SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

FEDERAL HOUSING FINANCE AGENCY, AS CONSERVATOR FOR THE FEDERAL NATIONAL MORTGAGE ASSOCIATION AND THE FEDERAL HOME LOAN MORTGAGE CORPORATION, Plaintiff, -against- MORGAN STANLEY, MORGAN STANLEY & CO., INC., MORGAN STANLEY MORTGAGE CAPITAL HOLDINGS LLC d/b/a MORGAN STANLEY MORTGAGE CAPITAL, INC., MORGAN STANLEY ABS CAPITAL I, INC., MORGAN STANLEY CAPITAL I, INC., SAXON CAPITAL, INC., SAXON FUNDING MANAGEMENT LLC f/k/a SAXON FUNDING MANAGEMENT, INC., SAXON ASSET SECURITIES COMPANY, CREDIT SUISSE SECURITIES (USA) LLC f/k/a CREDIT SUISSE FIRST BOSTON LLC, RBS SECURITIES, INC. d/b/a RBS GREENWICH CAPITAL and f/k/a GREENWICH CAPITAL MARKETS, INC., GAIL P. MCDONNELL, HOWARD HUBLER, CRAIG S. PHILLIPS, ALEXANDER C. FRANK, DAVID R. WARREN, JOHN E. WESTERFIELD, and STEVEN S. STERN, Defendants.	**Index No. ____** **<u>COMPLAINT</u>**

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Plaintiff Federal Housing Finance Agency ("Plaintiff" or "FHFA"), as Conservator of the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac"), by its attorneys Kasowitz, Benson, Torres & Friedman LLP, for its Complaint against the defendants named herein ("Defendants"), alleges as follows:

NATURE OF ACTION

1. This action arises from false and misleading statements and omissions in registration statements, prospectuses, and other offering materials pursuant to which certain residential mortgage-backed securities ("RMBS") were purchased by Fannie Mae and Freddie Mac (together, the "Government-Sponsored Enterprises" or "GSEs"). Among other things, these documents falsely represented that the mortgage loans underlying the RMBS complied with certain underwriting guidelines and standards, and presented a false picture of the characteristics and riskiness of those loans. These representations were material to the GSEs, as they would have been to any reasonable investor, and their falsity violates Sections 11, 12(a)(2), and 15 of the Securities Act of 1933, 15 U.S.C. § 77a *et seq.*, as well as Sections 13.1-522(A)(ii) and 13.1-522(C) of the Virginia Code and Sections 31-5606.05(a)(1)(B) and 31-5606.05(c) of the District of Columbia Code. The GSEs justifiably relied on Defendants' misrepresentations and omissions of material fact to their detriment. In addition to their strict statutory liability under federal securities law and liability under state law, Defendants' statements and omissions give rise to liability under state common law.

2. Between September 12, 2005 and September 27, 2007, Fannie Mae and Freddie Mac purchased over $10.58 billion in Certificates issued in connection with 33 securitizations that were virtually all sponsored and underwritten by Morgan Stanley entities.[1]

3. The Certificates were offered for sale pursuant to one of seven shelf registration statements (the "Shelf Registration Statements") filed with the Securities and Exchange Commission (the "SEC"). For each of the 33 securitizations sold to Fannie Mae and Freddie Mac (the "Securitizations"), a prospectus ("Prospectus") and prospectus supplement ("Prospectus Supplement") were filed with the SEC as part of the Registration Statement for that Securitization.[2] The Certificates were marketed and sold to Fannie Mae and Freddie Mac pursuant to the Registration Statements.

4. The Registration Statements contained representations concerning, among other things, the characteristics and credit quality of the mortgage loans underlying the Securitizations, the creditworthiness of the borrowers on those underlying mortgage loans, and the origination and underwriting practices used to make and approve the loans. Such representations were material to a reasonable investor's decision to invest in the Certificates, and they were material to the GSEs. Unbeknownst to Fannie Mae and Freddie Mac, those representations were false because, among other reasons, material percentages of the underlying mortgage loans were not originated in accordance with the represented underwriting standards and origination practices, and did not have the credit and other characteristics set forth in the Registration Statements.

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[1] For purposes of this Complaint, the securities issued under the Registration Statements (defined in note 2, *infra*) are generally referred to as "Certificates." Holders of Certificates are referred to as "Certificateholders."

[2] The term "Registration Statement" as used herein and in Appendix A incorporates the Shelf Registration Statement, the Prospectus and the Prospectus Supplement for each referenced Securitization, except where otherwise indicated.

5. Among other things, the Registration Statements presented the loan origination guidelines of the mortgage loan originators who originated the loans that underlay the Certificates. The Registration Statements falsely represented that those guidelines were adhered to except in specified circumstances, when in fact the guidelines systematically were disregarded in that the loans were not originated in accordance with those guidelines.

6. The Registration Statements also set forth for each Securitization statistical summaries of the characteristics of the underlying mortgage loans, such as the percentage of loans secured by owner-occupied properties and the percentage of the loan group's aggregate principal balance with loan-to-value ratios within specified ranges. This information was material to reasonable investors, and it was material to the GSEs. However, a loan-level analysis of a sample of loans for each Securitization -- a review that encompassed in the aggregate thousands of mortgages across all of the Securitizations -- has revealed that for each Securitization the statistical summaries were false and misleading. The statistics reflected or were based upon misrepresentations of other key characteristics of the mortgage loans and inflated property values.

7. For example, the percentage of owner-occupied properties in the loan pool underlying a RMBS is a material risk factor to the purchasers of certificates, such as Fannie Mae and Freddie Mac, because a borrower who actually lives in a mortgaged property is generally less likely to stop paying the mortgage and more likely to take care of the property. The loan-level review revealed that the true percentage of owner-occupied properties for the loans supporting the Certificates was materially lower than that represented in the Prospectus Supplements. Likewise, the Prospectus Supplements misrepresented such material information as loan-to-value ratios -- that is, the relationship between the principal amount of the loans and

the true value of the mortgaged properties securing those loans -- and the ability of the individual mortgage holders to satisfy their debts.

8. The Registration Statements also set forth ratings for each of the Securitizations. Those AAA ratings were material to a reasonable investor's decision to purchase the Certificates, and they were material to the GSEs. The ratings for the Securitizations were materially inaccurate and were based upon false information supplied by Defendants. Upon information and belief, neither the Defendants nor the rating agencies who issued the ratings believed or had any sound basis to believe in their truthfulness.

9. Defendants, who are issuers, sponsors, and/or underwriters of the Certificates purchased by the GSEs, or signatories of the Registration Statements pursuant to which the Certificates purchased by the GSEs were offered, are liable for the misstatements and omissions of material fact contained in the Registration Statements and other offering materials because they prepared, signed, filed and/or used these documents to market and sell the Certificates to Fannie Mae and Freddie Mac, or because they directed and controlled the entities that did so.[3]

10. Defendants' misstatements and omissions of material facts have caused loss and injury to the GSEs. The GSEs purchased the highest tranches of Certificates offered for sale by Defendants. Fannie Mae and Freddie Mac would not have purchased these Certificates but for Defendants' material misrepresentations and omissions concerning the mortgage loans underlying the RMBS. As the truth concerning the misrepresented and omitted facts has come to light, and as the hidden risks have materialized, the market value of Certificates purchased by Fannie Mae and Freddie Mac has declined. Fannie Mae and Freddie Mac have suffered

[3] The Certificates purchased by Fannie Mae and Freddie Mac are identified *infra* in Tables 10 and 11.

enormous financial losses as a result of the Defendants' misrepresentations and omissions. FHFA, as Conservator for the GSEs, now seeks rescission and damages for those losses.

PARTIES

Plaintiff and the GSEs

11. Plaintiff Federal Housing Finance Agency is a federal agency located at 1700 G Street, NW in Washington, D.C. FHFA was created on July 30, 2008, pursuant to the Housing and Economic Recovery Act of 2008 (HERA), Pub L. No. 110-289, 122 Stat. 2654, codified at 12 U.S.C. § 4617 *et seq.* ("HERA"), to oversee Fannie Mae, Freddie Mac and the Federal Home Loan Banks. On September 6, 2008, the Director of FHFA, also pursuant to HERA, placed Fannie Mae and Freddie Mac into conservatorship and appointed FHFA as Conservator. In that capacity, FHFA has the authority to exercise all rights and remedies of Fannie Mae and Freddie Mac, including but not limited to, the authority to bring suits on behalf of and/or for the benefit of the GSEs. 12 U.S.C. § 4617(b)(2).

12. Fannie Mae and Freddie Mac are government-sponsored enterprises chartered by Congress with a mission to provide liquidity, stability and affordability to the United States housing and mortgage markets. As part of this mission, Fannie Mae and Freddie Mac invested in RMBS. Fannie Mae is located at 3900 Wisconsin Avenue, NW in Washington, D.C. Freddie Mac is located at 8200 Jones Branch Drive in McLean, Virginia.

Defendants

Morgan Stanley Defendants

13. Defendant Morgan Stanley ("MS") is a financial holding company regulated by the Board of Governors of the Federal Reserve System, and an SEC-registered broker-dealer. Morgan Stanley is a Delaware corporation with its principal place of business at 1585 Broadway, New York, New York 10036. MS is a global financial services firm that trades on the New York

Stock Exchange under the ticker "MS." MS's business units include its Institutional Securities division which, among other things, acts as an underwriter of RMBS, provides warehouse lending to subprime and other mortgage originators, trades, makes markets and takes proprietary positions in RMBS, and structures debt securities and derivatives involving mortgage-related securities.

14. Defendant Morgan Stanley & Co., Inc. ("MS&Co.") is a wholly-owned subsidiary of MS, incorporated in the State of Delaware, with its principal offices at 1585 Broadway, New York, New York 10036. Defendant MS&Co. was the lead or co-lead underwriter for 30 of the 33 Securitizations. Fannie Mae and Freddie Mac purchased the Certificates for 30 of the 33 Securitizations from MS&Co. in its capacity as lead or co-lead underwriter for the Securitizations.

15. Defendant Morgan Stanley ABS Capital I, Inc. ("MSAC") is a wholly-owned subsidiary of MS, incorporated in the State of Delaware, with its principal offices at 1585 Broadway, New York, New York 10036. Defendant MSAC was the depositor for 16 of the 33 Securitizations. As depositor, MSAC was responsible for preparing and filing reports required under the Securities Exchange Act of 1934.

16. Defendant Morgan Stanley Capital I, Inc. ("MSC") is a wholly-owned subsidiary of MS incorporated in the State of Delaware with its principal offices located at 1585 Broadway, New York, New York 10036. Defendant MSC was the depositor for 10 Securitizations. As depositor, MSC was responsible for preparing and filing reports required under the Securities Exchange Act of 1934 with respect to the Securitizations.

17. Defendant Morgan Stanley Mortgage Capital Holdings LLC d/b/a Morgan Stanley Mortgage Capital, Inc. ("MSMC") is a New York limited liability company, and a

wholly-owned subsidiary of MS with its principal offices at 1221 Avenue of the Americas, New York, New York 10020. Defendant MSMC was the sponsor of one of the Securitizations. By virtue of a June 17, 2007 merger, Defendant MSMC became the successor-in-interest to Morgan Stanley Mortgage Capital, Inc. ("MCI") (the term "MSMC/MCI" is used herein to refer to MSMC on its own behalf and as successor-in-interest to MCI), which was the sponsor of 20 of the Securitizations. Defendant MSMC is liable as a matter of law as successor to MCI as the surviving entity in its direct merger with MCI. Defendant MSMC is also the direct parent and sole owner of Defendant Saxon Capital, Inc. ("SCI"). Defendant MS is the direct parent and sole owner of Defendants MS&Co., MSAC, MSC, and MSMC.

18. SCI is a Maryland corporation with an office located at 300 International Drive, 100, Williamsville, New York 14421. On December 4, 2006, SCI merged with Angle Merger Subsidiary Corporation, which was a wholly-owned subsidiary of MCI. As Defendant MSMC is the successor-in-interest to MCI, Defendant SCI is now a wholly-owned subsidiary of MSMC. Defendant SCI is the sole owner and direct parent of Defendant Saxon Funding Management LLC ("SFM").

19. SFM, a wholly-owned subsidiary of Defendant SCI, is a Delaware limited liability company registered to do business in New York. Prior to December 4, 2006 when Defendant SCI merged with a MS subsidiary, SFM was known as Saxon Funding Management, Inc. Defendant SFM was the sponsor of two Securitizations.

20. Defendant Saxon Asset Securities Company ("SASC") is a wholly-owned subsidiary of Defendant SFM incorporated in the State of Virginia. Defendant SASC was the depositor for four Securitizations and transacted business in New York. SASC, as depositor, was also responsible for preparing and filing reports required under the Securities Exchange Act of

1934. Defendants MS, MS&Co., MSAC, MSC, MSMC, SCI, SFM and SASC are referred to together herein as "Morgan Stanley."

Non-MS Defendants

21. Defendant Credit Suisse Securities (USA) LLC ("Credit Suisse") is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 11 Madison Ave., New York, New York 10010. Prior to January 16, 2006, Credit Suisse was known as Credit Suisse First Boston LLC. Credit Suisse is an SEC-registered broker-dealer, and was the co-lead underwriter for four of the Securitizations. The GSEs purchased the Certificates for two Securitizations from Credit Suisse.

22. Defendant RBS Securities, Inc., doing business as RBS Greenwich Capital ("RBS"), is an SEC-registered broker-dealer incorporated in the State of Delaware with offices located at 101 Park Avenue, New York, New York 10178. Prior to April 2009, RBS was known as Greenwich Capital Markets, Inc. RBS was co-lead underwriter for three Securitizations and sold the Certificates for one Securitization to Freddie Mac.

Individual Defendants

23. Defendant Gail P. McDonnell ("Ms. McDonnell") is an individual residing in New York, New York. Ms. McDonnell was a Managing Director and Head of the Securitized Products group at Defendant MS. She also served as a Director at Defendant MSAC. Ms. McDonnell signed two of the Shelf Registration Statements and the amendments thereto.

24. Defendant Howard Hubler ("Mr. Hubler") is an individual residing in Rumson, New Jersey. Mr. Hubler was a Managing Director at the Proprietary Trading group at Defendant MS and transacted business in New York. He also served as a Director at Defendant MSAC. Mr. Hubler signed one Shelf Registration Statement and the amendments thereto.

25. Defendant Craig S. Phillips ("Mr. Phillips") is an individual residing in New Canaan, Connecticut. Mr. Phillips was a Managing Director and Global Head of the Securitized Products group at Defendant MS and transacted business in New York. He also served as President and Director at Defendant MSAC. Mr. Phillips signed two of the Shelf Registration Statements and the amendments thereto.

26. Defendant Alexander C. Frank ("Mr. Frank") is an individual residing in New York, New York. Mr. Frank was a Treasurer, a Managing Director and the Head of Operational Risk Management at Defendant MS from 1985 through 2008. He also served as Treasurer at Defendant MSAC. Mr. Frank signed one Shelf Registration Statement and the amendment thereto.

27. Defendant David R. Warren ("Mr. Warren") is an individual residing in New York, New York. Mr. Warren was a Managing Director in the Mortgage Capital Markets group and the Global Head of the Structured Credit Trading group at Defendant MS. He also served as President and Director at Defendant MSC. Mr. Warren signed three of the Shelf Registration Statements and the amendments thereto.

28. Defendant John E. Westerfield ("Mr. Westerfield") is an individual residing in Bronxville, New York. Mr. Westerfield was Global Head of Real Estate Lending and Global Head of Commercial Mortgage Backed Securities at Defendant MS from 1985 through 2008. He also served as a Director at Defendant MSC. Mr. Westerfield signed one Shelf Registration Statement and the amendments thereto.

29. Defendant Steven S. Stern ("Mr. Stern") is an individual residing in Connecticut. Mr. Stern was Global Head of Real Estate Lending at Defendant MS, is currently employed in the Global Commercial Mortgage-Backed Securities group at Defendant MS, and transacted

business in New York. He also served as a Director at Defendant MSC. Mr. Stern signed one Shelf Registration Statement and the amendments thereto. Messrs. Hubler, Phillips, Frank, Warren, Westerfield, and Stern, and Ms. McDonnell are together referred to herein as the "Individual Defendants."

Non-Party Originators

30. The loans underlying the Certificates were acquired by the sponsor for each Securitization from third-party mortgage originators, including Aames Capital Corporation ("Aames Capital"); Accredited Home Lenders, Inc. ("Accredited Home"); Wilmington Finance Inc. ("Wilmington"); American Home Mortgage Corporation ("American Home"); Decision One Mortgage Company, LLC ("Decision One"); First National Bank of Nevada ("First National"); First NLC Financial Services LLC ("First NLC"); GreenPoint Mortgage Funding Inc. ("GreenPoint"); Hemisphere National Bank ("Hemisphere"); New Century Mortgage Corporation ("New Century") and its subsidiary Home 123 Corporation ("Home123"); IndyMac Federal Savings Bank ("IndyMac"); Meritage Mortgage Corporation ("Meritage"); MortgageIT, Inc. ("MortgageIT"); Wachovia Mortgage Corporation ("Wachovia"); and WMC Mortgage Corp. ("WMC"). Morgan Stanley Credit Corporation ("MSCC") and SMI, both subsidiaries of MS, also originated some of the loans underlying the Certificates for the Securitizations. Together, the entities identified in this paragraph are referred to as the "Non-Party Originators."

JURISDICTION AND VENUE

31. This Court has jurisdiction over this action pursuant to Section 22 of the Securities Act of 1933, 15 U.S.C. § 77v, and Section 7 of Article VI of the New York State Constitution.

32. This Court has personal jurisdiction over the Defendants pursuant to C.P.L.R. §§ 301 and 302.

33. Venue is proper in this district pursuant to C.P.L.R. § 503 because one or more of the parties resides in New York County, New York. The underwriters reside or have their principal place of business in this district and many of the alleged acts and transactions, including the preparation and dissemination of the Registration Statements, occurred in substantial part within New York County, New York.

FACTUAL ALLEGATIONS

I. FACTUAL ALLEGATIONS APPLICABLE TO ALL CLAIMS

34. The factual allegations set forth in paragraphs 35 through 133 below are made with respect to all causes of action against Defendants and are sufficient to establish Defendants' strict statutory liability under the federal Securities Act, and the Securities Acts of the District of Columbia and Virginia. With respect to such liability, no allegations are made or intended, and none are necessary, concerning Defendants' state of mind. Defendants are strictly liable, without regard to intent on their part or reliance on Freddie Mac's part, for the misstatements in, and material omissions from, the Registration Statements under Sections 11 and 12 and, for control person defendants, under Section 15, of the Securities Act, as well as Sections 13.1-522(A)(ii) and 13.1-522(C) of the Virginia Code and Sections 31-5606.05(a)(1)(B) and 31-5606.05(c) of the District of Columbia Code.

A. The Securitizations

1. Residential Mortgage-Backed Securitizations Generally

35. Asset-backed securitization involves pooling cash-producing financial assets and issuing securities backed by those pools of assets. In residential mortgage-backed securitizations, the cash-producing financial assets are residential mortgage loans.

36. In the most common form of securitization of mortgage loans, a sponsor -- the entity that acquires or originates the mortgage loans and initiates the securitization -- directly or indirectly transfers a portfolio of mortgage loans to a trust. In many instances, the transfer of assets to the trust is a two-step process in which the sponsor first transfers the financial assets to an intermediate entity, typically referred to as a "depositor," and then the depositor transfers the assets to a trust. The trust is established pursuant to a pooling and servicing agreement or trust indenture entered into by, among others, the depositor for that securitization.

37. RMBS are the securities backed by the underlying mortgage loans in the trust. Some residential mortgage-backed securitizations are created from more than one cohort of loans, called collateral groups, in which case the trust issues different tranches of securities backed by different groups of loans. For example, a securitization may involve two groups of mortgages, with some securities backed primarily by the first group, and others primarily by the second group. Purchasers of the securities (in the form of certificates) acquire an ownership interest in the assets of the trust, which in turn owns the loans. These purchasers are thus dependent for repayment of principal and payment of interest upon the cash-flows from the designated group of mortgage loans -- primarily mortgagors' payments of principal and interest on the mortgage loans held by the related trust.

38. RMBS are generally issued and sold pursuant to registration statements filed with the SEC. These registration statements include prospectuses, which describe the general structure of the investment, and prospectus supplements, which set forth detailed descriptions of, among other things, the mortgage groups underlying the certificates. Certificates are issued by the trust and sold pursuant to the registration statement, the prospectus and prospectus

supplement. Underwriters purchase the certificates from the trust and then offer, sell or distribute the certificates to investors.

39. A mortgage servicer manages the collection of proceeds from the mortgage loans. The servicer is responsible for collecting homeowners' mortgage loan payments, which the servicer remits to the trustee after deducting a monthly servicing fee. The servicer's duties include making collection efforts on delinquent loans, initiating foreclosure proceedings, and determining when to charge off a loan by writing down its balance. The servicer is required to report key information about the loans to the trustee. The trustee (or trust administrator) administers the trust funds and delivers payments due each month on the certificates to the investors.

2. Securitizations At Issue In This Case

40. This case involves the following 33 Securitizations:

i. Aames Mortgage Investment Trust 2005-4, Mortgage Backed Notes ("AMIT 2005-4");

ii. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2005-HE5 ("MSAC 2005-HE5");

iii. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2005-HE6 ("MSAC 2005-HE6");

iv. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2006-HE6 ("MSAC 2006-HE3");

v. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2006-HE5 ("MSAC 2006-HE5")

vi. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2006-HE6 ("MSAC 2006-HE6");

vii. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2006-HE8 ("MSAC 2006-HE8");

viii. Morgan Stanley Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2006-NC2 ("MSC 2006-NC2");

ix. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2006-NC3 ("MSAC 2006-NC3");

x. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2006-NC4 ("MSAC 2006-NC4");

xi. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2006-WMC2 ("MSAC 2006-WMC2");

xii. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2007-HE1 ("MSAC 2007-HE1");

xiii. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2007-HE5 ("MSAC 2007-HE5");

xiv. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2007-HE7 ("MSAC 2007-HE7");

xv. Morgan Stanley ABS Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2007-NC1 ("MSAC 2007-NC1");

xvi. Morgan Stanley Capital I Inc. Trust, Mortgage Pass-Through Certificates, Series 2006-HE2 ("MSC 2006-HE2");

xvii. Morgan Stanley Mortgage Loan Trust, Mortgage Pass-Through Certificates, Series 2005-10 ("MSM 2005-10");

xviii. Morgan Stanley Mortgage Loan Trust, Mortgage Pass-Through Certificates, Series 2005-7 ("MSM 2005-7");

xix. Morgan Stanley Mortgage Loan Trust, Mortgage Pass-Through Certificates, Series 2006-2 ("MSM 2006-2");

xx. Morgan Stanley Mortgage Loan Trust, Mortgage Pass-Through Certificates, Series 2006-16AX ("MSM 2006-16AX");

xxi. Morgan Stanley Mortgage Loan Trust, Mortgage Pass-Through Certificates, Series 2007-2AX ("MSM 2007-2AX");

xxii. Morgan Stanley Mortgage Loan Trust, Mortgage Pass-Through Certificates, Series 2007-7AX ("MSM 2007-7AX");

xxiii. Morgan Stanley Mortgage Loan Trust, Mortgage Pass-Through Certificates, Series 2007-5AX ("MSM 2007-5AX");

xxiv. Morgan Stanley Home Equity Loan Trust, Mortgage Pass-Through Certificates, Series 2005-4 ("MSHEL 2005-4");

xxv. New Century Home Equity Loan Trust, Asset Backed Pass-Through Certificates, Series 2005-B ("NCHET 2005-B");

xxvi. New Century Home Equity Loan Trust, Asset Backed Pass-Through Certificates, Series 2005-C ("NCHET 2005-C");

xxvii. New Century Home Equity Loan Trust, Asset Backed Pass-Through Certificates, Series 2005-D ("NCHET 2005-D");

xxviii. Saxon Asset Securities Trust, Mortgage Loan Asset Backed Notes, Series 2005-3 ("SAST 2005-3");

xxix. Saxon Asset Securities Trust, Mortgage Loan Asset Backed Notes, Series 2006-1 ("SAST 2006-1");

xxx. Saxon Asset Securities Trust, Mortgage Loan Asset Backed Notes, Series 2006-2 ("SAST 2006-2");

xxxi. Saxon Asset Securities Trust, Mortgage Loan Asset Backed Notes, Series 2007-1 ("SAST 2007-1");

xxxii. Saxon Asset Securities Trust, Mortgage Loan Asset Backed Notes, Series 2007-2 ("SAST 2007-2"); and

xxxiii. Saxon Asset Securities Trust, Mortgage Loan Asset Backed Notes, Series 2007-3 ("SAST 2007-3").

41. For each of the 33 Securitizations, Table 1 identifies the: (1) sponsor; (2) depositor; (3) underwriter; (4) principal amount issued for the tranches[4] purchased by the GSEs; (5) date of issuance; and (6) the loan group or groups backing the Certificate for that Securitization (referred to as the "Supporting Loan Groups").

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[4] A tranche is one of the classes of debt securities issued as part of a single bond or instrument. Securities are often issued in tranches to meet different investor objectives for portfolio diversification.

Table 1

Transaction	Tranche	Sponsor	Depositor	Underwriters	Principal Amount Issued ($)	Date of Issuance	Supporting Loan Group(s)
AMIT 2005-4	1A1	Aames Investment	MSAC	MS&Co. Bear RBS Citi	446,899,000.00	09/12/05	Group 1
MSAC 2005-HE5	A1	MSMC	MSAC	MS&Co.	441,470,000.00	10/28/05	Group I
MSAC 2005-HE6	A1	MSMC	MSAC	MS&Co.	337,122,000.00	11/29/05	Group I
MSAC 2006-HE3	A1	MSMC	MSAC	MS&Co.	381,635,000.00	05/25/06	Group I
MSAC 2006-HE5	A1	MSMC	MSAC	MS&Co.	319,485,000.00	06/30/06	Group I
MSAC 2006-HE6	A1	MSMC	MSAC	MS&Co.	324,649,000.00	09/27/06	Group I
MSAC 2006-HE8	A1	MSMC	MSAC	MS&Co.	226,710,000.00	11/29/06	Group I
MSC 2006-NC2	A1	MSMC	MSC	MS&Co.	430,640,000.00	03/30/06	Group I
MSAC 2006-NC3	A1	MSMC	MSAC	MS&Co.	426,670,000.00	04/28/06	Group I
MSAC 2006-NC4	A1	MSMC	MSAC	MS&Co.	536,150,000.00	06/23/06	Group I
MSAC 2006-WMC2	A1	MSMC	MSAC	MS&Co.	581,960,000.00	06/28/06	Group I
MSAC 2007-HE1	A1	MSMC	MSAC	MS&Co.	309,100,000.00	01/26/07	Group I
MSAC 2007-HE5	A1	MSMC	MSAC	MS&Co.	119,919,000.00	04/26/07	Group I
MSAC 2007-HE7	A1	MSMC	MSAC	MS&Co.	670,205,000.00	09/28/07	Group I
MSAC 2007-NC1	A1	MSMC	MSAC	MS&Co.	320,559,000.00	01/26/07	Group I
MSC 2006-HE2	A1	MSMC	MSC	MS&Co.	435,720,000.00	04/28/06	Group I
MSHEL 2005-4	A1	MSMC	MSAC	MS&Co.	335,337,000.00	11/29/05	Group I
MSM 2005-10	3A	MSMC	MSC	MS&Co.	40,296,000.00	11/30/05	Group 3
MSM 2005-7	5A	MSMC	MSC	MS&Co.	26,951,000.00	10/31/05	Group 5
MSM 2006-16AX	1A	MSMC	MSC	MS&Co.	182,501,000.00	10/31/06	Group 1
MSM 2006-2	7A1	MSMC	MSC	MS&Co.	31,903,000.00	01/31/06	Group 7
	7A2	MSMC	MSC	MS&Co.	3,545,000.00	01/31/06	Group 7
MSM 2007-2AX	1A	MSMC	MSC	MS&Co.	157,974,000.00	01/31/07	Group 1
MSM 2007-5AX	1A	MSMC	MSC	MS&Co.	127,608,000.00	02/28/07	Group 1
MSM 2007-7AX	1A	MSMC	MSC	MS&Co.	177,425,000.00	04/30/07	Group 1
NCHET 2005-B	A1	NC Capital Corporation	New Century Mortgage Securities, Inc.	MS&Co. Bear	590,249,000.00	09/29/05	Group I
NCHET 2005-C	A1	NC Capital Corporation	New Century Mortgage Securities, Inc.	MS&Co.	549,534,000.00	12/06/05	Group I
NCHET 2005-D	A1	NC Capital Corporation	New Century Mortgage Securities, Inc.	MS&Co. Credit Suisse Deutsche Bank	411,566,000.00	12/28/05	Group I
SAST 2005-3	A1A	SFM	SASC	RBS BOA Credit Suisse Merrill	360,900,000.00	09/29/05	Group 1
SAST 2006-1	A1	SFM	SASC	Credit Suisse BOA RBS JPM Merrill	199,612,000.00	05/02/06	Group 1

Transaction	Tranche	Sponsor	Depositor	Underwriters	Principal Amount Issued ($)	Date of Issuance	Supporting Loan Group(s)
SAST 2006-2	A2	SFM	SASC	Credit Suisse BOA RBS JPM Merrill	197,374,000.00	06/07/06	Group 2
	A1	SFM	SASC	Credit Suisse BOA RBS JPM Merrill	197,376,000.00	06/07/06	Group 1
SAST 2007-1	A1	SFM	SASC	MS&Co.	209,071,000.00	03/07/07	Group 1
SAST 2007-2	A1	SFM	SASC	MS&Co.	192,705,000.00	04/30/07	Group 1
SAST 2007-3	1A	SFM	SASC	MS&Co.	569,917,000.00	08/03/07	Group 1
	1M1	SFM	SASC	MS&Co.	36,690,000.00	08/03/07	Group 1
	1M2	SFM	SASC	MS&Co.	33,021,000.00	08/03/07	Group 1
	1M3	SFM	SASC	MS&Co.	21,198,000.00	08/03/07	Group 1
	1M4	SFM	SASC	MS&Co.	17,937,000.00	08/03/07	Group 1
	1M5	SFM	SASC	MS&Co.	17,937,000.00	08/03/07	Group 1
	1M6	SFM	SASC	MS&Co.	16,307,000.00	08/03/07	Group 1

3. Securitization Process

a. The Sponsors Grouped Mortgage Loans in Special Purpose Trusts

42. In each case the sponsor purchased the mortgage loans underlying the Certificates purchased by the GSEs for its Securitizations either directly from the originators or through affiliates of the originators. Defendant MSMC/MCI sponsored 23 Securitizations; Defendant SFM sponsored six Securitizations; and the remaining four Securitizations were sponsored by non-parties.

43. For the 20 Securitizations that they sponsored, MSMC and SFM sold the mortgage loans to Defendants MSAC, MSC and SASC, the depositors. MSAC also acted as the depositor for one additional Securitization sponsored by non-party Aames Investment Corporation.

44. As depositors for 30 of the 33 Securitizations, Defendants MSC, MSAC and SASC transferred the relevant mortgage loans to the respective trusts for each of those

Securitizations, in each case pursuant to Assignment and Recognition Agreements or Mortgage Loan Purchase Agreements that contained various representations and warranties regarding the mortgage loans for the Securitizations.

45. As part of each Securitization, the trustee for that Securitization, on behalf of the Certificateholders, executed a Pooling and Servicing Agreement ("PSA") with the relevant depositor and the relevant servicer. In each case, the trust, administered by the trustee, was required to hold the mortgage loans, pursuant to the related PSA and issued Certificates backed by such loans.

b. The Trusts Issued Securities Backed by the Loans

46. Once the mortgage loans were transferred to the trusts in accordance with the PSAs, each trust issued Certificates backed by the underlying mortgage loans. The Certificates were then sold to investors, including Fannie Mae and Freddie Mac, who purchased the highest tranches of the Certificates. Each Certificate entitles its holder to a specified portion of the cash flows from the underlying mortgages in the supporting loan group for that Certificate. Therefore, the value of the Certificates, derived in part from the likelihood of payment of principal and interest on the Securitizations, depends upon the credit quality of the underlying mortgages, *i.e.*, the risk of default by borrowers and the recovery value upon default of foreclosed-upon properties.

47. The Certificates purchased by the GSEs were issued and sold pursuant to Shelf Registration Statements filed with the SEC on a Form S-3.[5] The Shelf Registration Statements

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[5] Defendant MSAC filed two Shelf Registration Statements that were used to market 16 of the Securitizations; Defendant MSC filed two Shelf Registration Statements that were used to market eight of the Securitizations; and Defendant SASC filed two Shelf Registration Statements that were used to market six of the Securitizations. The remaining Registration Statement was

("S-3") were amended by one or more Forms S-3/A (the "Amendments" or "S-3/A") filed with the SEC. The Individual Defendants signed six of the seven total Shelf Registration Statements (and amendments thereto) that were filed, in each case, by MSAC, MSC or SASC. The SEC filing number, registrants, signatories, and filing dates for all seven Shelf Registration Statements with Amendments, as well as the Certificates purchased by the GSEs covered by each Shelf Registration Statement, are reflected in Table 2 below.

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filed by non-party New Century Mortgage Securities, Inc. and was used to market three of the Securitizations.

Table 2

SEC File No.	Date S-3 Filed	Date(s) S-3/A(s) Filed	Registrants	Covered Certificates	Signatories of S-3	Signatories of S-3/A(s)[6]
333-130694	12/23/05	02/21/06 03/10/06	MSAC	MSAC 2006-HE3 MSAC 2006-HE5 MSAC 2006-HE6 MSAC 2006-HE8 MSAC 2006-NC3 MSAC 2006-NC4 MSAC 2006-WMC2 MSAC 2007-HE1 MSAC 2007-HE5 MSAC 2007-HE7 MSAC 2007-NC1	Steven Shapiro Anthony Tufariello William Forsell Gail P. McDonnell Howard Hubler	Steven Shapiro Anthony Tufariello William Forsell Gail P. McDonnell Howard Hubler
333-121914	01/07/05	05/06/05	MSAC	MSAC 2005-HE5 MSAC 2005-HE6 MSHEL 2005-4 AMIT 2005-4	Steven Shapiro Craig S. Phillips Alexander C. Frank Gail P. McDonnell David R. Warren	Steven Shapiro Craig S. Phillips Alexander C. Frank Gail P. McDonnell David R. Warren
333-125593	06/07/05	06/28/05 06/30/05	MSC	MSC 2006-HE2 MSC 2006-NC2 MSM 2005-10 MSM 2005-7 MSM 2006-2	David R. Warren Craig S. Phillips John E. Westerfield William J. Forsell	David R. Warren Craig S. Phillips John E. Westerfield William J. Forsell
333-130684	12/23/05	02/17/06 03/14/06	MSC	MSM 2006-16AX MSM 2007-2AX MSM 2007-5AX MSM 2007-7AX	David R. Warren William J. Forsell Anthony B. Tufariello Steven S. Stern	Anthony B. Tufariello William J. Forsell Steven S. Stern
333-123394	03/17/05		New Century	NCHET 2005-B NCHET 2005-C NCHET 2005-D	Kevin Cloyd Brad A. Morrice Patrick J. Flanagan Edward F. Gotschall	
333-111832	01/09/04	01/21/04	SASC	SAST 2005-3	Ernest G. Bretana Michael L. Sawyer Dean A. Christiansen	Ernest G. Bretana
333-131712	02/09/06	03/17/06 03/30/06	SASC	SAST 2006-1 SAST 2006-2 SAST 2007-1 SAST 2007-2 SAST 2007-3	Ernest G. Bretana Michael L. Sawyer Orlando Figueroa	Ernest G. Bretana Michael L. Sawyer Orlando Figueroa Robert B. Eastep Jennifer Sebastian

48. The Prospectus Supplement for each Securitization describes the loan underwriting guidelines that purportedly were used in connection with the origination of the underlying mortgage loans. In addition, the Prospectus Supplements purport to provide accurate

6 Some Individual Defendants signed certain S-3/As through a power of attorney.

statistics regarding the mortgage loans in each group, including: the ranges of and weighted average FICO credit scores of the borrowers, the ranges of and weighted average loan-to-value ("LTV") ratios of the loans, the ranges of and weighted average outstanding principal balances of the loans, the debt-to-income ratios of the borrowers, the geographic distribution of the loans, the extent to which the loans were for purchase or refinance purposes, information concerning whether the loans were secured by a property to be used as a primary residence, second home, or investment property, and information concerning whether the loans were delinquent.

49. The Prospectus Supplement for each Securitization was filed with the SEC as part of the Registration Statements. The Form 8-Ks attaching the PSAs for each Securitization were also filed with the SEC. The date on which the Prospectus Supplement and Form 8-K were filed for each Securitization, as well as the filing number of the Shelf Registration Statement related to each, are set forth in Table 3 below.

Table 3

Transaction	Date Prospectus Supplement Filed	Date Form 8-K Attaching PSA	Filing No. of Related Registration Statement
AMIT 2005-4	09/13/05	09/26/05	333-121914
MSAC 2005-HE5	10/31/05	11/15/05	333-121914
MSAC 2005-HE6	11/29/05	12/12/05	333-121914
MSAC 2006-HE3	05/26/06	06/09/06	333-130694
MSAC 2006-HE5	06/30/06	07/17/06	333-130694
MSAC 2006-HE6	09/22/06	10/13/06	333-130694
MSAC 2006-HE8	11/22/06	12/14/06	333-130694
MSC 2006-NC2	03/30/06	04/14/06	333-125593
MSAC 2006-NC3	04/26/06	05/15/06	333-130694
MSAC 2006-NC4	06/20/06	07/11/06	333-130694
MSAC 2006-WMC2	06/23/06	07/20/06	333-130694
MSAC 2007-HE1	01/26/07	02/12/07	333-130694
MSAC 2007-HE5	04/25/07	05/16/07	333-130694
MSAC 2007-HE7	09/28/07	10/16/07	333-130694
MSAC 2007-NC1	01/26/07	02/12/07	333-130694
MSC 2006-HE2	04/26/06	05/15/06	333-125593
MSHEL 2005-4	11/23/05	12/14/05	333-121914
MSM 2005-10	12/01/05	01/13/06	333-125593
MSM 2005-7	10/31/05	01/13/06	333-125593
MSM 2006-16AX	10/30/06	01/25/07	333-130684

Transaction	Date Prospectus Supplement Filed	Date Form 8-K Attaching PSA	Filing No. of Related Registration Statement
MSM 2006-2 (7A1 & 7A2)	02/02/06	01/24/07	333-125593
MSM 2007-2AX	01/29/07	02/16/07	333-130684
MSM 2007-5AX	02/28/07	04/17/07	333-130684
MSM 2007-7AX	04/30/07	09/19/07	333-130684
NCHET 2005-B	09/28/05	10/17/05	333-123394
NCHET 2005-C	12/05/05	12/23/05	333-123394
NCHET 2005-D	12/27/05	01/09/06	333-123394
SAST 2005-3	09/30/05	10/13/05	333-111832
SAST 2006-1	05/01/06	05/08/06	333-131712
SAST 2006-2 (A1 & A2)	06/07/06	06/21/06	333-131712
SAST 2007-1	06/07/06	06/21/06	333-131712
SAST 2007-2	03/07/07	03/22/07	333-131712
SAST 2007-3 (1A & 1M1-1M6)	04/27/07	05/11/07	333-131712

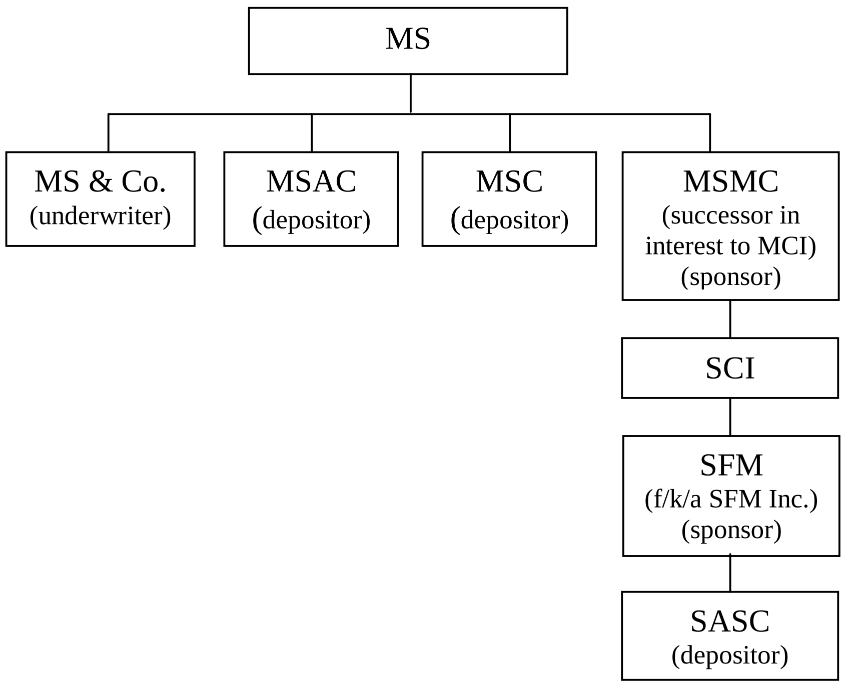
B. DEFENDANTS' PARTICIPATION IN THE SECURITIZATION PROCESS

50. Each of the Defendants, including the Individual Defendants, played a role in the securitization process and the marketing for some or all of the Certificates purchased by the GSEs, which included purchasing the mortgage loans from the originators, arranging the Securitizations, selling the mortgage loans to the depositor, transferring the mortgage loans to the trustee on behalf of the Certificateholders, underwriting the public offering of the Certificates, structuring and issuing the Certificates, and marketing and selling the Certificates to Fannie Mae and Freddie Mac.

51. The Defendants are liable, jointly and severally, as participants in the registration, issuance and offering of the Certificates purchased by the GSEs, including issuing, causing, or making materially misleading statements in the Registration Statements, and omitting material facts required to be stated therein or necessary to make the statements contained therein not misleading.

1. **Defendant MS**

52. Defendant MS wholly owns Defendants MS&Co., MSAC, MSC and MSMC, and is the ultimate parent of Defendants SCI, SFM and SASC. The chart below indicates the corporate structure of the Morgan Stanley Defendants.



53. MS employed its subsidiaries or affiliates, MS&Co., MSAC, MSC, MSMC, SCI, SFM and SASC to effectuate the securitization process. Unlike typical arms-length transactions, the Securitizations here involved MS subsidiaries or affiliates at virtually each step in the chain. For 29 of the 33 Securitizations, MSMC/MCI or SFM served as the sponsor, and MSAC, MSC or SASC served as the depositor. For 26 of those 29 Securitizations, and the remaining four of the 33 total Securitizations, MS&Co. was also the selling underwriter.

54. As the corporate parent of MS&Co., MSAC, MSC and MSMC, and the ultimate parent of SCI, SFM and SASC, MS had the practical ability to direct and control the actions of

these subsidiaries in issuing and selling the Certificates purchased by the GSEs, and in fact exercised such direction and control over the activities of these entities related to the Securitizations, and the issuance and sale of the Certificates purchased by the GSEs.

55. As detailed, *supra*, the Securitizations involved MS-related entities at virtually each step in the process, and MS profited substantially from this vertically-integrated approach to mortgage-backed securitization. Furthermore, on information and belief, MS currently shares, and at all relevant times shared, overlapping management with the other Morgan Stanley entities. For instance, Defendant Phillips was, at all relevant times, the Global Head of Securitized Products at MS while also serving as the President and CEO at Defendant MSAC. Similarly, Defendant Warren was, at all relevant times, the Global Head of Structured Credit Trading at Defendant MS while also serving as the President and Director at Defendant MSC.

2. Defendant SCI

56. SCI is the corporate parent of SFM and SASC and controlled the business operations of SFM and SASC. As the corporate parent of SFM and SASC, SCI had the practical ability to direct and control the actions of SFM and SASC in issuing and selling the Certificates purchased by the GSEs, and in fact exercised such direction and control over the activities of SFM and SASC in connection with the issuance and sale of the Certificates purchased by the GSEs.

3. Defendants MSMC and SFM

57. MSMC was the sponsor of one Securitization. Through a June 17, 2007 merger, MSMC became the successor-in-interest to MCI, which served as the sponsor of 20 of the Securitizations. SFM was the sponsor of six of the 33 Securitizations. MSMC and SFM are referred to herein together as the "Sponsors."

58. MCI was formed in 1985 as a wholly-owned subsidiary of MS for the sole purpose of issuing RMBS through its affiliates MSAC and MSC and during the relevant time period, MCI was a leading sponsor of RMBS in the nation. As stated in the September 28, 2007 Prospectus Supplement for the MSAC 2007-HE7 Securitization, from the period January 2000 through August 2007, MCI securitized residential mortgage loans with an aggregate principal balance of $116.2 billion, including securitizing residential mortgage loans totaling $11.32 billion in 2003, $27.02 billion in 2004, $23.09 billion in 2005, and $29.99 billion in 2006.

59. As the sponsor of 27 of the 33 Securitizations, MSMC/MCI and SFM determined the structure of the Securitizations, initiated the Securitizations, purchased the mortgage loans to be securitized, determined distribution of principal and interest, and provided data to the rating agencies to secure investment grade ratings for the Certificates purchased by the GSEs. MSMC/MCI and SFM also selected MSAC, MSC, or SASC as the special-purpose vehicles that would be used to transfer the mortgage loans from MSMC, MCI or SFM to the trusts, and selected MS&Co. Credit Suisse, or RBS as the selling underwriter for the Securitizations. In its role as sponsor, MSMC/MCI and SFM knew and intended that the mortgage loans it purchased would be sold in connection with the securitization process, and that certificates representing such loans would be issued by the relevant trusts.

60. For the 27 Securitizations that they sponsored, MSMC/MCI and SFM also conveyed the mortgage loans to MSAC, MSC, and SASC as depositors, pursuant to an Assignment and Recognition Agreement or a Mortgage Loan Purchase Agreement. In these agreements, MSMC/MCI and SFM made certain representations and warranties to MSAC, MSC, and SFM regarding the groups of loans collateralizing the Certificates purchased by the GSEs.

These representations and warranties were assigned by MSAC, MSC, and SFM to the trustees for the benefit of the Certificateholders.

4. Defendants MSAC, MSC, and SASC

61. MSAC and MSC are wholly-owned subsidiaries of MS, and SASC is a subsidiary of MS and a wholly-owned subsidiary of SFM. MSAC, MSC and SASC (together, the "Depositors") were all formed as special-purpose entities for the sole purpose of purchasing mortgage loans, filing registration statements with the SEC, forming issuing trusts, assigning mortgage loans and all of its rights and interests in such mortgage loans to the trustee for the benefit of the Certificateholders, and depositing the underlying mortgage loans into the issuing trusts. MSAC, MSC and SASC were the depositors for 30 of the 33 Securitizations. In their capacity as depositors, MSAC, MSC and SASC purchased the mortgage loans from MSMC/MCI and SFM, pursuant to the applicable Assignment and Recognition Agreement or a Mortgage Loan Purchase Agreement. MSAC, MSC, and SASC then sold, transferred, or otherwise conveyed the mortgage loans to be securitized to the trusts. Together with the other Defendants, MSAC, MSC and SASC also were responsible for preparing and filing the Registration Statements pursuant to which the Certificates purchased by the GSEs were offered for sale. The trusts, in turn held the mortgage loans for the benefit of the Certificateholders, and issued the Certificates in public offerings for sale to investors, including Fannie Mae and Freddie Mac.

5. Defendant MS&Co.

62. MS&Co. is a wholly-owned subsidiary of MS. MS&Co. is and was, at all relevant times, an SEC-registered broker-dealer and one of the leading underwriters of mortgage and other asset-backed securities in the United States. According to *Inside Mortgage Finance*, MS&Co. was the 10^{th} largest non-agency RMBS underwriter in 2006, underwriting over \$53.9

billion of RMBS, and the 8th largest RMBS underwriter in 2007, underwriting over $39.9 billion.[7]

63. As co-lead underwriter -- and the selling underwriter -- for 30 of the 33 Securitizations MS&Co. was responsible for underwriting and managing the offer and sale of Certificates to Fannie Mae and Freddie Mac and other investors. MS&Co. was also obligated to conduct due diligence to ensure that the Registration Statements did not contain any material misstatements or omissions, including misstatements or omissions concerning the origination, transfer, and underwriting.

6. Non-MS Defendants

64. Credit Suisse and RBS were among the nation's largest non-agency mortgage-backed securities underwriters between 2004 through 2007. Credit Suisse and RBS were the selling underwriters for three Securitizations in which SFM was the sponsor and SASC was the depositor. Credit Suisse and RBS were responsible for underwriting and managing the offer and sale of Certificates to the GSEs. These underwriter Defendants also were obligated to conduct due diligence to ensure that the Registration Statements did not contain any material misstatements or omissions, including as to the manner in which the underlying mortgage loans were originated, transferred and underwritten.

7. Individual Defendants

65. Each of the Individual Defendants signed at least one of the seven Shelf Registration Statements and/or the amendments thereto. Because they prepared, signed, filed and/or used these documents to market and sell Certificates to Fannie Mae and Freddie Mac,

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[7] "Agency" mortgage-backed securities are guaranteed by a government agency or government-sponsored enterprise such as Fannie Mae or Freddie Mac, while "non-agency" mortgage-backed securities are issued by banks and financial companies not associated with a government agency or government sponsored enterprise.

each Individual Defendant is directly responsible for misstatements and omissions of material fact contained in the Registration Statements.

66. Further, certain of the Individual Defendants, through their positions at Morgan Stanley, including Defendants MS, MSAC, MSC, SCI, and SASC had the practical ability to direct and control the actions of the Morgan Stanley Defendants and Defendants SCI, SFM, and SASC in issuing and selling the Certificates, and in fact, exercised such direction and control over the activities of these entities in connection with the issuance and sale of Certificates to the GSEs.

67. As alleged *supra,* many of the Individual Defendants simultaneously held management positions at MS and MSAC or MSC, or SCI and SASC. For example, during the relevant period, Ms. McDonnell, and Messrs. Hubler, Phillips, Frank, Warren, Westerfield, and Stern all simultaneously held management positions at both MS and MS's subsidiaries, MSAC or MSC, and signed the Registration Statements filed by MSAC or MSC.

C. STATEMENTS IN THE PROSPECTUS SUPPLEMENTS

68. Plaintiff relies for its claims, in part, upon the Registration Statements in their entirety. Specific representations and warranties in the Registration Statements that form the basis for the claims herein are set forth for each Securitization in Appendix A hereto.

1. Compliance With Underwriting Guidelines

69. The Prospectus Supplement for each of the Securitizations contained detailed descriptions of the underwriting guidelines used to originate the mortgage loans included in the Securitizations. Because payment on, and the value of, the Certificates is based on the cash flows from the underlying mortgage pool, representations concerning compliance with the stated underwriting guidelines were material to reasonable investors. Investors, including the GSEs,

did not have access to information concerning the collateral pool, and were required to rely on the representations in the Prospectus Supplements concerning that collateral.

70. Among other consequences, the failure to originate mortgage loans in accordance with stated guidelines diminishes the value of the Certificates by increasing the risk that an investor will not be paid its principal and interest. Misrepresentations concerning, or failure accurately to disclose, borrower, loan and property characteristics bearing on the risk of default by the borrower as well as the severity of losses given default can artificially inflate the perceived value of the securities. Without complete and accurate information regarding the collateral pool, reasonable investors, including the GSEs, are unable accurately and independently to assess whether the price of an RMBS adequately accounts for the risks they are assuming when they purchase the security.

71. The Prospectus Supplements for each of the Securitizations contained several key statements with respect to the loan purchasing and underwriting standards of the entities that originated the loans in the Securitizations. For example, with respect to the MSAC 2006-HE8 Securitization -- for which MS&Co. was the underwriter, MSAC was the depositor, and New Century was the originator -- the Prospectus Supplement states:

> *The mortgage loans will have been originated in accordance with the New Century Underwriting Guidelines*" and that "[t]he New Century 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 property as collateral for the mortgage loan. (Emphasis added).

72. With respect to the information evaluated by the originator (in this example, New Century), the Prospectus Supplement for the MSAC 2006-HE8 Securitization stated that:

> *Each applicant completes an application which includes information with respect to the applicant's liabilities, income, credit history, employment history and personal information.* The New Century Underwriting Guidelines require a credit report on each applicant from a credit reporting

company. The report typically contains information relating to matters such as credit history with local and national merchants and lenders, installment debt payments and any record of defaults, bankruptcies, repossessions or judgments. (Emphasis added).

73. The Prospectus Supplement for the MSAC 2006-HE8 Securitization further states:

> The New Century Underwriting Guidelines require that mortgage loans be underwritten in a standardized procedure which complies with applicable federal and state laws and regulations and requires New Century's underwriters to be satisfied that the value of the property being financed, as indicated by an appraisal and a review of the appraisal, currently supports the outstanding loan balance.

74. The Prospectus Supplements for each of the Securitizations made similar representations with respect to the underwriting guidelines employed by each of the originators in the Securitizations, which included: Aames Capital, Accredited Home, Wilmington, American Home, Decision One, First National, First NLC, GreenPoint, Hemisphere, New Century and its subsidiary, Home123, IndyMac, Meritage, MortgageIT, Wachovia, WMC, MSCC and SMI. *See* Appendix A.

75. Contrary to those representations, however, these originators routinely and egregiously departed from, or abandoned completely, their stated underwriting guidelines, as discussed in Section (I)(D)(2), *infra*. As a result, the representations concerning compliance with underwriting guidelines and the inclusion and descriptions of those guidelines in the Prospectus Supplements were false and misleading, and the actual mortgages underlying each Securitization exposed the purchasers, including the GSE's, to a materially greater risk to investors than that represented in the Prospectus Supplements.

76. As reflected more fully in the Appendix, for the vast majority of the Securitizations, the Prospectus Supplements included representations that: (i) the mortgage loans were underwritten in accordance with each originator's underwriting guidelines in effect at the

time of origination, subject only to limited exceptions; and (ii) the origination and collection practices used by the originator with respect to each mortgage note and mortgage were in all respects legal, proper and customary in the mortgage origination and servicing business.

77. The inclusion of these representations in the Prospectus Supplements had the purpose and effect of providing assurances to investors regarding the quality of the mortgage collateral underlying the Securitizations. These representations were material to a reasonable investor's decisions to purchase the Certificates, and they were material to the GSEs. As alleged more fully below, Defendants' representations were materially false.

2. Occupancy Status of Borrower

78. The Prospectus Supplements for each Securitization set forth information about the occupancy status of the borrowers of the loans underlying the Securitization; that is, whether the property securing a mortgage is (i) the borrower's primary residence; (ii) a second home, or (iii) an investment property. This information was presented in tables, typically titled "Occupancy Status of the Mortgage Loans," that assigned all the properties in the collateral group to one of the following categories: (i) "Primary," or "Owner-Occupied;" (ii) "Second Home," or "Secondary"; and (iii) "Investor" or "Non-Owner." For each category, the table stated the number of loans purportedly in that category. Occupancy statistics for the Supporting Loan Groups for each Securitization were reported in the Prospectus Supplements as follows:[8]

Table 4

Transaction	Supporting Loan Group	Primary or Owner-Occupied	Second Home / Secondary	Investor
AMIT 2005-4	Group I	94.48%	0.88%	4.64%
MSAC 2005-HE5	Group I	94.14%	2.58%	3.28%

8 Each Prospectus Supplement provides the total number of loans and the number of loans in the following categories: owner-occupied, investor, and second home. These numbers have been converted to percentages for ease of comparison.

Transaction	Supporting Loan Group	Primary or Owner-Occupied	Second Home / Secondary	Investor
MSAC 2005-HE6	Group I	92.66%	1.02%	6.32%
MSAC 2006-HE3	Group I	94.93%	0.64%	4.43%
MSAC 2006-HE5	Group I	95.02%	0.73%	4.25%
MSAC 2006-HE6	Group I	87.61%	4.01%	8.38%
MSAC 2006-HE8	Group I	92.06%	1.02%	6.92%
MSC 2006-NC2	Group I	86.31%	3.94%	9.75%
MSAC 2006-NC3	Group I	83.30%	3.03%	13.67%
MSAC 2006-NC4	Group I	87.40%	3.79%	8.81%
MSAC 2006-WMC2	Group I	93.64%	4.24%	2.12%
MSAC 2007-HE1	Group I	84.76%	2.68%	12.56%
MSAC 2007-HE5	Group I	96.87%	1.50%	1.63%
MSAC 2007-HE7	Group I	88.98%	1.35%	9.67%
MSAC 2007-NC1	Group I	84.87%	4.46%	10.67%
MSC 2006-HE2	Group I	97.59%	0.82%	1.59%
MSHEL 2005-4	Group I	96.17%	0.96%	2.87%
MSM 2005-10	Group 3	100.00%	0.00%	0.00%
MSM 2005-7	Group 5	100.00%	0.00%	0.00%
MSM 2006-16AX	Group 1	53.46%	5.72%	40.82%
MSM 2006-2 (7A1 & A2)	Group 7	100.00%	0.00%	0.00%
MSM 2007-2AX	Group 1	44.72%	8.31%	46.97%
MSM 2007-5AX	Group 1	54.19%	6.29%	39.52%
MSM 2007-7AX	Group 1	68.30%	5.14%	26.56%
NCHET 2005-B	Group I	85.20%	4.59%	10.21%
NCHET 2005-C	Group I	83.31%	2.75%	13.94%
NCHET 2005-D	Group I	86.02%	3.50%	10.49%
SAST 2005-3	Group 1	96.50%	0.46%	3.03%
SAST 2006-1	Group 1	94.53%	1.18%	4.30%
SAST 2006-2	Group 2	91.88%	0.70%	7.42%
SAST 2006-2	Group 1	94.07%	0.35%	5.58%
SAST 2007-1	Group 1	92.83%	0.66%	6.51%
SAST 2007-2	Group 1	91.53%	0.30%	8.17%
SAST 2007-3 (1A & 1M1-1M6)	Group 1	90.37%	0.97%	8.66%

79. As Table 4 makes clear, the Prospectus Supplements reported that 30 of the 34 Supporting Loan Groups contained at least 80 percent owner-occupied loans, and 20 of the 34 Supporting Loan Groups contained at least 90 percent owner-occupied loans.

80. Because information about occupancy status is an important factor in determining the credit risk associated with a mortgage loan -- and, therefore, the securitization that it backs -- the statements in the Prospectus Supplements concerning occupancy status were material to a reasonable investor's decision to invest in the Certificates, and they were material to the GSEs.

These statements were material because, among other reasons, borrowers who live in mortgaged properties are substantially less likely to default and more likely to care for their primary residence than borrowers who purchase properties as second homes or investments and live elsewhere. For example, as stated in the Prospectus Supplement for the SAST 2006-1 Securitization and other Securitizations: "Mortgage loans secured by properties acquired by investors for the purpose of rental income or capital appreciation, or properties acquired as second homes, tend to have higher severities of default than properties that are regularly occupied by the related borrowers." Accordingly, the percentage of loans in the collateral group of a securitization that are secured by mortgage loans on owner-occupied residences is an important measure of the risk of the certificates sold in that securitization.

81. Other things being equal, the lower the percentage of loans secured by owner-occupied residences, the greater the risk of loss to Certificateholders. Even modest differences in the percentages of primary/owner-occupied, second home/secondary, and investment properties in the collateral group of a securitization can have a significant effect on the risk of each certificate sold in that securitization, and thus, are important to the decision of a reasonable investor whether to purchase any such certificate. As discussed *infra* at paragraphs 94 through 97, the Prospectus Supplements for each Securitization materially overstated the percentage of loans in the Supporting Loan Groups that were owner-occupied, thereby misrepresenting the degree of risk of the Certificates purchased by the GSEs.

3. Loan-to-Value Ratios

82. The loan-to-value ratio of a mortgage loan, or LTV ratio, is the ratio of the balance of the mortgage loan to the value of the mortgaged property when the loan is made.

83. The denominator in the LTV ratio is the value of the mortgaged property, and is generally the lower of the purchase price or the appraised value of the property. In a refinancing

or home-equity loan, there is no purchase price to use as the denominator, so the denominator is often equal to the appraised value at the time of the origination of the refinanced loan or home-equity loan. Accordingly, an accurate appraisal is essential to an accurate LTV ratio. In particular, an inflated appraisal will understate, sometimes greatly, the credit risks associated with a given loan.

84. The Prospectus Supplements for the Securitizations contain information about the LTV ratio for each Supporting Loan Group. Table 5 below reflects two categories of important information reported in the Prospectus Supplements concerning the LTV ratios for each Supporting Loan Group: (i) the percentage of loans with an LTV ratio of 80 percent or less; and (ii) the percentage of loans with an LTV ratio greater than 100 percent.[9]

Table 5

Transaction	Supporting Loan Group	Percentage of loans, by aggregate principal balance, with LTV less than or equal to 80%	Percentage of loans, by aggregate principal balance, with LTV greater than 100%
AMIT 2005-4	Group I	77.40%	0.00%
MSAC 2005-HE5	Group I	59.42%	0.00%
MSAC 2005-HE6	Group I	64.31%	0.00%
MSAC 2006-HE3	Group I	60.73%	0.00%
MSAC 2006-HE5	Group I	51.21%	0.00%
MSAC 2006-HE6	Group I	62.20%	0.00%
MSAC 2006-HE8	Group I	56.24%	0.00%
MSC 2006-NC2	Group 1	57.13%	0.00%
MSAC 2006-NC3	Group I	53.43%	0.00%
MSAC 2006-NC4	Group I	60.48%	0.00%
MSAC 2006-WMC2	Group I	70.46%	0.00%
MSAC 2007-HE1	Group I	52.24%	0.00%

9 As used in this Complaint, "LTV" refers to the loan-to-value ratio for first lien mortgages and for properties with second liens subordinate to the lien included in the securitization (*i.e.*, only the securitized lien is included in the numerator of the LTV calculation). Where the securitized lien is junior to another loan, the more senior lien has been added to the securitized one to determine the numerator in the LTV calculation (this latter calculation is sometimes referred to as the combined-loan-to-value ratio, or "CLTV").

Transaction	Supporting Loan Group	Percentage of loans, by aggregate principal balance, with LTV less than or equal to 80%	Percentage of loans, by aggregate principal balance, with LTV greater than 100%
MSAC 2007-HE5	Group I	54.79%	0.00%
MSAC 2007-HE7	Group I	51.48%	0.00%
MSAC 2007-NC1	Group I	56.89%	0.00%
MSC 2006-HE2	Group I	66.14%	0.00%
MSHEL 2005-4	Group I	59.99%	0.00%
MSM 2005-10	Group 3	97.71%	0.00%
MSM 2005-7	Group 5	97.49%	0.00%
MSM 2006-16AX	Group 1	92.54%	0.00%
MSM 2006-2 (7A1 & A2)	Group 7	95.03%	0.00%
MSM 2007-2AX	Group 1	96.65%	0.00%
MSM 2007-5AX	Group 1	90.17%	0.00%
MSM 2007-7AX	Group 1	83.36%	0.00%
NCHET 2005-B	Group I	61.84%	0.00%
NCHET 2005-C	Group I	54.64%	0.00%
NCHET 2005-D	Group I	58.60%	0.00%
SAST 2005-3	Group 1	57.66%	0.00%
SAST 2006-1	Group 1	59.06%	0.00%
SAST 2006-2	Group 2	61.06%	0.00%
SAST 2006-2	Group 1	61.77%	0.00%
SAST 2007-1	Group 1	54.21%	0.00%
SAST 2007-2	Group 1	45.15%	0.00%
SAST 2007-3 (1A & 1M1-1M6)	Group 1	53.38%	0.00%

85. The LTV ratio is among the most important measures of the risk of a mortgage loan for several reasons. First, the LTV ratio is a strong indicator of the likelihood of default, because a higher LTV ratio makes it more likely that a decline in the value of a property will completely eliminate a borrower's equity, and will incentivize the borrower to stop making mortgage payments and abandon the property. Second, the LTV ratio is a strong predictor of the severity of loss in the event of a default because the higher the LTV ratio, the smaller the "equity cushion," and the greater the likelihood that the proceeds of foreclosure will not cover the unpaid balance of the mortgage loan.

86. Thus, the LTV ratios were material to a reasonable investor's investment decision with respect to the Certificates, and they were material to the GSEs. Even small differences between the LTV ratios of the mortgage loans in the collateral group of a securitization have a significant effect on the likelihood that collateral groups will generate sufficient funds to pay certificateholders in that securitization. Such differences are important to the decision of a reasonable investor on whether to purchase any such certificate, and they affect the intrinsic value of the certificate.

87. As Table 5 makes clear, the Prospectus Supplements for all of the Securitizations reported that the majority of the mortgage loans in the Supporting Loan Groups had an LTV ratio of 80 percent or less. The Prospectus Supplements also reported that *none* of the Supporting Loan Groups contained a single loan with an LTV ratio over 100 percent.

88. As discussed *infra* at paragraphs 98 through 103, the Prospectus Supplements for the Securitizations materially *overstated* the percentage of loans in the Supporting Loan Groups with an LTV ratio at or less than 80 percent, and materially *understated* the percentage of loans in the Supporting Loan Groups with an LTV ratio over 100 percent, thereby misrepresenting the degree of risk to Certificateholders.

4. Credit Ratings

89. Credit ratings are assigned to the tranches of mortgage-backed securitizations by the credit rating agencies, including Standard & Poor's, Moody's Investors Service, and Fitch Ratings. Each credit rating agency uses its own scale with letter designations to describe various levels of risk. In general, AAA or its equivalent ratings are at the top of the credit rating scale and are intended to designate the safest investments. C and D ratings are at the bottom of the scale and refer to investments that are currently in default and exhibit little or no prospect for recovery. At the time Fannie Mae and Freddie Mac purchased the Certificates, investments with

AAA or its equivalent ratings historically experienced a loss rate of less than .05 percent. Investments with a BBB rating, or its equivalent, historically experienced a loss rate of less than one percent. As a result, securities with credit ratings between AAA or its equivalent through BBB- or its equivalent were generally referred to as "investment grade."

90. Rating agencies determine the credit rating for each tranche of a mortgage-backed securitization by comparing the likelihood of contractual principal and interest repayment to the "credit enhancements" available to protect investors. Rating agencies determine the likelihood of repayment by estimating cash flows based on the quality of the underlying mortgages by using sponsor-provided loan-level data. Credit enhancements, such as subordination, represent the amount of "cushion" or protection from loss incorporated into a given securitization.[10] This cushion is intended to improve the likelihood that holders of highly-rated certificates receive the interest and principal to which they are contractually entitled. The level of credit enhancement offered is based on the composition of the loans in the underlying collateral group and entire securitization. Riskier loans underlying the securitization necessitate higher levels of credit enhancement to insure payment to senior certificate holders. If the collateral within the deal is of a higher quality, then rating agencies require less credit enhancement for an AAA or its equivalent rating.

91. For almost a hundred years, investors like pension funds, municipalities, insurance companies, and university endowments have relied heavily on credit ratings to assist them in distinguishing between safe and risky investments.

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[10] "Subordination" refers to the fact that the certificates for a mortgage-backed securitization are issued in a hierarchical structure, from senior to junior. The junior certificates are "subordinate" to the senior certificates in that, should the underlying mortgage loans become delinquent or default, the junior certificates suffer losses first. These subordinate certificates thus provide a degree of protection to the senior certificates from certain losses on the underlying loans.

92. Each tranche of the Securitizations received a credit rating before issuance, which purported to describe the riskiness of that tranche. Defendants reported the credit ratings for each tranche in the Prospectus Supplements. For each of the Certificates purchased by the GSEs the credit rating provided was virtually always AAA or its equivalent.[11] The accuracy of these ratings was material to a reasonable investor's decision to purchase the Certificates, and it was material to the GSEs. Among other things, the ratings provided additional assurance that investors in the Certificates would receive the expected interest and principal payments. As set forth in Table 8, *infra* at paragraph 125, the ratings for most of the Securitizations were severely downgraded to well below "investment grade" after the GSEs' purchase of the Certificates. Upon information and belief, the initial ratings were based in substantial part upon the materially inaccurate and incomplete information in the Registration Statements and related information provided to the ratings agencies.

D. FALSITY OF STATEMENTS IN THE REGISTRATION STATEMENTS AND PROSPECTUS SUPPLEMENTS

1. The Statistical Data Provided in the Prospectus Supplements Concerning Owner-Occupancy and Loan-To-Value Ratios Was Materially False

93. A review of loan-level data was conducted to assess whether the statistical information provided in the Prospectus Supplements was true and accurate. For each Securitization, the review included an analysis either of: (i) a sample of 1,000 loans randomly selected from the Supporting Loan Group; or (ii) all the loans in the Supporting Loan Group, if there were fewer than 1,000 such loans. The review of sample data has confirmed, on a statistically-significant basis, that the data provided in the Prospectus Supplements concerning

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[11] With the exception of six tranches of SAST 2007-3 Certificates, as noted in Table 8 *infra*, all of which were rated higher than A3/A-/A.

owner-occupancy and LTV ratios was materially false, and that the Prospectus Supplements contained material misrepresentations with respect to the underwriting standards employed by the originators, and certain key characteristics of the mortgage loans across the Securitizations.

a. Owner-Occupancy Data was Materially False

94. The data review has revealed that the owner-occupancy statistics reported in the Prospectus Supplements were materially false and inflated. Indeed, the Prospectus Supplements over-reported the number of underlying properties that were occupied by their owners, and underreported the number of underlying properties held as second homes or investment properties.

95. To determine whether a given borrower actually occupied the property as claimed, a number of tests were conducted, including, *inter alia*, whether, months after the loan closed, the borrower's tax bill was being mailed to the property or to a different address, whether the borrower had claimed a tax exemption on the property, and whether the mailing address of the property was reflected in the borrower's credit reports, tax records, or lien records. Failing two or more of these tests constitutes strong evidence that the borrower did not live at the mortgaged property and instead used it as a second home or an investment property, rendering it much more likely that a borrower will not repay the loan.

96. For each Securitization, a significant number of the underlying loans failed two or more of these tests, indicating that the owner-occupancy statistics provided to investors, such as Fannie Mae and Freddie Mac, were materially false and misleading. For example, the Prospectus Supplement for the MSAC 2006-HE8 Securitization -- for which MCI was the sponsor and MS&Co. was the underwriter -- stated that 7.94 percent of the underlying properties by loan count in the Supporting Loan Group were second homes or investment properties. But the data review revealed that the true percentage of non-owner-occupied properties was 20.19

percent,[12] over 250 percent greater than the percentage reported in the Prospectus Supplement because for 13.3 percent of the properties represented as owner-occupied, the owners lived elsewhere

97. The data review revealed that for each Securitization, the Prospectus Supplement misrepresented the percentage of non-owner-occupied properties. The true percentage of non-owner-occupied properties, as determined by the data review, versus the percentage stated in the Prospectus Supplement for each Securitization, is reflected in Table 6 below. Table 6 demonstrates that the Prospectus Supplements for each Securitization significantly understated the percentage of non-owner-occupied properties.

Table 6

		A	B	C	D
Transaction	**Supporting Loan Group**	**Reported Percentage of Non-Owner-Occupied Properties**	**% of Properties Reported as Owner-Occupied in the Offering Materials with Strong Indication of Non-Owner-Occupancy**	**Actual Percentage of Non-Owner-Occupied Properties**	**Understatement of Non-Owner-Occupied Properties in the Offering Materials**
AMIT 2005-4	Group I	5.52%	8.66%	13.70%	8.18%
MSAC 2005-HE5	Group I	5.86%	14.38%	19.40%	13.54%
MSAC 2005-HE6	Group I	7.34%	11.66%	18.15%	10.81%
MSAC 2006-HE3	Group I	5.07%	13.12%	17.53%	12.46%
MSAC 2006-HE5	Group I	4.98%	11.80%	16.19%	11.21%
MSAC 2006-HE6	Group I	12.39%	11.58%	22.54%	10.15%
MSAC 2006-HE8	Group I	7.94%	13.30%	20.19%	12.25%
MSC 2006-NC2	Group I	13.69%	11.03%	23.21%	9.52%
MSAC 2006-NC3	Group I	16.70%	11.11%	25.95%	9.25%
MSAC 2006-NC4	Group I	12.60%	10.07%	21.40%	8.80%
MSAC 2006-WMC2	Group I	6.36%	12.49%	18.05%	11.69%
MSAC 2007-HE1	Group I	15.24%	8.66%	22.59%	7.35%
MSAC 2007-HE5	Group I	3.13%	10.60%	13.40%	10.27%
MSAC 2007-HE7	Group I	11.02%	12.02%	21.71%	10.69%
MSAC 2007-NC1	Group I	15.13%	9.48%	23.18%	8.05%

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[12] The true percentage of non-owner-occupied properties (Table 6 Column C) is calculated by adding the percentage reported in the Prospectus Supplement (Table 6 Column A) to the product of owner-occupied properties reported in the Prospectus Supplement (100 minus Column A) and the percentage of properties reported as owner-occupied but with strong indication of non-owner occupancy (Table 6 Column B).

		A	B	C	D
Transaction	**Supporting Loan Group**	**Reported Percentage of Non-Owner-Occupied Properties**	**% of Properties Reported as Owner-Occupied in the Offering Materials with Strong Indication of Non-Owner-Occupancy**	**Actual Percentage of Non-Owner-Occupied Properties**	**Understatement of Non-Owner-Occupied Properties in the Offering Materials**
MSC 2006-HE2	Group I	2.41%	11.74%	13.86%	11.45%
MSHEL 2005-4	Group I	3.83%	11.54%	14.93%	11.10%
MSM 2005-10	Group 3	0.00%	14.35%	14.35%	14.35%
MSM 2005-7	Group 5	0.00%	11.45%	11.45%	11.45%
MSM 2006-16AX	Group 1	46.54%	14.03%	54.04%	7.50%
MSM 2006-2 (7A1 & 7A2)	Group 7	0.00%	15.15%	15.15%	15.15%
MSM 2007-2AX	Group 1	55.28%	14.03%	61.55%	6.27%
MSM 2007-5AX	Group 1	45.81%	14.23%	53.52%	7.71%
MSM 2007-7AX	Group 1	31.70%	13.82%	41.14%	9.44%
NCHET 2005-B	Group I	14.80%	13.09%	25.95%	11.15%
NCHET 2005-C	Group I	16.69%	12.12%	26.78%	10.09%
NCHET 2005-D	Group I	13.98%	11.80%	24.14%	10.16%
SAST 2005-3	Group 1	3.50%	8.81%	12.00%	8.50%
SAST 2006-1	Group 1	5.47%	9.92%	14.85%	9.38%
SAST 2006-2	Group 2	8.12%	10.93%	18.16%	10.04%
SAST 2006-2	Group 1	5.93%	8.73%	14.14%	8.21%
SAST 2007-1	Group 1	7.17%	10.74%	17.14%	9.97%
SAST 2007-2	Group 1	8.46%	9.32%	16.99%	8.53%
SAST 2007-3 (1A & 1M1-1M6)	Group 1	9.63%	9.66%	18.36%	8.73%

b. Loan-to-Value Data was Materially False

98. The data review has further revealed that the LTV ratios disclosed in the Prospectus Supplements were materially false and understated, as more specifically set out below. For each of the sampled loans, an industry standard automated valuation model ("AVM") was used to calculate the value of the underlying property at the time the mortgage loan was originated. AVMs are routinely used in the industry as a way of valuing properties during prequalification, origination, portfolio review, and servicing. AVMs rely upon similar data as appraisers -- primarily county assessor records, tax rolls, and data on comparable properties. AVMs produce independent, statistically-derived valuation estimates by applying modeling techniques to this data.

99. Applying the AVM to the available data for the properties securing the sampled loans shows that the retroactive appraised value given to such properties was significantly higher than the actual value of such properties. The result of this overstatement of property values is a material understatement of LTV. That is, if a property's true value is significantly less than the value used in the loan underwriting, then the loan represents a significantly higher percentage of the property's value. This, of course, increases the risk a borrower will not repay the loan and the risk of greater losses in the event of a default. As stated in the Prospectus Supplement for MSAC 2006-HE8: "Mortgage loans with higher loan-to-value ratios may present a greater risk of loss than mortgage loans with loan-to-value ratios of 80 percent or below."

100. For example, for the MSAC 2007-HE5 Securitization, which was sponsored by MCI and underwritten by MS&Co., the Prospectus Supplement stated that no LTV ratios for the Supporting Loan Group were above 100 percent. In fact, 31.13 percent of the sample of loans included in the data review had LTV ratios above 100 percent; that is, mortgage loans with no equity cushion whatsoever. The Prospectus Supplement for the MSAC 2007-HE5 Securitization contained equally false statements with respect to the percentage of loans with an equity cushion of 20 percent or more. Specifically, whereas the Prospectus Supplement stated that 54.79 percent of the loans had LTV ratios at or below 80 percent, the data review indicated that only 28.12 percent of the loans had LTV ratios at or below 80 percent.

101. The data review revealed that for each Securitization, the Prospectus Supplement misrepresented the percentage of loans with an LTV ratio that were above 100 percent, as well the percentage of loans that had an LTV ratio at or below 80 percent. Table 7 reflects (i) the true percentage of mortgages in the Supporting Loan Group with LTV ratios above 100 percent, versus the percentage reported in the Prospectus Supplement; and (ii) the true percentage of

mortgages in the Supporting Loan Group with LTV ratios at or below 80 percent, versus the percentage reported in the Prospectus Supplement. The percentages listed in Table 7 were calculated by aggregated principal balance.

Table 7

		PROSPECTUS	DATA REVIEW	PROSEPCTUS	DATA REVIEW
Transaction	**Supporting Loan Group**	**Percentage of Loans reported to Have LTV Ratio at or Less than 80%**	**True Percentage of Loans with LTV Ratio at or Less than 80%**	**Percentage of Loans Reported to have LTV Ratio Over 100%**	**True Percentage of Loans with LTV Ratio Over 100%**
AMIT 2005-4	Group I	77.40%	46.39%	0.00%	7.82%
MSAC 2005-HE5	Group I	59.42%	41.78%	0.00%	12.07%
MSAC 2005-HE6	Group I	64.31%	49.07%	0.00%	11.96%
MSAC 2006-HE3	Group I	60.73%	43.14%	0.00%	12.10%
MSAC 2006-HE5	Group I	51.21%	32.43%	0.00%	21.00%
MSAC 2006-HE6	Group I	62.20%	40.66%	0.00%	18.89%
MSAC 2006-HE8	Group I	56.24%	36.37%	0.00%	22.65%
MSC 2006-NC2	Group I	57.13%	42.29%	0.00%	15.57%
MSAC 2006-NC3	Group I	53.43%	41.33%	0.00%	17.45%
MSAC 2006-NC4	Group I	60.48%	42.18%	0.00%	14.01%
MSAC 2006-WMC2	Group I	70.46%	38.82%	0.00%	16.08%
MSAC 2007-HE1	Group I	52.24%	32.48%	0.00%	19.28%
MSAC 2007-HE5	Group I	54.79%	28.12%	0.00%	31.13%
MSAC 2007-HE7	Group I	51.48%	32.73%	0.00%	22.18%
MSAC 2007-NC1	Group I	56.89%	33.41%	0.00%	20.12%
MSC 2006-HE2	Group I	66.14%	41.00%	0.00%	16.50%
MSHEL 2005-4	Group I	59.99%	40.31%	0.00%	12.66%
MSM 2005-10	Group 3	97.71%	64.07%	0.00%	3.12%
MSM 2005-7	Group 5	97.49%	56.49%	0.00%	3.46%
MSM 2006-16AX	Group 1	92.54%	51.38%	0.00%	8.29%
MSM 2006-2 (7A1 & 7A2)	Group 7	95.03%	57.69%	0.00%	1.11%
MSM 2007-2AX	Group 1	96.65%	57.18%	0.00%	10.50%
MSM 2007-5AX	Group 1	90.17%	45.69%	0.00%	12.77%
MSM 2007-7AX	Group 1	83.36%	46.71%	0.00%	15.20%
NCHET 2005-B	Group I	61.84%	41.58%	0.00%	11.73%
NCHET 2005-C	Group I	54.64%	42.36%	0.00%	13.73%
NCHET 2005-D	Group I	58.60%	44.33%	0.00%	12.71%
SAST 2005-3	Group 1	57.66%	46.69%	0.00%	13.95%
SAST 2006-1	Group 1	59.06%	42.54%	0.00%	15.46%
SAST 2006-2	Group 2	61.06%	42.29%	0.00%	17.07%
SAST 2006-2	Group 1	61.77%	40.62%	0.00%	17.03%
SAST 2007-1	Group 1	54.21%	36.30%	0.00%	21.96%
SAST 2007-2	Group 1	45.15%	27.43%	0.00%	31.79%
SAST 2007-3 (1A & 1M1-1M6)	Group 1	53.38%	35.17%	0.00%	27.46%

102. As Table 7 demonstrates, the Prospectus Supplements for all of the Securitizations falsely reported that *none* of the mortgage loans in the Supporting Loan Groups had an LTV ratio over 100 percent: the data review revealed that: (i) for 29 of the 34 Supporting Loan Groups, at least 10 percent of the loans had an LTV ratio over 100 percent; and (ii) for 18 of the 33 Supporting Loan Groups, at least 15 percent of the loans had an LTV ratio over 100 percent.

103. These misrepresentations with respect to reported LTV ratios also demonstrate that the representations in the Registration Statements relating to appraisal practices were false, and that the appraisers, in many instances, furnished appraisals that they understood were inaccurate and that they knew bore no reasonable relationship to the actual value of the underlying properties. Indeed, independent appraisers following proper practices, and providing genuine estimates as to valuation, would not systematically generate appraisals that deviate so significantly (and so consistently upward) from the true values of the appraised properties. The Financial Crisis Inquiry Commission ("FCIC"), created by Congress to investigate the mortgage crisis and attendant financial collapse in 2008, identified "inflated appraisals" as a pervasive problem during the period of the Securitizations, and determined through its investigation that appraisers were often pressured by mortgage originators, among others, to produce inflated results. (*See* Financial Crisis Inquiry Commission, Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States (2011) ("FCIC Report"), at 91.)

2. The Originators of the Underlying Mortgage Loans Systematically Disregarded Their Underwriting Guidelines

104. The Prospectus Supplements each contained numerous material misstatements and omissions concerning the underwriting guidelines used by the originators of the loans

included in the Securitizations, defined herein as the Non-Party Originators. Among other things, the Prospectus Supplements stated that the Non-Party Originators underwrote all loans in compliance with their respective underwriting guidelines. *See* Appendix A, Sections I-XXXIII at Subsections B. These statements were materially false.

105. The Non-Party Originators -- companies such as New Century, WMC, Decision One, and others -- systematically disregarded their respective underwriting guidelines, as confirmed not only by the pervasively false owner-occupancy and LTV figures alleged *supra*, but also by: (1) government investigations and private actions relating to their underwriting practices, which have revealed widespread abandonment of their reported underwriting guidelines during the period of the Securitizations; (2) the collapse of the credit ratings of Certificates purchased by the GSEs; and (3) the surge in delinquencies and defaults in the mortgages in the Securitizations.

a. Government and Private Investigations Confirm That the Originators of the Loans in the Securitizations Systematically Failed to Adhere to Their Underwriting Guidelines

106. An extraordinary volume of publicly-available information, including government reports and investigations, confirms that the originators whose loans were included by the Defendants in the Securitizations abandoned their loan origination guidelines throughout the period of the Securitizations.

107. For example, in November 2008, the Office of the Comptroller of the Currency ("OCC"), an office within the United States Department of the Treasury, issued a report identifying the "Worst Ten" mortgage originators in the "Worst Ten" metropolitan areas. The worst originators were defined as those with the largest number of non-prime mortgage foreclosures for 2005-2007 originations. New Century, WMC, IndyMac, Decision One, GreenPoint and American Home -- the companies that originated the loans for two-thirds of the

Securitizations at issue here -- were all on that list. *See* "Worst Ten in the Worst Ten," Office of the Comptroller of the Currency Press Release. November 13, 2008. Several of the Non-Party Originators -- including New Century, WMC, IndyMac, and Wilmington -- have been the target of government investigations or private actions that allege a complete abandonment of their reported underwriting guidelines.

i. New Century Violated Its Underwriting Guidelines

108. New Century and its subsidiary, Home123, originated loans for at least 14 of the 33 Securitizations. As stated in the Prospectus Supplement for the 2007-NC1 Securitization, "[f]or the nine months ending September 20, 2006, New Century Financial Corporation originated $45.4 billion in mortgage loans." By the end of 2006, New Century was the third largest subprime mortgage loan originator in the United States, with a loan production volume that year of $51.6 billion. And before its collapse in the first half of 2007, New Century was one of the largest subprime lenders in the country. New Century filed for protection from its creditors under Chapter 11 of the federal Bankruptcy Code on April 2, 2007.

109. In 2010, the OCC identified New Century as *the* worst subprime lender in the country based on the delinquency rates of the mortgages it originated in the 10 metropolitan areas between 2005 and 2007 with the highest rates of delinquency. *See* "Worst Ten in the Worst Ten: Update," Office of the Comptroller of Currency Press Release, March 22, 2010. Further, in January 2011, the FCIC Report detailed, among other things, the collapse of mortgage underwriting standards and subsequent collapse of the mortgage market and wider economy. *See* FCIC Report. The FCIC Report singled out New Century for its role:

> New Century—once the nation's second-largest subprime lender—ignored early warnings that its own loan quality was deteriorating and stripped power from two risk-control departments that had noted the evidence. In a June 2004 presentation, the Quality Assurance staff reported they had found severe underwriting errors, including evidence of predatory lending,

> federal and state violations, and credit issues, in 25% of the loans they audited in November and December 2003. In 2004, Chief Operating Officer and later CEO Brad Morrice recommended these results be removed from the statistical tools used to track loan performance, and in 2005, the department was dissolved and its personnel terminated. The same year, the Internal Audit department identified numerous deficiencies in loan files; out of nine reviews it conducted in 2005, it gave the company's loan production department "unsatisfactory" ratings seven times. Patrick Flanagan, president of New Century's mortgage-originating subsidiary, cut the department's budget, saying in a memo that the "group was out of control and tries to dictate business practices instead of audit."

110. On February 29, 2008, after an extensive document review and conducting over 100 interviews, Michael J. Missal, the Bankruptcy Court Examiner for New Century, issued a detailed report on the various deficiencies at New Century, including lax mortgage standards and a failure to follow its own underwriting guidelines. Among his findings, the Examiner reported:

> New Century had a brazen obsession with increasing loan originations without due regard for the risks associated with that business strategy. . . . Although the primary goal of any mortgage banking company is to make more loans, New Century did so in an aggressive manner that elevated the risks to dangerous and ultimately to fatal levels.
>
> New Century also made frequent exceptions to its underwriting guidelines for borrowers who might not otherwise qualify for a particular loan. A Senior Officer of New Century warned in 2004 that the "number one issue is exceptions to the guidelines." Moreover, many of the appraisals used to value the homes that secured the mortgages had deficiencies.
>
> New Century . . . layered the risks of loan products upon the risks of loose underwriting standards in its loan originations to high risk borrowers.

Final Report of Michael J. Missal, Bankruptcy Examiner, *In re New Century TRS Holdings, Inc.*, No. 07-10416 (KJC) (Bankr. Del. Feb. 29, 2008).

111. On December 9, 2009, the SEC charged three of New Century's top officers with violations of federal securities laws. The SEC's complaint details the falsity of New Century's representations regarding its underwriting guidelines -- for example, its representations that it was committed to "adher[ing] to high origination standards in order to sell [its] loan products in

the secondary market" and to "only approv[ing] subprime loan applications that evidence a borrower's ability to repay the loan."

112. New Century's failure to adhere to its underwriting guidelines is further reflected in allegations made by the Attorney General of Massachusetts in *In re: Morgan Stanley & Co. Inc.*, Civil Action No. 10-2538 (Suffolk Cnty. Super. Ct. June 24, 2010). The Massachusetts Attorney General alleged in his "Assurance of Discontinuance" that:

- New Century's "stretch[ed] … underwriting guidelines to encompass or approve loans not written in accordance with the guidelines." (*Id*. ¶¶ 17, 23.)
- "One recurring issue identified by Morgan Stanley was New Century's origination of loans that violated Massachusetts Division of Banks' borrower's best interest standard []." (*Id*. ¶18.)
- During the period 2006-2007, 91 percent of the loans approved for securitization that did not meet New Century's underwriting guidelines did not have "sufficient compensating factors to offset such exceptions." (*Id*. ¶ 27.)
- "In the last three quarters of 2006, Morgan Stanley waived more than half of all material exceptions found by Clayton . . ., and purchased a substantial number of New Century loans found by Clayton to violate guidelines without sufficient compensating factors." (*Id*. ¶ 28.
- The loans originated by New Century were "unfair loans to Massachusetts borrowers" and "were in violation of Massachusetts law . . . ." (*Id*. ¶ 43-44.)

113. In settlement of the Massachusetts Attorney General's charges, on or about June 24, 2010, Morgan Stanley agreed to drastic changes in its underwriting practices and paid $102 million.

114. Patricia Lindsay, a former Vice President of Corporate Risk at New Century, testified before the FCIC in April 2010 that, beginning in 2004, underwriting guidelines had been all but abandoned at New Century. Ms. Lindsay further testified that New Century systematically approved loans with 100 percent financing to borrowers with extremely low credit scores and no supporting proof of income. (*See* Written Testimony of Patricia Lindsay for the

FCIC Hearing, April 7, 2010 ("Lindsay Testimony"), http://fcic-static.law.stanford.edu/cdn-media/fcic.testimony/2010-0407-Lindsay.pdf, at 3.)

115. Ms. Lindsay also testified that appraisers "fear[ed]" for their "livelihoods," and therefore cherry-picked data "that would help support the needed value rather than finding the best comparables to come up with the most accurate value." (*See* Written Testimony of Patricia Lindsay to the FCIC, April 7, 2010, at 5.) Indeed, on May 7, 2007, *The Washington Post* reported that a former New Century appraiser, Maggie Hardiman, recounted how she "didn't want to turn away a loan because all hell would break loose" and that when she did reject a loan, "her bosses often overruled her and found another appraiser to sign off on it." (David Cho, *Pressure at Mortgage Firm Led to Mass Approval of Bad Loans*, The Washington Post (May 7, 2007).)

ii. WMC Violated Its Underwriting Guidelines

116. WMC, which originated the loans for nine of the 33 Securitizations, employed reckless underwriting standards and practices, as described more fully below, that resulted in a huge number of foreclosures, ranking WMC fourth in the report presented to the FCIC in April 2010 identifying the "Worst Ten" mortgage originators in the "Worst Ten" metropolitan areas. (*See* "Worst Ten in the Worst Ten," Office of the Comptroller of the Currency Press Release, November 13, 2008.) General Electric, which had purchased WMC in 2004, closed down operations at WMC in late 2007 and took a $1.4 billion charge in the third quarter of that year. (*See, e.g.*, Diane Brady, Adventures of a Subprime Survivor, Bloomberg Businessweek, Oct. 29, 2007 (available at http://www.businessweek.com/magazine/content/07_44/b4056074.htm).)

117. WMC's reckless loan originating practices were noticed by regulatory authorities. In June 2008, the Washington State Department of Financial Institutions, Division of Consumer Services filed a Statement of Charges and Notice of Intention to Enter an Order to Revoke

License, Prohibit From Industry, Impose Fine, Order Restitution and Collect Investigation Fees (the "Statement of Charges") against WMC Mortgage and its principal owners individually. (*See* Statement of Charges, No. C-07-557-08-SC01, Jun. 4, 2008.) The Statement of Charges included 86 loan files, which revealed that at least 76 loans were defective or otherwise in violation of Washington State law. (*Id*.) Among other things, the investigation uncovered that WMC had originated loans with unlicensed or unregistered mortgage brokers, understated amounts of finance charges on loans, understated amounts of payments made to escrow companies, understated annual percentage rates to borrowers and committed many other violations of Washington State deceptive and unfair practices laws. (*Id.*)

iii. IndyMac Violated Its Underwriting Guidelines

118. IndyMac, which originated the loans for one of the Securitizations, was the subject of a February 26, 2009 report issued by the Office of Inspector General ("OIG") of the U.S. Department of Treasury entitled "Safety and Soundness: Material Loss Review of IndyMac Bank, FSB" (the "OIG Report"). The OIG Report found that IndyMac Bank had "embarked on a path of aggressive growth" that was supported by its high-risk business strategy of "originating … Alt-A loans on a large scale" and then "packag[ing] them together in securities" and selling "them on the secondary market" to investors. (OIG Report at 2, 6, 7.) The OIG Report further stated that: "To facilitate this level of [loan] production . . . *IndyMac often did not perform adequate underwriting*." (*Id*. at 2 (emphasis added).)

119. A June 30, 2008 report by the Center for Responsible Lending found that IndyMac Bank often ignored its stated underwriting and appraisal standards and encouraged its employees to approve loans regardless of a borrower's ability to repay them. (*See* IndyMac: What Went Wrong? How an 'Alt-A' Leader Fueled its Growth with Unsound and Abusive Mortgage Lending (the "CRL Report").) The CRL Report noted that IndyMac Bank "engaged in

unsound and abusive lending practices" and "allowed outside mortgage brokers and in-house sales staffers to inflate applicants' [financial information] . . . [to] make them look like better credit risks." (*See* CRL Report at 2, 8.)

iv. Wilmington Violated Its Underwriting Guidelines

120. Wilmington was an originator for three of the Securitizations purchased by the GSEs. As disclosed in the Prospectus Supplement to the MSHEL 2005-4 Securitization, Wilmington originated $2.2 billion in mortgage loans in 2003, $10.3 billion in mortgage loans in 2004 and $7.2 billion in mortgage loans during the period commencing on January 1, 2005 and ending on June 30, 2005.

121. Wilmington and other affiliated companies, including its parent company AIG Federal Savings Bank ("AIG FSB"), were the subject of a government investigation into their lending practices. The Office of Thrift Supervision, based on the exercise of its regulatory responsibilities, determined that AIG FSB "failed to manage and control the mortgage lending activities outsourced to [Wilmington] in a safe and sound manner . . . ." (Supervisory Agreement at 1.) The stated purpose of the Supervisory Agreement was, among other things, to "correct and remediate the negative financial impact to certain borrowers from the insufficiently supervised lending activities of [AIG FSB] outsourced to [Wilmington]. . . ." (*Id*. at 2.) Thus, pursuant to that agreement, Wilmington and its affiliates established a $128 million reserve to cover, among other things, costs associated with providing affordable loans to borrowers whose creditworthiness was not adequately evaluated at the time the loan was originated. (*Id*.) Moreover, AIG FSB agreed to improving its mortgage loan origination polices "to enhance its compliance will applicable laws and regulations." (*Id*.)

b. The Collapse of the Certificates' Credit Ratings Further Shows that the Mortgage Loans were not Originated in Adherence to the Stated Underwriting Guidelines

122. The total collapse in the credit ratings of the Certificates invested in by the GSEs, typically from AAA or its equivalent to non-investment speculative grade, is further evidence of the originators' systematic disregard of underwriting guidelines, underscoring that these Certificates were impaired from the start.

123. The Certificates purchased by the GSEs originally were assigned credit ratings of AAA or its equivalent, which purportedly reflected the description of the mortgage loan collateral and underwriting practices set forth in the Registration Statements. Those ratings artificially were inflated, however, upon information and belief in part as a result of the same misrepresentations that the Defendants made to investors in the Prospectus Supplements.

124. Upon information and belief, Morgan Stanley provided information to the rating agencies, including LTV ratios, owner-occupancy rates and other loan statistics, that the agencies used in part to calculate the assigned ratings of the Certificates purchased by the GSEs. Upon information and belief, because the information that Morgan Stanley provided, which information included, among other things, the Registration Statements or portions thereof, the ratings were inflated. As a result, the Certificates were offered and purchased at prices suitable for "investment grade" securities, when in fact the Certificates carried a severe risk of loss and inadequate credit enhancement.

125. Since the issuance of the Certificates purchased by the GSEs, the ratings agencies have downgraded their ratings dramatically to reflect the revelations regarding the true

underwriting practices used to originate the mortgage loans, and the true value and credit quality of the mortgage loans. Table 8 details the extent of the downgrades.[13]

Table 8

Transaction	Tranche	Rating at Issuance (Moody's/S&P/Fitch)	Rating as of July 31, 2011 (Moody's/S&P/Fitch)
AMIT 2005-4	1A1	Aaa/AAA/ --	Aaa/AAA/--
MSAC 2005-HE5	A1	Aaa/AAA/AAA	Aa1/AAA/AAA
MSAC 2005-HE6	A1	Aaa/AAA/AAA	A1/AAA/A
MSAC 2006-HE3	A1	Aaa/AAA/AAA	Caa2/CCC/CC
MSAC 2006-HE5	A1	Aaa/AAA/AAA	Ca/B-/C
MSAC 2006-HE6	A1	Aaa/AAA/AAA	Ca/CCC/C
MSAC 2006-HE8	A1	Aaa/AAA/--	Ca/CCC/--
MSC 2006-NC2	A1	Aaa/AAA/AAA	Caa3/B-/CC
MSAC 2006-NC3	A1	Aaa/AAA/AAA	Caa1/B+/CC
MSAC 2006-NC4	A1	Aaa/AAA/AAA	Caa3/CCC/CC
MSAC 2006-WMC2	A1	Aaa/AAA/AAA	Ca/CCC/C
MSAC 2007-HE1	A1	Aaa/AAA/--	Ca/CCC/--
MSAC 2007-HE5	A1	Aaa/AAA/--	Ca/CCC/--
MSAC 2007-HE7	A1	Aaa/AAA/--	Caa3/CCC/--
MSAC 2007-NC1	A1	Aaa/AAA/--	Ca/CCC/--
MSC 2006-HE2	A1	Aaa/AAA/AAA	Caa2/CCC/CC
MSHEL 2005-4	A1	Aaa/AAA/AAA	A2/AAA/A
MSM 2005-10	3A	Aaa/AAA/--	Caa2/CC/--
MSM 2005-7	5A	Aaa/AAA/--	Caa2/CC/--
MSM 2006-16AX	1A	Aaa/AAA/--	Ca/CCC/--
MSM 2006-2	7A1	Aaa/AAA/--	Caa2/CC/--
MSM 2006-2	7A2	Aaa/AAA/--	C/CC/--
MSM 2007-2AX	1A	Aaa/AAA/--	Ca/CCC/--
MSM 2007-5AX	1A	Aaa/AAA/--	Ca/CCC/--
MSM 2007-7AX	1A	Aaa/AAA/--	Ca/CCC/--
NCHET 2005-B	A1	Aaa/AAA/--	Ba1/AA/--
NCHET 2005-C	A1	Aaa/AAA/--	B3/CCC/--
NCHET 2005-D	A1	Aaa/AAA/--	Caa2/B-/--
SAST 2005-3	A1A	Aaa/AAA/AAA	Aaa/AAA/AA
SAST 2006-1	A1	Aaa/AAA/--	Aa2/A-/--
SAST 2006-2	A2	Aaa/AAA/AAA	Ba3/BB+/CCC

[13] Applicable ratings are shown in sequential order separated by forward slashes: S&P/Moody's/Fitch. A double-hyphen indicates that the relevant agency did not provide a rating at issuance.

Transaction	Tranche	Rating at Issuance (Moody's/S&P/Fitch)	Rating as of July 31, 2011 (Moody's/S&P/Fitch)
SAST 2006-2	A1	Aaa/AAA/AAA	Ba3/BB/CCC
SAST 2007-1	A1	Aaa/AAA/--	Caa3/CCC/--
SAST 2007-2	A1	Aaa/AAA/--	Caa2/CCC/--
SAST 2007-3	1A	Aaa/AAA/AAA	Caa2/CCC/CC
SAST 2007-3	1M1	Aa1/AA+/AA+	C/CCC/C
SAST 2007-3	1M2	Aa2/AA/AA+	C/CCC/C
SAST 2007-3	1M3	Aa3/AA-/AA	C/CCC/C
SAST 2007-3	1M4	A1/A+/AA-	C/CCC/C
SAST 2007-3	1M5	A2/2/A+	C/CCC/C
SAST 2007-3	1M6	A3/A-/A	C/CC/C

c. The Surge in Mortgage Delinquency and Default Further Demonstrates that the Mortgage Loans Were Not Originated in Adherence to the Stated Underwriting Guidelines

126. Even though the Certificates were marketed as long-term, stable investments, a significant percentage of the mortgage loans backing the Certificates have defaulted, have been foreclosed upon, or are delinquent, resulting in massive losses to the Certificateholders. The overall poor performance of the mortgage loans is a direct consequence of the fact that their underlying mortgage loans were not underwritten in accordance with applicable underwriting guidelines as represented in the Prospectus Supplements.

127. Loan groups that were underwritten properly and contained loans with the characteristics represented in the Prospectus Supplements would have experienced substantially fewer payment problems and substantially lower percentages of defaults, foreclosures, and delinquencies than occurred here. Table 9 reflects the percentage of loans in the Supporting Loan Groups that are in default, have been foreclosed upon, or are delinquent as of July 2011.

Table 9

Transaction	Supporting Loan Group	Percentage of Delinquent/Defaulted/Foreclosed Loans
AMIT 2005-4	Group I	42.6%
MSAC 2005-HE5	Group I	53.4%

Transaction	Supporting Loan Group	Percentage of Delinquent/Defaulted/Foreclosed Loans
MSAC 2005-HE6	Group I	45.6%
MSAC 2006-HE3	Group I	42.8%
MSAC 2006-HE5	Group I	62.9%
MSAC 2006-HE6	Group I	70.0%
MSAC 2006-HE8	Group I	42.0%
MSC 2006-NC2	Group I	39.9%
MSAC 2006-NC3	Group I	33.3%
MSAC 2006-NC4	Group I	45.4%
MSAC 2006-WMC2	Group I	49.8%
MSAC 2007-HE1	Group I	53.8%
MSAC 2007-HE5	Group I	56.4%
MSAC 2007-HE7	Group I	50.0%
MSAC 2007-NC1	Group I	54.0%
MSC 2006-HE2	Group I	44.3%
MSHEL 2005-4	Group I	33.7%
MSM 2005-10	Group 3	19.7%
MSM 2005-7	Group 5	11.8%
MSM 2006-16AX	Group 1	47.1%
MSM 2006-2 (7A1)	Group 7	16.1%
MSM 2006-2 (7A2)	Group 7	16.1%
MSM 2007-2AX	Group 1	33.9%
MSM 2007-5AX	Group 1	49.7%
MSM 2007-7AX	Group 1	44.2%
NCHET 2005-B	Group I	37.3%
NCHET 2005-C	Group I	47.1%
NCHET 2005-D	Group I	50.6%
SAST 2005-3	Group 1	35.5%
SAST 2006-1	Group 1	39.8%
SAST 2006-2	Group 2	39.3%
SAST 2006-2	Group 1	39.8%
SAST 2007-1	Group 1	41.2%
SAST 2007-2	Group 1	31.0%
SAST 2007-3 (A1, 1M1-1M6)	Group 1	39.8%

128. The confirmed misstatements concerning owner-occupancy and LTV ratios; the confirmed systematic underwriting failures by the originators responsible for the mortgage loans across the Securitizations; and the extraordinary drop in credit rating and rise in delinquencies across those Securitizations all indicate that the mortgage loans in the Supporting Loan Groups,

contrary to the representations in the Registration Statements, were not originated in accordance with the stated underwriting guidelines.

E. FANNIE MAE'S AND FREDDIE MAC'S PURCHASES OF THE CERTIFICATES

129. Between September 12, 2005 and September 28, 2007, Freddie Mac and Fannie Mae purchased over $10.58 billion in RMBS issued in connection with the Securitizations. Tables 10 and 11 reflect each of Freddie Mac's and Fannie Mae's purchases of the Certificates, respectively.[14] To date, the GSEs have not sold any of the Certificates.

Table 10

Transaction	Tranche	CUSIP	Settlement Date of Purchase by Freddie Mac	Initial Unpaid Principal Balance	Purchase Price (% of Par)	Seller to Freddie Mac
AMIT 2005-4	1A1	00252FDF5	09/12/05	446,899,000.00	100	MS&Co.
MSAC 2005-HE5	A1	61744CUN4	10/28/05	441,470,000.00	100	MS&Co.
MSAC 2005-HE6	A1	61744CVT0	11/29/05	337,122,000.00	100	MS&Co.
MSAC 2006-HE6	A1	61750FAA8	09/27/06	324,649,000.00	100	MS&Co.
MSC 2006-NC2	A1	617451EB1	03/30/06	886,897.00	100	MS&Co.
MSAC 2006-NC3	A1	61744CYZ3	04/28/06	426,670,000.00	100	MS&Co.
MSAC 2006-NC4	A1	61748LAA0	06/23/06	536,150,000.00	100	MS&Co.
MSAC 2006-WMC2	A1	61749KAA1	06/28/06	581,960,000.00	100	MS&Co.
MSAC 2007-HE1	A1	617526AA6	01/26/07	309,100,000.00	100	MS&Co.
MSAC 2007-NC1	A1	617505AA0	01/26/07	320,559,000.00	100	MS&Co.
MSHEL 2005-4	A1	61744CVE3	11/29/05	335,337,000.00	100	MS&Co.
MSM 2005-10	3A	61748HSG7	11/30/05	40,296,000.00	99.7421875	MS&Co.
MSM 2005-7	5A	61748HPE5	10/31/05	26,951,000.00	99.640625	MS&Co.
MSM 2006-16AX	1A	617487AA1	10/31/06	182,501,000.00	100	MS&Co.
MSM 2006-2	7A1	61748HVY4	02/28/06	31,903,000.00	100.265625	MS&Co.
MSM 2006-2	7A2	61748HVZ1	02/28/06	3,545,000.00	100.265625	MS&Co.
MSM 2007-2AX	1A	61751TAA7	01/31/07	157,974,000.00	100	MS&Co.
MSM 2007-7AX	1A	61754HAA0	04/30/07	177,425,000.00	100	MS&Co.
NCHET 2005-B	A1	64352VNE7	09/29/05	590,249,000.00	100	MS&Co.
NCHET 2005-C	A1	64352VNU1	12/06/05	549,534,000.00	100	MS&Co.
NCHET 2005-D	A1	64352VPK1	12/28/05	411,566,000.00	100	MS&Co.
SAST 2005-3	A1A	805564SM4	09/29/05	360,900,000.00	100	RBS
SAST 2006-1	A1	80556UAA1	05/02/06	199,612,000.00	100	Credit Suisse
SAST 2006-2	A2	80556XAB3	06/07/06	197,374,000.00	100	Credit Suisse
SAST 2007-1	A1	80556BAA3	03/07/07	209,071,000.00	100	MS&Co.

[14] Purchases and holdings of securities in Table 10 are stated in terms of UPB of the relevant Certificates. Purchase prices are stated in terms of percentage of par.

Table 11

Transaction	Tranche	CUSIP	Settlement Date of Purchase by Fannie Mae	Initial Unpaid Principal Balance	Purchase Price (% of Par)	Seller to Fannie Mae
MSAC 2006-HE3	A1	61749HAA8	05/25/06	381,635,000.00	100	MS&Co.
MSAC 2006-HE5	A1	61749NAA5	06/30/06	319,485,000.00	100	MS&Co.
MSAC 2006-HE8	A1	61750SAA0	11/29/06	226,710,000.00	100	MS&Co.
MSAC 2007-HE5	A1	61753KAA4	04/26/07	119,919,000.00	100	MS&Co.
MSAC 2007-HE7	A1	61756YAA1	09/28/07	670,205,000.00	100	MS&Co.
MSC 2006-HE2	A1	617451ER6	04/28/06	435,720,000.00	100	MS&Co.
MSM 2007-5AX	1A	61751GAA5	02/28/07	127,608,000.00	100	MS&Co.
SAST 2006-2	A1	80556XAB3	06/07/06	197,374,000.00	100	Credit Suisse
SAST 2007-2	A1	80556YAA3	04/30/07	192,705,000.00	100	MS&Co.
SAST 2007-3	1A	80557BAA2	08/03/07	569,917,000.00	100	MS&Co.
SAST 2007-3	1M1	80557BAF1	08/03/07	36,690,000.00	100	MS&Co.
SAST 2007-3	1M2	80557BAH7	08/03/07	33,021,000.00	100	MS&Co.
SAST 2007-3	1M3	80557BAK0	08/03/07	21,198,000.00	100	MS&Co.
SAST 2007-3	1M4	80557BAM6	08/03/07	17,937,000.00	100	MS&Co.
SAST 2007-3	1M5	80557BAP9	08/03/07	17,937,000.00	100	MS&Co.
SAST 2007-3	1M6	80557BAR5	08/03/07	16,307,000.00	98.9544	MS&Co.

F. FANNIE MAE AND FREDDIE MAC WERE DAMAGED BY DEFENDANTS' VIOLATIONS OF SECTIONS 11, 12, AND 15 OF THE SECURITIES ACT

130. The statements and information in the Registration Statements regarding the credit quality and characteristics of the mortgage loans underlying the GSE-purchased Certificates, and the origination and underwriting practices pursuant to which the mortgage loans purportedly were originated, were material to a reasonable investor. But for the misrepresentations and omissions in the Registration Statements concerning those matters, Fannie Mae and Freddie Mac would not have purchased the Certificates.

131. Based upon sales of the Certificates or similar certificates in the secondary market, or other indications of value, the GSEs have incurred substantial losses on the Certificates due to a decline in value that is directly attributable to Defendants' material misrepresentations and omissions. Among other things, the mortgage loans underlying the Certificates experienced defaults and delinquencies at a higher rate than would have been the

case had the loans underlying the Certificates actually conformed to the origination guidelines, and had the Certificates merited the credit ratings set forth in the Registration Statement.

132. Defendants' misstatements and omissions in the Registration Statement were the direct, proximate and actual cause of the GSEs' losses resulting from their purchase of the Certificates. Although clearly significant, the precise extent of Freddie Mac's injuries will be proven at trial.

133. At the time of their purchases of the Certificates, Fannie Mae and Freddie Mac were unaware of Defendants' misrepresentations, omissions and/or untrue statements. Plaintiff was appointed Conservator of Fannie Mae and Freddie Mac less than one year after the discovery of the untrue statements and omissions contained in the Registration Statements and within three years of the Certificates being offered for sale to the public. Despite the exercise of reasonable diligence, Fannie Mae and Freddie Mac could not reasonably have discovered the untrue statements and omissions in the Registration Statements more than one year prior to the appointment of the Plaintiff as Conservator. This action is timely pursuant to 12 U.S.C. §§ 4617(b)(12) and (13), which provides for extension and tolling of all time periods applicable to the claims brought herein. Moreover, the time period since June 5, 2009 has been tolled for statute of limitations purposes by virtue of a tolling agreement entered into between Fannie Mae and Defendants MS&Co., MSAC, MSMC, SFM and SCI.

II. <u>ADDITIONAL FACTUAL ALLEGATIONS</u>

134. The allegations in paragraphs 135 through 138 below addressing Defendants' knowledge or recklessness concerning the information set forth in or omitted from the Registration Statements and any other materials provided to Freddie Mac are made solely with respect to Plaintiff's common law claims.

A. Defendants Were Incentivized to Fund Risky Residential Mortgage Loans and <u>To Securitize and Sell Them to Investors</u>

135. Securitizing large volumes of loans was a highly lucrative and competitive business for the Defendants. All of the underwriter defendants engaged in this business on a massive scale, each doing multiple billions of dollars worth of securitizations during the period when they sold the Certificates to the GSEs. Fees, which were a percentage of the balance of the loan pool being purchased, and other transaction revenues associated with the Certificates at issue here, and the RMBS securitization business generally, accounted for a substantial portion of the underwriter (and other) Defendants' earnings in the relevant time period. The more and the larger the securitizations the Defendants arranged and participated in, the greater their earnings. This financial motive accounts for Defendants' willingness, intentionally or recklessly, to make false statements in, or to omit material facts from, the Registration Statements and other offering materials. In furtherance of this motive, the Defendant underwriters took measures and entered into arrangements designed to ensure that a continuous and high volume of mortgage loans would be available for securitization.

136. Thus, among other things, the Defendant banks provided "warehouse" funding to mortgage originators to enable these originators to make, and to continue to make, loans. These subprime mortgage originators used those funds to make large numbers of loans, which they then turned around and sold back to the banks whose funds enabled them to make the loans in the first place. The banks then securitized the loans they effectively funded, and transferred the risk to investors like Fannie Mae and Freddie Mac through the sale of the RMBS resulting from the securitizations.

137. These arrangements between the banks and loan originators undermined the underwriting process for the Certificates because the Defendant underwriters had no incentive to

identify and exclude from the securitizations loans that did not conform to the loan originators' stated guidelines. To the contrary, the Defendants had the motive to, and did, include loans that they knew -- or were reckless in not knowing -- did not conform to those guidelines, and that lacked the characteristics or merited the ratings set forth in the Registration Statement.

138. The originator responsible for the largest of loans underlying the Certificates was New Century, now known to be one of the worst subprime lenders.

139. MS&Co., Credit Suisse, Citigroup, Bear Stearns, Merrill Lynch, Bank of America, and Deutsche Bank -- all of whom were underwriters of the Securitizations -- provided billions of dollars of warehouse lending to New Century. In 2006, MS&Co. provided $3 billion and $650 million in warehouse loans to New Century and American Home, respectively. (Assurance of Discontinuance ¶ 12.)

140. In addition to MS&Co., the other underwriters of the Securitizations engaged in warehouse lending as well. From 2000 to 2010, Citi extended warehouse lines of credit of up to $7 billion to unaffiliated originators, including $950 million to New Century and over $3.5 billion to Ameriquest. (FCIC Report at 113.) Citi and JPM lent their own mortgage origination subsidiaries at least $26.3 billion and $30 billion, respectively, between 2005 and 2007. (*See* "Who is Behind The Financial Meltdown: The Top 25 Subprime Lenders and their Wall Street Backers," The Center for Integrity, available at http://www.publicintegrity.org/investigations/economic_meltdown/the_subprime_25/.) Upon information and belief, RBS also engaged in the same warehouse lending practices.

141. The lending relationship between the investment banks and the originators did not merely assure that there would be a high volume of loans generally available to securitize. It also gave the banks the inside track on acquiring for securitization the loans generated with their

funds. Thus, for example, according to the Assurance of Discontinuance filed by the Massachusetts Attorney General, Morgan Stanley sometimes would commit to buying loans from New Century months in advance, such that New Century was often originating loans *for the purpose* of fulfilling its commitment to Morgan Stanley. (Assurance of Discontinuance ¶ 12). Morgan Stanley's warehouse loan was then repaid when the originator's loan pool was sold to Morgan Stanley for securitization.

142. To make matters worse, upon information and belief, because Morgan Stanley had agreed in advance to buy the loans securing its warehouse lines, it was committed to purchasing the loans regardless of their credit quality or despite the results of its own due diligence. If Morgan Stanley were to reject too many loans, it would jeopardize its relationship with lenders, such as New Century, and also decrease its own profits because of the resulting reduction in the size of the securitizations. Thus, for example, in one instance, after New Century complained to Morgan Stanley about the rate of loan rejection and suggested that New Century would shift its business to other buyers, Morgan Stanley purchased the loans that its internal due diligence team initially had rejected. (Assurance of Discontinuance ¶¶ 24-25.)

143. In a March 21, 2007 earnings conference call, Morgan Stanley highlighted its integrated approach to RMBS, without disclosing the inherent conflicts of interest:

> We participate in the subprime mortgage market in a number of ways. Through our securitized product groups we purchased loans from originators and originate loans, including through Saxon, which closed this quarter. We are active in the structuring, securitization, and distribution of subprime products, including CLOs and CDOs. Third, we manage our risk through a variety of hedging strategies and we also take proprietary risk positions. In the aggregate, these activities were a significant contributor to our results this quarter. In addition, we extend loans and lending commitments to clients that are secured by assets of the borrower such as loan pools. At the end of the quarter, whereas [sic] lending commitments to the subprime lenders totaled $5.2 billion, of which $2.3 billion was funded and fully collateralized. The largest component of this was the New Century. Our current

> funded balance with New Century is $2.5 billion. Finally, through our acquisition of Saxon, we have servicing capabilities.

(Morgan Stanley F1Q07 (Qtr End 2/28/07) Earnings Call Transcript, March 21, 2007, http://seekingalpha.com/article/30299-morgan-stanley-f1q07-qtr-end-2-28-07-earnings-call-transcript (last visited Aug. 19, 2011).)

144. Morgan Stanley and other underwriters of the Securitizations were therefore motivated to churn out and securitize as many mortgages as possible because they earned so much in revenues on both ends of the securitization process, without bearing the ultimate risk of default. Indeed, MS&Co. and each of the other underwriters ranked in the top ten of the nation's largest underwriters of RMBS between 2004 and 2007, according to Inside Mortgage Finance. The three underwriters that sold the Certificates to Fannie Mae and Freddie Mac -- Morgan Stanley, Credit Suisse, and RBS -- were especially prolific.

145. From 2005 through 2007, when the Certificates were issued and subsequently purchased by Fannie Mae and Freddie Mac, Morgan Stanley greatly increased the volume of RMBS it issued by, among other things, acquiring Defendant SCI and its subsidiaries SMI, SFM, and SASC, which acted as originator, sponsor, and depositor for RMBS, respectively. Thus, whereas the approximate initial principal amount of securities backed by mortgage loans that Morgan Stanley initially issued was relatively small -- roughly $0.4 billion in 2000 -- by 2006, the amount had ballooned to $26 billion. By 2007, Morgan Stanley ranked tenth with $26.8 billion in transactions, RBS was fifth with $50.3 billion, and Credit Suisse ranked sixth with $44.1 billion. (*2011 Mortgage Market Statistical Annual*, Vol. II (Inside Mortgage Finance Publ'ns, Inc., 2011).)

B. Defendants' Material Misrepresentations and Omissions in the Offering Materials

146. In connection with the sale of the Certificates, the selling underwriters MS&Co., Credit Suisse and RBS; the depositors MSAC, MSC and SASC; and the sponsors MSMC and SFM (together, the "Fraud Defendants") each made misrepresentations and omissions of material fact to Fannie Mae and Freddie Mac in term sheets, Registration Statements, Prospectuses, Prospectus Supplements, and other draft and final written offering documents (the "Offering Materials") These Offering Materials described the credit quality and other characteristics of the underlying mortgage loans on an aggregate basis and were provided to investors, including the GSEs.

147. Accordingly, Fannie Mae and Freddie Mac required the Fraud Defendants to provide representations and warranties regarding the origination and quality of the mortgage loans, including that the mortgage loans had been underwritten by the loan originators pursuant to extensive guidelines.

148. Through term sheets or other offering documents, the Fraud Defendants also furnished the GSEs with anticipated credit ratings on the proposed pool of mortgage loans intended for securitization.

149. On information and belief, the Fraud Defendants solicited anticipated ratings from credit rating agencies based on misrepresentations by Defendants as to the credit quality of the proposed pool of mortgage loans intended for securitization, and the amount of the overcollateralization in the deal. Virtually all the Securitizations had anticipated ratings of at least AAA or its equivalent.

150. Furthermore, the Fraud Defendants delivered Prospectus Supplements to the GSEs that included more specific information about the loans underlying the Certificates in each Securitization.

151. The materially false and misleading information contained in the initial and final Prospectus Supplements that the Fraud Defendants provided to the GSEs included reproductions of the same schedules that the Fraud Defendants provided to the GSEs, containing false data about LTV ratios and owner-occupancy statistics.

152. The Offering Materials, among other things, (1) misrepresented the loans and loan originators' adherence to the stated underwriting guidelines; (2) overstated the number of loans for owner-occupied properties; (3) understated the loan pools' average LTV ratios; and (4) failed to disclose that the credit ratings of the Certificates were based on false information. Each misrepresentation and omission created an additional, hidden layer of risk well beyond that known to be associated with non-agency loans or subprime loans.

153. First, the Fraud Defendants' statements regarding the mortgage pools' compliance with stated underwriting guidelines were false. The falsity of such representations is evident from disclosures concerning the originators' systematic disregard of their stated underwriting guidelines, as well as the Certificates' high default rates and plummeting credit ratings. Indeed, of the 18 originators whose loans were sold into the Securitizations, six were cited as one of the "worst ten" in the "worst ten" metropolitan areas: American Home, Decision One, Greenpoint, IndyMac, New Century, and WMC. Government and private investigations have confirmed that these originators failed to apply any standards at all when making high-risk loans. Moreover, the subsequent high default rates and ultimately lowered credit ratings on the Certificates confirm that the loans were not properly underwritten in the first place. As shown in Tables 8 and 9, the

average rate of default across the Securitizations is 41.7 percent, and although 35 of the tranches of Certificates purchased by the GSEs had been rated AAA (or its equivalent) at the time of purchase, by July 31, 2011, all but two had been had been downgraded, and most had been downgraded to junk or nearly junk-bond status, with 25 downgraded to CCC (or its equivalent), the lowest rating above junk. *See supra* Part (I)(D)(2).

154. These misstatements were material because as discussed above, the quality of loans in the pool determined the risk of the Certificates backed by those loans. Because a reasonable underwriting process had not been followed, the entire loan pool was much riskier and more prone to default and market losses than represented. The systemic underwriting failures decreased the reliability of *all* the information provided to the GSEs about the loans, and thus increased the actual risk to investors. As a result of those failures, the value of the Certificates was substantially lower than the price paid by Fannie Mae and Freddie Mac for those Certificates.

155. Second, as shown in Table 6, the Fraud Defendants materially understated the non-owner-occupied status for each Securitization by an average of 10.1 percent.

156. Third, the Fraud Defendants understated the loan pools' average LTV ratios, which overstated the borrowers' equity "cushion" in the property. As Table 7 demonstrates, on average, only 42.4 percent of the loans actually had LTV ratios of less than 80 percent, as opposed to 65.7 percent as represented in the Prospectus Supplements. Moreover, while all of the Certificates purchased by the GSEs were represented to have no loans with an LTV over 100 percent, in reality, all but five deals contained at least 10.5 percent loans with greater than 100 percent LTV, with an average of 15.55 percent. In other words, in almost all of the Securitizations, a significant percentage of the mortgage loans either were under-secured or

"under water" from the start. The understatement of LTV ratios was misleading because it misrepresented the risk of a borrower abandoning a property if the value dropped below the unpaid balance of the loan, as well as the risk that proceeds from a foreclosure sale would fail to cover the unpaid balance.

157. Further, the Fraud Defendants failed to disclose that the Certificates' credit ratings were false and misleading because Defendants provided to the ratings agencies the same misinformation found in the Offering Materials in an attempt to manufacture predetermined ratings. In testimony before the Senate Permanent Subcommittee on Investigations ("SPSI"), Susan Barnes, the North American Practice Leader for RMBS at S&P from 2005 to 2008, confirmed that the rating agencies relied upon investment banks to provide accurate information about the loan pools:

> The securitization process relies on the quality of the data generated about the loans going into the securitizations. *S&P relies on the data produced by others and reported to both S&P and investors about those loans . . . . S&P does not receive the original loan files for the loans in the pool*. Those files are reviewed by the arranger or sponsor of the transaction, who is also responsible for reporting accurate information about the loans in the deal documents and offering documents to potential investors.

(SPSI hearing testimony, April 23, 2010) (emphasis added). As a result, the ratings failed to reflect accurately the actual risk underlying the Certificates purchased by the GSEs because the ratings agencies were analyzing a mortgage pool that had no relation to the pool that actually backed the Certificates purchased by the GSEs.

158. Senior executives at Moody's also confirmed that they were fed and relied on false information that affected their ratings:

- "We're on notice that a lot of the things that we relied on before just weren't true."
- "There's a lot of fraud that's involve there, things we don't see. . . . We're sort of retooling [our methodologies and approaches] to make sure that we capture a lot

> of things that we relied on in the past that we can't rely on, on a going forward basis."

- "It's actually quite interesting that we're being asked to figure out how much everybody lied. . . . I mean, if all of the information was truthful and comprehensive and complete, we wouldn't have an issue here."

159. The AAA (or equivalent) anticipated and final credit ratings were material to Fannie Mae and Freddie Mac, because the ratings provided additional assurances that the GSEs would receive the expected interest and principal payments. Fannie Mae and Freddie Mac would not have purchased the Certificates without the proper ratings and would not have paid as much for them without the investment grade status.

160. Each of the Fraud Defendants is responsible for the representations made in or omitted from the Offering Materials. Specific false and misleading statements in the Registration Statements for the Certificates purchased by the GSEs are detailed in Parts (I)(C) and (I)(D), *supra* and Appendix A, which is incorporated by reference.

161. Because payment on the Certificates ultimately was funded by payments from the mortgagors, Fannie Mae and Freddie Mac faced a risk of non-payment if too many borrowers defaulted on their loans and the value of the mortgaged properties was insufficient to cover the unpaid principal balance. By misrepresenting the true risk profile of the underlying loan pools, the Fraud Defendants defrauded Fannie Mae and Freddie Mac.

162. As the FCIC found:

> The Commission concludes that firms securitizing mortgages failed to perform adequate due diligence on the mortgages they purchased and at times knowingly waived compliance with underwriting standards. *Potential investors were not fully informed or were misled* about the poor quality of the mortgages contained in some mortgage-related securities. *These problems appear to have been significant.*

(FCIC Report at 187 (emphasis added).)

C. The Fraud Defendants Knew or Were Reckless in Not Knowing That Their <u>Representations Were False and Misleading</u>

163. The Fraud Defendants knew or were reckless in not knowing that their representations in the Offering Materials were false, and that the information they omitted from those documents rendered them materially misleading. The consistency of the misrepresentations and omissions across all of the 33 Securitizations is strong evidence that the Fraud Defendants did not innocently make materially false statements and omissions, but actually knew or were reckless in not knowing that (1) the loan originators systemically disregarded their own underwriting guidelines, (2) the LTV ratios presented in the Offering Materials were materially inaccurate, (3) the owner-occupancy rates presented in the Offering Materials were materially inaccurate, and (4) the credit ratings for the Certificates were based on incomplete and inaccurate information and were not believed by the ratings agencies when provided. In the case of the Morgan Stanley Defendants -- which structured, implemented, or underwrote all of the Securitizations -- the securities underwriting due diligence process was so compromised that Morgan Stanley cannot have believed in the truth of, or had a sound basis for believing, the representations in the Offering Materials, and had to have known that the information omitted therefrom was material and rendered the information provided misleading. Thus, for example, the FCIC, in its report on the financial crisis, expressly found that Morgan Stanley's due diligence apparatus was inadequate both in its size and geographic location, stating:

> At Morgan Stanley, the head of due diligence was based not in New York but rather in Boca Raton, Florida. He had, at any one time, two to five individuals reporting to him directly -- but they were actually employees of a personnel consultant. . .

(FCIC Report at 168) (footnote omitted).)

164. Thus, Morgan Stanley had two to five people in Boca Raton, Florida performing due diligence on tens of billions of dollars worth of securitizations being originated and run from New York. This alone renders it more likely than not that Morgan Stanley lacked capacity and controls to determine that the representations in the Registration Statements concerning the securitizations were true. As described below, Morgan Stanley hired a third-party due-diligence firm to supplement their inadequately staffed due-diligence team, then ignored that firm's warnings about loans that became part of RMBS, including the Certificates.

165. Morgan Stanley's lax due diligence standards, and its failure to present accurate and complete information concerning the loan origination practices of the originators whose loans underlie the Certificates, were likely attributable at least in part to the warehouse lending relationships it had with several of those originators, and to the fact that Morgan Stanley was dependent on those originators to feed it the high volume of loans it needed to keep churning out securitizations. The FCIC found that underwriter/originator warehouse lending relationships led to an environment in which "financial institutions ineffectively sampled loans they were purchasing to package and sell to investors, "and "knew a significant percentage of the sampled loans did not meet their own underwriting standards or those of the originators. Nonetheless, they sold those securities to investors. The Commission's review of many prospectuses provided to investors found that this critical information was not disclosed." (FCIC Report at xii.)

166. Given Morgan Stanley's close relationships with the originators for the Certificates at issue here, it had a unique window into the true credit quality of the loans backing the Certificates and undue influence over the loan origination process. As one industry publication explained, warehouse loan providers had "detailed knowledge of the [mortgage]

lender's operations." (Kevin Connor, *Wall Street and the Making of the Subprime Disaster*, November 2007 at 11.)

167. Morgan Stanley's warehouse lending and other relationships with New Century were particularly close (and were the subject of the Massachusetts AG investigation and Morgan Stanley settlement already alleged). New Century's former president testified before the Bankruptcy Examiner appointed by the Bankruptcy Court overseeing New Century's Chapter 11 proceeding that New Century often reached deals with loan purchasers to limit the percentage of loans the purchaser would "kickout" of the loan pool due to the poor quality of the loan. (*See*, Final Report of Michael J. Missal Bankruptcy Court Examiner, Case No. 07-10416(KJC) (D.Del. Feb. 29, 2008) at 135.) That admission, the warehouse lending relationship between New Century and Morgan Stanley and the fact that Morgan Stanley did more business with this "worst of the worst" originator than any other bank, strongly suggest that Morgan Stanley and New Century had such a deal.

168. Morgan Stanley was not the only Defendant with a particularly close relationship with New Century. According to the FCIC, Morgan Stanley and Credit Suisse together accounted for three-quarters of all deals securitized using New Century mortgage loans as early as 2003. (FCIC Report, at 89.) New Century's systematic departure from its stated loan origination guidelines has come to light in recent years. That departure has been extensively investigated and reported on by, among others, the Bankruptcy Examiner in the New Century Chapter 11 proceeding, the Massachusetts AG and the FCIC, as well as in the financial press. Upon information and belief Morgan Stanley, Credit Suisse and other Defendants knew the falsity of the representations in the Registration Statements that New Century loans underlying various of the Certificates were originated in accordance with its underwriting guidelines, or at a

minimum these Defendants knew that neither they nor New Century had any basis to represent otherwise. These Defendants also intentionally or recklessly omitted the truth about New Century's origination practices.

169. Morgan Stanley's knowledge concerning New Century's origination practices went far beyond a general awareness that New Century was systematically disregarding its own guidelines. During the 2005 to 2006 period, Morgan Stanley had determined, in reviewing and rejecting loans for purchase, that the stated income on a number of New Century loans was unreasonable and that stated income credit had not been adequately evaluated by New Century. This raised red flags because approximately 36 percent of the loans originated by New Century were stated income loans. A Morgan Stanley employee described the stated income method of verifying borrower income as overused to the point of abuse. (Assurance of Discontinuance ¶ 38.) On average, the stated income of the borrowers for these New Century loans was approximately 42 percent higher than the income of borrowers who did not merely "state" their income but rather submitted full documentation reflecting it; this discrepancy strongly indicated that the stated income borrowers were materially overstating their income. (Assurance of Discontinuance ¶ 39.)

170. The other Fraud Defendants, Credit Suisse and RBS, joined the Morgan Stanley Defendants in consciously disregarding and departing from sound securities underwriting standards, and in failing to disclose that they had done so and the fact that doing so rendered information provided in the Registration Statements false, misleading and unreliable. These Defendants' intent or recklessness is further evidenced by their conduct in relation to third-party due diligence providers.

171. Among the third-party due diligence experts engaged by the Fraud Defendants was Clayton Holdings, Inc. ("Clayton").[15] Clayton was "hired to identify, among other things, whether the loans met the originators' stated underwriting guidelines and, in some measure, to enable clients to negotiate better prices on pools of loans." (FCIC Report at 166 (footnote omitted).) Yet, upon information and belief, the Fraud Defendants routinely disregarded and manipulated Clayton's findings.

172. In January 2008, Clayton disclosed that it had entered into an agreement with the New York Attorney General ("NYAG") to provide documents and testimony regarding its due diligence reports, including copies of the actual reports provided to its clients. According to *The New York Times*, as reported on January 27, 2008, Clayton told the NYAG "that starting in 2005, it saw a significant deterioration of lending standards and a parallel jump in lending expectations" and "some investment banks directed Clayton to halve the sample of loans it evaluated in each portfolio." Upon information and belief, Morgan Stanley, Credit Suisse and RBS were included in that group of investment banks. Thus, these Defendants made a conscious decision *not to* avail themselves of comprehensive due diligence regarding the loans they were securitizing, which alone renders their misrepresentations concerning those loans knowing or reckless.

173. For the 18 month period ending on June 31, 2007, a significant percentage of the loans sampled by Clayton at the direction of the selling underwriters failed to meet the various

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[15] Clayton was the leading provider of third-party due diligence during the relevant time period. In 2006, Clayton analyzed over $418 billion in loans underlying mortgage-backed securities, which represented 22.8% of the total outstanding U.S. non-agency mortgage-backed securities for that year. (Clayton, Form 10-K.) During 2004, 2005, and 2006, Clayton worked with each of the ten largest non-agency mortgage-backed securities underwriters, as ranked by *Inside MBS & ABS*, which accounted for 73% to 78% of the total underwriting volume during those years.

loan originators' underwriting guidelines. This information was provided to Morgan Stanley, RBS, and Credit Suisse, but they overruled Clayton's findings and "waived in" substantial percentages of those loans (approximately 56 percent for Morgan Stanley, 53 percent for RBS, and 33 percent for Credit Suisse).

174. Upon information and belief, these Defendants waived in these loans, found by Clayton to be non-compliant with the relevant originator's origination guidelines, without taking any adequate steps of their own to verify Clayton's findings. These loans then found their way into RMBS that were sold to investors like the GSEs. (*See* Clayton Trending Reports, available at http://fcic.law.stanford.edu/hearings/testimony/the-impact-of-the-financial-crisis-sacramento#documents; FCIC Report, 167.)

175. The revelations concerning the Defendants' routine disregard of Clayton's due diligence findings and recommendations further supports an inference of intent or recklessness on the part of these Defendants with respect to the misrepresentations in and omissions from the Offering Materials concerning adherence to loan origination standards, LTV ratios, owner-occupancy rates, and credit ratings (among others).

176. Morgan Stanley personnel have admitted to Congressional investigators that Morgan Stanley's loan review process was defective. In an interview with the FCIC, Tony Peterson, a Vice President in Morgan Stanley's due diligence group, stated that Morgan Stanley routinely rejected Clayton's findings with respect to sampled loans. Mr. Peterson further admitted that Morgan Stanley traders who created Morgan Stanley's RMBS deals had information concerning the inferior quality of the loans they were securitizing and that significant aspects of the due diligence process, including which loans were to be sampled, were dictated by Morgan Stanley traders in New York.

177. Like the NYAG, the Massachusetts Attorney General also "undertook an investigation into the financing, purchase, and securitization of allegedly unfair residential mortgage loans during the period late 2005 through the first half of 2007" by Morgan Stanley. Although Morgan Stanley did not admit the allegations in the "Assurance of Discontinuance" filed by the Massachusetts AG in resolution of that investigation, Morgan Stanley settled the charges against it in exchange for a payment of $102 million. The core of the Massachusetts AG's findings was that New Century systematically disregarded its own underwriting standards, that Morgan Stanley had a "partner"-like relationship with New Century by virtue of the warehouse lending relationship alleged above and otherwise, that Morgan Stanley routinely disregarded Clayton's findings with respect to New Century's loan practices and New Century-originated loans, and that New Century's origination practices violated Massachusetts's law. The Massachusetts AG's investigation and allegations, and Morgan Stanley's willingness to settle the matter for a sum in excess of one hundred million dollars, further support the allegations herein of knowledge or recklessness on the part of Morgan Stanley.

178. The Fraud Defendants also knew or recklessly disregarded that the owner-occupancy statistics and LTV ratios reported in the Offering Materials were false and misleading. Given their role as underwriters of the Certificates, the relationships they had with loan originators and their expertise in underwriting and securitizing RMBS, the Fraud Defendants had the practical ability to gain access to loan files and the ability and resources to test the reported data points, such as owner-occupancy rates and LTV ratios. They intentionally elected not to do so, rendering their representations concerning those data knowingly or recklessly false.

179. Moreover, upon information and belief, underwriters, including certain of the Fraud Defendants, influenced the appraisals used to determine LTV ratios. Government investigations have uncovered widespread evidence of appraisers being pressured to overvalue properties so more loans could be originated. For instance, several witnesses, ranging from the President of the Appraisal Institute to appraisers and lenders on the ground, confirmed that appraisers felt compelled to come in "at value" -- *i.e.*, at least the amount needed for the loan to be approved -- or face losing future business or their livelihoods. Given the systemic pressure applied to appraisers, upon information and belief, the appraisers themselves, the originators, and the underwriters did not believe that the appraised values of the properties -- and therefore LTV ratios -- were true and accurate at the time they communicated the information to potential investors, including the GSEs.

180. Further, the Fraud Defendants knew or were reckless in not knowing that the credit ratings reported for the Certificates failed to reflect the actual risk of the Certificates, and that the ratings agencies had no basis to believe in the accuracy of those ratings. Not only did these Defendants provide the ratings agencies with false loan-level information, but they also routinely engaged in "ratings shopping" -- *i.e.*, pressuring the ratings agencies for favorable ratings and playing the rating agencies off one another with the threat of withholding future business if the sponsoring bank was not given favorable treatment. As detailed in the SPSI Report:

> At the same time Moody's and S&P were pressuring their RMBS and CDO analysis to increase market share and revenues, the investment banks responsible for bringing RMBS and CDO business to the firms were pressuring those same analysts to ease rating standards. Former Moody's and S&P analysts and managers interviewed by the Subcommittee described, for example, how investment bankers pressured them to get their deals done quickly, increase the size of the tranches that received AAA ratings, and reduce the credit enhancements protecting the AAA tranches from loss. They also pressed the CRA analysts and managers to ignore a host of factors that could be seen as

> increasing credit risk. Sometimes described as "ratings shopping," the analysts described how some investment bankers threatened to take their business to another credit rating agency if they did not get the favorable treatment they wanted. The evidence collected by the Subcommittee indicates that the pressure exerted by investment banks frequently impacted the ratings process, enabling the banks to obtain more favorable treatment than they otherwise would have received.

(See Sen. Levin, Carl and Sen. Coburn, Tom, U.S. Senate Permanent Subcommittee on Investigations, *Wall Street and the Financial Crisis: Anatomy of a Financial Collapse* (Committee on Homeland Security and Governmental Affairs, April 13, 2011) (the "SPSI Report"), at 278.)

181. As one S&P director put it in an August 8, 2006 email: "[Our RMBS friends have] become so beholden to their top issuers for revenue [that] they have all developed a kind of Stockholm syndrome which they mistakenly tag as Customer Value creation." Ratings analysts who complained about the pressure, or did not do as they were told, were quickly replaced on deals or terminated.

182. Summarizing the intense pressure investment banks put on ratings analysts to provide favorable ratings, a former Moody's VP and Senior Credit Officer testified before the FCIC that "[t]he willingness to decline to rate, or to just say no to proposed transactions, steadily diminished over time. That unwillingness to say no grew in parallel with the company's share price and the proportion of total firm revenues represented by structured finance transactions . . . coincident with the steady drive toward commoditization of the instruments we were rating . . . . The threat of losing business . . . even if not realized, absolutely tilted the balance away from independent arbiter of risk towards a captive facilitator of risk transfer . . . . The message from management was . . . 'Must say yes.'" (*See* Written Testimony of Richard Michalek (FCIC Hearing, June 2, 2010), available at http://fcic-static.law.stanford.edu/cdn_media/fcic-testimony/2008-0602-Michalek-corrected-oral.pdf; *see also* Written Statement of Eric

Kolchinsky, Managing Director, Moody's Derivatives Group (SPSI Hearing, Apr. 23, 2011) ("Managers of rating groups were expected by their supervisors and ultimately the Board of Directors . . . to build, or at least maintain, market shares. It was an unspoken understanding that loss of market share would cause a manager to lose his or her job;" "[L]owering credit standards . . . was one easy way for a managing director to regain market share."), available at http://hsgac.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=bd65f802-961c-4727-b176-72ece145baef.)

D. Fannie Mae and Freddie Mac Justifiably Relied on the Misrepresentations and Omissions in the Offering Materials and Were Damaged by Defendants' Fraudulent Conduct

183. Fannie Mae and Freddie Mac are government-sponsored enterprises chartered by Congress to provide liquidity, stability, and affordability to the U.S. housing and mortgage markets. In furtherance of this mission, the GSEs purchase mortgages and invest in RMBS.

184. Generally, when purchasing RMBS, the GSEs require compliance with their investment requirements, as well as various representations and warranties concerning, among other things, the credit quality of the underlying loans, evaluation of the borrower's ability to pay, the accuracy of loan data provided, and adherence to applicable local, state, and federal law. Such representations and warranties were material to the GSEs' decisions to purchase RMBS, including the Certificates.

185. The Fraud Defendants intended for investors, including Fannie Mae and Freddie Mac, to rely on their representations of material facts about the assets backing the Certificates. These Defendants regularly provided prospective RMBS investors with information concerning the volume of their annual securitization business to assure investors that, by virtue of their expertise in and share of the RMBS market, Fannie Mae and Freddie Mac should rely upon the

representations and warranties in their Offering Materials. (*See, e.g.* Prospectus Supplement to the MSAC 2006-HE8 Securitization, filed November 22, 2006.)

186. The Fraud Defendants knew that Fannie Mae and Freddie Mac had specific requirements for investing in non-agency mortgage-backed securities and intended for the GSEs to rely on their fraudulent misstatements as shown by their provision of representations, warranties and anticipated credit ratings in connection with the Certificates, and their repetition of false loan statistics in the term sheets, free writing prospectuses, and Prospectus Supplements, among other materials.

187. In fact, Fannie Mae and Freddie Mac did rely to their detriment on the Fraud Defendants' misrepresentations and material omissions in the Offering Materials.

188. The GSEs' reliance was justifiable because the GSEs necessarily were required to rely upon the Fraud Defendants to provide accurate information regarding the loans. The GSEs lacked access to the actual loan files and the loan-level data essential to perform statistical tests with respect to, among other things, owner-occupancy and LTV ratios.

189. The GSEs' reliance also was justifiable because industry practice was for an investor to rely upon the representations and warranties of the sponsors and underwriters regarding the quality of the mortgage loans and the standards under which they were originated. Information regarding the originators' compliance with underwriting guidelines, owner-occupancy rates, LTV ratios, and the information provided to credit ratings agencies, was peculiarly within the knowledge of the Fraud Defendants.

190. The GSEs were induced into buying the Certificates based on the false and misleading Offering Materials. They would not have purchased the Certificates had they known

the truth concerning the matters alleged herein. Alternatively, the GSEs suffered damages because the price they paid for the Certificates was higher than their actual value.

191. From the day the GSEs purchased the Certificates, they suffered injury. As a result of Defendants' misrepresentations, the true value of the Certificates on the date of purchase was far lower than the price paid for them by the GSEs.

FIRST CAUSE OF ACTION

Violation of Section 11 of the Securities Act of 1933 (Against MS&Co., MSAC, MSC, SASC, Credit Suisse, RBS and the Individual Defendants)

192. Plaintiff realleges paragraphs 1 through 133 as if fully set forth herein. For purposes of this cause of action, Plaintiff hereby expressly excludes any allegation that could be construed as sounding in fraud.

193. This claim is brought by FHFA pursuant to Section 11 of the Securities Act of 1933 and is asserted on behalf of Fannie Mae and Freddie Mac, which purchased the Certificates issued pursuant to the Registration Statements for the Securitizations listed in paragraph 40.

194. This claim is for strict liability based on the material misstatements and omissions in the Registration Statements for the 33 Securitizations (as specified in Table 1, *supra* at paragraph 41), and is asserted against MS&Co., MSAC, MSC, and SASC, Credit Suisse, RBS and the Individual Defendants (together, the "Section 11 Defendants").

195. MS&Co., Credit Suisse, and/or RBS acted as underwriter in connection with the sale of the Certificates for each of the 33 Securitizations (as specified in Table 1, *supra* at paragraph 41), directly and indirectly participated in distributing the Certificates, and directly and indirectly participated in drafting and disseminating the Registration Statements. MS&Co., Credit Suisse, and/or RBS were underwriters for the Certificates, and are strictly liable for the

misstatements and omissions in the Registration Statements under Section 11 of the Securities Act.

196. Depositors MSAC, MSC and SASC filed Shelf Registration Statements (as specified in Table 2, *supra* at paragraph 47) pursuant to which the Securitizations were carried out, and are the "issuers" of the Certificates issued pursuant to the Registration Statements within the meaning of Section 2(a)(4) of the Securities Act, 15 U.S.C. § 77b(a)(4), and in accordance with Section 11(a), 15 U.S.C. § 77k(a).

197. At the time Depositors MSAC, MSC and SASC filed the relevant Shelf Registration Statements, the Individual Defendants were officers and/or directors of MSAC, MSC and SASC (as specified in Table 2, *supra* at paragraph 47). The Individual Defendants signed the Shelf Registration Statements, and either signed (or authorized another to sign on their behalf) the amendments to the Shelf Registration Statements. As such, the Individual Defendants are strictly liable for the misstatements and omissions in the Shelf Registration Statements under Section 11 of the Securities Act.

198. At the time that they became effective, each of the Registration Statements, as set forth above, contained material misstatements of fact and omitted information necessary to make the facts stated therein not misleading. The facts misstated or omitted were material to a reasonable investor in the Certificates sold pursuant to the Registration Statements.

199. The untrue statements of material facts and omissions of material fact in the Registration Statements are principally those set forth herein in Parts (I)(C) and (D) and Appendix A, and pertain to purported compliance with underwriting guidelines, occupancy status, loan-to-value ratios and credit ratings.

200. Fannie Mae and Freddie Mac purchased or otherwise acquired the Certificates pursuant to the false and misleading Registration Statements and in the primary market. At the time they purchased the Certificates, Fannie Mae and Freddie Mac were unaware of the false and misleading statements and omissions alleged herein, and if they had known those facts, they would not have purchased the Certificates.

201. MS&Co., Credit Suisse, and RBS were obligated to make a reasonable investigation of the statements contained in the Registration Statements at the time they became effective to ensure that such statements were true and correct, and that there were no omissions of material facts required to be stated in order to make the statements contained therein not misleading. The Individual Defendants owed the same duty with respect to the Shelf Registration Statements that they signed, which are applicable to all 33 of the Securitizations.

202. MS&Co., Credit Suisse, RBS and the Individual Defendants did not exercise such due diligence and failed to conduct a reasonable investigation, as alleged in paragraphs 38 through 128. In the exercise of reasonable care, these Defendants should have known of the false statements and omissions contained in or omitted from the Registration Statements filed in connection with the Securitizations, as set forth herein. In addition, although the performance of due diligence is not an affirmative defense available to the Depositors on this strict liability claim, they nonetheless also failed to take reasonable steps to ensure the accuracy of the representations made in the Registration Statements.

203. By virtue of the foregoing, Fannie Mae and Freddie Mac sustained substantial damages, including depreciation in the value of the Certificates, as a result of the misstatements and omissions in the Registration Statements. Plaintiff is entitled to damages, jointly and severally, from each of the Section 11 Defendants.

204. Based on the foregoing, MS&Co., MSAC, MSC SASC, Credit Suisse, RBS, and the Individual Defendants are jointly and severally liable for their wrongdoing.

SECOND CAUSE OF ACTION

Violation of Section 12(a)(2) of the Securities Act of 1933
(Against Defendants MS&Co., MSAC, MSC SASC, Credit Suisse, and RBS)

205. Plaintiff realleges paragraphs 1 through 133 above as if fully set forth herein. For purposes of this cause of action, Plaintiff hereby expressly excludes any allegation that could be construed as sounding in fraud.

206. This claim is brought by Plaintiff pursuant to Section 12(a)(2) of the Securities Act of 1933 and is asserted on behalf of Fannie Mae and Freddie Mac, which purchased the Certificates issued pursuant to the Registration Statements in the Securitizations listed in paragraph 40.

207. MS&Co., Credit Suisse, and RBS are prominently identified as underwriters in the Prospectuses used to sell the Certificates. MS&Co., Credit Suisse, and RBS offered, promoted, and/or sold the Certificates publicly, including selling to Fannie Mae and Freddie Mac their Certificates, as set forth in the "Plan of Distribution" or "Underwriting" sections of the Prospectuses. MS&Co., Credit Suisse, and RBS offered, promoted, and/or sold the Certificates to Fannie Mae and Freddie Mac as specified in Table 2, *supra* at paragraph 47.

208. MS&Co., Credit Suisse, and RBS offered, promoted, and/or sold the Certificates to Fannie Mae and Freddie Mac by means of the Prospectuses that contained untrue statements of material facts and omitted to state material facts necessary to make the statements, in light of the circumstances under which they were made, not misleading. MS&Co., Credit Suisse, and RBS successfully solicited Fannie Mae and Freddie Mac's purchases of the Certificates, and generated millions of dollars in commissions in connection with the sale of the Certificates.

209. MS&Co., Credit Suisse, and RBS offered the Certificates for sale, sold them, and distributed them by the use of means or instruments of transportation and communication in interstate commerce.

210. The Depositors are prominently identified in the Prospectuses for the Securitizations carried out under the Registration Statements that they filed. These Prospectuses were the primary documents each used to sell the Certificates for the 30 Securitizations under those Registration Statements. MSAC, MSC and SASC offered the Certificates publicly and actively solicited their sale, including to Fannie Mae and Freddie Mac.

211. With respect to the Securitizations for which they filed Registration Statements, the Depositors offered the Certificates to Fannie Mae and Freddie Mac by means of Prospectuses that contained untrue statements of material facts and omitted to state material facts necessary to make the statements, in the light of the circumstances under which they were made, not misleading. Upon information and belief, the Depositors reviewed and participated in drafting the Prospectuses.

212. The Depositors offered the Certificates for sale by the use of means or instruments of transportation and communication in interstate commerce.

213. MS&Co., Credit Suisse, and RBS actively participated in the solicitation of Fannie Mae and Freddie Mac's purchase of the Certificates, and did so in order to benefit themselves. Such solicitation included assisting in preparing the Registration Statements, filing the Registration Statements, and/or assisting in marketing and selling the Certificates.

214. Each of the Prospectuses contained material misstatements of fact and omitted information necessary to make the facts stated therein not misleading. The facts misstated and omitted were material to a reasonable investor reviewing the Prospectuses.

215. The untrue statements of material facts and omissions of material fact in the Registration Statements, which include the Prospectuses, are set forth above in Parts (I)(C) and (D) and Appendix A and pertain to compliance with underwriting guidelines, occupancy status, and loan-to-value ratios.

216. MS&Co., Credit Suisse, RBS and the Depositors offered and sold the Certificates offered pursuant to the Registration Statements directly to Fannie Mae and Freddie Mac, pursuant to the false and misleading Prospectuses.

217. MS&Co., Credit Suisse, and RBS owed Freddie Mac and Fannie Mae a duty to make a reasonable and diligent investigation of the statements contained in the Prospectuses, to ensure that such statements were true, and to ensure that there was no omission of a material fact required to be stated in order to make the statements contained therein not misleading. MS&Co., Credit Suisse, and RBS failed to exercise such reasonable care, and in the exercise of reasonable care should have known that the Prospectuses contained untrue statements of material facts and omissions of material facts at the time of the Securitizations as set forth above.

218. Fannie Mae and Freddie Mac did not know of the misstatements and omissions contained in the Prospectuses at the time they purchased the Certificates. If Fannie Mae and Freddie Mac had known of those misstatements and omissions, they would not have purchased the Certificates.

219. Fannie Mae and Freddie Mac acquired the Certificates in the primary market pursuant to the Prospectuses.

220. Fannie Mae and Freddie Mac sustained substantial damages in connection with their investments in the Certificates and have the right to rescind and recover the consideration paid for the Certificates, with interest thereon. Plaintiff hereby seeks rescission and makes any

necessary tender of its Certificates. In the alternative, Plaintiff seeks damages according to proof.

THIRD CAUSE OF ACTION

Violation of Section 15 of the Securities Act of 1933 (Against MS, MSMC, SCI, SFM, and the Individual Defendants)

221. Plaintiff realleges paragraphs 1 through 133 above as if fully set forth herein. For purposes of this cause of action, Plaintiff hereby expressly excludes any allegation that could be construed as sounding in fraud.

222. This claim is brought under Section 15 of the Securities Act of 1933, 15 U.S.C. §77o ("Section 15"), against Defendants MS, MSMC, SCI, SFM, and the Individual Defendants for controlling-person liability with regard to the Section 11 and Section 12(a)(2) causes of actions set forth above.

223. The Individual Defendants at all relevant times participated in the operation and management of the Depositors, and conducted and participated, directly and indirectly, in the conduct of the Depositors' business affairs. Specifically: Steven Shapiro was Vice President at MSAC; Gail P. McDonald was a Director at MSAC; Howard Hubler was a Director at MSAC; Craig S. Phillips was President and Director at MSAC; Alexander Frank was Treasurer at MSAC.; David Warren was President and Director at MSC; John E. Westerfield was a Director at MSC; Steven S. Stern was a Director at MSC; Michael L. Sawyer was President and Director at SASC; Ernest G. Bretana was Vice President or a Director at SASC; Dean A. Christiansen was a Director and Board Member at SASC; Orlando Figueroa was a Director at SASC; Robert B. Eastep was Executive Vice President and CFO at SASC; and Jennifer Sebastian was Vice President and Treasurer at SASC.

224. SFM and MSMC (on its own behalf and as the successor in interest to MCI) were sponsors for the Securitizations carried out pursuant to Registration Statements filed by MSAC, MSC and SASC (as specified in Table 2, *supra* at paragraph 47), and culpably participated in their violations of Sections 11 and 12(a)(2) by initiating these Securitizations, purchasing the mortgage loans to be securitized, determining the structure of the Securitizations, selecting the Depositors as special-purpose vehicles, and selecting MS&Co. or the Non-MS Underwriters as underwriters. As sponsors, SFM and MSMC/MCI knew and intended that the mortgage loans they purchased would be sold in connection with the securitization process, and that certificates representing the ownership interests of investors in the mortgages would be issued by the relevant trusts.

225. SFM and MSMC/MCI sold the mortgage loans to the Depositors (as specified in Table 1, *supra* at paragraph 40), and conveyed the mortgage loans to the Depositors pursuant to an Assignment and Recognition Agreement or a Mortgage Loan Purchase Agreement. SFM and MSMC/MCI controlled all aspects of the business of the Depositors, who were special-purpose entities created for the purpose of acting as a pass-through for the issuance of the Certificates. Upon information and belief, the officers and directors of MSMC and SFM overlapped with the officers and directors of the Depositors. SFM and MSMC/MCI were able to, and did in fact, control the contents of the Registration Statements filed by the Depositors, including the Prospectuses and Prospectus Supplements that contained material misstatements of fact and omitted facts necessary to make the facts stated therein not misleading.

226. Defendant MS wholly owns MS&Co., MSAC, MSC and MSMC and is the ultimate parent of SCI, SFM, and SASC. MS, as the sole corporate parent of MS&Co., MSAC, MSC, and MSMC, had the practical ability, in connection with the Securitizations and the

issuance and sale of the Certificates, to direct and control the actions of MS&Co., MSAC, MSC, and MSMC, and in fact exercised such discretion and control over these activities.

227. MS culpably participated in the violations of Section 11 and 12(a)(2) set forth above. It oversaw the actions of its subsidiaries and allowed them to misrepresent the mortgage loans' characteristics in the Registration Statements and established special-purpose financial entities such as the Depositors and the issuing trusts to serve as conduits for the mortgage loans.

228. Further, the officers and directors of MS significantly overlapped with the officers and directors of the Depositors. For example, Defendant Phillips was, at all relevant times, the Global Head of Securitized Products at MS while also serving as the President and CEO at MSAC. Similarly, Defendant Warren was, at all relevant times, the Global Head of Structured Credit Trading at MS while also serving as the President and Director at MSC.

229. MS, MSMC, SCI, and SFM, and the Individual Defendants are controlling persons within the meaning of Section 15 by virtue of their actual power over, control of, ownership of, and/or directorship of the Depositors at the time of the wrongs alleged herein and as set forth herein, including their control over the content of the Registration Statements.

230. Fannie Mae and Freddie Mac purchased the Certificates in the primary market, which were issued pursuant to the Registration Statements, including the Prospectuses and Prospectus Supplements, which, at the time they became effective, contained material misstatements of fact and omitted facts necessary to make the facts stated therein not misleading. The facts misstated and omitted were material to a reasonable investor reviewing the Registration Statements.

231. Fannie Mae and Freddie Mac did not know of the misstatements and omissions in the Registration Statements; had they known of those misstatements and omissions, they would not have purchased the Certificates.

232. Fannie Mae and Freddie Mac have sustained damages as a result of the misstatements and omissions in the Registration Statements, for which they are entitled to compensation.

233. Plaintiff hereby tenders the Certificates in connection with its request for rescission.

FOURTH CAUSE OF ACTION

Primary Violations of the Virginia Securities Act
(Against MS&Co., Credit Suisse, RBS, MSAC, MSC, and SASC)

234. Plaintiff re-alleges paragraphs 1 through 133 above as if fully set forth herein. For purposes of this cause of action, Plaintiff hereby expressly excludes any allegation that could be construed as sounding in fraud.

235. This claim is brought by Plaintiff pursuant to Section 13.1-522(A)(ii) of the Virginia Code and is asserted on behalf of Freddie Mac with respect to the Certificates identified above that were purchased by Freddie Mac and issued pursuant to the Registration Statements.

236. Defendants MSAC, MSC, and SASC made false and materially misleading statements in the Prospectuses (as supplemented by the Prospectus Supplements, hereinafter referred to in this Section as "Prospectuses") for each Securitization (as specified in Table 2, *supra*). Defendants MS&Co., Credit Suisse, and RBS made false and materially misleading statements in the Prospectuses for the Securitizations effected under the Shelf Registration Statements.

237. MS&Co., Credit Suisse, and RBS are prominently identified in the Prospectuses, the primary documents it used to sell the Certificates. MS&Co., Credit Suisse, and RBS offered the Certificates publicly, including selling to Freddie Mac the Certificates, as set forth in the "Method of Distribution" or equivalent underwriting section of each Prospectus.

238. MS&Co., Credit Suisse, and RBS offered and sold the Certificates to Freddie Mac by means of the Prospectuses, which contained untrue statements of material facts and omitted to state material facts necessary to make the statements, in light of the circumstances under which they were made, not misleading. MS&Co., Credit Suisse, and RBS reviewed and participated in drafting the Prospectuses.

239. MS&Co., Credit Suisse, and RBS successfully solicited Freddie Mac's purchases of the Certificates. As underwriters, MS&Co., Credit Suisse, and RBS were paid a substantial commission based on the amount it received from the sale of the Certificates to the public.

240. MS&Co., Credit Suisse, and RBS offered the Certificates for sale, sold them, and distributed them to Freddie Mac in the State of Virginia.

241. MSAC, MSC, and SASC are prominently identified in the Prospectuses for the Securitizations carried out under the Registration Statements. These Prospectuses were the primary documents used to sell Certificates for the Securitizations under the Registration Statements. MSAC, MSC, and SASC offered the Certificates publicly and actively solicited their sale, including to Freddie Mac. MSAC, MSC, and SASC were paid a percentage of the total dollar amount of the offering upon completion of the Securitizations effected pursuant to the Shelf Registration Statements.

242. With respect to the Securitizations for which it filed the Shelf Registration Statements, including the related Prospectus Supplements, MSAC, MSC, and SASC offered the

Certificates to Freddie Mac by means of Prospectuses which contained untrue statements of material facts and omitted to state material facts necessary to make the statements, in the light of the circumstances under which they were made, not misleading. MSAC, MSC, and SASC reviewed and participated in drafting the Prospectuses.

243. Each of MS&Co., Credit Suisse, and RBS, and MSAC, MSC, and SASC, actively participated in the solicitation of Freddie Mac's purchase of the Certificates, and did so in order to benefit itself. Such solicitation included assisting in preparing the Registration Statements, filing the Registration Statements, and assisting in marketing the Certificates.

244. Each of the Prospectuses contained material misstatements of fact and omitted facts necessary to make the facts stated therein not misleading. The facts misstated and omitted were material to a reasonable investor reviewing the Prospectuses, and specifically to Freddie Mac.

245. The untrue statements of material facts and omissions of material facts in the Registration Statements, which include the Prospectuses, are set forth above, and include compliance with underwriting guidelines, occupancy status, loan-to-value ratios, and accurate credit ratings.

246. MS&Co., Credit Suisse, and RBS, and MSAC, MSC, and SASC offered and sold the Certificates directly to Freddie Mac pursuant to the materially false, misleading, and incomplete Prospectuses.

247. MS&Co., Credit Suisse, and RBS owed to Freddie Mac, as well as to other investors in these trusts, a duty to make a reasonable and diligent investigation of the statements contained in the Prospectuses, to ensure that such statements were true, and to ensure that there was no omission of a material fact required to be stated in order to make the statements

contained therein not misleading. MSAC, MSC, and SASC owed the same duty with respect to the Prospectuses for the Securitizations effected under the Shelf Registration Statements.

248. MS&Co., Credit Suisse, RBS, MSAC, MSC, and SASC failed to exercise such reasonable care. These Defendants in the exercise of reasonable care should have known that the Prospectuses contained untrue statements of material facts and omissions of material facts at the time of the Securitizations, as set forth above.

249. In contrast, Freddie Mac did not know, and in the exercise of reasonable diligence could not have known, of the untruths and omissions contained in the Prospectuses at the time it purchased the Certificates. If Freddie Mac had known of those untruths and omissions, it would not have purchased the Certificates.

250. Freddie Mac sustained substantial damages in connection with its investments in the Certificates and has the right to rescind and recover the consideration paid for the Certificates, with interest thereon. Plaintiff hereby seeks rescission and makes any necessary tender of its Certificates. In the alternative, Plaintiff seeks damages according to proof.

FIFTH CAUSE OF ACTION

Controlling Person Liability Under the Virginia Securities Act
(Against MS, MSMC, SCI, SFM, and the Individual Defendants)

251. Plaintiff realleges paragraphs 1 through 133 above as if fully set forth herein. For purposes of this cause of action, Plaintiff hereby expressly excludes any allegation that could be construed as sounding in fraud.

252. This claim is brought under Section 13.1-522(C) of the Virginia Code and is asserted on behalf of Freddie Mac, which purchased the Certificates (identified in Table 10 above) that were issued pursuant to the Registration Statements. This claim is brought against Defendants MS, MSMC, SCI, SFM, and the Individual Defendants (the “Control Persons”) for

controlling-person liability with regard to the claim brought by Plaintiff pursuant to Section 13.1-522(A)(ii).

253. The Individual Defendants at all relevant times participated in the operation and management of the Depositors, and conducted and participated, directly and indirectly, in the conduct of the Depositors' business affairs. Specifically: Mr. Shapiro was Vice President at MSAC; Ms. P. McDonald was a Director at MSAC; Mr. Hubler was a Director at MSAC; Mr. Phillips was President and Director at MSAC; Mr. Frank was Treasurer at MSAC; Mr. Warren was President and Director at MSC; Mr. E. Westerfield was a Director at MSC; Mr. Stern was a Director at MSC.

254. SFM and MSMC (on its own behalf and as the successor in interest to MCI) were sponsors for the Securitizations carried out pursuant to Registration Statements filed by MSAC, MSC and SASE (as specified *supra*), and culpably participated in their violations of Section 13.1-522(A)(ii) by initiating these Securitizations, purchasing the mortgage loans to be securitized, determining the structure of the Securitizations, selecting the Depositors as special-purpose vehicles, and selecting MS&Co. or the Non-MS Underwriters as underwriters. As sponsors, SFM and MSMC/MCI knew and intended that the mortgage loans they purchased would be sold in connection with the securitization process, and that certificates representing the ownership interests of investors in the mortgages would be issued by the relevant trusts.

255. SFM and MSMC/MCI sold the mortgage loans to the Depositors (as specified *supra*), and conveyed the mortgage loans to the Depositors pursuant to an Assignment and Recognition Agreement or a Mortgage Loan Purchase Agreement. SFM and MSMC/MCI controlled all aspects of the business of the Depositors, who were special-purpose entities created for the purpose of acting as a pass-through for the issuance of the Certificates. Upon information

and belief, the officers and directors of MSMC and SFM overlapped with the officers and directors of the Depositors. SFM and MSMC/MCI were able to, and did in fact, control the contents of the Registration Statements filed by the Depositors, including the Prospectuses and Prospectus Supplements that contained material misstatements of fact and omitted facts necessary to make the facts stated therein not misleading.

256. Defendant MS wholly owns MS&Co., MSAC, MSC and MSMC and is the ultimate parent of SCI, SFM, and SASC. MS, as the sole corporate parent of MS&Co., MSAC, MSC, and MSMC, had the practical ability, in connection with the Securitizations and the issuance and sale of the Certificates, to direct and control the actions of MS&Co., MSAC, MSC, and MSMC, and in fact exercised such discretion and control over these activities.

257. MS culpably participated in the violations of Section 13.1-522(A)(ii) set forth above. It oversaw the actions of its subsidiaries and allowed them to misrepresent the mortgage loans' characteristics in the Registration Statements and established special-purpose financial entities such as the Depositors and the issuing trusts to serve as conduits for the mortgage loans.

258. Further, the officers and directors of MS significantly overlapped with the officers and directors of the Depositors. For example, Defendant Mr. Phillips was, at all relevant times, the Global Head of Securitized Products at MS while also serving as the President and CEO at MSAC. Similarly, Defendant Mr. Warren was, at all relevant times, the Global Head of Structured Credit Trading at MS while also serving as the President and Director at MSC.

259. MS, MSMC, SCI, and SFM, and the Individual Defendants are controlling persons within the meaning of Section 13.1-522(C) by virtue of their actual power over, control of, ownership of, and/or directorship of the Depositors at the time of the wrongs alleged herein and as set forth herein, including their control over the content of the Registration Statements.

260. Freddie Mac purchased the Certificates, which were issued pursuant to the Registration Statements, including the Prospectuses and Prospectus Supplements, which contained material misstatements of fact and omitted facts necessary to make the facts stated therein not misleading. The facts misstated and omitted were material to a reasonable investor reviewing the Registration Statements, and specifically to Freddie Mac.

261. Freddie Mac did not know, and in the exercise of reasonable diligence could not have known, of the misstatements and omissions in the Registration Statements; had Freddie Mac known of those misstatements and omissions, it would not have purchased the Certificates.

262. Freddie Mac has sustained substantial damages as a result of the misstatements and omissions in the Registration Statements, for which it is entitled to compensation, and for which the Control Persons are jointly and severally liable.

SIXTH CAUSE OF ACTION

Primary Violations of the District of Columbia Securities Act (Against Defendants MS&Co., MSAC, MSC, SASC, Credit Suisse and RBS)

263. Plaintiff realleges paragraphs 1 through 133 above as if fully set forth herein. For purposes of this cause of action, Plaintiff hereby expressly excludes any allegation that could be construed as sounding in fraud.

264. This claim is brought by Plaintiff pursuant to Section 31-5606.05(a)(1)(B) of the District of Columbia Code and is asserted on behalf of Fannie Mae, which purchased the Certificates issued pursuant to the Registration Statements in the Securitizations listed in paragraph 40.

265. MS&Co., Credit Suisse, and RBS are prominently identified as underwriters in the Prospectuses that were used to sell the Certificates. MS&Co., Credit Suisse, and RBS offered, promoted, and/or sold the Certificates publicly, including selling to Fannie Mae its

Certificates, as set forth in the "Plan of Distribution" or "Underwriting" sections of the Prospectuses. MS&Co., Credit Suisse, and RBS offered, promoted, and/or sold the Certificates to Fannie Mae as specified in Tables 10 and 11, *supra* at paragraph 129.

266. MS&Co., Credit Suisse, and RBS offered, promoted, and/or sold the Certificates to Fannie Mae by means of the Prospectuses that contained untrue statements of material facts and omitted to state material facts necessary to make the statements, in light of the circumstances under which they were made, not misleading. MS&Co., Credit Suisse, and RBS successfully solicited Fannie Mae's purchases of the Certificates, and generated millions of dollars in commissions in connection with the sale of the Certificates.

267. MS&Co., Credit Suisse, and RBS offered the Certificates for sale, sold them, and distributed them to Fannie Mae in the District of Columbia.

268. The Depositors are prominently identified in the Prospectuses for the Securitizations carried out under the Registration Statements that they filed. These Prospectuses were the primary documents each used to sell the Certificates for the 30 Securitizations under those Registration Statements. MSAC, MSC and SASC offered the Certificates publicly and actively solicited their sale, including to Fannie Mae. MSAC, MSC and SASC were paid a percentage of the total dollar amount of the offering upon completion of the Securitizations effected pursuant to the Registration Statements that they filed.

269. With respect to the Securitizations for which they filed Registration Statements, the Depositors offered the Certificates to Fannie Mae by means of Prospectuses that contained untrue statements of material facts and omitted to state material facts necessary to make the statements, in the light of the circumstances under which they were made, not misleading. Upon information and belief, the Depositors reviewed and participated in drafting the Prospectuses.

270. MS&Co., Credit Suisse, and RBS actively participated in the solicitation of Fannie Mae's purchase of the Certificates, and did so in order to benefit themselves. Such solicitation included assisting in preparing the Registration Statements, filing the Registration Statements, and/or assisting in marketing and selling the Certificates.

271. Each of the Prospectuses contained material misstatements of fact and omitted facts necessary to make the facts stated therein not misleading. The facts misstated and omitted were material to a reasonable investor reviewing the Prospectuses.

272. The untrue statements of material facts and omissions of material facts in the Registration Statements, which include the Prospectuses, are set forth above in Parts (I)(C) and (D) and Appendix A and pertain to compliance with underwriting guidelines, occupancy status, loan-to-value ratios, and accurate credit ratings.

273. MS&Co., Credit Suisse, RBS and the Depositors offered and sold the Certificates offered pursuant to the Registration Statements directly to Fannie Mae, pursuant to the false and misleading Prospectuses.

274. MS&Co., Credit Suisse, and RBS owed Fannie Mae a duty to make a reasonable and diligent investigation of the statements contained in the Prospectuses, to ensure that such statements were true, and to ensure that there was no omission of a material fact required to be stated in order to make the statements contained therein not misleading. MS&Co., Credit Suisse, and RBS failed to exercise such reasonable care, and in the exercise of reasonable care should have known that the Prospectuses contained untrue statements of material facts and omissions of material facts at the time of the Securitizations as set forth above.

275. Fannie Mae did not know of the misstatements and omissions contained in the Prospectuses at the time they purchased the Certificates. If Fannie Mae had known of those misstatements and omissions, they would not have purchased the Certificates.

276. Fannie Mae sustained substantial damages in connection with their investments in the Certificates and have the right to rescind and recover the consideration paid for the Certificates, with interest thereon. Plaintiff hereby seeks rescission and makes any necessary tender of its Certificates. In the alternative, Plaintiff seeks damages according to proof.

SEVENTH CAUSE OF ACTION

Controlling Person Liability Under the District of Columbia Securities Act (Against MS, MSMC, SCI, SFM, and the Individual Defendants)

277. Plaintiff realleges paragraphs 1 through 133 above as if fully set forth herein. For purposes of this cause of action, Plaintiff hereby expressly excludes any allegation that could be construed as sounding in fraud.

278. This claim is brought under Section 31-5606.05(c) of the District of Columbia Code against Defendants MS, MSMC, SCI, SFM, and the Individual Defendants for controlling-person liability with regard to the Section 31-5606.05(a)(1)(B) causes of action set forth above.

279. The Individual Defendants at all relevant times participated in the operation and management of the Depositors, and conducted and participated, directly and indirectly, in the conduct of the Depositors' business affairs. Specifically: Steven Shapiro was Vice President at MSAC; Gail P. McDonald was a Director at MSAC; Howard Hubler was a Director at MSAC; Craig S. Phillips was President and Director at MSAC; Alexander Frank was Treasurer at MSAC.; David Warren was President and Director at MSC; John E. Westerfield was a Director at MSC; Steven S. Stern was a Director at MSC; Michael L. Sawyer was President and Director at SASC; Ernest G. Bretana was Vice President or a Director at SASC; Dean A. Christiansen

was a Director and Board Member at SASC; Orlando Figueroa was a Director at SASC; Robert B. Eastep was Executive Vice President and CFO at SASC; and Jennifer Sebastian was Vice President and Treasurer at SASC.

280. SFM and MSMC (on its own behalf and as the successor in interest to MCI) were sponsors for the Securitizations carried out pursuant to Registration Statements filed by MSAC, MSC and SASE (as specified in Table 2, *supra* at paragraph 47), and culpably participated in their violations of Section 31-5606.05(a)(1)(B) by initiating these Securitizations, purchasing the mortgage loans to be securitized, determining the structure of the Securitizations, selecting the Depositors as special purpose vehicles, and selecting MS&Co. or the Non-MS Underwriters as underwriters. As sponsors, SFM and MSMC (on its own behalf and as successor-in-interest to MCI) knew and intended that the mortgage loans they purchased would be sold in connection with the securitization process, and that certificates representing the ownership interests of investors in the mortgages would be issued by the relevant trusts.

281. SFM and MSMC (on its own behalf and as successor-in-interest to MCI) sold the mortgage loans to the Depositors (as specified in Table 1, *supra* at paragraph 41), and conveyed the mortgage loans to the Depositors pursuant to an Assignment and Recognition Agreement or a Mortgage Loan Purchase Agreement. SFM and MSMC (on its own behalf and as successor-in-interest to MCI) controlled all aspects of the business of the Depositors, who were special purpose entities created for the purpose of acting as a pass-through for the issuance of the Certificates. Upon information and belief, the officers and directors of MSMC and SFM overlapped with the officers and directors of the Depositors. SFM and MSMC (on its own behalf and as successor-in-interest to MCI) were able to, and did in fact, control the contents of the Registration Statements filed by the Depositors, including the Prospectuses and Prospectus

Supplements that contained material misstatements of fact and omitted facts necessary to make the facts stated therein not misleading.

282. Defendant MS wholly owns MS&Co., MSAC, MSC and MSMC and is the ultimate parent of SCI, SFM, and SASC. As the sole corporate parent of MS&Co., MSAC, MSC, and MSMC, MS had the practical ability to direct and control the actions of MS&Co., MSAC, MSC, and MSMC in issuing and selling the Certificates, and in fact, exercised such discretion and control over the activities of MS&Co., MSMC, MSAC, and MSC.

283. MS culpably participated in the violations of Section 31-5606.05(a)(1)(B) set forth above. It oversaw the actions of its subsidiaries and allowed them to misrepresent the mortgage loans' characteristics in the Registration Statements and established special-purpose financial entities such as the Depositors and the issuing trusts to serve as conduits for the mortgage loans.

284. Further, the officers and directors of MS significantly overlapped with the officers and directors of the Depositors. For example, Defendant Phillips was, at all relevant times, the Global Head of Securitized Products at MS while also serving as the President and CEO at MSAC. Similarly, Defendant Warren was, at all relevant times, the Global Head of Structured Credit Trading at MS while also serving as the President and Director at MSC.

285. MS, MSMC, SCI, and SFM, and the Individual Defendants are controlling persons within the meaning of Section 31-5606.05(c) of the District of Columbia Code by virtue of their actual power over, control of, ownership of, and/or directorship of the Depositors at the time of the wrongs alleged herein and as set forth herein, including their control over the content of the Registration Statements.

286. Fannie Mae purchased the Certificates in the primary market, which were issued pursuant to the Registration Statements, including the Prospectuses and Prospectus Supplements, which, at the time they became effective, contained material misstatements of fact and omitted facts necessary to make the facts stated therein not misleading. The facts misstated and omitted were material to a reasonable investor reviewing the Registration Statements.

287. Fannie Mae did not know of the misstatements and omissions in the Registration Statements; had they known of those misstatements and omissions, they would not have purchased the Certificates.

288. Fannie Mae has sustained damages as a result of the misstatements and omissions in the Registration Statements, for which they are entitled to compensation.

289. Plaintiff hereby tenders the Certificates in connection with its request for rescission.

EIGHTH CAUSE OF ACTION

**(Common Law Fraud Against MS&Co,
MSAC, MSC, MSMC, SASC, SFM, Credit Suisse, and RBS)**

290. Plaintiff realleges paragraphs 1 through 191 as if fully set forth herein.

291. The material representations set forth in Parts (I)(C) and (D) and in Appendix A were fraudulent, and the Fraud Defendants' representations falsely and misleadingly misrepresented and omitted material statements of fact. The representations at issue are identified in Parts (I)(C) and (D) above and further identified in Appendix A.

292. The Fraud Defendants knew their representations and omissions were false and/or misleading at the time they were made, or made such representations and omissions recklessly without knowledge of their truth or falsity.

293. Each of the Fraud Defendants made the misleading statements with the intent and for the purpose of inducing Fannie Mae or Freddie Mac to purchase the Certificates.

294. Fannie Mae and Freddie Mac justifiably relied on the Fraud Defendants' false representations and misleading omissions.

295. But for the Fraud Defendants' fraudulent misrepresentations and omissions regarding the Fraud Defendants' underwriting practice and quality of the loans making up the securitizations, Fannie Mae and Freddie Mac would not have purchased the Certificates.

296. As a result of the foregoing, Fannie Mae and Freddie Mac have suffered damages in an amount to be proven at trial. Plaintiff hereby demands rescission and makes any necessary tender of the Certificates.

297. Because the Fraud Defendants defrauded Fannie Mae and Freddie Mac willfully and wantonly, and because, by their acts, the Fraud Defendants knowingly affected the general public, including but not limited to all persons with interest in the Certificates, Plaintiff is entitled to recover punitive damages.

NINTH CAUSE OF ACTION

(Aiding and Abetting Against MSMC, SFM, MSAC, MSC, and SASC)

298. Plaintiff realleges paragraphs 1 through 191 as if fully set forth herein.

299. This is a claim for aiding and abetting fraud, in the alternative, should it be found that the Underwriting Defendants alone are liable for fraud. This claim is brought against MSMC, SFM, MSAC, MSC, and SASC arising from the intentional and substantial assistance each rendered to MS&Co., Credit Suisse, and RBS (the "Selling Underwriters") to advance the fraud on Fannie Mae and Freddie Mac.

300. Through overlapping personnel, strategies, and intertwined business operations, and the fluid transfer of information among the Defendants, each of MSMC, SFM, MSAC, MSC, and SASC knew of the Selling Underwriters' fraudulent scheme to offload the credit risks of non-agency loans to investors, including Fannie Mae and Freddie Mac. Each of these Defendants acted in concert to defraud Fannie Mae and Freddie Mac.

301. MSMC, SFM, MSAC, MSC, and SASC through their employees and representatives, substantially assisted in, among other things: (a) the extension of warehouse loans to originators; (b) acquiring the underlying mortgage loans from the originators; (c) packaging up those loans into pools which were deposited into the Trust; (d) waiving into the collateral pools of the Trusts loans previously rejected by Clayton or otherwise non-compliant loans, despite the lack of compensating factors; (e) creating and structuring the Trusts whose Certificates would be sold to investors including Fannie Mae and Freddie Mac and (f) preparing the Registration Statements which would be used to market the Certificates.

302. The Selling Underwriters would not have been able to implement their fraud against Fannie Mae and Freddie Mac without such substantial assistance.

303. Through overlapping personnel, strategies, and intertwined business operations, and the fluid transfer of information among the Defendants, each of the Morgan Stanley Defendants knew of the fraud perpetrated on Fannie Mae and Freddie Mac.

304. Defendants could not have perpetrated their fraud without the substantial assistance of each other defendant, and they all provided financial, strategic, and marketing assistance for their scheme. Defendants are highly intertwined and interdependent businesses and each benefitted from the success of the scheme. Through the fraudulent sale of the Certificates to the GSEs, the Selling Underwriters were able to materially improve their financial

condition by reducing their exposure to declining subprime-related assets and garnering millions of dollars in fees from the structuring and sale of the Certificates.

305. As a direct, proximate, and foreseeable result of the conduct of MSMC, SFM, MSAC, MSC, and SASC Fannie Mae and Freddie Mac have suffered and will continue to suffer damages in an amount to be proven at trial. Plaintiff hereby demands rescission and makes any necessary tender of the Certificates.

306. Because the Fraud Defendants defrauded Fannie Mae and Freddie Mac willfully and wantonly, and because, by their acts, the Fraud Defendants knowingly affected the general public, including but not limited to all persons with interest in the Certificates, Plaintiff is entitled to recover punitive damages.

TENTH CAUSE OF ACTION

(Negligent Misrepresentation Against the Selling Underwriters, MSAC, MSC, and SASC)

307. Plaintiff realleges paragraphs 1 through 191 as if fully set forth herein.

308. Between September 12, 2005 and September 28, 2007, the Selling Underwriters and MSAC, MSC, and SASC (the "Depositor Defendants") sold the Certificates to the GSEs as described above. Because the Depositor Defendants owned and then conveyed the underlying mortgage loans to the issuing trusts, the Depositor Defendants had unique, exclusive, and special knowledge about the mortgage loans in the Securitizations through their possession of the loan files and other documentation.

309. Likewise, as underwriters of the Securitizations, the Selling Underwriters had the access to and ability to review loan file information and were obligated to perform adequate due diligence to ensure the accuracy of the Offering Materials. Accordingly, the Selling Underwriters had unique, exclusive, and special knowledge about the underlying mortgage loans in the Securitizations.

310. The Selling Underwriters and the Depositor Defendants also had unique, exclusive, and special knowledge of the work of third-party due diligence providers, such as Clayton, who identified significant failures of originators to adhere to the underwriting standards represented in the Registration Statements. The GSEs lacked access to borrower loan files prior to the closing of the Securitizations and their purchase of the Certificates. Accordingly, when determining whether to purchase the Certificates, the GSEs could not evaluate the underwriting quality or the servicing practices of the mortgage loans in the Securitizations on a loan-by-loan basis. The GSEs reasonably relied on the knowledge and representations of the Selling Underwriters and Depositor Defendants regarding the underlying mortgage loans.

311. The Selling Underwriters and Depositor Defendants were aware that the GSEs reasonably relied on these Defendants for complete, accurate, and timely information. The standards under which the underlying mortgage loans were actually originated were known to these Defendants and were not known, and could not be determined, by the GSEs prior to the closing of the Securitizations. The GSEs therefore reasonably relied upon these Defendants' misrepresentations and omissions in the Offering Materials.

312. The Selling Underwriters and Depositor Defendants breached their duty of disclosure by making false or misleading statements of material facts to the GSEs when they knew or should have known of the falsity of their statements. The misrepresentations are set forth in Parts (I)(C) and (D) above and Appendix A.

313. In addition, having false or misleading representations about the underlying collateral in the Securitizations and the facts bearing on the riskiness of the Certificates, the Selling Underwriters and Depositor Defendants had a duty to correct the misimpressions left by their statements, including with respect to any "half truths." The Selling Underwriters and

Depositor Defendants failed to correct in a timely manner any of their misstatements or half truths.

314. The GSEs reasonably relied on the information provided by the Selling Underwriters and Depositor Defendants, and as a result, the GSEs suffered damages in an amount to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

An award in favor of Plaintiff against all Defendants, jointly and severally, for::

a. Rescission and recovery of the consideration paid for the Certificates, with interest thereon (in connection with this request for rescission, the Certificates are hereby tendered to the Defendants);

b. Each GSE’s monetary losses, included any diminution in value of the Certificates, as well as lost principal and lost interest payments thereon;

c. Punitive damages;

d. Attorneys’ fees and costs;

e. Prejudgment interest at the maximum legal rate; and

f. Such other and further relief as the Court may deem just and proper.

DATED: New York, New York
September 2, 2011

KASOWITZ, BENSON, TORRES
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