-	B-
	1.5	Substantial risk	Caa1	CCC+	CCC+
	1.0	In poor standing	Caa2	CCC	CCC
	0.5	"	Caa3	CCC-	CCC-
	0.0	Extremely speculative	Ca	CC	CC
	0.0	Maybe in or extremely close to default	C	C+,C,C-	C+,C,C-
	0.0	Default		D	D

202. As noted above, the Rating Agencies initially assigned the highest ratings of AAA/maximum safety to 90.3%, or $34.20 billion, of the Certificates. The Certificates were downgraded as many as 22 levels with, for example, 93.0%, or $31.81 billion, of the total $34.20 billion of Certificates initially rated AAA/maximum safety, now having been downgraded from

AAA to "Ba1" or below, meaning these Certificates were not only designated "junk bonds," but were assessed to be in danger of "imminent default." Over 99.2%, or $37.55 billion, of the remaining Certificate tranches have now been downgraded, with 94.0%, or $35.54 billion, having been downgraded to speculative "junk" status.

203. The initial complaint in this action was filed August 20, 2008. No Certificates included therein were downgraded from AAA to below investment-grade until, at the earliest, June 19, 2008. A complaint identifying additional certificates was filed on May 15, 2009. No Certificates included therein were downgraded from AAA to below investment-grade until, at the earliest, June 19, 2008. Another complaint identifying additional Certificates was filed July 9, 2009. No Certificates included therein were downgraded from AAA to below investment-grade until, at the earliest, August 27, 2008.

204. As of May 15, 2009, delinquencies and defaults in the underlying mortgages had risen to an average of over 63% of the outstanding balances. As of the filing of this Complaint, the underlying collateral has largely failed, with 70% of the total mortgage loan balance now severely delinquent, in default, repossessed or in foreclosure.

XI. CLASS ACTION ALLEGATIONS

205. Plaintiffs bring this action as a class action pursuant to Federal Rules of Civil Procedure Rule 23(a) and (b)(3), individually, and on behalf of a class consisting of all persons or entities who purchased or otherwise acquired beneficial interests in the Certificates identified herein issued pursuant and/or traceable to Structured Asset Mortgage Investments II, Inc.'s March 10, 2006 Registration Statement and/or Bear Stearns Asset Backed Securities I, LLC's March 31, 2006 Registration Statement (the "Class").

206. This action is properly maintainable as a class action for the following reasons:

a) The Class is so numerous that joinder of all members is impracticable. While the exact number of Class members is unknown to Plaintiffs at this time and can only be ascertained through discovery, Plaintiffs believe that there are thousands of members of the proposed Class, who may be identified from records maintained by the Issuing Defendants and/or may be notified of this action using the form of notice customarily used in securities class actions.

b) Plaintiffs are committed to prosecuting this action and have retained competent counsel experienced in litigation of this nature. Plaintiffs' claims are typical of the claims of the other members of the Class and Plaintiffs have the same interests as the other members of the Class. Accordingly, Plaintiffs are adequately representative of the Class and will fairly and adequately protect the interests of the Class.

c) The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications with respect to individual members of the Class, which would establish incompatible standards of conduct for Defendants, or adjudications with respect to individual members of the Class which would, as a practical matter, be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

d) A class action is superior to all other methods for a fair and efficient adjudication of this controversy. There will be no difficulty in the management of this action as a class action. Furthermore, the expense and burden of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them.

207. There are questions of law and fact which are common to the Class and which predominate over questions affecting any individual class member. The common questions include, *inter alia*, the following:

a) Whether Defendants violated the Securities Act;

b) Whether statements made by Defendants to the investing public in the Registration Statements, Prospectuses and Prospectus Supplements both omitted and misrepresented material facts about the underlying mortgages; and

c) The extent and proper measure of the damages sustained by the members of the Class.

XII. STANDING

208. Plaintiffs have constitutional standing to advance the claims alleged herein. As set forth in Plaintiffs' certifications, Plaintiffs purchased Certificates alleged to have been damaged by Defendants, and can assert a claim directly against each Defendant. Accordingly, Plaintiffs have alleged concrete and particularized invasions of legally protected interests for all of the claims alleged under the Securities Act.

FIRST CAUSE OF ACTION

For Violation Of § 11 Of The Securities Act
(Against Bear Stearns, J.P. Morgan Securities,
The Depositors, The Individual Defendants And The Rating Agencies)

209. Plaintiffs repeat and reallege each and every allegation above as if set forth in full herein. For purposes of this Cause Of Action, Plaintiffs expressly exclude and disclaim any allegation that could be construed as alleging fraud or intentional misconduct. This Cause Of Action is based solely on claims of strict liability and/or negligence under the 1933 Act.

210. This Cause Of Action is brought pursuant to § 11 of the Securities Act, on behalf of Plaintiffs and the Class, against Bear Stearns, J.P. Morgan Securities, as successor-in-interest

to Bear Stearns, the Depositors, the Individual Defendants and the Rating Agencies. This Cause Of Action is predicated upon Defendants' strict liability for making materially false and misleading statements in the Offering Documents.

211. The Registration Statements were materially misleading, contained untrue statements of material fact, omitted to state other facts necessary to make the statements not misleading, and omitted to state material facts required to be stated therein.

212. The Individual Defendants, the Rating Agencies, Bear Stearns, and the Depositors are strictly liable to Plaintiffs and the Class for making the misstatements and omissions in issuing the Certificates.

213. The Individual Defendants each signed one or both of the Registration Statements.

214. Bear Stearns and the Rating Agencies each acted as an underwriter in the sale of Certificates, directly and indirectly participated in the distribution of the Certificates and directly and indirectly participated in drafting and disseminating the Offering Documents for the Certificates. The Rating Agencies held themselves out publicly in the Offering Documents as structuring and providing pre-determined credit ratings.

215. Bear Stearns, the Depositors, the Individual Defendants and the Rating Agencies owed the Plaintiffs and other Class members the duty to make a reasonable and diligent investigation of the statements contained in the Offering Documents at the time they became effective to ensure that such statements were true and correct and that there was no omission of material facts required to be stated in order to make the statements contained therein not misleading.

216. Bear Stearns, the Depositors, each of the Individual Defendants and the Rating Agencies failed to possess a reasonable basis for believing, and failed to make a reasonable investigation to ensure, that statements contained in the Offering Documents were true and/or that there was no omission of material facts necessary to make the statements contained therein not misleading.

217. Bear Stearns, the Depositors, the Individual Defendants and the Rating Agencies issued and disseminated, caused to be issued or disseminated, and participated in the issuance and dissemination of material statements to the investing public which were contained in the Registration Statements, which made false and misleading statements and/or misrepresented or failed to disclose material facts, as set forth above.

218. By reason of the conduct alleged herein, the Individual Defendants, Bear Stearns, J.P. Morgan Securities, as successor-in-interest to Bear Stearns, the Depositors and the Rating Agencies violated § 11 of the Securities Act, and are liable to Plaintiffs and the Class.

219. Plaintiffs and other Class members acquired the Certificates pursuant and/or traceable to the Registration Statements. At the time Plaintiffs and Class members obtained their Certificates, they did so without knowledge of the facts concerning the misstatements and omissions alleged herein.

220. Plaintiffs and other Class members have sustained damages as a result of the wrongful conduct alleged and the violations of Bear Stearns, J.P. Morgan Securities, the Depositors, the Individual Defendants, and the Rating Agencies.

221. By virtue of the foregoing, Plaintiffs and other Class members are entitled to damages, jointly and severally from the Individual Defendants, Bear Stearns, J.P. Morgan Securities, the Depositors, and the Rating Agencies, as set forth in § 11 of the Securities Act.

222. This action is brought within one year after the discovery of the untrue statements and omissions contained in the Offering Documents and within three years of the Certificates being offered to the public. Despite the exercise of reasonable diligence, Plaintiffs could not have reasonably discovered the untrue statements and omissions in the Offering Documents at an earlier time.

SECOND CAUSE OF ACTION
For Violation Of § 12(A)(2) Of The Securities Act
(Against Bear Stearns, J.P. Morgan Securities And The Depositors)

223. Plaintiffs repeat and reallege each and every allegation above as if set forth in full herein. For purposes of this Cause Of Action, Plaintiffs expressly exclude and disclaim any allegation that could be construed as alleging fraud or intentional misconduct. This Cause Of Action is based solely on claims of strict liability and/or negligence under the 1933 Act.

224. This Cause Of Action is brought pursuant to § 12(a)(2) of the Securities Act, on behalf of Plaintiffs and the Class, against Bear Stearns, J.P. Morgan Securities, as successor-in-interest to Bear Stearns, and the Depositors.

225. The Depositors promoted and sold Certificates pursuant to the defective Prospectuses for their own financial gain. The Prospectuses contained untrue statements of material fact, omitted to state facts necessary to make statements not misleading, and concealed and failed to disclose material facts.

226. By means of the Prospectuses, the Depositors sold the Certificates to Plaintiffs and the Class. The Depositors' actions of solicitation consisted primarily of the preparation and dissemination of the Prospectuses.

227. Bear Stearns and the Depositors owed to Plaintiffs, and the other Class members who purchased Certificates pursuant to the Prospectuses a duty to make a reasonable and diligent investigation of the statements contained in the Prospectuses, to ensure that such statements were

true and that there was no omission of material fact necessary to make the statements contained therein not misleading.

228. Plaintiffs and other Class members purchased or otherwise acquired Certificates pursuant to the defective Prospectuses. Plaintiffs and other Class members purchased their Certificates directly from Bear Stearns. Plaintiffs did not know, and in the exercise of reasonable diligence could not have known, of the misrepresentations and omissions contained in the Prospectuses.

229. By reason of the conduct alleged herein, Bear Stearns, J.P. Morgan Securities, as successor-in-interest to Bear Stearns, and the Depositors violated § 12(a)(2) of the Securities Act, and are liable to Plaintiffs and other Class members who purchased Certificates pursuant to the Prospectuses.

230. Plaintiffs and other Class members were damaged by Bear Stearns' and the Depositors' wrongful conduct. Those Class members who have retained their Certificates have the right to rescind and recover the consideration paid for their Certificates, as set forth in § 12(a)(2) of the Securities Act. Those Class members who have sold their Certificates are entitled to rescissory damages, as set forth in § 12(a)(2) of the Securities Act.

231. This action is brought within one year after the discovery of the untrue statements and omissions contained in the Offering Documents and within one year after reasonable discovery of the untrue statements and material omissions and within three years of when the Certificates were sold to the public. Despite the exercise of reasonable diligence, Plaintiffs could not have reasonably discovered the untrue statements in the Offering Documents at an earlier time.

THIRD CAUSE OF ACTION

Violations Of § 15 Of The Securities Act (Against The Individual Defendants, Bear Stearns, J.P. Morgan Securities, The Rating Agencies And EMC)

232. Plaintiffs repeat and reallege each and every allegation above as if set forth in full herein. For purposes of this Cause of Action, Plaintiffs expressly exclude and disclaim any allegation that could be construed as alleging fraud or intentional misconduct. This Cause Of Action is based solely on claims of strict liability and/or negligence under the 1933 Act.

233. This cause of action is brought against the Individual Defendants, Bear Stearns, J.P. Morgan Securities, as successor-in-interest to Bear Stearns, EMC and the Rating Agencies as controlling persons, pursuant to Section 15 of the Securities Act. The Individual Defendants, Bear Stearns, EMC and the Rating Agencies, by virtue of his, her or its control, ownership, offices, directorship, and specific acts set forth above was, at the time of the wrongs alleged herein, a controlling person of the Depositors within the meaning of Section 15 of the Securities Act. The Individual Defendants, Bear Stearns, the Rating Agencies and EMC had the power to influence, and exercised that power and influence, to cause the Depositors to engage in violations of the Securities Act, as described above. The Individual Defendants', Bear Stearns', the Rating Agencies' and EMC's control, ownership and position made them privy to the material facts concealed from Plaintiffs and other Class members.

234. In addition to participating in a necessary role in the Certificates' distribution, the Prospectus Supplements make clear that the Rating Agencies played other important and vital roles regarding the structuring and administration of the Certificates. These roles allowed them to exercise substantial control over many parties to the securitization transaction, including the Depositors.

235. The Rating Agencies also had the ability to exercise, and did exercise, significant control in causing the Depositors to engage in violations of the Securities Act, as described

herein. In particular, the Rating Agency Defendants controlled the issuance of the Certificates through their pre-established ratings the assignment of which was a condition precedent for the issuance of the Certificates. The Offering Documents stated "[i]t is a condition to the issuance of each class of Offered Certificates that it receives at least the ratings set forth below." The Offering Documents also explicitly stated that the Depositors were wholly-owned subsidiary of Bear Stearns, and were "organized for the sole purpose of serving as a private secondary mortgage market conduit." J.P. Morgan Securities is the successor-in-interest to Bear Stearns.

236. Additionally, the Rating Agencies also had the ability to exercise, and did exercise, significant control over the Master Servicer's rights and obligations and whether the Pooling and Servicing Agreements could be amended.

237. By virtue of their wrongful conduct, the Individual Defendants, Bear Stearns, J.P. Morgan Securities, as successor-in-interest to Bear Stearns, the Rating Agencies and EMC are liable to Plaintiffs and other Class members for their sustained damages.

RELIEF REQUESTED

WHEREFORE, Plaintiffs pray for relief and judgment, as follows:

a) Declaring this action properly maintainable as a class action and certifying Plaintiffs as Class representative;

b) Awarding compensatory and/or rescissory damages in favor of Plaintiffs and other Class members against all Defendants, jointly and severally, for all damages sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;

c) Awarding Plaintiffs and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

d) Such other relief as the Court may deem just and proper.

JURY DEMAND

Plaintiffs hereby demand a trial by jury.

Dated: February 19, 2010

COHEN MILSTEIN SELLERS & TOLL PLLC

By: ______________________
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**IN RE BEAR STEARNS MORTGAGE
PASS-THROUGH CERTIFICATES LITIGATION**

**APPENDIX TO CONSOLIDATED
<u>CLASS ACTION COMPLAINT</u>**

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EMC Underwriting Guidelines

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BSABS 2006-HE10	S-45-46	BSMF 2006-AR5	S-30-31
BSABS 2007-AC1	*33-34	BSMF 2007-AR1	S-30-31
BSABS 2007-AC2	S-31-32	BSMF 2007-AR3	S-33-34
BSABS 2007-AC3	S-40-41	BSMF 2006-AC1	S-30-31
BSABS 2007-AC4	*35-36	SAMI 2007-AR2	N/A
BSABS 2007-AC5	S-34-35	BALTA 2006-5	S-42-44
BSABS 2007-AC6	*30-31	BALTA 2006-6	S-55-57
BSABS 2007-HE2	*See* "General"	BALTA 2006-7	S-51-53
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BSMF 2006-AR1	S-31-32	BALTA 2007-1	S-43-45
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BSABS 2007-AC1	*35	BSMF 2007-AR1	S-32
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BSABS 2007-AC3	S-42	BSMF 2006-AC1	S-32
BSABS 2007-AC4	*36	SAMI 2007-AR2	N/A
BSABS 2007-AC5	S-35-36	BALTA 2006-5	S-42-44
BSABS 2007-AC6	*31	BALTA 2006-6	S-55-57
BSABS 2007-HE2	*48	BALTA 2006-7	S-51-53
BSABS 2007-HE4	*See* "General"	BALTA 2006-8	*37
BSMF 2006-AR1	S-32	BALTA 2007-1	S-43-45
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EMC Underwriting Guidelines

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BSABS 2006-HE10	S-46-47	BSMF 2006-AR5	S-31
BSABS 2007-AC1	*34-35	BSMF 2007-AR1	S-31
BSABS 2007-AC2	S-33	BSMF 2007-AR3	S-34-35
BSABS 2007-AC3	S-42	BSMF 2006-AC1	S-32
BSABS 2007-AC4	*36	SAMI 2007-AR2	N/A
BSABS 2007-AC5	S-35	BALTA 2006-5	S-42-44
BSABS 2007-AC6	*28-29	BALTA 2006-6	S-55-57
BSABS 2007-HE2	*48-49	BALTA 2006-7	S-51-53
BSABS 2007-HE4	*See* “General”	BALTA 2006-8	*37-38
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Bear Stearns Residential Mortgage Underwriting Guidelines

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BSABS 2007-AC6	28-29	BSMF 2006-AR5	S-33-35
BSABS 2007-HE2*	48-49	BSMF 2007-AR1	S-33-35
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SAMI 2006-AR7	S-46	BALTA 2007-1	28
SAMI 2006-AR8	S-49	BSARM 2006-4	S-47
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Ameriquest Loan Sellers Underwriting Guidelines

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Credit Support Misstatements/Omissions

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BSABS 2006-HE5	*16-17	BSMF 2007-AR1	S-10
BSABS 2006-HE9	S-11-12	BSMF 2007-AR3	S-11
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BSABS 2007-AC1	*13-14	SAMI 2006-AR5	S-18-19
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BSABS 2007-AC3	S-9-10	SAMI 2006-AR7	S-15-16
BSABS 2007-AC4	*14-15	SAMI 2006-AR8	S-16-17
BSABS 2007-AC5	S-11	SAMI 2007-AR1	S-18-19
BSABS 2007-AC6	*10	SAMI 2007-AR2	S-18-19
BSABS 2007-AQ1	*12-13	BALTA 2006-5	*8-9
BSABS 2007-FS1	S-10-11	BALTA 2006-6	*17-18
BSABS 2007-HE2	*21-23	BALTA 2006-7	*13-14
BSABS 2007-HE3	S-11-12	BALTA 2006-8	*16-17
BSABS 2007-HE4	*16-17	BALTA 2007-1	*12-13
BSABS 2007-HE5	*14-15	BSARM 2006-4	S-12-13
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BSABS 2006-HE5	*138	BSMF 2007-AR1	A-2
BSABS 2006-HE9	A-1	BSMF 2007-AR3	A-1
BSABS 2006-HE10	A-1	SAMI 2006-AR4	A-3
BSABS 2007-AC1	N/A	SAMI 2006-AR5	A-3
BSABS 2007-AC2	A-2	SAMI 2006-AR6	A-2
BSABS 2007-AC3	A-1	SAMI 2006-AR7	A-2
BSABS 2007-AC4	*108	SAMI 2006-AR8	A-2
BSABS 2007-AC5	A-1	SAMI 2007-AR1	A-2
BSABS 2007-AC6	*89	SAMI 2007-AR2	A-2
BSABS 2007-AQ1	*112	BALTA 2006-5	*55
BSABS 2007-FS1	A-1	BALTA 2006-6	*89
BSABS 2007-HE2	*173	BALTA 2006-7	*70
BSABS 2007-HE3	A-1	BALTA 2006-8	*91
BSABS 2007-HE4	*122	BALTA 2007-1	*69
BSABS 2007-HE5	*124	BSARM 2006-4	A-2
BSABS 2007-HE6	*110	BSARM 2007-1	N/A
BSMF 2006-AC1	A-2	BSARM 2007-3	*146
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Loan-To-Value Ratio Misstatements/Omissions

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BSABS 2006-AQ1	*32	BSMF 2006-AR5	S-35
BSABS 2006-HE5	N/A	BSMF 2007-AR1	S-35
BSABS 2006-HE9	N/A	BSMF 2007-AR3	S-39
BSABS 2006-HE10	N/A	SAMI 2006-AR4	S-59
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BSABS 2007-AC3	S-40	SAMI 2006-AR7	57
BSABS 2007-AC4	*35	SAMI 2006-AR8	57
BSABS 2007-AC5	S-34	SAMI 2007-AR1	57
BSABS 2007-AC6	*30	SAMI 2007-AR2	57
BSABS 2007-AQ1	*21	BALTA 2006-5	56
BSABS 2007-FS1	N/A	BALTA 2006-6	*166
BSABS 2007-HE2	N/A	BALTA 2006-7	*129
BSABS 2007-HE3	N/A	BALTA 2006-8	*239
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BSABS 2007-HE5	N/A	BSARM 2006-4	57
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BSABS 2006-HE5	*19	BSMF 2007-AR1	S-2
BSABS 2006-HE9	S-15	BSMF 2007-AR3	S-2
BSABS 2006-HE10	S-19	SAMI 2006-AR4	S-7
BSABS 2007-AC1	*15	SAMI 2006-AR5	S-7
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BSABS 2007-AC3	S-12	SAMI 2006-AR7	S-7
BSABS 2007-AC4	*16	SAMI 2006-AR8	S-8
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BSABS 2007-AQ1	*16	BALTA 2006-5	*4
BSABS 2007-FS1	S-14	BALTA 2006-6	*6
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BSABS 2007-HE4	*19	BALTA 2007-1	*6
BSABS 2007-HE5	*18	BSARM 2006-4	S-5
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BSABS 2007-AC3	S-45-46	BSMF 2006-AR2	S-25
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BSABS 2007-AQ1	*40-41	BSMF 2007-AR1	S-24-25
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Mortgage Servicing Misstatements/Omissions

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BSABS 2007-AC1	*39-40	BSMF 2006-AC1	S-35-36
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BSABS 2007-AC4	*48-49	BSMF 2006-AR3	*24
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BSABS 2007-AC6	*34-35	BSMF 2006-AR5	S-21
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		BSARM 2007-3	*24

CERTIFICATE OF SERVICE

I, Daniel B. Rehns, counsel for the Plaintiffs, hereby certify that on February 19, 2010, I filed an original of the foregoing by hand with the Clerk of the Court and delivered a copy to all parties named herein and/or counsel of record in the within action by electronic mail.

Daniel B. Rehns