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

DEXIA SA/NV; DEXIA HOLDINGS, INC.; FSA ASSET MANAGEMENT LLC; DEXIA CRÉDIT LOCAL SA,

Plaintiffs,

v.

DEUTSCHE BANK AG; DEUTSCHE BANK SECURITIES, INC.; DB STRUCTURED PRODUCTS INC.; ACE SECURITIES CORP.; AND DEUTSCHE ALT-A SECURITIES INC.,

Defendants.

Index No.

SUMMONS

Date Index No. Purchased:

July 13, 2011

TO THE ABOVE-NAMED DEFENDANTS:

Deutsche Bank AG
60 Wall Street
New York, NY 10005

Deutsche Bank Securities, Inc.
60 Wall Street
New York, NY 10005

DB Structured Products, Inc.
60 Wall Street
New York, NY 10005

ACE Securities Corp.
6525 Morrison Boulevard
Suite 318
Charlotte, NC 28211

Deutsche Alt-A Securities, Inc.
60 Wall Street
New York, NY 10005

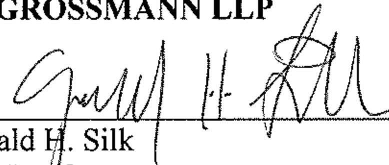
You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or it the complaint is not served with this summons, to serve notice of appearance, on the plaintiff's attorneys within twenty (20) days after the service of this summons, exclusive of the day or service (or within thirty (30) days after service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for relief demanded herein.

Venue is proper because Plaintiffs (other than Dexia SA/NV and Dexia Crédit Local SA) maintain their principal places of business in New York County, and Defendants Deutsche Bank Securities, Inc., DB Structured Products, Inc. and Deutsche Alt-A Securities, Inc. maintain their principal places of business in New York County.

Dated: New York, New York
July 13, 2011

Respectfully submitted,

BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP



Gerald H. Silk
Avi Josefson
Michael D. Blatchley
Ross Shikowitz
1285 Avenue of the Americas, 38th Floor
New York, NY 10019
Tel: (212) 554-1400
Fax: (212) 554-1444
jerry@blbglaw.com
avi@blbglaw.com
michaelb@blbglaw.com
ross@blbglaw.com

Counsel for Plaintiffs

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

DEXIA SA/NV; DEXIA HOLDINGS, INC.; FSA ASSET MANAGEMENT LLC; DEXIA CRÉDIT LOCAL SA, Plaintiffs, v. DEUTSCHE BANK AG; DEUTSCHE BANK SECURITIES, INC.; DB STRUCTURED PRODUCTS INC.; ACE SECURITIES CORP.; AND DEUTSCHE ALT-A SECURITIES INC. Defendants.	Index No. **COMPLAINT** **JURY TRIAL DEMANDED**

TABLE OF CONTENTS

Page

I. SUMMARY OF THE ACTION 1

II. JURISDICTION AND VENUE 8

III. THE PARTIES 8

- A. Plaintiffs 8
- B. Defendants 9

IV. FACTUAL BACKGROUND UNDERLYING DEXIA'S CLAIMS 10

- A. The Deutsche Bank RMBS Purchased By Dexia 10
- B. Deutsche Bank's Activities In The Subprime Mortgage Arena 15
- C. Deutsche Bank's Role Was To Ensure The Quality Of The Loans Backing The RMBS 20
- D. Factors Impacting The Quality Of The Deutsche Bank RMBS 24

V. THE OFFERING MATERIALS MISREPRESENTED THE UNDERWRITING AND QUALITY OF THE LOANS BACKING THE DEUTSCHE BANK RMBS 29

- A. The Deutsche Bank Sponsor And Originator Entities Violated Their Underwriting Guidelines 30
- B. Fremont Violated Its Underwriting Guidelines 47
- C. The American Home Entities Violated Their Underwriting Guidelines 52
- D. IndyMac Violated Its Underwriting Guidelines 57
- E. NovaStar Violated Its Underwriting Guidelines 63
- F. Countrywide Violated Its Underwriting Guidelines 67
- G. Option One Violated Its Underwriting Standards 72
- H. New Century Violated Its Underwriting Guidelines 77
- I. WMC Mortgage Corporation Violated Its Underwriting Guidelines 84
- J. GreenPoint Violated Its Underwriting Guidelines 88
- K. ResMAE's Violated Its Underwriting Guidelines 91

L. Argent Violated Its Underwriting Guidelines 95

M. CIT Violated Its Underwriting Guidelines 99

VI. DEUTSCHE BANK KNEW THE LOANS IT WAS SECURITIZING WERE DESTINED TO FAIL 102

A. Deutsche Bank's Relationships With Key Loan Originators And Other Major Players In The Securitization Of Loans Backing The RMBS Sold To Dexia 103

B. Deutsche Bank's Due Diligence Identified Defects In The Loan Pools Deutsche Bank Purchased For Securitization 106

C. Deutsche Bank Gained Pointed Insight Into The True Quality Of The Loans Backing The Deutsche Bank RMBS Through Its Warehouse Lines Of Credit 112

D. Deutsche Bank Knew The DTI Ratios Of The Loans Backing The Deutsche Bank RMBS Were Materially Understated In The Offering Materials 114

E. Deutsche Bank Profited From Its Knowledge Of The Poor Quality Of The Loans It Securitized Through Its "CDO Machine" 119

VII. DEUTSCHE BANK KNEW THE CREDIT RATINGS ASSIGNED TO THE DEUTSCHE BANK RMBS MATERIALLY MISREPRESENTED THE CREDIT QUALITY OF THE RMBS 126

VIII. DEUTSCHE BANK MISREPRESENTED THAT TITLE TO THE UNDERLYING LOANS WAS EFFECTIVELY TRANSFERRED 135

IX. DEFENDANTS' FALSE AND MISLEADING MISSTATEMENTS AND OMISSIONS OF MATERIAL FACT IN THE OFFERING DOCUMENTS 142

A. The Offering Materials Misrepresented The Originators' And DBSP's Underwriting Guidelines 143

B. The Offering Materials Misrepresented The Appraisals And LTV Ratios Of The Securitized Loans 146

C. The Offering Materials Misrepresented Deutsche Bank's Due Diligence Into The Loan Sellers And The Mortgage Loans Backing The RMBS 148

D. Defendants Materially Misrepresented The Accuracy Of The Credit Ratings Assigned To The Certificates 149

E. Defendants Made False And Misleading Statements Of Material Fact Regarding The Transfer And Assignment Of Good Title Of The Mortgage Loans To The Issuing Trusts....151

F. Defendants' Purported Warnings Regarding The Risks Of The RMBS Contained False And Misleading Statements And Omissions Of Material Fact....152

X. DEXIA'S INVESTMENT IN THE RMBS AND RELIANCE ON DEUTSCHE BANK'S MISREPRESENTATIONS....155

XI. BECAUSE OF DEFENDANTS' FRAUDULENT CONDUCT, DEXIA SUFFERED LOSSES ON ITS PURCHASES OF RMBS....159

FIRST CAUSE OF ACTION (Common Law Fraud Against Deutsche Bank AG, Deutsche Bank Securities, Inc., ACE Securities Corp., Deutsche Alt-A Securities, Inc. and DB Structured Products, Inc.)....160

SECOND CAUSE OF ACTION (Fraudulent Inducement Against Deutsche Bank AG, Deutsche Bank Securities, Inc., ACE Securities Corp., Deutsche Alt-A Securities, Inc. and DB Structured Products, Inc.)....161

THIRD CAUSE OF ACTION (Aiding And Abetting Fraud Against Deutsche Bank AG, Deutsche Bank Securities, Inc., ACE Securities Corp., Deutsche Alt-A Securities, Inc. and DB Structured Products, Inc.)....162

FOURTH CAUSE OF ACTION (Negligent Misrepresentation Against Deutsche Bank AG, Deutsche Bank Securities, Inc., DB Structured Products, Inc., ACE Securities Corp. and Deutsche Alt-A Securities, Inc.)....164

PRAYER FOR RELIEF....168

Plaintiffs Dexia SA/NV, Dexia Holdings, Inc., FSA Asset Management LLC, Dexia Crédit Local SA (collectively, "Dexia" or "Plaintiffs"), by their attorneys Bernstein Litowitz Berger & Grossmann LLP, for their Complaint herein against Deutsche Bank AG, Deutsche Bank Securities, Inc., ACE Securities Corp., Deutsche Alt-A Securities, Inc. and DB Structured Products, Inc. (collectively, "Deutsche Bank" or "Defendants"), allege as follows:

I. SUMMARY OF THE ACTION

1. This action involves a fraud perpetrated by Deutsche Bank against Dexia in connection with over $1 billion of residential mortgage-backed securities ("RMBS") that Deutsche Bank sold to Dexia. Deutsche Bank originated, purchased, financed, and securitized exceptionally high-risk loans into these RMBS, all while internally disparaging the poor quality of these loans and the RMBS they backed as "***pigs***" and "***crap***." Deutsche Bank's singularly negative view of the loans and RMBS it sold to Dexia led it, starting as early as 2005, to bet against the U.S. housing market, ultimately developing a ***$10 billion "short" position*** that paid off when the same loans backing the RMBS it sold to Dexia and others failed.

2. Unaware that Deutsche Bank secretly viewed the RMBS it sold as "generally horrible" and was betting with its own capital that they would fail, Dexia invested in those Deutsche Bank RMBS in reliance on the central role that Deutsche Bank played in creating the RMBS, and on the representations Deutsche Bank provided in registration statements, term sheets, prospectuses, draft prospectus supplements, prospectus supplements and other materials and communications (the "Offering Materials") attesting that the loans backing the RMBS had been prudently underwritten and were secured by adequate collateral in accordance with the underwriting guidelines of the companies that originated those mortgages, and that Deutsche Bank had verified the quality of the loans. Deutsche Bank's due diligence purportedly confirmed that the securities it sold Dexia warranted the sterling credit ratings they carried when sold.

3. Deutsche Bank played a ubiquitous role in the mortgage origination and securitization process. Indeed, the majority—or approximately $3.9 billion in face amount—of the loans backing the Deutsche Bank RMBS that Dexia purchased were originated by Deutsche Bank's own subprime mortgage originator subsidiaries and affiliates, MortgageIT, DB Home Lending LLC ("DB Home") and DB Structured Products, Inc. ("DBSP"). In the Offering Materials, Deutsche Bank claimed that DBSP—which acted as the sponsor in three-fourths of Dexia's Deutsche Bank RMBS—when purchasing loans through its correspondent DB-ASAP lending program, only acquired loans from "approved" loan sellers that met DBSP's minimum requirements and that "***all*** of the Mortgage Loans" that were included in the securitization were vetted by DBSP underwriters to ensure they met both DBSP's and the loan sellers' underwriting guidelines.[1] Moreover, Deutsche Bank claimed to have regularly conducted a "***full re-underwriting*** of a random selection of mortgage loans to assure asset quality" to confirm "***the existence and accuracy of legal documents, credit documentation, appraisal analysis and underwriting decision***," and stated that the findings of this review were "sent monthly to [DBSP] management for response." Deutsche Bank also underwrote and sold RMBS containing loans issued by other originators—including IndyMac Back FSB ("IndyMac"), Fremont Investment and Loan ("Fremont"), American Home Mortgage ("American Home") and Countrywide Financial ("Countrywide")—and stated in the Offering Materials that these loans met the originators' stated underwriting guidelines, were supported by adequate collateral and were sufficient to warrant the AAA rating assigned to the RMBS purchased by Dexia. Deutsche Bank represented, among other things, that the loans contained in the Deutsche Bank RMBS were not seriously delinquent at the time they securitized.

4. Those representations were false. In reality, the Offering Materials and credit ratings materially misrepresented the quality and purportedly conservative nature of the RMBS—and Deutsche Bank, through its extensive involvement in the securitization process, ***knew*** this was the case. Indeed, the due diligence Deutsche Bank claimed it had performed on

---

[1] All emphasis is added unless otherwise noted.

these lenders and the loans they originated revealed, in explicit detail, their true quality. The percentage of deficient loans identified through that due diligence process – which Deutsche Bank generally outsourced to third-party mortgage consultants Clayton Holdings, Inc. ("Clayton") and Lydian Data Services ("Lydian") – demonstrates that Deutsche Bank knew that the originators routinely disregarded their own underwriting guidelines, originated loans based on inflated appraisal values, and manipulated the underwriting process to issue loans to borrowers who had no plausible means to repay them. According to evidence released by the congressional Financial Crisis Inquiry Commission ("FCIC"), Deutsche Bank purchased and securitized nearly half of the sampled loans Clayton rejected for failing to comply with the originators' underwriting guidelines. For loans that Deutsche Bank itself originated through MortgageIT, DB Home and DBSP, such due diligence only confirmed what Deutsche Bank already knew: that the loan pools it securitized were riddled with defective loans that were improperly underwritten, in direct contrast to Deutsche Bank's representations in the Offering Materials.

5. Deutsche Bank's close relationships with the subprime lenders that originated the loans backing the RMBS in which Dexia invested gave them unique insight into the quality of those loans. These relationships included Deutsche Bank's role as one of the largest warehouse lenders to numerous subprime lenders, extending lines of credit totaling billions of dollars to several of the originators whose loans backed the Deutsche Bank RMBS sold to Dexia, including New Century, Countrywide, American Home, Option One and Ameriquest. As a result of its close relationships with loan originators – as an affiliate, multibillion dollar lender, and multibillion dollar securitization partner – Deutsche Bank knew in granular detail the origination practices, underwriting guidelines, and the quality of the originated loans. As Deutsche Bank knew – but investors like Dexia would only later discover – these originators were among the worst of the subprime mortgage lenders, willing to "just giv[e] anyone a loan who wants one," secure in the knowledge that their Wall Street partners like Deutsche Bank would then foist the loans on unsuspecting investors, like Dexia.

6. For those loans DBSP purchased for securitization through its correspondent lending program, Deutsche Bank advanced the funding necessary to originate those loans even before they had been issued, and kept an extraordinarily close eye on their performance after they were purchased. To this end, DBSP had a stated policy of requiring any loan seller in its correspondent lending program to repurchase a loan "if any of the first three (3) payments due after the purchase date are thirty (30) days delinquent," which was amended in March 2006 to require any seller to repurchase a loan if the first two payments had not been made. Under this program, DBSP closely tracked such early payment defaults ("EPDs") and was keenly aware that loans issued by its correspondent lenders—including fly-by-night subprime lenders Maribella Mortgage LLC ("Maribella"), Cameron Financial Group, Inc., d/b/a 1st Choice Mortgage ("Cameron"), and Prajna Group, Inc., d/b/a Liberty Mortgage Funding ("Liberty")—were defaulting within the first several months after issuance at alarming rates. Such early defaults showed that the loans never should have been issued in the first place. Moreover, Deutsche Bank was aware that these lenders were coming under increasing financial stress as other investment bank loan buyers began demanding repurchase of such loans. Instead of curtailing its business relationships with these lenders, or even enforcing its rights under its EPD program, Deutsche Bank—faced with having to suffer the loss on the loan itself if the lender were to declare bankruptcy—chose to securitize those loans and sell them as RMBS to Dexia even after they were already delinquent.

7. Indeed, as reflected in court filings in subsequent repurchase litigation brought by DBSP, scores of such EPD loans were securitized and sold as Deutsche Bank RMBS. Each of these loans—identified by DBSP in court filings as having defaulted under the terms of its own EPD program within the first several months of having been issued—were included in Deutsche Bank RMBS purchased by Dexia, despite the explicit representations in the Offering Materials that the loans had been underwritten in accordance with DBSP's own underwriting guidelines, independently reviewed by DBSP's own underwriters, and in flat contradiction that none of the

loans were in serious delinquency status at the time of securitization.[2] Incredulously, DBSP, in its court filings, alleged that it was harmed because it was "unable to include certain of the Early Payment Default Loans in securitizations," despite the fact that it already had done so, and sold securities backed by those loans to Dexia.

8. Deutsche Bank also had unique insight into the practices of the originators whose loans it securitized through its role as trustee of the trusts that backed the RMBS it securitized. Employees at Deutsche Bank's trustee arms, Deutsche Bank National Trust Company and Deutsche Bank Trust Company Americas (collectively, "Deutsche Bank Trust")—which was the largest RMBS trustee in the world at the height of the mortgage market bubble—knew of the slipshod mortgage origination practices that were prevalent in the Deutsche Bank RMBS purchased by Dexia. For example, a series of Deutsche Bank Trust memoranda to RMBS servicers beginning in August 2007 details increasing concerns that "good housekeeping" measures were not being followed to establish the RMBS trust's ownership of the mortgage loans. As evidence uncovered in foreclosure litigation across the country has since revealed, the mortgage loans backing Deutsche Bank RMBS—including loans backing the Deutsche Bank RMBS purchased by Dexia—were never properly transferred to the relevant trust, in direct contradiction to Deutsche Bank's statements in the Offering Materials.[3] Through these activities, and for every securitization in which Deutsche Bank sold certificates to Dexia, Deutsche Bank had in-depth knowledge of the underwriting practices of each loan originator, the creditworthiness of the loans it was securitizing and selling as RMBS, and the validity of the trust's ownership of those loans.

---

[2] For example, Deutsche Bank represented in the Offering Materials for the ACE 2006-ASP1 RMBS in which Dexia invested over $12 million that "***No Mortgage Loan will be more than 30 days delinquent as of the Cut-off Date***."

[3] As discussed below, Deutsche Bank's trustee arm is currently the subject of investigations by both the U.S. Department of Justice and the Attorneys General of New York and Delaware that are looking into fraud, forgery and other misconduct concerning the securitization process and trust asset recovery in foreclosure litigation.

9. Rather than disclose the true nature and quality of the RMBS Deutsche Bank sold to Dexia, senior traders at Deutsche Bank exploited this insight to devise a strategy to profit off of their eventual default. Indeed, as detailed by Senate Permanent Subcommittee on Investigations ("Senate Subcommittee") in its April 2011 report "Wall Street and the Financial Crisis: Anatomy of a Financial Collapse" (the "Senate Report"), Deutsche Bank senior traders internally and secretly belittled the Deutsche Bank RMBS purchased by Dexia and the originators who issued the underlying loans as "***crap***," "***pigs***," and "***generally horrible.***" To profit off of these securities' expected failure, traders at Deutsche Bank developed and took positions in collateralized debt obligations ("CDOs") and credit default swaps ("CDSs") to bet on the values of (and in some cases, minimize its own exposure to) RMBS such as those it had created and sold to investors such as Dexia. In fact, Deutsche Bank was one of two leaders of a consortium of banks that developed an index that tracked the performance of a group of RMBS that enabled Deutsche Bank traders to place such bets in the first place.

10. One such trader, Greg Lippmann, who played a central role in helping Deutsche Bank execute this strategy, repeatedly derided the very RMBS that Deutsche Bank itself had created, marketed and sold. In 2006, Mr. Lippmann emailed his colleague about one Deutsche Bank RMBS deal in which Dexia had invested over $23 million, asking "DOESNT THIS DEAL BLOW[?]" to which the trader replied: "yes it blows I am seeing 20-40% writedowns." Deutsche Bank went to great lengths to keep its traders' views of the subprime RMBS that Deutsche Bank sold to investors like Dexia – and Deutsche Bank's strategy to profit off of their collapse – a secret. As reflected in the Senate Report, it was clear that Deutsche Bank concealed that strategy because it was unwilling to sacrifice the profits it was making from its "new issue and customer franchise" business—*i.e.*, the money it was making by securitizing and selling RMBS and CDOs to investors like Dexia:

> One of Mr. Lippmann's top traders, Rocky Kurita, put it this way in mid-2005: "***[W]e have to make money***. ***Customer happiness is***

> ***a secondary goal but we cannot lose sight of the trading desk[']s other role of supporting new issue and the customer franchise*.” In a 2007 email to a client, Mr. Lippmann wrote: “***[P]lease please do not forward these emails outside of your firm. … I do not want to be blamed by the new issue people for destroying their business***.”

11. So confident was Lippmann and Deutsche Bank in the strategy to profit off of the collapse of RMBS like those it sold to Dexia that he bragged in an email to a hedge fund investor in November 2005 that “he was short 1 billion dollars of this stuff and was going to make ‘oceans’ of money,” causing the recipient of that email to worry that Lippmann’s “exuberance was a little scary.” By the end of 2007, Deutsche Bank’s “short” position had grown to $10 billion, costing Deutsche Bank approximately $100 million per year to maintain.

12. While Deutsche Bank was building its $10 billion bet against the RMBS it was selling and the U.S. housing market in general, Dexia, in reliance upon the statements in the Offering Materials and Deutsche Bank’s reputation, invested over $1 billion in Deutsche Bank RMBS in 32 offerings between 2005 and 2007 (the “Certificates”) – all of which were rated AAA by purportedly independent rating agencies at the time of issuance. As Deutsche Bank expected, however, these RMBS eventually plunged in value, enabling Deutsche Bank to reap enormous profits on the “short” bets it had placed against those securities—described by Lippmann as the “the largest profit obtained from a single position in Deutsche Bank history.” Unfortunately, for investors like Dexia, homeowners, and the global economy, Deutsche Bank’s misconduct has been devastating.

13. Deutsche Bank’s misconduct has resulted in astounding rates of default on the loans underlying the Deutsche Bank RMBS and massive downgrades of the Certificates, which are all now considered “junk.” As of May 2011, on average, ***almost 35%*** of the mortgage loans underlying the Certificates were over 60 days delinquent, in foreclosure, bankruptcy, or repossession as reflected by the chart below. This figure does not include the substantial losses suffered by Dexia since the RMBS’ issuance due to foreclosures and defaults, and the removal of those failed mortgage loans from the current loan pool and current delinquency figures. Indeed,

had such mortgage loans remained in the securitization, the average serious delinquency rates would have been substantially higher. Accordingly, the Certificates are no longer marketable or salable at or near the prices Dexia paid for them, and Dexia has suffered significant losses as a result of the fraud perpetrated by Deutsche Bank.

14. Dexia seeks compensatory and/or rescissory damages against Defendants for fraud, fraud in the inducement, aiding and abetting fraud, and negligent misrepresentation.

II. JURISDICTION AND VENUE

15. Jurisdiction is proper because Defendants' (other than Deutsche Bank AG's and ACE Securities Corp.'s) and Plaintiffs' (other than Dexia SA/NV's and Dexia Crédit Local SA's) principal places of business are located in New York County. This Court has jurisdiction over each of the Defendants because each of them transacts business within the State of New York within the meaning of CPLR § 302(a)(1) and each of them committed a tortious act inside the State of New York or outside the State of New York causing injury within the State of New York within the meaning of CPLR §§ 302(a)(2) and 302(a)(3). The amount in controversy exceeds $150,000.

16. Venue is proper in this Court because Plaintiffs (other than Dexia SA/NV and Dexia Crédit Local SA) maintain their principal places of business in New York County, and Defendants Deutsche Bank Securities, Inc., DB Structured Products, Inc. and Deutsche Alt-A Securities, Inc. maintain their principal places of business in New York County.

III. THE PARTIES

A. Plaintiffs

17. Dexia SA/NV is a Limited Company organized under Belgian law with its principal place of business in Belgium.

18. Dexia Crédit Local SA ("DCL") is a French banking institution having a branch in New York which is licensed by the New York State Banking Department. DCL is a wholly owned subsidiary of Dexia SA/NV.

19. Dexia Holdings, Inc. ("DHI") is a Delaware corporation with its principal place of business in New York, New York. DHI is an indirect wholly owned subsidiary of Dexia SA/NV, is a subsidiary of DCL, and is an affiliate of DCL's New York branch.

20. FSA Asset Management LLC ("FSAM") is a Delaware limited liability company and has its principal place of business in New York, New York. FSAM is an indirect, wholly owned subsidiary of DHI, and is an affiliate of DCL's New York branch. FSAM acquired Certificates pursuant or traceable to the Offering Materials.

21. Dexia SA/NV, DHI and DCL (through both its New York branch and Paris head office) have economic interests in the Certificates purchased and held by FSAM in accordance with intercompany agreements among these plaintiffs.

B. Defendants

22. Defendant Deutsche Bank AG is a German corporation with its principal place of business in Frankfurt, Germany. Defendant Deutsche Bank AG is a global financial services provider delivering investment, financial, and related products and services. Defendant Deutsche Bank AG's common stock trades on the New York Stock Exchange under the ticker symbol "DB."

23. Defendant Deutsche Bank Securities, Inc. ("DBSI") is an SEC registered broker-dealer incorporated in Delaware and based in New York, New York. Defendant Deutsche Bank Securities is a subsidiary of Taunus Corporation, which is a subsidiary of Defendant Deutsche Bank AG. Defendant DSBI underwrote all of the RMBS at issue here.

24. Defendant DB Structured Products, Inc. ("DBSP") is a Delaware corporation with its principal place of business in New York, New York. Defendant DB Structured Products, Inc. acquired the mortgage loans from the originators discussed below in all but eight of the RMBS at issue here.

25. Defendant ACE Securities Corp. is a Delaware corporation formed by DBSI, with its principal place of business in Charlotte, North Carolina. Defendant ACE Securities Corp. served as the depositor and issuer for the ACE 2006-ASP1, ACE 2006-ASP4, ACE 2006-ASP6, ACE 2006-FM1, ACE 2006-HE1, ACE 2006-HE2, ACE 2006-HE3, ACE 2006-NC2, ACE 2006-OP1, ACE 2007-ASP1, ACE 2007-ASP2, ACE 2007-HE2, ACE 2007-HE3, ACE 2007-HE4, ACE 2007-HE5, ACE 2007-WM1 and ACE 2007-WM2 RMBS purchased by Dexia.

26. Defendant Deutsche Alt-A Securities, Inc. is a Delaware corporation with its principal place of business in New York, New York. Defendant Deutsche Alt-A Securities, Inc. is a wholly owned subsidiary of Defendant DB Structured Products, Inc., and served as the depositor and issuer for the DBALT 2005-AR1, DBALT 2006-AF1, DBALT 2006-AR3, DBALT 2006-AR4, DBALT 2006-AR5, DBALT 2006-AR6 and DBALT 2007-AR2 RMBS purchased by Dexia.

27. The Defendants identified in ¶¶22-26 above are hereinafter collectively referred to as "Defendants."

IV. FACTUAL BACKGROUND UNDERLYING DEXIA'S CLAIMS

A. The Deutsche Bank RMBS Purchased by Dexia

28. RMBS, such as the Deutsche Bank RMBS purchased by Dexia, provide the RMBS investor with an interest in income generated by a pool of mortgages. The actual securities themselves represent an equity interest in an "issuing trust" that holds the mortgage loan pool. Although the structure and underlying collateral of the mortgages varies among the

32 Deutsche Bank RMBS that Dexia purchased, they all function in a similar manner: The cash flows from the borrowers who make interest and principal payments on the individual mortgages comprising the mortgage pool are "passed through" to the certificate holders, like Dexia. Accordingly, the failure of those borrowers to make their mortgage payments directly impacts the returns Dexia earns on its RMBS investments. Moreover, a default resulting in foreclosure may cause the trust to sell the subject property at a loss – a risk that increases when the appraisals utilized in underwriting the loans overstates the value of the property that serves as collateral for the mortgage. For these reasons, the proper underwriting of the mortgages underlying the Deutsche Bank RMBS – including verifying the credit quality of the borrower and the value of the real estate – is essential to ensuring that the Deutsche Bank RMBS perform according to the representations made by Deutsche Bank to investors like Dexia.

29. The first step in creating an RMBS is the acquisition by a "depositor" of an inventory of loans from a "sponsor" or "seller," which either originates the loans or acquires the loans from other mortgage originators, in exchange for cash. The type of loans in the inventory varies, and can include conventional, fixed-rate or adjustable-rate mortgage loans, secured by first liens, junior liens, or a combination of first and junior liens, with various lifetimes to maturity. The depositor then transfers, or deposits, the acquired pool of loans to an "issuing trust." Although there can be more than one "sponsor" or "depositor" in a given securitization, in 24 of the Deutsche Bank RMBS purchased by Dexia, Deutsche Bank entities acted as the sole "depositor" and "sponsor" of the securitization.

30. The depositor then securitizes the pool of loans in the issuing trust so that the rights to the cash flows from the pool can be sold to investors. The securitization transactions are structured such that the risk of loss is divided among different levels of investment, or "tranches," with each having a different level of risk and reward. Typically, losses on the

underlying loans—whether due to default, delinquency, or otherwise—are generally applied in reverse order of seniority. As such, the most senior tranches of pass-through securities are rated as the best quality, or "AAA/Aaa." Junior tranches, which usually obtained lower ratings, ranging from "AA/Aa" to "BB/Ba," are less insulated from risk, but offer greater potential returns in the form of higher rates of interest. All of the Deutsche Bank RMBS purchased by Dexia were among the most senior, risk-averse tranches of the relevant offerings and were all rated "AAA/Aaa" at issuance and when they were purchased by Dexia.

31. Once the tranches are established, the issuing trust passes the securities back to the depositor, which becomes the issuer of the RMBS. The depositor then passes the RMBS to Deutsche Bank—which offers and sells the securities to Dexia and other investors in exchange for cash that is passed back to the depositor, less any fees collected by Deutsche Bank for serving as an underwriter of the securitization. Typically, investment banks like Deutsche Bank would collect between 0.2% to 1.5% in discounts, concessions, or commissions in serving as an underwriter of an RMBS securitization. On the 32 Deutsche Bank RMBS purchased by Dexia, these commissions would have yielded Deutsche Bank up to $293 million in underwriting fees. By serving as a sponsor and depositor of the securitizations, Deutsche Bank earned even more.

32. Deutsche Bank entities were involved in almost every step of the process of selling the vast majority of the Deutsche Bank RMBS to Dexia. DB Structured Products, Inc., which served as the sponsor of 24 of the 32 RMBS purchased by Dexia, provided warehouse financing to the originators that issued the mortgage loans, acquired the mortgage loans from the originators, and initiated the securitization of the mortgage loans into RMBS by transferring the loans to ACE Securities Corp. or Deutsche Alt-A Securities, Inc., the depositor. ACE Securities Corp. or Deutsche Alt-A Securities, Inc., which served as the depositor in 24 of the Deutsche Bank RMBS purchased by Dexia, obtained the mortgage loans from DB Structured Products,

Inc. (the sponsor) to place into the issuing trust for sale in privately negotiated transactions to investors like Dexia. Importantly, Deutsche Bank provided the information that Dexia used to decide whether to purchase the securities.

33. Because the cash flow from the loans in the collateral pool of a securitization is the source of funds to pay the holders of the RMBS issued by the trust, the credit quality of those securities depends upon the credit quality of the loans in the collateral pool. The most important information about the credit quality of the loans is contained in the "loan files" that the mortgage originator develops while making the loans. For residential mortgage loans, each loan file normally contains documents including the borrower's application for the loan; verification of the borrower's income, assets, and employment; references; credit reports on the borrower; an appraisal of the property that will secure the loan and provide the basis for important measures of credit quality, such as loan-to-value ratios.

34. The collateral pool of loans for each securitization usually includes thousands of loans. Instead of each potential investor reviewing thousands of loan files, Deutsche Bank, in its role as a sponsor and underwriter of the securitization, is responsible for gathering, verifying, and presenting to potential investors accurate and complete information about the credit quality and characteristics of the loans that are deposited into the trust. Indeed, the most important factors for Dexia—and, for any investor—in purchasing Deutsche Bank RMBS were (1) the ability of the underlying borrowers to repay their mortgages; (2) the ability for the trust to recover its losses in case of default by ensuring the properties were appropriate collateral for the loans and were accurately valued; and (3) the rate of interest received on the RMBS. The loan files themselves are not provided or available to RMBS investors like Dexia, who must instead rely upon Deutsche Bank's representations about the mortgages underlying the RMBS and the process used to select and review those loans.

35. As noted, all of the Deutsche Bank RMBS purchased by Dexia were rated triple-A at issuance, as set forth below:

Deal and Tranche	Amount Expended	Moody's Rating at Issuance	Moody's Current Rating	Top Originators & Sellers
ACE 2006-ASP1 A2D	$12,366,000	Aaa	Caa2	DBSP
ACE 2006-ASP4 A2D	$14,237,000	Aaa	Ca	DBSP
ACE 2006-ASP6 A2D	$17,541,000	Aaa	Ca	DBSP
ACE 2006-FM1 A2D	$15,271,000	Aaa	C	Fremont
ACE 2006-HE1 A2D	$23,490,000	Aaa	Ca	Fremont
ACE 2006-HE2 A2C	$10,000,000	Aaa	Caa2	Argent Mortgage Company
ACE 2006-HE2 A2D	$13,115,000	Aaa	Ca	
ACE 2006-HE3 A2C	$15,000,000	Aaa	Ca	Aegis Mortgage Corporation Encore Credit Corporation
ACE 2006-HE3 A2D	$24,704,000	Aaa	Ca	
ACE 2006-NC2 A2D	$14,652,000	Aaa	C	New Century
ACE 2006-OP1 A2C	$11,481,000	Aaa	Caa3	Option One
ACE 2007-ASP1 A2C	$37,247,818	Aaa	Ca	DBSP
ACE 2007-ASP2 A2C	$10,500,000	Aaa	Ca	DBSP
ACE 2007-HE2 A2C	$48,689,000	Aaa	Ca	CIT Group/ Consumer Finance, Inc. People's Choice Home Loan, Inc.
ACE 2007-HE3 A2C	$26,262,479	Aaa	C	ResMAE Mortgage Corporation
ACE 2007-HE4 A2A	$38,436,766	Aaa	Ca	DB Home ResMAE Mortgage Corporation
ACE 2007-HE4 A2C	$13,000,000	Aaa	Ca	
ACE 2007-HE5 A2C	$15,709,000	Aaa	Ca	DB Home MortgageIT
ACE 2007-WM1 A2D	$45,000,000	Aaa	Ca	WMC Mortgage Corp.
ACE 2007-WM2 A2B	$24,384,750	Aaa	Ca	WMC Mortgage Corp.
ACE 2007-WM2 A2C	$50,503,000	Aaa	Ca	
AHMA 2006-3 3A31	$44,358,000	Aaa	C	American Home
DBALT 2005-AR1 1A2	$47,000,000	Aaa	C	National City Mortgage Co. Quicken Loans Inc. IndyMac Bank, FSB GreenPoint Mortgage Funding Inc
DBALT 2006-AF1 A5	$19,840,000	Aaa	C	American Home

Deal and Tranche	Amount Expended	Moody's Rating at Issuance	Moody's Current Rating	Top Originators & Sellers
				GreenPoint Mortgage Corporation IndyMac Bank, FSB
DBALT 2006-AR3 A7	$67,493,000	Aaa	C	Countrywide MortgageIT
DBALT 2006-AR4 A3	$73,000,000	Aaa	C	Countrywide MortgageIT GreenPoint Mortgage Funding, Inc.
DBALT 2006-AR5 1A4	$48,000,000	Aaa	C	IndyMac Bank, FSB American Home GreenPoint Mortgage Funding Inc
DBALT 2006-AR6 A8	$49,000,000	Aaa	C	Countrywide Home MortgageIT
DBALT 2007-AR2 A3	$28,550,000	Aaa	C	American Home MortgageIT
INDB 2005-1 A2	$24,524,000	Aaa	C	IndyMac Bank, FSB
INDX 2005-AR31 5A2	$29,457,000	Aaa	C	IndyMac Bank, FSB
INDX 2006-AR15 A3	$19,817,000	Aaa	C	IndyMac Bank, FSB
INDX 2006-AR27 1A5	$51,157,000	Aaa	C	IndyMac Bank, FSB
NHEL 2007-1 A2B	$56,554,245	Aaa	Ca	NovaStar Mortgage,
RALI 2006-QA3 A3	$37,624,000	Aaa	C	HomeComings Financial Network, Inc. MortgageIT
TMTS 2006-5 1A2C	$s9,862,000	Aaa	C	The Winter Group Acoustic Home Loans CIT Group Homefield Financial

B. Deutsche Bank's Activities In The Subprime Mortgage Arena

36. Deutsche Bank's activities in the RMBS market were a tremendous driver of Deutsche Bank's profits at the height of the U.S. housing boom. At nearly every step of the mortgage securitization process, Deutsche Bank reaped enormous profits, collecting the spread between what it would pay for a pool of mortgage loans and what it was able to obtain from selling those loans into a securitization, from collecting underwriting fees and commissions from

selling the RMBS it had securitized to investors, to earning interest and fees from the warehouse lending arrangements it established with subprime originators to facilitate the issuance of the loans underlying those securities.

37. Eager to capitalize on the booming market for subprime mortgages, Deutsche Bank created several entities—including DBSP and ACE Securities—to facilitate Deutsche Bank's origination and purchase of residential mortgage loans that Deutsche Bank would then underwrite and sell to investors like Dexia as RMBS. Deutsche Bank also pursued an increased market share in the subprime mortgage market through its 2006 purchase of Chapel Funding LLC, which it later renamed DB Home Lending LLC, as well as through its acquisition of MortgageIT, which Deutsche Bank officials lauded as a "major step[] forward in building our U.S. franchise with our acquisitions of mortgage origination platforms."

38. As a result of these efforts, from 2004 to 2006, DBSP residential mortgage securitizations more than tripled, from $7.7 billion to $24 billion. According to the Company's 2006 Annual Report, Deutsche Bank's RMBS securitization activities, including a "sustained expansion into residential mortgage-backed securities in the U.S." which reported "gain[s] both in earnings and in market share," enabled Deutsche Bank to "generate[] record revenues [and] reap[] rich rewards." By year end 2006, the reported cash flows passing through Deutsche Bank's hands and into securitizations totaled nearly $40 billion U.S. (€19,735 million), with Deutsche Bank recognizing over $550 million U.S. (€262 million) in gains as a result.

39. Even before its acquisition of MortgageIT and Home Lending, Deutsche Bank had unique insight into the practices of mortgage originators through its role as one of the most prolific RMBS trustees in the world. As Deutsche Bank boasted in its 2006 Annual Report, as of year-end 2006, Deutsche Bank's trustee and servicing arm had received more appointments in

U.S. asset-backed securitizations than any other provider, meaning that Deutsche Bank oversaw the securitization of more residential mortgage loans than any other trustee in the world.

40. Deutsche Bank's RMBS activities as securitizer and trustee were integral to the growth and proliferation of high-risk mortgages that contributed to the financial crisis. Mortgage originators generated profits primarily through the sale of their loans to investment banks like Deutsche Bank, and the originators were therefore driven to originate and sell as many loans as possible. Increased demand for mortgages by banks like Deutsche Bank led to increased volume in mortgage originations. That increased volume, in turn, led to a decrease in the gain-on-sale margins that mortgage originators received from selling pools of loans. As a result, originators began to borrow money from the same large banks that were buying their mortgages in order to fund the origination of even more mortgages.

41. One of the principal ways originators obtained such capital was by establishing a warehouse line of credit with an investment bank such as Deutsche Bank. The line of credit, in turn, would be secured by the very mortgage loans that investment banks like Deutsche Bank would purchase for securitization. Deutsche Bank earned fees and interest income on those warehouse lines of credit. From 2005 to 2007, Deutsche Bank extended warehouse lines credit totaling billions of dollars to several of the originators whose loans backed the Deutsche Bank RMBS sold to Dexia, including New Century, Countrywide, American Home and Ameriquest, the parent of Argent. These financial relationships also provided Deutsche Bank with unique insight into the lending practices of the originators whose loans backed the RMBS purchased by Dexia.

42. Deutsche Bank's activities in the subprime mortgage market also included exploiting its unique knowledge of the origination practices of subprime lenders to profit at the expense of its own clients, including Dexia. One way Deutsche Bank did so was by structuring

financial products, such as collateralized debt obligations ("CDOs")—which provided investors with payments from a portfolio of fixed-income assets, such as RMBS—that were backed by the very RMBS Deutsche Bank had securitized. Deutsche Bank earned fees by structuring CDOs and selling the securities that the CDOs issued, and also sold RMBS from its own portfolio to the CDOs—often for the very purpose of eliminating the risk of those RMBS from Deutsche Bank's own balance sheet. Another way Deutsche Bank exploited its knowledge of the true value of the RMBS it sold Deixa was to take proprietary positions in other instruments, such as credit default swaps ("CDSs")—insurance-like products which would provide payments to the CDS purchaser upon the occurrence of a particular credit event, typically the default of a particular asset (*e.g.*, RMBS) or asset class (*e.g.*, a series of RMBS with similar attributes)—that paid off when the value of those RMBS declined. Indeed, as discussed in further detail below, Deutsche Bank's top CDO trader, Greg Lippmann, entered into trades enabling Deutsche Bank to effectively "short" the subprime mortgage market by betting against subprime RMBS such as those it created and sold to investors like Dexia. Deutsche Bank began shorting the subprime mortgage market as early as 2005, and rapidly expanded its position into a multi-billion dollar bet that U.S. RMBS would fail on a massive scale.

43. According to Michael Lewis's account in *The Big Short*, Lippmann emailed an investor of a hedge fund in November 2005 and claimed that "he was short 1 billion dollars of this stuff and was going to make 'oceans' of money (or something to that effect.) His exuberance was a little scary." Indeed:

> Lippmann brimmed with fascinating details: the historical behavior of the American homeowner; the idiocy and corruption of the rating of the rating agencies, Moody's and S&P, who stuck a triple-B rating on subprime bonds that went bad when losses in the underlying pools of home mortgages reached just 8 percent; the widespread fraud in the mortgage market; the folly of the subprime

> mortgage investors, some large number of whom seemed to live in Düsseldorf, Germany.
>
> * * *
>
> Düsseldorf. Stupid Germans. They take rating agencies seriously. They believe in the rules.

44. Lippmann also enlisted the assistance of Deutsche Bank's preferred clients in helping Deutsche Bank to amass the massive short position that would pay off handsomely when the value of RMBS, like those it had created and sold to Dexia, declined. As described in *The Big Short*, Steve Eisman, a money manager that became famous for betting against the value of subprime mortgages, was approached by Lippmann, who wanted Eisman to bet against RMBS that Deutsche Bank had created. According to the account, Eisman asked Lippmann why he should "bet against bonds [Deutsche Bank] is creating, and arranging for the rating agencies to misrate?" Eisman was incredulous: "In my entire life I never saw a sell-side guy come in and say, 'Short my market.'" As Lewis explained, at the same time that Lippmann's short position against the value of subprime RMBS such as the Deutsche Bank RMBS purchased by Dexia had grown to $1 billion, "[s]ixteen floors above him inside Deutsche Bank's Wall Street headquarters, several hundred highly paid employees bought subprime mortgage loans, packaged them into bonds, and sold them off." As Lewis recounted:

> By the summer of 2006 Greg Lippmann had a new metaphor in his head: a tug-of-war. The entire subprime mortgage lending machine—including his own employer, Deutsche Bank—pulled on one end of the rope, while he, Greg Lippmann, hauled back on the other.

45. An investigation into one such investment vehicle that Deutsche Bank created and sold to its clients—a CDO named Gemstone 7—by the Senate Subcommittee, revealed that Deutsche Bank recognized that the RMBS it had created were destined to fail, and went to

extreme measures to pass the risks of their failure onto unsuspecting investors like Dexia. As noted by in the Senate Report, this raised several disturbing concerns:

> The first is that Deutsche Bank allowed the inclusion of Gemstone 7 assets which its most senior CDO trader was asked to review and saw as likely to lose value.[4]
>
> Second, the bank sold poor quality assets from its own inventory to the CDO.
>
> Third, the bank aggressively marketed the CDO securities to clients despite the negative views of its most senior CDO trader, falling values, and the deteriorating market.
>
> Fourth, the bank failed to inform potential investors of Mr. Lippmann's negative views of the underlying assets and its inability to sell over a third of Gemstone's securities.

46. As noted in the Senate Report, "[e]ach of these issues focuses on the poor quality of the financial product that Deutsche Bank helped assemble and sell." Deutsche Bank's massive bet against the RMBS (and others like them) that it created and sold to investors enabled Deutsche Bank to reap $1.5 billion in profits during 2007 and 2008. Lippmann told the Senate Subcommittee that he believes that profit to be "the largest profit obtained from a single position in Deutsche Bank history."

C. Deutsche Bank's Role Was To Ensure The Quality Of The Loans Backing The RMBS

47. Deutsche Bank and the mortgage originators utilized two methods to securitize mortgages into RMBS for sale to investors. Specifically, the originators aggregated the loans into pools and would either (1) deposit them into a trust that would issue RMBS backed by the

---

[4] Gemstone 7 was a CDO created by Deutsche Bank that referenced subprime RMBS. Six of the seven tranches in the CDO received investment grade ratings, and Gemstone 7 investors believed the CDO presented minimal investment risk. As outlined in the Senate Report and in further detail below, Deutsche Bank selected RMBS that it expected would perform poorly, including those that Deutsche Bank had created and sold to Dexia, and placed them in Gemstone 7. Gemstone 7 investors have since lost all or most of their investment.

loans (referred to herein as an "originator securitization"), or (2) sell the loans pools to an investment bank, and the investment bank would then deposit the securities into a trust that would issue securities backed by the loans ("principal securitization"). Under the first approach, Deutsche Bank profited by the fees it received by serving as an underwriter of the securities issued by the originator. Under the second approach, referred to herein as a "principal securitization" because the investment bank is securitizing the loans on its own behalf, Deutsche Bank profited off of the difference in the price it paid for the loan pools it purchased from the originator and that which it received from the sale of those loans as RMBS.

48. Three-fourths of the Deutsche Bank RMBS purchased by Dexia at issue in this action were securitized through principal securitization, whereby Deutsche Bank entities would first purchase loan pools originated by third-party originators and/or loan sellers and then sell those loans into the RMBS trust as the sponsor of a mortgage securitization. Some investors prefer principal securitizations to originator securitizations because the involvement of a sophisticated investment bank such as Deutsche Bank throughout the securitization process indicates a higher degree of oversight and due diligence on the mortgages being selected for inclusion in the RMBS.

49. For example, in the Offering Materials relied on by Dexia, Deutsche Bank explains that when serving as a sponsor of a securitization, DBSP "***conducts a number of quality control procedures, including a full re-underwriting of a random selection of mortgage loans to assure asset quality***" to confirm "***the existence and accuracy of legal documents, credit documentation, appraisal analysis and underwriting decision***." The findings of this review are included in a "report detailing audit findings and level of error," which is then sent monthly to DBSP management for response. Specifically, before purchasing loans from an originator in a principal securitization, Deutsche Bank would

perform due diligence on the mortgage loan pools by examining three areas—credit, compliance and valuation. First, credit diligence examined a sampling of the individual loans in a given loan pool to assess their quality and compliance with the underwriting guidelines of the originator. An originator's underwriting guidelines are a critical tool for investors to evaluate the risk of default on the loans that serve as collateral for RMBS. Prudent lending standards—as articulated in an originator's underwriting guidelines—are addressed in numerous federal guidance statements requiring that federally-regulated institutions adopt well-defined underwriting parameters such as acceptable loan-to-value ratios, debt-to-income ratios, and minimum acceptable credit scores.[5] Those federal standards have been adopted by the subprime industry as a whole through substantially similar guidance published by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators. These standards are intended not only to protect borrowers to ensure that they can repay their loans, but also to ensure the safety and soundness of individual lending institutions and the financial system as a whole. Second, compliance diligence focused on whether the loans were originated in compliance with state, federal and local laws, including predatory lending and truth-in-lending statutes. Third, valuation diligence checked the accuracy of the originator's reported property valuations of the collateral backing the loans. In a principal securitization, this due diligence provides comfort to investors that Deutsche Bank has ensured that only mortgages that conform to the requirements of the RMBS at issue are being securitized.

---

[5] *See, e.g.*, 12 C.F.R. Part 34, subpart D (Office of the Comptroller of Currency standards); 12 C.F.R. Part 208, subpart C (Board of Governors of the Federal Reserve standards); 12 C.F.R. Part 365 (Federal Deposit Insurance Corporation standards); 12 C.F.R. 560.100 and 12 C.F.R. 560.101 (Office of Thrift Supervision standards); and 12 CFR 701.21 (National Credit Union Administration standards).

50. Deutsche Bank routinely ignored the pervasive defects that its due diligence identified in the loans Deutsche Bank had purchased for securitization. Deutsche Bank deliberately concealed these defects from Dexia and other investors in order to increase its own profits, preserve its ongoing business relationships with the RMBS originators, and move risk from its own balance sheet onto investors. Instead, as discussed in further detail below, Deutsche Bank used its asymmetrical informational advantage to reap illicit profits.

51. Indeed, Deutsche Bank's misconduct has had a dramatic impact on the performance of the loans underlying the Deutsche Bank RMBS purchased by Dexia. As of May 2011, on average, almost ***35%*** of the mortgage loans backing the Certificates were over 60 days delinquent, in foreclosure, bankruptcy, or repossession as reflected by the chart below:

Collateral Performance of Securities Underwritten by Deutsche Bank
Serious Delinquencies (= 60 Day + 90 Day + Real Estate Owned + Foreclosure)[6]

#	Offering	At 12 Months	At 24 Months	At 36 Months	At 48 Months	At 60 Months	May 2011
1	ACE 2006-ASP1	5.89	32.75	39.97	31.63	28.59	25.90
2	ACE 2006-ASP4	15.81	28.40	36.47	29.84	N/A	23.70
3	ACE 2006-ASP6	22.16	28.50	39.37	27.97	N/A	22.96
4	ACE 2006-FM1	20.08	44.87	53.02	55.36	N/A	49.91
5	ACE 2006-HE1	17.04	41.05	53.19	54.58	46.02	41.82
6	ACE 2006-HE2	16.39	37.31	38.45	35.43	25.90	25.26
7	ACE 2006-HE3	19.64	40.79	41.06	33.97	N/A	25.82
8	ACE 2006-NC2	23.69	47.80	63.98	65.80	N/A	64.23
9	ACE 2006-OP1	12.11	32.53	34.46	33.41	34.97	34.97
10	ACE 2007-ASP1	24.90	30.53	33.95	26.08	N/A	22.27
11	ACE 2007-ASP2	22.96	32.53	31.34	N/A	N/A	28.74
12	ACE 2007-HE2	27.35	38.19	40.92	32.32	N/A	29.25
13	ACE 2007-HE3	39.30	59.06	54.22	44.66	N/A	40.51

[6] Real Estate Owned Properties ("REO") are properties owned by a bank after an unsuccessful foreclosure auction. The figures in the above chart do not reflect the removal of failed mortgage loans from the current loan pool and current delinquency figures; had those mortgage loans remained in the securitization, the average serious delinquency rates would have been substantially higher.

14	ACE 2007-HE4	38.40	59.59	51.55	N/A	N/A	49.18
15	ACE 2007-HE5	27.02	43.92	45.93	N/A	N/A	42.97
16	ACE 2007-WM1	28.73	61.00	71.07	68.56	N/A	67.64
17	ACE 2007-WM2	29.90	40.45	40.95	31.09	N/A	28.52
18	AHMA 2006-3	2.03	15.97	36.16	34.26	N/A	31.09
19	DBALT 2005-AR1	1.66	8.71	14.81	27.49	26.54	21.96
20	DBALT 2006-AF1	6.41	19.38	33.33	34.25	N/A	29.14
21	DBALT 2006-AR3	10.75	28.09	39.17	38.74	N/A	33.10
22	DBALT 2006-AR4	8.80	24.45	37.69	38.23	N/A	34.59
23	DBALT 2006-AR5	9.75	29.77	42.73	39.68	N/A	35.25
24	DBALT 2006-AR6	11.77	30.12	40.91	42.23	N/A	39.14
25	DBALT 2007-AR2	15.59	36.29	49.94	53.70	N/A	52.56
26	INDB 2005-1	7.53	24.07	44.67	47.03	45.95	37.86
27	INDX 2005-AR31	1.85	7.84	16.30	21.78	21.99	19.16
28	INDX 2006-AR15	6.42	20.97	35.80	34.57	29.63	29.63
29	INDX 2006-AR27	4.77	18.47	29.19	28.39	N/A	26.13
30	NHEL 2007-1	28.10	51.51	54.96	44.44	N/A	42.67
31	RALI 2006-QA3	4.53	18.02	31.27	29.42	24.71	23.14
32	TMTS 2006-5	11.63	29.13	40.47	30.71	N/A	24.09
Averages		**16.34**	**33.19**	**41.17**	**38.47**	**31.59**	**34.47**

D. Factors Impacting The Quality Of The Deutsche Bank RMBS

52. Federal regulators have long recognized the importance of sound lending and have for years issued guidance on subprime mortgage products to ensure that borrowers are able to repay their loans. For example, the 1993 Interagency Guidelines for Real Estate Lending, issued jointly by the Board of Governors of the Federal Reserve System (Deutsche Bank's primary federal regulator), the Office of the Comptroller of the Treasury ("OCC"), the Federal Depository Insurance Commission ("FDIC"), the Office of Thrift Supervision ("OTS"), and the National Credit Union Administration, provided that prudently underwritten real estate loans (subprime or otherwise) "should reflect all relevant credit factors, including … the capacity of the borrower, or income from the underlying property, to adequately service the debt." Federal regulators responded to the growth of newer subprime products with enhanced guidance in 1999,

warning that if risks associated with subprime lending were "not properly controlled, the agencies consider subprime lending a high-risk activity that is unsafe and unsound."

53. The 1999 guidance recognized the critical role that banks such as Deutsche Bank, which comprised the primary market for the sale of subprime loans, played in dictating and enforcing underwriting standards for subprime mortgage lending:

> Institutions should not accept loans from originators that do not meet their underwriting criteria, and should regularly review loans offered to ensure that loans purchased continue to meet those criteria. Deterioration in the quality of purchased loans or in the portfolio's actual performance versus expectations requires a thorough reevaluation of the lenders or dealers who originated or sold the loans, as well as a reevaluation of the institution's criteria for underwriting loans and selecting dealers and lenders. Any such deterioration may also highlight the need to modify or terminate the correspondent relationship or make adjustments to underwriting and dealer/lender selection criteria.

54. The guidance also required that "institutions…perform an ongoing analysis of subprime loans," "have information systems in place to segment and stratify their portfolio (e.g., by originator, loan-to-value, debt-to-income ratios, credit scores) and produce reports for management to evaluate the performance of subprime loans," determine "whether performance meets expectations," and "consider the source and characteristics of loans that do not meet expectations and make changes in their underwriting policies and loan administration procedures to restore performance to acceptable levels."

55. Indeed, the fundamental basis upon which RMBS are valued is the ability of the borrowers to repay the principal and interest on the underlying loans and the adequacy of the collateral. Thus, proper loan underwriting is critical to assessing the borrowers' ability to repay the loans, and a necessary consideration when purchasing and pooling loans. If the loans pooled in the RMBS suffer defaults and delinquencies in excess of the assumptions built into

the certificate payment structure, RMBS investors suffer losses because of the diminished cash flow into the RMBS.

56. Likewise, independent and accurate appraisals of the collateralized real estate are essential to ensure that the mortgage or home equity loan can be satisfied in the event of a default and foreclosure on a particular property. An accurate appraisal is necessary to determine the likely price at which the foreclosed property can be sold and, thus, the amount of money available to pass through to certificate holders.

57. An accurate appraisal is also critical to calculating the loan-to-value ("LTV") ratio, which is a financial metric commonly used to evaluate the price and risk of RMBS. The LTV ratio expresses the amount of mortgage or loan as a percentage of the appraised value of the collateral property. For example, if a borrower seeks to borrow $90,000 to purchase a home worth $100,000, the LTV ratio is equal to $90,000 divided by $100,000, or 90%. If, however, the appraised value of the house has been artificially inflated to $100,000 from $90,000, the real LTV ratio would be 100% ($90,000 divided by $90,000). The term combined loan-to-value ratio ("CLTV") applies to the situation in which more than one loan is secured by a particular property. For example, a property valued at $100,000 with a single mortgage of $50,000 has an LTV of 50%. A similar property with a value of $100,000 with a first mortgage of $50,000 and a second lien mortgage of $25,000 has an aggregate mortgage balance of $75,000, and a CLTV of 75%.

58. From an investor's perspective, a high LTV or CLTV ratio represents a greater risk of default on the loan. First, borrowers with a small equity position in the underlying property have "less to lose" in the event of a default. Second, even a slight drop in housing prices might cause a loan with a high LTV ratio to exceed the value of the underlying collateral,

which might cause the borrower to default and would prevent the issuing trust from recouping its expected return in the case of foreclosure and subsequent sale of the property.

59. Consequently, the LTV ratios of the loans underlying the RMBS are important to investors' assessment of the value of such RMBS. Prospectuses typically provide information regarding the LTV ratios, and even guarantee certain LTV ratio limits for the loans that will support the RMBS. Indeed, Deutsche Bank had a stated policy not to securitize loans with a LTV or CLTV greater than 100%. The Offering Materials used to solicit Dexia's investment in the Deutsche Bank RMBS expressly stated, in sum or substance, that none of the securitized mortgages had combined loan-to-value ratios greater than 100%, and in certain securitizations the maximum loan-to-value ratios were purportedly capped at even lower percentage amounts.[7] As discussed below, this representation was false because a substantial portion of the loans purchased and securitized by Deutsche Bank had LTVs and CLTVs that exceeded 100% as calculated under independent property valuations obtained by Deutsche Bank.

60. Another important metric when considering a borrower's ability to repay a loan it is a borrower's debt-to-income ratio, or DTI, which reflects the increased risk that borrowers whose debt is relatively high compared to their income will default on their loans. While a borrower's current DTI is a good measure of his or her capacity to repay a fixed rate mortgage, other loan products, such as adjustable rate mortgages ("ARMs"), have initial "teaser" rates that reset at much higher index rates after a certain period. A "fully indexed rate" accounts for this interest rate reset, and represents the interest rate over the life of the loan, calculated by adding the index rate at origination and the margin that a lender adds to the index rate after the initial

---

[7] For example, the Offering Materials for the Deutsche Bank-underwritten INDX 2006 AR15, INDX 2006-AR27, RMBS represented that "[a]t origination, all of the Mortgage Loans had a Loan-to-Value Ratio of 95% or less." Similarly, the Offering Materials for the DBALT 2006-AR4 RMBS represented that the highest LTV ratio of the loans backing the RMBS was 95%.

"teaser" period. For example, if the current index rate is 2.5%, and if the margin on a particular loan is 3%, the fully indexed rate on that loan is 5.5%. Because the fully indexed rate accounts for the current value of the interest rate index used by an ARM, it is a better measure of a borrower's ability to repay the loan.

61. In 2006, the interagency regulators, responding to the explosive growth of non-traditional mortgage products, provided revised guidance explicitly addressing how institutions should calculate a borrower's DTI. Specifically, the underwriting guidelines state that "[w]hen an institution offers nontraditional mortgage loan products, underwriting standards should address the effect of a substantial payment increase on the borrower's capacity to repay when loan amortization begins." Moreover, according to the guidance:

> ***For all nontraditional mortgage loan products, an institution's analysis of a borrower's repayment capacity should include an evaluation of their ability to repay the debt by final maturity at the fully indexed rate, assuming a fully amortizing repayment schedule.*** In addition, for products that permit negative amortization, the repayment analysis should be based upon the initial loan amount plus any balance increase that may accrue from the negative amortization provision.

62. The federal guidance thus served to provide assurance to investors like Dexia that investments in instruments backed by subprime mortgages could be safe and conservative products so long as the underlying loans were properly underwritten and scrutinized. Indeed, the federal guidance made clear that heightened attention to and rigorous compliance with strict underwriting standards was critical for institutions engaged in subprime lending due to the unique risks posed by that borrower population. As regulators made clear, in the context of RMBS such as those purchased by Dexia here, representations concerning underwriting guidelines, appraisals, LTVs and DTIs were paramount.

V. THE OFFERING MATERIALS MISREPRESENTED THE UNDERWRITING AND QUALITY OF THE LOANS BACKING THE DEUTSCHE BANK RMBS

63. Contrary to the statements in the Offering Materials and other communications by Deutsche Bank used to solicit Dexia's investment in the Deutsche Bank RMBS, the originators whose loans served as collateral for Dexia's investments routinely violated their stated underwriting guidelines. As a result, the mortgages they originated and sold to Deutsche Bank for securitization presented a materially higher risk to investors than represented by Deutsche Bank in the Offering Materials.

64. For example, the Offering Materials described DBSP's underwriting standards, in relevant part, as follows:

> ***The Mortgage Loans were originated by various third party originators pursuant to the underwriting standard described in this section and were reviewed by the Sponsor to ensure conformity with such underwriting standards. The Sponsor's underwriting standards are primarily intended to assess the ability and willingness of a borrower to repay the debt of the mortgage loan and to evaluate the adequacy of the related mortgaged property as collateral for the mortgage loan***. All of the Mortgage Loans were underwritten with a view towards resale in the secondary mortgage market. In underwriting a mortgage loan, the Sponsor considers, among other things, a mortgagor's credit history, repayment ability and debt service-to-income ratio (referred to in this section of the prospectus supplement as the "Debt Ratio"), as well as the value, type and use of the mortgaged property.

65. The Offering Materials also provided information regarding the appraisal standards and practices employed by the Deutsche Bank RMBS originators. For example, the Offering Materials described DBSP's appraisal practices as follows:

> The Sponsor's guidelines are applied in accordance with a procedure which complies with applicable federal and state laws and regulations and generally require an appraisal of the mortgaged property which conforms to Freddie Mac and/or Fannie Mae standards and, if appropriate, a review appraisal. Generally, appraisals are provided by an approved list of appraisers

> maintained by the Sponsor. Additionally, review appraisals may only be provided by appraisers other than the original appraiser approved by the Sponsor. In some cases, the Sponsor relies on a statistical appraisal methodology provided by a third-party.
>
> Each review appraisal includes a market data analysis based on recent sales of comparable homes in the area and, where deemed appropriate, replacement cost analysis based on the current cost of constructing a similar home. The review appraisal may be an enhanced desk, field review or an automated valuation report that confirms or supports the original appraiser's value of the mortgaged premises.

66. These statements of material fact, and materially similar statements appearing in all of the Deutsche Bank RMBS Offering Materials, were false and misleading when made because DBSP and the originators discussed below violated their established underwriting standards. Indeed, the reckless practices of the mortgage originators whose loans backed the Deutsche Bank RMBS rendered numerous statements concerning the originators' guidelines, the LTV ratios, property appraisal values, the credit ratings assigned to the RMBS, and the due diligence Deutsche Bank conducted on those loans, materially false and misleading. As such, the riskiness of the loans underlying the RMBS purchased by Dexia, and thus the true risk profile of the RMBS was materially misrepresented. Through Deutsche Bank's due diligence process, its intimate knowledge of DBSP's loan underwriting and purchasing practices, as well as Deutsche Bank's unique insight into the underwriting practices of other originators whose loans backed the Deutsche Bank RMBS purchased by Dexia gleaned through Deutsche Bank's warehouse lending relationships with such mortgage lenders, Deutsche Bank knew of the reckless underwriting practices of the originators, and concealed their violations from Dexia.

A. The Deutsche Bank Sponsor and Originator Entities Violated Their Underwriting Guidelines

67. Deutsche Bank entities were steeped in every aspect of the securitization process, including the origination of the mortgage loans underlying the Deutsche Bank RMBS.

Defendant DBSP, along with Deutsche Bank affiliates Mortgage IT, Inc. ("Mortgage IT") and DB Home Lending LLC ("DB Home," and collectively, the "Deutsche Bank Originators"), acted as the sponsor and originators for most of the Deutsche Bank RMBS purchased by Dexia. The fact that Deutsche Bank itself controlled these entities provides compelling evidence that Deutsche Bank ***knew*** the loans backing the Deutsche Bank RMBS failed to meet the established underwriting guidelines represented in the relevant Offering Materials set forth below.

68. Defendant DBSP, an indirect wholly-owned subsidiary of Deutsche Bank AG, served as the sponsor of the vast majority of the RMBS purchased by Dexia. Deutsche Bank represented in the prospectus supplements for the RMBS purchased by Dexia that DBSP reviewed the mortgage loans that DBSP purchased to ensure conformity with prudent underwriting standards, including by performing a full re-underwriting of a random sampling of the loans it purchased for securitization in order to ensure the quality and soundness of those loans.

69. For example, Deutsche Bank made this and/or similar representations in the Offering Materials regarding the loans acquired by DBSP for securitization in the ACE 2006-ASP1, ACE 2006-ASP4, ACE 2006-ASP6, ACE 2007-ASP1, ACE 2007-ASP2, and ACE 2007-HE5 RMBS purchased by Dexia, representing $2,110,847,424 of the face amount of those deals. For example, the ACE 2007-ASP1 prospectus supplement states, in relevant part, as follows:

> All of the Mortgage Loans were acquired by the Depositor from the Sponsor. ***The Mortgage Loans were originated by various third party originators pursuant to the underwriting standard described in this section and were reviewed by the Sponsor to ensure conformity with such underwriting standards. The Sponsor's underwriting standards are primarily intended to assess the ability and willingness of a borrower to repay the debt of the mortgage loan and to evaluate the adequacy of the related mortgaged property as collateral for the mortgage loan.*** All of the Mortgage Loans were underwritten with a view towards resale in the secondary mortgage market. ***In underwriting a mortgage loan,***

> ***the Sponsor considers, among other things, a mortgagor's credit history, repayment ability and debt service-to-income ratio (referred to in this section of the prospectus supplement as the "Debt Ratio"), as well as the value, type and use of the mortgaged property.***
>
> * * *
>
> ***All of the Mortgage Loans were reviewed by the Sponsor's contract underwriters. On a case by case basis, the Sponsor may determine that, based upon compensating factors, a prospective borrower who does not strictly qualify under the underwriting risk category guidelines described below warrants an underwriting exception.*** Compensating factors may include, but are not limited to, low loan-to-value ratio, low Debt Ratio, substantial liquid assets, good credit history, stable employment and time in residence at the applicant's current address. It is expected that an insignificant portion of the Mortgage Loans may represent such underwriting exceptions.

70. The Offering Materials also made false and misleading representations of material fact concerning the appraisal practices employed by DBSP for mortgage loans backing the RMBS certificates. For example, the ACE 2007-ASP1 prospectus supplement stated, in relevant part, that:

> The Sponsor acquires mortgage loans secured by 1-4 unit residential properties made to eligible borrowers with a vested fee simple (or in some cases a leasehold) interest in the property. ***The Sponsor's guidelines are applied in accordance with a procedure which complies with applicable federal and state laws and regulations and generally require an appraisal of the mortgaged property which conforms to Freddie Mac and/or Fannie Mae standards and, if appropriate, a review appraisal.***
>
> ***Each review appraisal includes a market data analysis based on recent sales of comparable homes in the area and, where deemed appropriate, replacement cost analysis based on the current cost of constructing a similar home.***

71. Deutsche Bank also represented that DBSP performed an extensive quality control review process to ensure the quality and soundness of the loans comprising its securitizations. For example, the ACE 2007-ASP1 prospectus supplement represented that:

> ***The Sponsor conducts a number of quality control procedures, including a full re-underwriting of a random selection of mortgage loans to assure asset quality. Under the asset quality procedure, a random selection of each month's originations is reviewed. The mortgage loan review confirms the existence and accuracy of legal documents, credit documentation, appraisal analysis and underwriting decision. A report detailing audit findings and level of error is sent monthly to management for response.*** The audit findings and management responses are then reviewed by the Sponsor's senior management. Adverse findings are tracked monthly and over a rolling six month period. This review procedure allows the Sponsor to assess programs for potential guideline changes, program enhancements, appraisal policies, areas of risk to be reduced or eliminated and the need for additional staff training.

72. MortgageIT, which was purchased by DBSP in 2006, originated loans contained in the RALI 2006-QA3, DBALT 2006-AR3, DBALT 2006-AR4, DBALT 2006-AR6, DBALT 2007-AR2, and ACE 2007-HE5 RMBS, representing over $1,803,515,300 of the combined face amount of those deals.

73. The Offering Materials relied upon by Dexia in purchasing the RMBS originated by MortgageIT contained false and misleading statements of material fact regarding Mortgage IT's underwriting practices and guidelines. For example, the DBALT 2006-AR3 RMBS prospectus supplement described Mortgage IT's underwriting guidelines, in relevant part, as follows:

> ***MortgageIT's underwriting philosophy is to weigh all risk factors inherent in the loan file, giving consideration to the individual transaction, borrower profile, the level of documentation provided and the property used to collateralize the debt.*** Because each loan is different, MortgageIT expects and encourages underwriters to use professional judgment based on their experience in making a lending decision. ***MortgageIT underwrites a borrower's creditworthiness based solely on information that MortgageIT believes is indicative of the applicant's willingness and ability to pay the debt they would be incurring.***

* * *

> ***The underwriting for [no documentation loans] may be based primarily or entirely on the estimated value of the mortgaged property and the LTV ratio at origination as well as on the payment history and credit score.***
>
> * * *
>
> MortgageIT realizes that there may be some acceptable quality loans that fall outside published guidelines and encourages 'common sense' underwriting. Because a multitude of factors are involved in a loan transaction, no set of guidelines can contemplate every potential situation. ***Therefore, exceptions to these underwriting guidelines are considered, so long as the borrower has other reasonable compensating factors, on a case-by-case basis.***

74. The Offering Materials used to solicit Dexia's purchases of RMBS backed by MortgageIT-originated loans also contained false and misleading statements of material fact regarding MortgageIT's appraisal procedures and practices when issuing loans to borrowers. For example, the prospectus supplement for the DBALT 2006-AR3 explained that:

> ***Every MortgageIT mortgage loan is secured by a property that has been appraised by a licensed appraiser in accordance with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation.*** The appraisers perform on site inspections of the property and report on the neighborhood and property condition in factual and specific terms. Loans in excess of one million dollars require (i) two full appraisals or (ii) one full appraisal and a field review, ordered by a MortgageIT-approved national appraiser, including photographs of the interior and the exterior of the property. ***Each appraisal contains an opinion of value that represents the appraiser's professional conclusion based on market data of sales of comparable properties, a logical analysis with adjustments for differences between the comparable sales and the subject property and the appraiser's judgment.*** In addition, a MortgageIT underwriter or a mortgage insurance company contract underwriter reviews each appraisal for accuracy and consistency.

75. DB Home, also a DBSP subsidiary, originated a substantial portion of the loans contained in the ACE 2007-HE4 and ACE 2007-HE5 RMBS purchased by Dexia. The Offering Materials for the Deutsche Bank RMBS purchased by Dexia contained false and misleading

statements of fact regarding DB Home's underwriting standards at the time those statements were made. For example, the ACE 2007-HE4 prospectus supplement represented DB Home's underwriting standards, in relevant part, as follows:

> *Underwriting Personnel*. All of DB Home's loans are underwritten by its on-site underwriting personnel. DB Home does not delegate underwriting authority to any broker or third party. ***DB Home adheres to strict internal standards with respect to who has the authority to approve a loan. In the event that an underwriting exception is required for approval, only specifically designated personnel, dictated by the exception needed, are authorized to make such exceptions.*** DB Home regularly trains its operational managers, who supervise their account managers, funders and underwriters, on emerging trends in production.
>
> *Underwriting Guidelines.* DB Home's internal underwriting guidelines are established by its credit committee. DB Home's credit committee meets regularly with its production and operations managers to review proposed changes to the underwriting guidelines. ***If an individual loan application does not meet DB Home's formal written underwriting guidelines, but the underwriter is confident both that the borrower has the ability and willingness to pay and that the property provides adequate collateral for the borrower's obligations, DB Home's underwriters cannot make underwriting exceptions.*** Any of DB Home's loan programs which have an exception can only be approved by the Underwriting Manager or higher, regardless of the exception, such as LTV ratio exceptions, loan amount exceptions, and debt-to-income.
>
> ***DB Home's guidelines are primarily intended to (1) determine that the borrower has the ability to repay the mortgage loan in accordance with its terms and (2) determine that the related mortgaged property will provide sufficient value to recover the investment if the borrower defaults.*** The underwriting of a mortgage loan to be originated or purchased by DB Home generally includes a review of the completed loan package, which includes the loan application, a current appraisal, a preliminary title report and a credit report. ***All loan applications and all closed loans offered to DB Home for purchase must be approved by DB Home in accordance with its underwriting criteria.*** DB Home regularly reviews its underwriting guidelines and makes changes when appropriate to respond to market conditions, the performance of loans representing a particular loan product and changes in laws or regulations.

*   *   *

> Although DB Home generally does not make adjustments to the credit category of any applicant, ***DB Home may determine on a case-by-case basis that an applicant warrants a LTV ratio exception, a loan amount exception, a debt-to-income exception or another exception.*** DB Home may allow such an exception if the application reflects certain compensating factors, such as a lower than the maximum LTV ratio for the specific loan program, a maximum of one 30-day late payment on all mortgage loans during the last 12 months, job and income stability or a meaningful amount of liquid assets. DB Home may also grant an exception if the applicant provides a down payment of at least 20% of the purchase price of the underlying property or if the new mortgage loan significantly reduces the applicant's aggregate monthly debt service payments. ***DB Home expects that not a substantial number of the mortgage loans they originate will represent such underwriting exceptions.***

76. The Offering Materials also represented that the collateral underlying the mortgages was properly appraised and subject to adequate quality control procedures:

> An assessment of the adequacy of the real property as collateral for the loan is primarily based upon an appraisal of the property and a calculation of the LTV ratio of the loan applied for and the combined LTV to the appraised value of the property at the time of origination. Appraisers determine a property's value by reference to the sales prices of comparable properties recently sold, adjusted to reflect the condition of the property as determined through inspection. ***As lenders that generally specialize in loans made to credit impaired borrowers, DB Home has implemented an appraisal review proscess to support the value used to determine the LTV ratio. DB Home uses a variety of steps in its appraisal review process in order to attempt to ensure the accuracy of the value provided by the initial appraiser.*** DB Home's review process requires a written review on every appraisal report by the on-site staff appraisers. As part of their review process, the review department where available, verifies the subject property's sales history, those of comparable properties as well as reviews additional comparable data. In some cases the value of the property used to determine the LTV ratio is reduced where it has been determined by DB Home's staff appraisers that the original appraised value cannot be supported.

> *Quality Control*. ***DB Home's quality control program is intended to monitor loan production with the overall goal of improving the quality of loan production generated by its independent mortgage broker channel.*** Through systematically monitoring loan production, the quality control department can identify and communicate to management existing or potential underwriting and loan packaging problems or other areas of concern. The quality control file review ensures compliance with DB Home's underwriting guidelines and federal and state regulations. This is accomplished by focusing on: the accuracy of all credit and legal information; a collateral analysis, which may include a desk or field re-appraisal of the property and review of the original appraisal; employment and/or income verification; and legal document review to ensure that the necessary documents are in place.

77. The above statements of material fact concerning the Deutsche Bank Originators' purported quality underwriting and prudent due diligence were false and misleading when made because as discussed below, the Deutsche Bank Originators: (i) completely disregarded their own established underwriting and loan purchasing guidelines, and issued and/or purchased mortgage loans regardless of the borrowers' ability to repay the mortgage loans; (ii) issued and/or purchased mortgage loans originated pursuant to inflated appraisals, which did not conform to the appraisal standards of Fannie Mae or Freddie Mac; (iii) allowed pervasive and undisclosed exceptions to their underwriting and loan purchasing guidelines in the absence of compensating factors; and (iv) routinely misrepresented and manipulated a borrower's income, assets, and employment information in order to fuel Deutsche Bank's securitization pipeline.

78. In search of new sources of loans to purchase and securitize, Deutsche Bank, through DBSP, instituted a program to purchase nonprime loans for its RMBS from several correspondent mortgage originators to "make it easy for 'as big a seller or as small a seller' as exists to sell to Deutsche," according to a June 2004 article in *American Banker*. Through this program, Deutsche Bank provided guarantees to smaller mortgage lenders that Deutsche Bank would purchase loans ***even before the loans had been originated*** in order to encourage smaller

lenders to originate more mortgage loans and sell such loans to Deutsche Bank for securitization. The loans to be purchased by DBSP were purportedly to be audited and underwritten by Lydian Data Services, a subsidiary of Lydian Trust Co. ("Lydian").

79. CW 1, a Director of Risk and Compliance at Lydian Trust Securities from June 2003 to October 2005 who performed due diligence on loans for DBSP, stated that investors like DBSP would purchase loans even when they knew of problems with the origination of the loans. As explained by CW 1, "[i]f deficiencies were found they tried to find a signature here, a stamp there, and that was really the end of it." According to CW 1, loan purchasers such as DBSP would purchase loans pursuant to automatic exceptions, regardless of the findings of the Lydian diligence team—"[they] really didn't care." CW 1 stated that his underwriting reviews were completely disregarded by loan purchasers and if anything, were "smoke and mirrors" because whatever findings CW 1 reported, it made no difference; loan purchasers would buy the loans anyway. CW 1 stated that he did not see many loans without a deficiency—the loans were originated "quicker than could be imagined" and the quality of underwriting was not a legitimate concern of loan purchasers such as DBSP. According to CW 1, at least 80% of the loans that CW 1 reviewed while employed by Lydian contained deficiencies, including forged income documentation, forged W2's, or inflated appraisal valuations.

80. The loans DBSP purchased through its correspondent lending program and reviewed by Lydian were purchased and securitized even though, as reported by CW 1, approximately 80% contained deficiencies. To ensure that DBSP would not get caught "holding the bag" before it could securitize these defective loans, it had a stated policy requiring DBSP's "approved" loan sellers to repurchase a loan, at DBSP's discretion, "if any of the first three (3) payments due after the purchase date are thirty (30) days delinquent," a policy that was amended in March 2006 to require any seller to repurchase a loan if the first two payments had not been made. Under this program, DBSP closely tracked loans with early delinquencies, or EPD loans,

and was keenly aware that loans issued by its correspondent lenders were defaulting within the first several months after issuance at alarming rates, indicating that the loans never should have been issued in the first place. As reflected in emails from DBSP to its correspondent letter that were submitted in subsequent court filings, DBSP undertook a concerted effort to force various of its correspondent loan sellers to repurchase EPD loans in mid-2007, even though DBSP had earlier chosen to securitize these loans into RMBS purchased by Dexia as a matter of course. For example, an April 16, 2007 email from Jimmy Yan of DBSI to a representative of Lender Ltd. submitted in court filings provides a list of the loans in EPD "for this month." One of the EPD loans on that list – a $375,000 loan originated in October 2006 on which the borrower had ***never made a payment*** – was securitized in the ACE 2007-ASP1 RMBS issued on March 15, 2007, in which Dexia invested over $37 million.[8]

81. Moreover, Deutsche Bank was aware that the lenders that supplied the loans to the Deutsche Bank RMBS purchased by Dexia were coming under increasing financial stress as other investment bank loan buyers began demanding repurchases of their early defaulting loans. For example, Maribella closed its doors on March 10, 2007; Lancaster Mortgage Bank exited the wholesale lending business in June 2007 and filed for bankruptcy in August 2007; and Bayrock Mortgage Corporation shut its wholesale subprime wholesale lending business in December 2007. Instead of more closely scrutinizing the underwriting practices of the originators, limiting their purchases of loans from these lenders, or even enforcing its rights under its EPD program, Deutsche Bank—faced with having to suffer the loss on the loan itself if the lender were to declare bankruptcy—chose to securitize those loans and sell them as RMBS to Dexia.

82. These DBSP-"approved" lenders—which depended on the advance funding provided by Deutsche Bank just to stay in business—engaged in the very sort of risky, and in some cases, criminal, lending practices at the root of the financial crisis. For example, prior to its bankruptcy filing, Liberty—a company with approximately 30-45 employees—was fined by

---

[8] The Offering Materials of the ACE 2007-ASP1 RMBS represented that "No Mortgage Loan will be more than 60 days delinquent as of the Cut-off Date."

its state regulator for employing 21 unregistered brokers; in bankruptcy, Liberty listed assets of under $100,000 and liabilities of approximately $1 million, but remained in possession of $285,000 worth of Porsche luxury vehicles that it used as incentives for employees to issue to borrowers loans for Liberty to sell in the secondary market. A loan officer at Commonsense Mortgage, Inc., an originator with under 50 employees, was convicted in May 2011 for his involvement in a mortgage fraud scam in which he would recruit "straw buyers" to purchase homes at inflated values. The two top executives (the CEO and president) and the sole shareholders of Cameron were charged by the trustee overseeing the originator's bankruptcy with fraud for wrongfully transferring over $1 million in company assets as the lender was imploding. No facts regarding any of these lenders—or even their identities—were provided in the Offering Materials, and thus Deutsche Bank's representations that these lenders and the loans they issued were properly vetted by DBSP were of critical importance.

83. Nevertheless, Deutsche Bank securitized scores of loans that were identified by DBSP in court filings as having defaulted under the terms of its own EPD program within the first several months of having been issued, despite the explicit representations in the Offering Materials that the loans had been underwritten in accordance with DBSP's own underwriting guidelines, independently reviewed by DBSP's own underwriters, and that none of the loans were in serious delinquency status at the time of securitization.[9] Incredulously, DBSP, in its court filings, complains that because those loans were in EPD, it was "unable to include certain of the Early Payment Default Loans in securitizations," despite the fact that for the loans that were purchased as RMBS by Dexia, it already had done so.

84. As a result of these practices, the Deutsche Bank Originators have found themselves as defendants in numerous private and government lawsuits alleging violations of law arising out of false and misleading statements related to underwriting standards employed by

---

[9] For example, Deutsche Bank represented in the Offering Materials for the ACE 2006-ASP1 RMBS in which Dexia invested over $12 million that "***No Mortgage Loan will be more than 30 days delinquent as of the Cut-off Date***."

these entities in originating, purchasing and securitizing loans in RMBS such as those purchased by Dexia. *See United States v. Deutsche Bank AG*, No. 11 CIV 2976, (S.D.N.Y. May 3, 2011) ("USAO Complaint"); *Massachusetts Mutual Life Ins. Co. v. DB Structured Products, Inc.*, No. 11 CIV 30039 (D. Mass. Feb. 16, 2011), ECF No. 1 ("Mass Mutual Complaint"); *Allstate Insurance Company v. Ace Securities Corp.*, No. 650431/2011 (N.Y Sup. Ct. Feb. 17, 2011), NYSCEF No. ("Allstate Complaint"); *Assured Guaranty Corp. v. DB Structured Products, Inc.*, No. 651824/2010 (N.Y. Sup. Ct. Oct. 25, 2010), NYSCEF No. 2 ("Assured Complaint"); *Fed. Home Loan Bank of Boston v. Ally Fin. Corp.*, No. 11 CIV 1533 (Mass. May 26, 2011) ("FHLBB Complaint"); *EMC Mortgage Corp.* v. *MortgageIT*, No. 06 CIV 440, (N.D.Tx. February 6, 2008), ECF No. 53 ("EMC Complaint").

85. For example, as alleged in the Mass Mutual Complaint, a loan-level forensic review of the loans purchased by DBSP and sold into securitizations purchased by Dexia—including the ACE 2007-HE3, ACE 2007-HE4, ACE 2007-WM2, DBALT 2006-AF1, DBALT 2006-AR3 and DBALT 2006-AR6—revealed that the appraisal values of the mortgaged properties underlying the RMBS were significantly higher than what the mortgaged properties were actually worth. As such, the LTV ratios of the mortgage loans were significantly higher than what Deutsche Bank represented in the relevant Offering Materials. Specifically, contrary to Deutsche Bank's representations that none of the loans contained CLTV ratios that exceeded 100%, the forensic loan review found that the ***average*** CLTV ratios of the loans backing several of the Deutsche Bank RMBS at issue here exceeded 100%. The weighted average CLTV ratios of the loans backing the ACE 2007-HE3, ACE 2007-HE4 and ACE 2007-WM2 RMBS were approximately 105%—or a full 20% greater than they were represented to be in the relevant Offering Materials.

86. Similarly, the Allstate Complaint against DBSP includes allegations regarding a forensic loan-level review of a sampling of the loans backing the DBALT 2005-AR1 RMBS purchased by Dexia. According to the Allstate Complaint, while the Offering Materials for the DBALT 2005-AR1 RMBS represented that no loans had an LTV ratio above 100%, in reality, a staggering 14.59% of the loans sampled had LTVs over 100%.

87. The United States Attorney's Office has alleged that upper management at MortgageIT and Deutsche Bank knowingly permitted egregious underwriting violations through MortgageIT's participation in the Federal Housing Administration ("FHA") Direct Endorsement Lender program ("DEL Program"). As outlined in the USAO Complaint, MortgageIT, as a matter of course, failed to verify borrower income, employment history, credit history, cash investment in the mortgaged property, and other due diligence requirements while underwriting mortgage loans, and failed to review all early payment defaults, in direct contradiction to the required certifications it provided to the government. In most instances, within six months to one year of the closing, the mortgage was in default.

88. According to the USAO Complaint, an outside vendor hired by MortgageIT in 2004 reported instances of serious underwriting violations in a series of findings letters and sent the findings letters to MortgageIT and its management throughout 2004. Among other underwriting violations, the vendor highlighted MortgageIT's complete abandonment of quality control. Instead of ameliorating the underwriting violations, the USAO Complaint alleges that MortgageIT employees stuffed the findings letters, unopened and unread, in a closet in MortgageIT's Manhattan headquarters. The letters remained in MortgageIT's closet for approximately one year—until December 2004 or January 2005.

89. According to the USAO Complaint, MortgageIT and Deutsche Bank never hired more than one person to conduct quality control reviews for MortgageIT-originated loans. In a

demonstration of blatant disregard for MortgageIT's underwriting guidelines, MortgageIT shifted the responsibilities of the only staff member dedicated to auditing the quality of FHA-insured mortgages from quality control to increasing production. By the end of 2007, the only loan quality review employee at MortgageIT was no longer spending any time conducting quality control reviews of closed mortgage files. Indeed, as detailed in the USAO Complaint, "not a single person at Deutsche Bank or MortgageIT was conducting quality control reviews of FHA-insured mortgages." Consequently, patterns of mortgage underwriting violations went unchecked or willfully ignored in order to originate as many loans as possible. Nonetheless, during that time, MortgageIT and Deutsche Bank continued to certify that MortgageIT, as an FHA approved lender, maintained proper quality control requirement and had conducted due diligence on the mortgage applications.

90. Such reckless practices have had severe consequences on the performance of MortgageIT-originated loans under the DEL program. The USAO Complaint alleges that by February 2011, approximately one-third of the 39,000 mortgages originated by MortgageIT under the DEL Program were in default. Examining the performance of the defaulted loans, the USAO Complaint alleges that approximately 25% of such loans defaulted within six months of closing and over 55% of such loans defaulted within two years of closing.

91. The FHLBB Complaint provides additional facts showing that MortgageIT abandoned its stated underwriting standards. Specifically, the FHLBB Complaint alleges that a loan-level review of an RMBS comprised of MortgageIT-originated loans revealed numerous violations of MortgageIT's stated underwriting guidelines, including (1) loans originated without approval of income or proper credit checks; (2) misrepresentations concerning LTV ratios; willful ignorance of prior delinquencies or conflicting income statements; and (3) originations not conducted in arms-length transactions.

92. For example, the FHLBB Complaint details a loan originated by MortgageIT in 2005 whereby a borrower listed stated earnings of over $270,000 per year as a self-employed business owner. The borrower, however, maintained only $4,000 in a bank account, the borrower's credit report listed the borrower's occupation as a construction foreman (rather than a self-employed business owner), and the loan file did not contain an appropriate audit of the borrower's income. In fact, the letter submitted by the borrower's certified public accountant bore a handwritten note indicating that the letter was "not acceptable." Further, the broker that completed the loan application and ordered the appraisal of the mortgaged property was the borrower's wife. After the borrower filed for bankruptcy in January 2008, the borrower's statement of financial affairs filed with the bankruptcy court reflected the borrower earned only $69,000 during the year that the loan was originated—approximately 75% less than the annual earnings stated on the loan application. Using the borrower's true income as a guidepost for originating mortgage loans, as set forth in the FHLBB Complaint, the borrower's DTI was 80.7%—a metric that clearly demonstrates that this borrower had no reasonable means to repay the mortgage loan.

93. In another example of MortgageIT failing to follow its stated underwriting guidelines, the FHLBB Complaint describes a MortgageIT-originated loan issued pursuant to inflated appraisal valuations that were unsupported by comparable properties. As such, the mortgage loan was not originated in accordance with the Uniform Standards of Professional Appraisal Practice as represented in the Offering Materials. Specifically, the loan file for that mortgage loan reveals that the mortgaged property was transferred in June 2004 for $519,000 and was appraised for the subject transaction—based on incomparable properties between one and two miles south of the relevant property, in a different marketing area—in October 2005 for $850,000. The FHLBB Complaint alleges that the value of the subject property at the time of the

transaction was, in reality, only $547,000—approximately 36% less than the inflated appraisal valuation.

94. Allegations from a 2010 complaint filed by Assured Guaranty Corp., a Maryland insurance company, further support Dexia's claims that, contrary to MortgageIT's and DB Home's stated underwriting guidelines, those entities issued loans of extremely poor quality without regard to a borrower's ability to repay the mortgage loan and routinely excepted loans without compensating factors. According to the Assured Complaint, a third-party loan-level review of an RMBS—approximately 75% of which was originated by MortgageIT—revealed that 1532 out of a total 1774 loan files, or approximately 86% of the loan files examined, contained breaches of misrepresentations and warranties relating to MortgageIT's underwriting guidelines. Similarly, the forensic review of a separate RMBS discovered that out of 1,306 defaulted loans—26% of which were originated by DB Home—1,084 or more than 83% contained breaches of Deutsche Bank's representations and warranties. As alleged, the defective loans originated by MortgageIT and DB Home in the two RMBS contained:

- Rampant fraud, primarily involving misrepresentation of the borrower's income, assets, employment, or intent to occupy the property as the borrower's residence (rather than as an investment), and subsequent failure to so occupy the property;

- Failure by the borrower to accurately disclose his or her liabilities, including multiple other mortgage loans taken out to purchase additional investment property; and

- Pervasive violations of underwriting guidelines and prudent mortgage-lending practices, including loans made to borrowers (i) who made unreasonable claims as to their income, (ii) with multiple, unverified social security numbers, (iii) with credit scores below the required minimum, (iv) with debt-to-income and/or loan-to-value ratios above the allowed maximum, or (v) with relationships to the originators or other non-arm's length relationships.

95. Similarly, a complaint filed in 2008 by EMC Mortgage Corp. ("EMC"), at the time a subsidiary of Bear Stearns, claims that MortgageIT did not follow its stated underwriting standards and issued mortgage loans regardless of the borrower's ability to repay the loan. According to the EMC Complaint, a substantial number of the loans originated by MortgageIT and sold to EMC experienced early payment defaults, signifying that the borrower was unable to make the first several payments on the mortgage loan. In November 2008, MortgageIT settled EMC's claims.

96. The Deutsche Bank Originators' reckless origination practices described above have had a dramatic impact on the average serious delinquency rates of the loans backing the Deutsche Bank RMBS purchased by Dexia. For example, over 22% of the loans backing the RMBS that were purchased by DBSP stood seriously delinquent as of May 2011. In the case of the ACE 2007-HE5 RMBS, almost 43% of the loans stood seriously delinquent as of May 2011. Likewise, in all of the Deutsche Bank RMBS purchased by Dexia containing loans originated by MortgageIT, at least 20% of the loans stood seriously delinquent as of May 2011. Mortgage IT originated between 16% and 44% of the loans in those RMBS. An astounding 52% of the loans backing the DBALT 2007-AR2 were seriously delinquent as of May 2011. MortgageIT originated approximately 33% of the loans backing the DBALT 2007-AR2 RMBS. Finally, over 49% of the loans backing the ACE 2007-HE4, and over 42% of the loans backing ACE 2007-HE5, stood seriously delinquent as of May 2011. DB Home Lending originated over 48% of the loans in the ACE 2007-HE4 and ACE 2007-HE5 RMBS.

Deal Name & Tranche	At 12 Months	At 24 Months	At 36 Months	At 48 Months	At 60 Months	May 2011
RALI 2006-QA3	4.53	18.02	31.27	29.42	24.71	23.14
DBALT 2006-AR3	10.75	28.09	39.17	38.74	N/A	33.10
DBALT 2006-AR4	8.80	24.45	37.69	38.23	N/A	34.59

DBALT 2006-AR6	11.77	30.12	40.91	42.23	N/A	39.14
DBALT 2007-AR2	15.59	36.29	49.94	53.70	N/A	52.56
ACE 2006-ASP1	5.89	32.75	39.97	31.63	28.59	25.90
ACE 2006-ASP4	15.81	28.40	36.47	29.84	N/A	23.70
ACE 2006-ASP6	22.16	28.50	39.37	27.97	N/A	22.96
ACE 2007-ASP1	24.90	30.53	33.95	26.08	N/A	22.27
ACE 2007-ASP2	22.96	32.53	31.34	N/A	N/A	28.74
ACE 2007-HE4	38.40	59.59	51.55	N/A	N/A	49.18
ACE 2007-HE5	27.02	43.92	45.93	N/A	N/A	42.97

B. Fremont Violated Its Underwriting Guidelines

97. Fremont Investment & Loan ("Fremont"), which was later revealed to be one of the most reckless subprime lenders in the industry, originated over 75% of the loans backing the ACE 2006-HE1 RMBS and was the sole originator for the ACE 2006-FM1 RMBS, representing approximately $1,622,784,600 of the combined face amount of those deals.

98. The Offering Materials for the Deutsche Bank RMBS containing Fremont-originated loans contained false and misleading statements of material fact regarding Fremont's underwriting standards. For example, the ACE 2006-FM1 prospectus supplement described Fremont's underwriting standards, in relevant part, as follows:

> ***Fremont's underwriting guidelines are primarily intended to assess the ability and willingness of the borrower to repay the debt and to evaluate the adequacy of the mortgaged property as collateral for the mortgage loan.*** The Scored Programs [Fremont's underwriting programs] assess the risk of default by using Credit Scores obtained from third party credit repositories along with, but not limited to, past mortgage payment history, seasoning on bankruptcy and/or foreclosure and loan-to-value ratios as an aid to, not a substitute for, the underwriter's judgment.
>
> * * *
>
> ***Fremont conducts a number of quality control procedures, including a post-funding review as well as a full re-underwriting of a random selection of loans to assure asset quality. Under the funding review, all loans are reviewed to verify credit grading, documentation compliance and data accuracy.*** Under the asset

> quality procedure, a random selection of each month's originations is reviewed. The loan review confirms the existence and accuracy of legal documents, credit documentation, appraisal analysis and underwriting decision.
>
> * * *
>
> ***On a case by case basis, Fremont may determine that, based upon compensating factors, a prospective mortgagor not strictly qualifying under the underwriting risk category guidelines described below is nonetheless qualified to receive a loan, i.e., an underwriting exception***. Compensating factors may include, but are not limited to, low loan-to-value ratio, low debt to income ratio, substantial liquid assets, good credit history, stable employment and time in residence at the applicant's current address. It is expected that a substantial portion of the mortgage loans may represent such underwriting exceptions.
>
> There are three documentation types: Full Documentation ("Full Documentation"), Easy Documentation ("Easy Documentation") and Stated Income ("Stated Income"). ***Fremont's underwriters verify the income of each applicant under various documentation types***. . . .

99. The Deutsche Bank Offering Materials also made false and misleading representations of material fact concerning Fremont's appraisal practices. For example, the ACE 2006-FM1 prospectus supplement stated, in relevant part, that:

> Fremont's underwriting guidelines are applied in accordance with a procedure which complies with applicable federal and state laws and regulations and require an appraisal of the mortgaged property, and if appropriate, a review appraisal. Generally, initial appraisals are provided by qualified independent appraisers licensed in their respective states. Review appraisals may only be provided by appraisers approved by Fremont. In some cases, Fremont relies on a statistical appraisal methodology provided by a third-party. Qualified independent appraisers must meet minimum standards of licensing and provide errors and omissions insurance in states where it is required to become approved to do business with Fremont. ***Each uniform residential appraisal report includes a market data analysis based on recent sales of comparable homes in the area and, where deemed appropriate, replacement cost analysis based on the current cost of constructing a similar home.***

100. The statements of material fact regarding Fremont's underwriting practices and procedures represented in the ACE 2006-FM1 and the ACE 2006-HE1 Offering Materials were materially false and misleading when made because, in truth, Fremont: (i) completely disregarded its stated underwriting guidelines and issued mortgage loans regardless of the borrower's ability to repay; (ii) allowed pervasive exceptions to Fremont's own established underwriting guidelines without the existence of compensating factors; (iii) consistently failed to properly verify prospective borrowers' ability to repay their mortgage loans; and (iv) systematically disregarded its stated appraisal practices and in many instances materially inflated the values of the underlying mortgaged properties in the loan origination and underwriting process.

101. Fremont was one of the country's largest and most reckless subprime mortgage lenders until it was shuttered by the FDIC in March 2007 for "operating without effective risk management policies . . . without adequate subprime mortgage loan underwriting criteria, and . . . marketing and extending subprime mortgage loans in a way that substantially increased the likelihood of borrower default," according to the FDIC's March 7, 2007 press release.

102. The FDIC, in its Order to Cease and Desist in the action styled *In the Matter of Fremont Investment & Loan Brea, California*, Docket No. FDIC-07-035b, concluded that Fremont had been "engaging in unsatisfactory lending practices…marketing and extending [ARM] products to subprime borrowers in an unsafe and unsound manner…approving borrowers without considering appropriate documentation and/or verification of their income…approving loans or 'piggyback' loan arrangements with loan-to-value ratios approaching or exceeding 100 percent of the collateral… [and] making mortgage loans without adequately considering the borrower's ability to repay the mortgage according to its terms," among other things.

103. Similarly, on June 9, 2009, Massachusetts Attorney General Martha Coakley announced a $10 million settlement with Fremont that resolved charges "that the company was selling risky loan products that it knew was designed to fail, such as 100% financing loans and 'no documentation loans.'" As alleged in Attorney General's complaint:

> Fremont issued thousands of subprime loans, with multiple layers of risk, through mortgage brokers who regularly provided Fremont with false information that Fremont intentionally, recklessly or negligently failed to verify or audit. . . . Fremont knew or should have known substantial numbers of its subprime loans, especially absent prompt refinancing, would foreseeably fail and result in foreclosure, but nonetheless made the loans to promptly package and sell to the secondary market.

104. Confirming the findings of the FDIC and the Massachusetts Attorney General, Fremont's former regulatory compliance and risk manager, Roger Ehrnman, told FCIC investigators that Fremont repeatedly attempted to place rejected loans into the pools of mortgages that were to be sold to investors until they were rejected three times. Clayton's Keith Johnson referred to this practice as the "three strikes, you're out rule."

105. Numerous former employees of Fremont interviewed by Dexia's counsel bolster the findings of the FDIC and the Massachusetts Attorney General, and confirm that Fremont disregarded its established underwriting guidelines in order to increase the volume of Fremont's loan originations. For example, CW 2 who served as a senior underwriter for Fremont from September 2002 to August 2007 in Anaheim and Ontario, California agreed that Fremont engaged in unsatisfactory lending practices and that Fremont's primary concern was increasing

the volume of mortgage loans that it issued, regardless of the borrower's ability to repay the mortgage loan.[10]

106. In addition to the poor underwriting practices at Fremont, former Fremont employees also provided detailed accounts of outright fraud. For example, CW 4 discussed instances of Fremont brokers cutting and pasting bank statements and forging the signatures of prospective borrowers. According to CW 4, some of the fraud was so blatant that "you have to be brain dead if you didn't see it."[11]

107. Further confirming the fact that Fremont consistently issued loans of extremely poor quality to borrowers without considering the borrower's ability to repay the mortgage loan, the FDIC Order to Cease and Desist found that Fremont issued loans with "features likely to require frequent refinancing to maintain an affordable monthly payment and/or to avoid foreclosure." As a result of these practices, the OCC crowned Fremont as the sixth worst mortgage originator in the United States based on the foreclosure rates of mortgage loans originated in metropolitan areas between 2005 and 2007.

---

[10] According to CW 2, exceptions to Fremont's stated underwriting guidelines had become a "standing joke" and "the exception was the rule." CW 3, a former underwriter at Fremont's Anaheim, California office from May 2005 until March 2007, explained that exceptions to Fremont's established underwriting guidelines "were done on a daily basis" and estimated that 30% of Fremont's loans contained some sort of exception. CW 4, a quality control investigator at Fremont for five years before leaving Fremont in September 2007 noted that "it just got stupid towards the end" because Fremont was "just giving anyone a loan who wants one."

[11] CW 5, who Fremont employed as a senior underwriter at Fremont's corporate office in Anaheim, California from 1997 until September 2007, saw "a rash of bad [stated income] loans" and described the income amounts claimed by prospective borrowers as "off the wall figures" such as landscapers claiming to earn between $10,000 to $15,0000 per month. CW 6—who served as former assistant vice president and regulatory risk examiner for Fremont for three years until July 2008, and was involved with the FDIC's investigation of Fremont—agreed that some of the fraud was "so egregious" yet management consistently ignored the "obvious problems" relating to broker fraud.

108. Fremont's reckless origination practices described above have had a devastating effect on the average serious delinquency rates of the loans backing the RMBS purchased by Dexia. For example, over 49% of the loans backing the ACE 2006-FM1 RMBS, which is comprised of loans entirely originated by Fremont, and over 41% of the loans backing the ACE 2006-HE1 RMBS, in which approximately 75% of the underlying loans were originated by Fremont, stood seriously delinquent as of May 2011:

Deal Name & Tranche	At 12 Months	At 24 Months	At 36 Months	At 48 Months	At 60 Months	May 2011
ACE 2006-FM1	20.08	44.87	53.02	55.36	N/A	49.91
ACE 2006-HE1	17.04	41.05	53.19	54.58	46.02	41.82

C. The American Home Entities Violated Their Underwriting Guidelines

109. American Home Mortgage Corp. ("American Home Mortgage") and its parent company American Home Mortgage Investment Corp. ("American Home Investment," and collectively "American Home"), originated loans backing four Deutsche Bank RMBS purchased by Dexia, including AHMA 2006-3, DBALT 2006-AF1, DBALT 2006-AR5, and DBALT 2007-AR2, representing approximately $1,150,454,608 of the face amount of those deals.

110. The prospectus supplements for the Deutsche Bank RMBS contained false and misleading statements of material fact regarding American Home's underwriting standards. For example, the AHMA 2006-3 prospectus supplement stated with respect to American Home's underwriting guidelines, in relevant part, as follows:

> The mortgage loans have been purchased or originated, underwritten and documented in accordance with the guidelines of Fannie Mae, Freddie Mac, the Federal Housing Administration (FHA), the Department of Veterans Affairs (VA), the US Department of Agriculture Guaranteed Rural Housing Program (GRH), Ginnie Mae, the underwriting guidelines of specific private investors, and the non-conforming or Alt-A underwriting guidelines established by the Originator.
>
> * * *

> ***The Originator's underwriting philosophy is to weigh all risk factors inherent in the loan file, giving consideration to the individual transaction, borrower profile, the level of documentation provided and the property used to collateralize the debt.*** Because each loan is different, the Originator expects and encourages underwriters to use professional judgment based on their experience in making a lending decision.
>
> ***The Originator underwrites a borrower's creditworthiness based solely on information that the Originator believes is indicative of the applicant's willingness and ability to pay the debt they would be incurring.***
>
> ***The non-conforming loans are generally documented to the requirements of Fannie Mae and Freddie Mac in that the borrower provides the same information on the loan application along with documentation to verify the accuracy of the information on the application such as income, assets, other liabilities, etc.*** Certain non-conforming stated income or stated asset products allow for less verification documentation than Fannie Mae or Freddie Mac require. Certain non-conforming Alt-A products also allow for less verification documentation than Fannie Mae or Freddie Mac require. For these Alt-A products the borrower may not be required to verify employment income, assets required to close or both. For some other Alt-A products the borrower is not required to provide any information regarding employment income, assets required to close or both. ***Alt-A products with less verification documentation generally have other compensating factors such as higher credit score or lower loan-to-value requirements.***

111. The AHMA 2006-3 prospectus supplement also made false and misleading representations of material fact concerning American Home's appraisal practices. For example, the same prospectus supplement stated, in relevant part, that:

> ***Every American Home mortgage loan is secured by a property that has been appraised by a licensed appraiser in accordance with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation.*** The appraisers perform on site inspections of the property and report on the neighborhood and property condition in factual and specific terms. Each appraisal contains an opinion of value that represents the appraiser's professional conclusion based on market data of sales of comparable properties, a logical analysis with adjustments for differences between the comparable sales and the subject property and the appraiser's judgment. ***In addition, each appraisal is***

> ***reviewed for accuracy and consistency by an American Home underwriter or a mortgage insurance company contract underwriter.***

112. The above representations concerning American Home's underwriting guidelines were false and misleading when made. In truth, American Home disregarded its stated underwriting guidelines and issued mortgage loans regardless of the borrower's ability to repay the loan in order to approve as many loans as possible. At the same time, American Home allowed pervasive exceptions to its established underwriting guidelines in the absence of existing compensating factors.

113. The SEC instituted fraud charges against the former top executives of American Home for their role in misleading investors regarding American Home's systematic disregard for sound underwriting standards and risky lending practices that ultimately led to the lender's demise. As was later revealed, American Home was anything but the "prime" lender it was represented to be, but rather routinely issued high-risk loans to borrowers with poor credit in order to drive growth and capture additional yield. American Home's former CEO paid $2.5 million to settle the SEC's fraud charges.

114. As reflected in an October 2005 internal American Home "Credit Update" presentation, American Home's underwriting guidelines became so lax as to be rendered essentially meaningless. Specifically, the internal credit update explained that these new "guideline interpretations" included: (i) not requiring verification of income sources on stated income loans; (ii) reducing the amount of time that need to have lapsed from the date in which the borrower was in bankruptcy or credit counseling; (iii) reducing the required documentation for self-employed borrowers; and (iv) broadening the acceptable use of second and third loans to cover the full property value.

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

116. Numerous former American Home employees interviewed by Dexia's counsel agreed that American Home abandoned is stated underwriting guidelines. According to CW 7, a former Senior Underwriter at American Home from 2002 to 2007, American Home underwriters' objections to loans were frequently vetoed. CW 7 stated that underwriters would "say[] 'no way' on a lot of things, 'I would never give a borrower a loan like this,'" but the loans would be approved anyway. According to CW 7, loans would be approved over the underwriter's objection if he refused to put his name on a loan, and that this "happened more than it should have."

117. Moreover, American Home permitted numerous "exceptions" to its underwriting standards in the absence of compensating factors. CW 8, an Assistant Vice President for Direct Consumer Lending in American Home's loan origination business segment between July 2006 and August 2007, explained that exceptions were always being made to the underwriting guidelines. When CW 8's staff raised concerns with the sales department about loans that did

not meet the underwriting guidelines, the sales department would contact the Melville, New York, headquarters to approve an exception to those guidelines so that the loan could be completed. Examples of such exceptions included reducing the required credit score or increasing the loan-to-value ratio. CW 8 stated that, when the exception at issue involved accepting a reduced credit score, it was commonplace to overrule the objections of the underwriters in order to complete the loan.[12]

118. Confirming the fact that American Home consistently issued loans of extremely poor quality to borrowers without considering the borrowers' ability to repay the loans, the OCC crowned American Home as the eleventh worst mortgage originator in the United States based on the foreclosure rates of mortgage loans originated in metropolitan areas between 2005 and 2007.

119. American Home's reckless origination practices described above have had a devastating effect on the average serious delinquency rates of the Deutsche Bank RMBS backed by American Home-originated loans purchased by Dexia. For example, over 31% of the loans backing the AHMA 2006-3 RMBS, which was comprised of loans entirely originated by American Home, stood seriously delinquent as of May 2011. In addition, an average of 38% of the loans backing the DBALT 2006-AF1, DBALT 2006-AR5, and DBALT 2007-AR2 RMBS, which also contained a substantial percentage of American Home-originated loans, stood seriously delinquent as of May 2011:

Deal Name & Tranche	At 12 Months	At 24 Months	At 36 Months	At 48 Months	At 60 Months	May 2011
AHMA 2006-3	2.03	15.97	36.16	34.26	N/A	31.09

[12] CW 9, who reviewed the underwriting of loans before they were sold to secondary market investors for American Home from July 2005 through April 2007, stated that exceptions to underwriting guidelines were made "all the time."

DBALT 2006-AF1	6.41	19.38	33.33	34.25	N/A	29.14
DBALT 2006-AR5	9.75	29.77	42.73	39.68	N/A	35.25
DBALT 2007-AR2	15.59	36.29	49.94	53.70	N/A	52.56

D. IndyMac Violated Its Underwriting Guidelines

120. IndyMac Bank, F.S.B. ("IndyMac"), a prolific mortgage originator that helped fuel the housing boom, was the sole originator for the INDB 2005-1, INDX 2005-AR31, INDX 2006-AR15, and INDX 2006-AR27 RMBS. In addition, IndyMac originated a portion of the loans in the DBALT 2005-AR1, DBALT 2006-AF1, DBALT 2006-AR5 RMBS purchased by Dexia, representing approximately $2,875,652,569 of the combined face amount of those deals.

121. The prospectus supplements for the Deutsche Bank RMBS backed by IndyMac-originated loans contained false and misleading statements of material fact regarding IndyMac's underwriting standards at the time those statements were made. For example, the INDX 2006-AR27 prospectus supplement represented IndyMac's underwriting standards, in relevant part, as follows:

> ***Mortgage loans that are acquired by IndyMac Bank are underwritten by IndyMac Bank according to IndyMac Bank's underwriting guidelines***, which also accept mortgage loans meeting Fannie Mae or Freddie Mac guidelines regardless of whether such mortgage loans would otherwise meet IndyMac Bank's guidelines, ***or pursuant to an exception to those guidelines based on IndyMac Bank's procedures for approving such exceptions.***
>
> * * *
>
> IndyMac Bank has two principal underwriting methods designed to be responsive to the needs of its mortgage loan customers: traditional underwriting and e-MITS (Electronic Mortgage Information and Transaction System) underwriting. E-MITS is an automated, internet-based underwriting and risk-based pricing system. ***IndyMac Bank believes that e-MITS generally enables it to estimate expected credit loss, interest rate risk and prepayment risk more objectively than traditional underwriting and also provides consistent underwriting decisions. IndyMac Bank has***

> ***procedures to override an e-MITS decision to allow for compensating factors.***
>
> ***IndyMac Bank's underwriting criteria for traditionally underwritten mortgage loans includes an analysis of the borrower's credit history, ability to repay the mortgage loan and the adequacy of the mortgaged property as collateral.*** Traditional underwriting decisions are made by individuals authorized to consider compensating factors that would allow mortgage loans not otherwise meeting IndyMac Bank's guidelines.
>
> * * *
>
> ***Exceptions to underwriting standards are permitted in situations in which compensating factors exist.*** Examples of these factors are significant financial reserves, a low loan-to-value ratio, significant decrease in the borrower's monthly payment and long-term employment with the same employer.

122. The INDX 2006-AR27 prospectus supplement also made false and misleading representations of material fact concerning IndyMac's appraisal practices. For example, the same prospectus supplement communicated, in relevant part, that:

> To determine the adequacy of the property to be used as collateral, ***an appraisal is generally made of the subject property in accordance with the Uniform Standards of Profession Appraisal Practice. The appraiser generally inspects the property, analyzes data including the sales prices of comparable properties and issues an opinion of value using a Fannie Mae/Freddie Mac appraisal report form, or other acceptable form.*** In some cases, an automated valuation model (AVM) may be used in lieu of an appraisal. AVMs are computer programs that use real estate information, such as demographics, property characteristics, sales prices, and price trends to calculate a value for the specific property. ***The value of the property, as indicated by the appraisal or AVM, must support the loan amount.***

123. The above statements in the Deutsche Bank RMBS prospectus supplements were false and misleading when made. In fact, IndyMac (i) willfully disregarded its stated underwriting guidelines and issued mortgage loans regardless of the borrower's ability to repay the loan; (ii) ignored its stated appraisal practices; (iii) engaged in unsound and abusive lending practices, including inflating borrower incomes and ignoring income or asset confirmations; and

(iv) allowed pervasive exceptions to IndyMac's established underwriting guidelines in the absence of existing compensating factors.

124. IndyMac's Alt-A empire was built on reckless lending practices that often required no documentation or verification from the borrower.[13] In 2006 IndyMac originated almost $70 billion in Alt-A loans, or 17.5% of the Alt-A market—the most in the United States.[14] As a result of IndyMac's hunger for volume and profits, in June 2008, Senator Charles Schumer raised concerns about the bank's solvency due, in part, to "poor and loose lending practices." Shortly thereafter, on July 11, 2008, the Department of the Treasury, OTS seized IndyMac and named the FDIC as conservator. The following day, IndyMac CEO Michael Perry confirmed the allegations surrounding IndyMac's deteriorating underwriting, stating "[w]e got too carried away and loosened our guidelines too far." On July 31, 2008, IndyMac filed for bankruptcy protection. As a result of IndyMac's reckless lending practices that precipitated the mortgage meltdown, the OCC named IndyMac as the twelfth worst mortgage originator in the United States based on the foreclosure rates of mortgage loans originated in metropolitan areas between 2005 and 2007.

125. The Center for Responsible Lending conducted an extensive independent investigation into IndyMac's risky lending practices—including interviewing numerous former IndyMac employees—and issued a report in June 2008 entitled *IndyMac: What Went Wrong? How An "Alt-A" Leader Fueled Its Growth with Unsound and Abusive Mortgage Lending*

---

[13] Alt-A loans, otherwise known as alternative documentation loans, are loans to borrowers that are approved primarily based upon the borrower's credit score and do not meet the guidelines established by Fannie Mae or Freddie Mac. Alt-A loans were purportedly of a higher quality than subprime loans ***if*** properly underwritten.

[14] *See* Inside Mortgage Finance, 2007 MORTGAGE MARKET STATISTICAL ANNUAL – VOLUME I (2007).

("CRL Report"), which concluded that Indymac "appear[ed] to have abandoned sound decision-making" while taking on unreasonable risk in its quest for "spectacular levels of growth." Indeed, the CRL report "uncovered substantial evidence that IndyMac Bank and its parent, IndyMac Bancorp, engaged in unsound and abusive lending during the mortgage boom, routinely making loans without regard to borrowers' ability to pay." CRL Report at 2. The investigation conducted by the CRL details instances of brokers inflating borrower incomes, former IndyMac employees intentionally failing to verify borrower information, and a company-wide appetite for greater loan production that ultimately lowered underwriting standards at the bank. CRL Report at 1-5.

126. The CRL Report detailed the prevailing attitude at IndyMac that underwriting was merely a procedural hurdle to approving and ultimately securitizing mortgages. CRL Report at 8. For instance, a former IndyMac fraud investigator referred to certain undocumented or outright fraudulent loans as "Disneyland loans – in honor of a mortgage issued to a Disneyland cashier whose loan application claimed an income of $90,000." CRL Report at 3. An underwriter from IndyMac from 2005-2007, told the CRL how senior management pressured underwriters to approve loans that were "wrong from the get-go . . . ." CRL Report at 9. In other instances, underwriting for so called "full-documentation" loans required only proof of employment, not income. CRL Report at 8. According to a former IndyMac underwriting team leader quoted in the report, "I would reject a loan and the insanity would begin. It would go to upper management and the next thing you know it's going to closing." CRL Report at 3.

127. As a result of its misconduct, IndyMac has been the target of numerous private and regulatory investigations and actions. On February 26, 2009, the Office of Inspector General (the "OIG") of the U.S. Department of Treasury issued a report entitled "Safety and Soundness: Material Loss Review of IndyMac Bank, FSB" (the "OIG IndyMac Report"). The OIG IndyMac

Report confirmed that IndyMac's "aggressive growth strategy . . . [and] insufficient underwriting" contributed to the lender's insolvency. According to the OIG, IndyMac's ultimate demise is attributable to "the unsafe and unsound manner in which the thrift was operated." OIG IndyMac Report, at 3. As reported:

> IndyMac often made loans without verification of the borrower's income or assets, and to borrowers with poor credit histories. Appraisals obtained by IndyMac on underlying collateral were often questionable as well. As an Alt-A lender, IndyMac's business model was to offer loan products to fit the borrower's needs, using an extensive array of risky option-adjustable-rate-mortgages (option ARMs), subprime loans, and other nontraditional products. Ultimately, loans were made to many borrowers who simply could not afford to make their payments. *Id.* at 2.

128. As a necessary consequence of IndyMac's growth strategy, the company systematically abandoned its underwriting standards in order to approve as many mortgages as possible. The OIG investigation uncovered "little, if any, review (by IndyMac) of borrower qualifications, including income, assets, and employment," as well as "weaknesses with property appraisals obtained to support the collateral." OIG IndyMac Report, at 11.

129. These allegations are bolstered by the July 2010 FDIC lawsuit as IndyMac's receiver against former officers of IndyMac's Homebuilder Division. The lawsuit alleges that the bank made "significant departures from safe and sound banking practices." According to the FDIC complaint, the IndyMac "repeatedly disregarded … credit policies and approved loans to borrowers who were not creditworthy and/or for projects that provided insufficient collateral."

130. The allegations contained in the FDIC complaint detail a variety of underwriting deficiencies prevalent at IndyMac, including; approving loans with deficient collateral, approving loans with insufficient verification of income or other sources or repayment, and approving loans in violations of applicable laws and regulations as well as IndyMac's own

internal policies. As alleged by the FDIC, IndyMac routinely violated its own credit and review policies in underwriting loans.

131. Contrary to Deutsche Bank's representations in the Deutsche Bank RMBS Offering Materials regarding IndyMac's origination practices and procedures, IndyMac's "appraisals . . . were not in compliance with the Uniform Standard of Professional Appraisal Practice (USPAP)." OIG IndyMac Report at 12. This included instances where "IndyMac obtained multiple appraisals . . . [without] evidence to support, or explain why different values were determined. In other instances, IndyMac allowed the borrowers to select the appraiser." *Id.* at 1. The OIG review uncovered numerous problems with IndyMac appraisals, including:

> (1) violated policies and procedures, (2) violated OTS and Uniform Standards of Professional Appraisal Practice, (3) used inflated appraised values, (4) lacked market analysis and feasibility studies to support appraised value, (5) valued properties far in excess of the recent sale prices for the subject properties and (6) used retail values for subdivisions instead of prospective market value at the time of completion." OIG IndyMac Report at 24.

132. The SEC filed civil fraud charges against three former executives of IndyMac Bancorp in February 2011 for "false and misleading disclosures about the financial stability" of IndyMac Bancorp and its subsidiary IndyMac Bank. In particular, the SEC complaint alleges that IndyMac made false and misleading disclosures in connection with six RMBS offerings totaling $2.5 billion in value from May through August 2007, and alleges that the offering documents for each RMBS misrepresented the quality of the loans and falsely stated that IndyMac Bank would not include any loan in the offering if anything came to IndyMac's attention causing IndyMac to believe that a particular loan file contained a misrepresentation.

133. According to the SEC's complaint, IndyMac's Chief Financial Officer received reports showing that 12% to 18% of a random sample of IndyMac Bank's loans contained misrepresentations regarding important information about the loans' characteristics—such as a

loan's LTV ratio and/or the borrowers' creditworthiness based on factors such as a borrowers' identity, income, or debt load. As alleged by the SEC, IndyMac's Chief Financial Officer failed to disclose that the RMBS' offering documents included inaccurate disclosures concerning the loans in the RMBS, and failed to notify investors that the presented—information was materially misleading in light of the true character of the loans backing the RMBS. On February 17, 2011 IndyMac's Chief Financial Officer settled the SEC's fraud charges by agreeing to pay $125,000 in penalties and disgorgement.

134. IndyMac-originated loans, which are the sole ingredient in the INDB 2005-1, INDX 2005-AR31, INDX 2006-AR15 and INDX 2006-AR27 RMBS, and also back the DBALT 2005-AR1, DBALT 2006-AF1 and DBALT 2006-AR5 RMBS purchased by Dexia, have experienced severe levels of delinquencies and defaults caused by IndyMac's reckless origination practices. Indeed, an average of almost 30% of the loans backing these RMBS were seriously delinquent as of May 2011:

Deal Name & Tranche	At 12 Months	At 24 Months	At 36 Months	At 48 Months	At 60 Months	May 2011
DBALT 2005-AR1	1.66	8.71	14.81	27.49	26.54	21.96
DBALT 2006-AF1	6.41	19.38	33.33	34.25	N/A	29.14
DBALT 2006-AR5	9.75	29.77	42.73	39.68	N/A	35.25
INDB 2005-1	7.53	24.07	44.67	47.03	45.95	37.86
INDX 2005-AR31	1.85	7.84	16.30	21.78	21.99	19.16
INDX 2006-AR15	6.42	20.97	35.80	34.57	29.63	29.63
INDX 2006-AR27	4.77	18.47	29.19	28.39	N/A	26.13

E. NovaStar Violated Its Underwriting Guidelines

135. NovaStar Mortgage Inc. ("NovaStar"), the now-defunct Missouri-based lender, specialized in the origination of subprime mortgages and was the sole originator of the loans backing the NHEL 2007-1 RMBS purchased by Dexia, representing approximately $847,945,555 of the face amount of those deals.

136. The Offering Materials for the NHEL 2007-1 RMBS contained false and misleading statements of material fact regarding NovaStar's underwriting standards at the time those statements were made. For example, the prospectus supplement represented NovaStar's underwriting standards, in relevant part, as follows:

> ***The underwriting guidelines of the sponsor are intended to evaluate the credit history of the potential borrower, the capacity and willingness of the borrower to repay the loan and the adequacy of the collateral securing the loan.*** Each loan applicant completes an application that includes information with respect to the applicant's income, liabilities and employment history. Prior to issuing an approval on the loan, the loan underwriter runs an independent credit report or pulls a reissue of the clients credit through an independent 3rd party vendor, which provides detailed information concerning the payment history of the borrower on all of their debts to verify that the information submitted by the broker is still accurate and up to date.

137. The NHEL 2007-1 prospectus supplement also made false and misleading representations of material fact concerning NovaStar's appraisal practices. For example, the same prospectus supplement represented, in relevant part, that:

> ***An appraisal is also required on all loans and in many cases a review appraisal or second appraisal may be required depending on the value of the property and the underwriter's comfort with the original valuation. All appraisals are required to conform to the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation and are generally on forms acceptable to Fannie Mae.***

138. The statements set forth in the prospectus supplement for the NHEL 2007-1 RMBS were materially false and misleading. NovaStar: (i) did not follow its stated underwriting standards; (ii) did not take steps to verify borrower data and ignored potential borrowers' creditworthiness and ability to repay the loan; (iii) allowed pervasive exceptions to its established underwriting guidelines in the absence of existing compensating factors; (iv) failed to review loan documents which contained misrepresentations and defects including, misstatements

of income, and/or inflated appraisals of property values; and (v) allowed employees to re-underwrite loans that had significant defects to the documentation.

139. NovaStar's reckless lending practices made it a magnet for traditionally unqualified borrowers. In a federal securities class action lawsuit filed on October 19, 2007 (the "NovaStar Complaint"), NovaStar investors alleged that loan officers were routinely instructed to disregard origination standards and approve loans at all costs.[15] As alleged in the NovaStar Complaint, between May 4, 2006 and February 20, 2007, the "underwriting process at NovaStar routinely deviated from the Company's guidelines, and that [underwriters] were granting exceptions for everything," including LTV ratios, credit scores, and inflated property value appraisals.

140. As alleged in the NovaStar Complaint, according to a former NovaStar underwriter, "the guidelines were just parameters and the 'unspoken law' was to make loans." Even more, the former underwriter said that exceptions to underwriting guidelines increased toward the end of a month in order to close more loans. According to the NovaStar Complaint, NovaStar also had a phone-in method for Account Executives to seek direct exceptions "for loans that were unusual and would not be approved in the normal underwriting process." As alleged, underwriters were told to be aggressive in granting exceptions via the telephone so Account Executives could bring in more business.

141. In addition to frequent exceptions, the NovaStar Complaint alleges that NovaStar underwriters were allowed to re-write loans that contained significant documentation issues and should never have been issued if properly underwritten. For instance, according to the NovaStar Complaint:

---

[15] *In re 2007 NovaStar Financial Inc. Sec. Litig.*, No. 07 CIV 0139 (W.D. Mo. October 19, 2007), ECF No. 63.

> [w]hen loans that were presented to the Underwriters as complete, full documentation or "Full Doc" loans, were found to be incomplete, lacking proof of salary information, or clearly showing that a proposed borrower's bank statements contradicted the information they had affirmed on the application. In many such cases, ***rather than rejecting the loan because of the defects, the Underwriters and Account Executives would merely discard the contradicting information and switch the loan to a "low documentation" or "No documentation" loan, and approve its funding.***

142. When a loan was unable to be re-written, according to the NovaStar Complaint, NovaStar Account Executives relied on bribes: "sometimes Underwriters received files from Account Executives with $50 in them because the Account Executives wanted the Underwriter to treat their loans favorably, and put their loans at the top of the review list."

143. NovaStar's emphasis on high-volume loan production combined with ever increasing exceptions to the underwriting guidelines meant that stated underwriting practices were regularly violated. As alleged in the NovaStar Complaint, according to NovaStar's Senior Fraud Investigator, 90% to 95% of the loans that he reviewed involved misstatements of income, misrepresentations in loan documents, and/or inflated appraisals of the property that secured the loan. The NovaStar Complaint alleges that auditors were expressly told not to detail issues relating appraisal values in the company's internal control system.

144. NovaStar's complete abandonment of its underwriting guidelines has had a devastating effect on the average serious delinquency rates of the loans backing the NovaStar-originated RMBS purchased by Dexia. For example, almost 43% of the loans backing the NHEL 2007-1 RMBS, which is comprised of loans entirely originated by NovaStar, stood seriously delinquent as of May 2011:

Deal Name & Tranche	At 12 Months	At 24 Months	At 36 Months	At 48 Months	At 60 Months	May 2011
NHEL 2007-1	28.10	51.51	54.96	44.44	N/A	42.67

F. Countrywide Violated Its Underwriting Guidelines

145. Countrywide Home Loans ("Countrywide"), one of the most notorious participants in the subprime meltdown, originated a portion of the loans contained in the DBALT 2006-AR3 and DBALT 2006-AR4 RMBS purchased by Dexia, representing approximately $966,141,838 of the face amount of those deals.

146. The Offering Materials for the Deutsche Bank RMBS purchased by Dexia contained false and misleading statements of fact regarding Countrywide's underwriting standards at the time those statements were made. For example, the DBALT 2006-AR4 prospectus supplement represented Countrywide's underwriting standards, in relevant part, as follows:

> ***Countrywide Home Loans' underwriting standards are applied in accordance with applicable federal and state laws and regulations.***
>
> * * *
>
> ***Countrywide Home Loans' underwriting standards are applied by or on behalf of Countrywide Home Loans to evaluate the prospective borrowers' credit standing and repayment ability and the value and adequacy of the mortgaged property as collateral.*** Under those standards, a prospective borrower must generally demonstrate that the ratio of the borrower's monthly housing expenses (including principal and interest on the proposed mortgage loan and, as applicable, the related monthly portion of property taxes, hazard insurance and mortgage insurance) to the borrower's monthly gross income and the ratio of total monthly debt to the monthly gross income (the 'debt-to-income' ratios) are within acceptable limits.
>
> * * *
>
> ***Exceptions to Countrywide Home Loans' underwriting guidelines may be made if compensating factors are demonstrated by a prospective borrower.***
>
> * * *
>
> ***In addition to Countrywide Home Loans' standard underwriting guidelines (the 'Standard Underwriting Guidelines'), which are***

> ***consistent in many respects with the guidelines applied to mortgage loans purchased by Fannie Mae and Freddie Mac***, Countrywide Home Loans uses underwriting guidelines featuring expanded criteria (the 'Expanded Underwriting Guidelines').

147. The DBALT 2006-AR4 prospectus supplement represented that the average DTI ratio for each of the Countrywide-originated loans was less than 40%.

148. The DBALT 2006-AR4 prospectus supplement also represented that the collateral underlying the Countrywide-originated loans was valued by an independent appraiser who used appraisal standards matching the appraisal standards of Fannie Mae and Freddie Mac. For example, the prospectus supplements included the following representations:

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

149. The statements set forth above were materially false and misleading. Countrywide did not originate the mortgage loans in accordance with its credit, appraisal and underwriting standards, did not take steps to verify borrower data, which was pervasively misstated, and did not obtain appraisals from independent appraisers. As such, the DTI ratios of the Countrywide-originated loans backing the Deutsche Bank RMBS were much higher, and therefore the loans and RMBS were far riskier than represented.

150. On October 15, 2010, the SEC announced a settlement of its securities fraud and insider trading action against Countrywide, requiring Countrywide's CEO, Angelo Mozilo, to

pay $67.5 million in fines and disgorgements, including the "SEC's largest ever financial penalty against a public company's senior executive." Two other senior executives were required to pay an additional $5.65 million in penalties and disgorgement. The SEC's complaint alleged that the three senior officers "were aware that Countrywide was originating increasing percentages of poor quality loans that did not comply with Countrywide's underwriting guidelines" and that Countrywide originated "a large volume of obviously deficient exception loans." Documents produced in the SEC action confirmed Countrywide's complete abandonment of its stated underwriting standards. For example, the SEC action revealed that Mozilo himself authored emails that explained that Countrywide's loans were "poison," and described one category of Countrywide loans as "the most dangerous product in existence…there can be nothing more toxic." Indeed, Mozilo admitted in his emails that he "personally observed a serious lack of [underwriting] compliance" and recognized that "it was just a matter of time that we will be faced with … much higher delinquencies."

151. Countrywide further detailed its fraudulent origination practices in a May 7, 2007 letter to the OTS, which stated that borrowers who obtained option ARM mortgages from Countrywide only qualified for the mortgage under the initial, low teaser rate and would not have qualified for the loan using the fully indexed rate. Specifically, Countrywide stated that in the fourth quarter of 2006 "***almost 60% of the borrowers who obtained subprime hybrid ARMs would not have qualified at the fully indexed rate***" and that "25% of the borrowers would not have qualified for any other [Countrywide] product." During this time period, Dexia purchased approximately $50 million in RMBS backed by Countrywide-originated loans.

152. Countrywide's blatant violations of its stated underwriting guidelines have also garnered scrutiny from federal and state authorities:

- To date, at least eleven State Attorneys General (the "State AGs"), including the State Attorneys General for Illinois, California, Connecticut, Washington, West Virginia, Indiana, and Florida filed complaints alleging Countrywide departed from its stated underwriting standards because employees were pressured to issue loans to unqualified borrowers by permitting exceptions to underwriting standards, incentivizing employees to extend more loans without regard to the underwriting standards for such loans, and failing to verify income, documentation and other information provided by borrowers that allowed them to qualify for loans. Countrywide announced it settled the State AGs' charges in October 2008 for ***$8.4 billion.***

- In March 2008, the *Wall Street Journal* reported that federal investigators found that "***Countrywide's loan documents often were marked by dubious or erroneous information about its mortgage clients***" and that "[t]he company … packaged many of those mortgages and sold them to investors, raising the additional question of whether Countrywide understated the risks such investments carried."

153. Numerous former Countrywide employees interviewed by Dexia's counsel confirm Countrywide's systematic failure to issue loans pursuant to its stated underwriting standards. CW 10, a Countrywide loan underwriter in Jacksonville, Florida between June 2006 and April 2007, stated that as much as 80% of Countrywide's loans involved significant variations from Countrywide's underwriting standards. CW 10 further stated that Countrywide's management pressured underwriters to approve as many loans as possible, and that this pressure came from "up top" because management was paid based, at least in part, on the volume of loans originated. Moreover, according to CW 10, most rejected loans would "come back to life" when new information would "miraculously appear."

154. CW 11, a Countrywide Executive Vice President of Production Operations and Executive Vice President of Process Improvement, who worked at Countrywide for 17 years before leaving in October 2005, explained that Countrywide created a computer system (or "rules engine") that routed very risky loans out of the normal loan approval process to a central

underwriting group for evaluation. According to CW 11, loans identified by this "Exception Processing System" as violating Countrywide's underwriting standards were not rejected. Rather, Countrywide's central underwriting group was instructed to review such loans to evaluate whether they could fetch a higher price or a higher interest rate because of the non-compliance with the underwriting standards.

155. Claims arising out of Countrywide's fraudulent origination practices have already been sustained. On September 30, 2008, MBIA Insurance Corp. ("MBIA") filed a complaint against Countrywide in New York Supreme Court, captioned *MBIA Insurance Corp. v. Countrywide, et al.*, No. 08/602825. MBIA alleges that, after reviewing Countrywide-originated loan portfolios and re-underwriting each loan, MBIA discovered that there was "an extraordinarily high incidence of material deviations from the underwriting guidelines Countrywide represented it would follow." According to the complaint, many of the loan applications that Countrywide approved "lack[] key documentation, such as a verification of borrower assets or income; includes an invalid or incomplete appraisal; demonstrate[] fraud by the borrower on the face of the application, or ***reflect[] that any of borrower income, FICO score, or debt, or DTI or CLTV, fails to meet stated Countrywide guidelines (without any permissible exception***)." Significantly, "MBIA's re-underwriting review … revealed that ***almost 90% of defaulted or delinquent loans in the Countrywide Securitizations [contained] material discrepancies***." The Court sustained MBIA's fraud claims and held that "MBIA has sufficiently pleaded a cause of action sounding in fraud." *MBIA Insurance Corp. v. Countrywide, et al.*, No. 08/602825 at 14 (1st Dep't July 8, 2009).

156. Countrywide's reckless origination practices described above have had significant consequences for the average serious delinquency rates of the loans backing the Deutsche Bank RMBS purchased by Dexia. For example, more than 34% of the loans backing the DBALT

2006-AR4 RMBS, and more than 39% of the loans backing the DBALT 2006-AR6 RMBS stood seriously delinquent as of May 2011. Countrywide originated approximately 48% of the loans backing the DBALT 2006-AR4 RMBS and approximately 12% of the loans backing the DBALT 2006-AR6 RMBS.

Deal Name & Tranche	At 12 Months	At 24 Months	At 36 Months	At 48 Months	At 60 Months	May 2011
DBALT 2006-AR4	8.80	24.45	37.69	38.23	N/A	34.59
DBALT 2006-AR6	11.77	30.12	40.91	42.23	N/A	39.14

G. Option One Violated Its Underwriting Standards

157. Option One Mortgage Corporation ("Option One"), the now-defunct Missouri-based lender, specialized in the origination of sub-prime mortgages and was the sole originator of the loans backing the ACE 2006-OP1 RMBS purchased by Dexia.

158. The Offering Materials for the ACE 2006-OP1 RMBS contained false and misleading statements of material fact regarding Option One's underwriting standards at the time those statements were made. For example, the ACE 2006-OP1 prospectus supplement represented Option One's underwriting standards, in relevant part, as follows:

> ***The Option One Underwriting Guidelines are primarily intended to assess the value of the mortgaged property, to evaluate the adequacy of such property as collateral for the mortgage loan and to assess the applicant's ability to repay the mortgage loan.*** The Mortgage Loans were also generally underwritten with a view toward resale in the secondary market….
>
> ***On a case-by-case basis, exceptions to the Option One Underwriting Guidelines are made where compensating factors exist.*** Except as specifically stated herein, the Option One Underwriting Guidelines are the same for first lien mortgage loans and second lien mortgage loans.
>
> *   *   *
>
> As described above, the foregoing risk categories and criteria are Underwriting Guidelines only. ***On a case-by-case basis, it may be determined that an applicant warrants a debt-to-income ratio***

> ***exception, a pricing exception, a loan-to-value exception, a credit score exception or an exception from certain requirements of a particular risk category.***
>
> * * *
>
> ***Option One has controls in place which are intended to protect the company and its investors against risk of loss. An internal audit program is utilized to evaluate the company's internal controls and safeguard against risk of loss due to noncompliance with regulatory, investor, company, and prudent servicing practices. In addition to oversight from the audit function, Option One also has dedicated compliance and legal teams for servicing-related issues, regulations, and laws.*** A quality assurance team performs call monitoring and helps to ensure Federal Debt Collections Practice Act (FDCPA) and Real Estate Settlement Procedures Act (RESPA) compliance. A quality control team benchmarks and measures adherence to best practices, identifies risk areas in servicing operations, centralizes communication for regulatory, investor, and industry updates, and ensures that associates are being properly trained on topics related to best practices and servicing risk.

159. The ACE 2006-OP1 prospectus supplement also made false and misleading representations of material fact concerning Option One's appraisal practices. For example, the same prospectus supplement represented, in relevant part, that:

> ***Mortgaged properties that are to secure mortgage loans generally are appraised by qualified independent appraisers. Such appraisers inspect and appraise the subject property and verify that such property is in acceptable condition.*** Following each appraisal, the appraiser prepares a report which includes a market value analysis based on recent sales of comparable homes in the area and, when deemed appropriate, replacement cost analysis based on the current cost of constructing a similar home. ***All appraisals are required to conform to the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation and are generally on forms acceptable to Fannie Mae and Freddie Mac.***
>
> * * *
>
> ***The Option One Underwriting Guidelines require that mortgage loans be underwritten in a standardized procedure which complies with applicable federal and state laws and regulations and require Option One's underwriters to be satisfied that the***

value of the property being financed, as indicated by an appraisal supports the loan balance.

160. The above statements of material fact were false and misleading when made. Deutsche Bank misrepresented that Option One: (i) systematically failed to follow its stated underwriting standards and disregarded the ability of borrowers to repay the loans; (ii) allowed pervasive exceptions to Option One's stated underwriting standards in the absence of existing compensating factors; (iii) disregarded credit quality in favor of generating increased loan volume; and (iv) violated Option One's stated appraisal standards and in many instances materially inflated the values of the underlying mortgage properties in the loan origination and underwriting process.

161. Option One was a national mortgage lender formerly owned by H&R Block, Inc., until its assets were sold to American Home Mortgage Servicing, Inc., in April 2008. According to the OCC, Option One was the sixth worst mortgage originator based on the rate of subprime and Alt-A mortgage foreclosures in the ten metropolitan areas experiencing the highest foreclosure rates from 2005 through 2007.

162. Numerous former Option One employees have confirmed that Option One violated its stated underwriting and appraisals guidelines. For example, CW 12, a former underwriter at Option One in Atlanta, Georgia from 2005 to 2006, said that if an underwriter denied a loan and an account executive complained, the loan was escalated to the branch manager, who would overlook any red flags and approve the loan. CW 12 estimated that at least 50% of the total loan volume in Option One's Atlanta branch was approved in this manner. CW 12 also stated that a loan applicant could tell "a straight up lie" about his income, but the untrue

information would be overlooked and the loan would be approved, despite CW 12's initial rejection of the application.[16]

163. With respect to artificially inflated appraisals, CW 12 stated that "[o]f course they inflated values" and that if an underwriter questioned the appraised value, the account executive and branch manager would override the underwriter's objection, as with any other red flag in a loan file. [17]

164. Option One was motivated to violate its underwriting and appraisal standards in order to increase the volume of loans it could sell to Wall Street banks for securitization. CW 16, an Assistant Vice President of Option One from 2005 to 2007 who worked in the Correspondent Lending department, which purchased loans from small mortgage companies stated that Option One purchased loans that raised concerns under Option One's stated

---

[16] Similarly, CW 13, an underwriter at Option One's Marietta, Georgia office in 2005, reported that Option One approved stated income loans "knowing good and well that those people did not make that much money in the position they were in." Likewise, CW 14, an underwriter for Option One in Hawaii from November 2004 to January 2006, stated that "the overwhelming majority of stated income loans were crafted," meaning that the borrowers were not making "anywhere near" what they claimed. However, CW 15 stated that he felt pressured to push loans through because every loan generated income and "[i]f you applied any level of rational thought, you were frowned upon."

[17] Similarly, CW 15, a staff review appraiser for Option One working throughout the western United States from January 2004 to May 2007, stated that the appraisals "were all bad." CW 15 considered the appraisals borderline fraudulent, not merely incompetent, but was unable to prevent loans based on the flawed appraisals. When CW 14 objected to loans because of flawed appraisals, the loan officer would complain to the branch manager, who would complain to the Appraisals Department at headquarters in Irvine, California, and on up the chain until someone high enough in the Underwriting and Sales Department said to go forward with the loan.

guidelines and that when CW 16 raised such concerns, CW 16 was essentially told, "Shut up, Wall Street will buy it; don't worry about it."[18]

165. On June 3, 2008, the Attorney General for the Commonwealth of Massachusetts filed an action against Option One (the "Massachusetts Option One Complaint") alleging that since 2004, Option One "increasingly disregarded underwriting standards . . . and originated thousands of loans that [Option One] knew or should have known the borrowers would be unable to pay, all in an effort to increase loan origination volume so as to profit from the practice of packaging and selling the vast majority of [Option One's] residential subprime loans to the secondary market." Massachusetts Option One Complaint, ¶ 4. The Attorney General's complaint alleges that Option One's agents and brokers "frequently overstated an applicant's income and/or ability to pay, and inflated the appraised value of the applicant's home," and that Option One "avoided implementing reasonable measures that would have prevented or limited these fraudulent practices." *Id.* ¶ 8.

166. Option One's reckless origination practices described above caused the serious delinquency rates of the loans backing the Deutsche Bank RMBS purchased by Dexia to skyrocket. For example, almost 35% of the loans backing the ACE 2006-OP1 RMBS stood seriously delinquent as of May 2011. Option One originated 100% of the loans comprising that RMBS.

---

[18] CW 17, who was an underwriter at Option One in Pleasanton, California from October 2005 to October 2007, agreed that Option One would issue loans that failed to meet Option One's stated underwriting guidelines because Option One knew that loan purchasers would buy the defectively originated loans. According to CW 17, "[i]f [a borrower] had a FICO and a pulse, they could get a loan" from Option One. CW 17 "caught blatant fraud, and the [account executive] would still fight for it. [The account executives and managers] would fight me because they didn't care. They knew they were going to sell it on the secondary market, and they didn't care because it wasn't their money. They were going to get paid regardless. . . . At Option One they didn't have a portfolio; they sold everything, so they didn't care. . . . [Option One] didn't have to worry about it, because once they're done with these crappy loans, they'd sell them off. They were the investors' problem."

Deal Name & Tranche	At 12 Months	At 24 Months	At 36 Months	At 48 Months	At 60 Months	May 2011
ACE 2006-OP1	12.11	32.53	34.46	33.41	34.97	34.97

H. New Century Violated Its Underwriting Guidelines

167. New Century Mortgage Corp. ("New Century") was the sole originator of the loans contained in the ACE 2006-NC2 RMBS purchased by Dexia, representing a total face value of over $472 million for that RMBS. Before its collapse in the first half of 2007, New Century was one of the largest subprime lenders in the country, originating over $101 billion in loans from 2005 through 2006.

168. The Offering Materials relied upon by Dexia in purchasing the Deutsche Bank ACE 2006-NC2 RMBS contained false and misleading statements of material fact regarding New Century's underwriting practices and guidelines. For example, the ACE 2006-NC2 RMBS prospectus supplement described New Century's underwriting guidelines, in relevant part, as follows:

> ***The New Century Underwriting Guidelines are primarily intended to assess the borrower's ability to repay the related Mortgage Loan, to assess the value of the mortgaged property and to evaluate the adequacy of the property as collateral for the Mortgage Loan.*** All of the Mortgage Loans were also underwritten with a view toward the resale of the Mortgage Loans in the secondary mortgage market. While New Century's primary consideration in underwriting a mortgage loan is the value of the mortgaged property, New Century also considers, among other things, a mortgagor's credit history, repayment ability and debt service-to-income ratio, as well as the type and use of the mortgaged property.
>
> * * *
>
> The mortgage loans will have been originated in accordance with the New Century Underwriting Guidelines. ***On a case-by-case basis, exceptions to the New Century Underwriting Guidelines are made where compensating factors exist.*** It is expected that a substantial portion of the mortgage loans will represent these exceptions.

* * *

> The Mortgage Loans were originated consistent with and generally conform to the New Century Underwriting Guidelines' full documentation, limited documentation and stated income documentation residential loan programs. ***Under each of the programs, New Century reviews the applicant's source of income, calculates the amount of income from sources indicated on the loan application or similar documentation, reviews the credit history of the applicant, calculates the debt service-to-income ratio to determine the applicant's ability to repay the loan, reviews the type and use of the property being financed, and reviews the property.***

* * *

> ***Exceptions***. As described above, the foregoing categories and criteria are guidelines only. On a case by case basis, it may be determined that an applicant warrants a debt service-to-income ratio exception, a pricing exception, a loan-to-value ratio exception, an exception from certain requirements of a particular risk category, etc. . . . It is expected that a substantial portion of the Mortgage Loans will represent these kinds of exceptions.

169. The ACE 2006-NC2 prospectus supplement relied upon by Dexia also contained false and misleading statements of material fact concerning the documentation that New Century's prospective borrowers were purportedly required to submit in order to properly obtain a mortgage loan. For example, the ACE 2006-NC2 prospectus supplement represented, in relevant part, as follows:

> ***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.

170. These statements were false and misleading when made. In fact, New Century systematically disregarded its own underwriting guidelines and wholly disregarded a borrower's

ability to pay when originating loans and without regard to any "compensating factors." Indeed, an investigation conducted into New Century's business practices by the court-appointed Bankruptcy Examiner assigned to investigate the causes of New Century's collapse concluded that "New Century had a brazen obsession with increasing loan originations, without due regard to the risks associated with that business strategy." As noted in the New Century's Bankruptcy Examiner's investigation (the "Bankruptcy Examiner's Report"), which included a review of a large number of documents and 110 interviews of 85 fact witnesses, numerous members of New Century's board of directors and senior management stated that the predominant standard for loan quality was whether the loan could be sold in the secondary market to investors like Deutsche Bank, not—as stated in the ACE 2006-NC2 RMBS prospectus supplement—whether a borrower could meet the obligations under the terms of a loan. Indeed, according to the Bankruptcy Examiner's Report, New Century's Chief Credit Officer said that in 2004 New Century had "no standard for loan quality."

171. As reported by the Bankruptcy Examiner, reckless origination and underwriting of New Century loans was rampant. For example:

- Certain senior managers at New Century in 2004 were told by a New Century employee that when underwriting stated income loans, "we are unable to actually determine the borrowers' ability to afford a loan."

- In early 2006, one senior manager at New Century described the performance of a certain loan product as "horrendous."

- In 2004, the number and severity of the exceptions to underwriting standards employed by New Century to originate greater volume was described by one Senior Officer as the "number one issue" facing New Century.

- By 2004, New Century Senior Management became aware of spiking increases in Early Payment Default ("EPD") rates—where a borrower fails to make even the first several payments on a loan—suggesting that the loan should never have been originated in the first place. In every month

following March 2006, the EPD rate exceeded 10%, reaching to as high as 14.95% by year end.

- Up until 2005 New Century used a DOS-based underwriting system which, according to a New Century manager interviewed by the Bankruptcy Examiner, enabled employees to "finagle anything."

172. In December 2009, the SEC filed civil fraud charges against New Century's former CEO, CFO and controller, alleging that despite New Century's representations as a prudent lender, it "soon became evident that its lending practices, far from being 'responsible,' were the recipe for financial disaster." The executives settled the SEC's civil fraud charged in July 2010 for approximately $1.5 million.

173. Numerous former New Century employees interviewed by Dexia's counsel confirmed the conclusions of the New Century Bankruptcy Examiner and the SEC's complaint against New Century's executives explaining that loans were not originated according to New Century's stated underwriting guidelines, but were instead originated without regard to a borrower's ability to repay the loan. For example, according to CW 18, a former New Century fraud investigator and senior loan underwriter who examined numerous New Century mortgage loans from January 1999 until April 2007, New Century "started to abandon prudent underwriting guidelines" at the end of 2003 in order to "push more loans through." According to CW 18, New Century essentially "stopped underwriting."[19] CW 19, a former New Century Vice President and Regional Manager, employed by New Century from September 1996 until May

[19] CW 20, a former New Century Vice President, Corporate Finance, agreed that New Century began to lower credit standards beginning in 2003. At that time, New Century changed its practice with respect to stated income loans, which became to be known in the industry as "liar's loans." CW 21, a former New Century senior training development manager employed by New Century from March 2003 until March 2006 explained that underwriters often allowed borrowers to resubmit a rejected full-documentation loan (which had been rejected because the borrower's income was too low) as a "stated loan" with a new and higher income, which was then approved. CW 21 stated that this practice was "taboo" in the mortgage industry but routinely occurred and was a "running joke" at New Century.

2007 explained that New Century made very low quality and extremely risky loans, even for a sub-prime lender, noting that: "If you had a heartbeat, we would give you a loan."

174. CW 22, another former New Century underwriter and risk manager employed at New Century from December 2001 until April 2007, explained that exceptions to underwriting guidelines were endemic and it was "more about quantity than quality," with the attitude being "get the volume on; get the volume on." Indeed, CW 22 reported that nine out of ten loans that CW 22 recommended denying were nevertheless approved by management.[20]

175. Facts such as these led the New Century Bankruptcy Examiner to conclude that statements in New Century's SEC filings declaring that "regardless of document type, New Century designed its underwriting standards and quality assurance standards to make sure that loan quality was consistent and met its guidelines" were "not supportable." Rather, the Bankruptcy Examiner concluded that "New Century did not produce 'high quality' loans or have 'high origination standards.'" Moreover, claims asserted against New Century for making false or misleading statements of material fact regarding New Century's purported prudent underwriting guidelines have already been sustained under Section 10(b) and Rule 10b-5 of the Securities Exchange Act of 1934, and Section 11 of the Securities Act of 1933. *See In re New Century*, No. CV 07-00931 DDP (JTLx), ECF No. 333, at 34 (C.D. Cal. Dec. 3, 2008) ("This Court likewise agrees…that Plaintiffs' Complaint alleges sufficient facts that the statements were material misrepresentations of New Century's loan quality and underwriting practices.").

[20] CW 23, a former New Century Vice President, Regional Manager, employed by New Century from October 1999 until March 2007, stated that starting in 2003 and 2004, roughly half of New Century's loans contained exceptions. CW 23, a former New Century underwriter employed by New Century from May 2005 to March 2006 in Itasca, Illinois and, previously, from 2000 until 2003 in Cincinnati, Ohio, explained that he could not recall the last loan that he looked at that did not have an exception.

176. The statements in the ACE 2006-NC2 RMBS prospectus supplement regarding New Century's underwriting practices and guidelines, which represented the New Century-originated mortgage loans as "originated consistent with and generally conform[ed] to the New Century Underwriting Guidelines' . . . loan programs," parallel the false statements in New Century's SEC filings and are equally false and misleading.

177. The prospectus supplement for the ACE-2006-NC2 RMBS used to solicit Dexia's purchase of Deutsche Bank RMBS backed by New Century-originated loans also represented that New Century ensured proper appraisals when issuing loans to borrowers, explaining that:

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

178. These statements were false and misleading when made. In order to increase loan origination volume, New Century routinely hired biased appraisers and used inflated appraisals as a matter of course to issue loans to borrowers who would not otherwise qualify for the mortgage.

179. As described in the Bankruptcy Examiner's Report, in New Century's wholesale division—which accounted for the vast majority (approximately 85%) of New Century's loan originations—the regional managers who had lending authority could override the internal appraisers' decisions. Moreover, the regional managers' compensation was not tied to loan

quality, but was rather based on the volume of loans originated, providing incentive to inflate appraisal values in order to increase origination of New Century loans.

180. As revealed in a 2005 internal New Century audit disclosed in the Bankruptcy Examiner's Report, 18 of 77 (or 23%) of the loans reviewed at one Sacramento fulfillment center had "exceptions with either the appraisal conducted or the review of the appraisal submitted with broker-provided loans or the review appraisal conducted by New Century's Appraisal Department." The results of that audit were not an anomaly. According to the Bankruptcy Examiner, the results of New Century's own loan quality audits of underwriting procedures, account manager review/approval, appraisals and funding "were dismal." As reported by the Bankruptcy Examiner, of nine branches audited by New Century in 2005, none were rated satisfactory, seven were rated unsatisfactory and two were rated as needs improvement.

181. Former New Century employees interviewed by Dexia's counsel confirmed that loans were routinely originated using improperly inflated appraisals. For example, CW 25, a senior vice president enterprise program manager for New Century in Irvine, California from July 2005 to April 2006 stated that he could "guarantee" that large appraisers used by New Century gave New Century "the benefit of the doubt," *i.e.*, provided an overly optimistic appraisal, in order to maintain New Century's business. As but one example, CW 25 stated that an appraiser might photograph only one side of the house but not the side that was run down and falling apart in order to justify the inflated valuation. According CW 25, these appraisal companies did not "want to piss off New Century" because they were compensated on volume.

182. New Century's statements regarding its "improved underwriting controls and appraisal review process" have already been held by one court to be false or misleading

statements of material fact.[21] Indeed, the poor quality of New Century loans were cited in a action brought by the Massachusetts Attorney General, which led to Morgan Stanley's payment of $102 million to resolve charges that the Morgan Stanley funded loans to target lower-income borrowers and lure them into loans that they predictably could not afford to pay. *See* Assurance of Discontinuance, *In re Morgan Stanley & Co. Inc.*, Civ. A. No. 10-2538 (Mass. Super. Ct. June 24, 2010) (the "Morgan Stanley Settlement").

183. New Century's loans, which comprised 100% of the ACE 2006-NC2 RMBS purchased by Dexia, have experienced severe delinquencies and defaults as reflected by the chart below. In fact, an astonishing 64% of the loans in ACE 2006-NC2 were seriously delinquent as of May 2011:

Deal Name & Tranche	At 12 Months	At 24 Months	At 36 Months	At 48 Months	At 60 Months	May 2011
ACE 2006-NC2	23.69	47.80	63.98	65.80	N/A	64.23

I. WMC Mortgage Corporation Violated Its Underwriting Guidelines

184. WMC Mortgage Corporation ("WMC") was the sole originator of the loans backing the ACE 2007-WM1 and ACE 2007-WM2 Deutsche Bank-underwritten RMBS purchased by Dexia, representing $1,112,901,329 in total face value. The prospectus supplement for the ACE 2007-WM1 RMBS stated the following about WMC's underwriting guidelines:

> ***Underwriting Standards. The mortgage loans have been either (i) originated generally in accordance with the underwriting guidelines established by WMC (collectively, the "Underwriting Guidelines") or (ii) purchased by GE Money Bank after re-underwriting the mortgage loans generally in accordance with the Underwriting Guidelines***. WMC also originates certain other mortgage loans that are underwritten to the guidelines of specific investors, however, such mortgage loans are not included among

[21] *See In re New Century*, No. CV 07-00931, at 33-34 (C.D. Cal. Dec. 3, 2008), ECF No. 333 ("The pleadings adequately support a finding that these statements were false when made.").

> those sold to the trust as described in this prospectus supplement. ***The Underwriting Guidelines are primarily intended to (a) determine that the borrower has the ability to repay the mortgage loan in accordance with its terms and (b) determine that the related mortgaged property will provide sufficient value to recover the investment if the borrower defaults. On a case-by-case basis WMC may determine that, based upon compensating factors, a prospective mortgagor not strictly qualifying under the underwriting risk category or other guidelines described below warrants an underwriting exception.*** Compensating factors may include, but are not limited to, low debt-to-income ratio ("Debt Ratio"), good mortgage payment history, an abundance of cash reserves, excess disposable income, stable employment and time in residence at the applicant's current address. It is expected that a substantial number of the mortgage loans to be included in the trust will represent such underwriting exceptions.
>
> *　　*　　*
>
> ***Under the Underwriting Guidelines, WMC verifies the loan applicant's eligible sources of income for all products, calculates the amount of income from eligible sources indicated on the loan application, reviews the credit and mortgage payment history of the applicant and calculates the Debt Ratio to determine the applicant's ability to repay the loan, and reviews the mortgaged property for compliance with the Underwriting Guidelines.***

185. The prospectus supplement for the ACE 2007-WM1 RMBS used to solicit Dexia's purchase of Deutsche Bank RMBS backed by WMC-originated loans also represented that WMC ensured proper appraisals when issuing loans to borrowers, explaining that:

> ***The Underwriting Guidelines are applied in accordance with a procedure which complies with applicable federal and state laws and regulations and require, among other things, (1) an appraisal of the mortgaged property which conforms to Uniform Standards of Professional Appraisal Practice*** and (2) an audit of such appraisal by a WMC-approved appraiser or by WMC's in-house collateral auditors (who may be licensed appraisers) and such audit may in certain circumstances consist of a second appraisal, a field review, a desk review or an automated valuation model.

186. These statements were false and misleading when made in that they misrepresented that WMC: (i) systematically failed to follow its stated underwriting standards;

(ii) allowed pervasive exceptions to its stated underwriting standards in the absence of existing compensating factors; (iii) disregarded credit quality in favor of generating increased loan volume; and (iv) violated its stated appraisal standards and in many instances materially inflated the values of the underlying mortgage properties in the loan origination and underwriting process.

187. According to Reuters, WMC was responsible for originating "some of the worst-performing loans in the . . . $575 billion market for home equity asset-backed securities." In 2004, WMC, then the sixth-largest subprime lender in the nation, was purchased by General Electric. In September 2007, General Electric closed WMC's operations because of its subprime-related losses, taking a $400 million charge as a result. WMC's reckless underwriting standards and practices as described more fully below resulted in a huge amount of foreclosures, ranking WMC fourth in the OCC's "Worst Ten of the Worst Ten" list of subprime lenders presented to the FCIC in April 2010.

188. According to a lawsuit filed by PMI Mortgage Insurance Co. in September 2009, a review of WMC's mortgage loan files showed that WMC "followed few, if any, objective standards or criteria in underwriting [mortgage loans] and showed little concern if any, for any borrower's ability to repay." *PMI Mortgage Ins. Co, v. WMC Mortgage Corp.*, BC-391072 (Los Angeles Super. Ct.) (the "PMI Complaint").

189. According to PMI's allegations concerning misrepresentations and WMC's failure to adhere to its contractual repurchase obligations relating to the securitization of a pool of mortgage loans, a review by Clayton into a sample of thousands of WMC-originated loans revealed that WMC "breached various representations and warranties [attesting that,] *inter alia*, the loan-to-value ratio at the time of origination was greater than 100%; fraud, errors, misrepresentations, or gross negligence took place on the part of WMC…; the loans did not

comply with WMC's own underwriting standards at the time of origination; certain documents were missing; and/or WMC had failed to utilize a methodology in underwriting the loans that employed objective mathematical principles designed to determine that, at the time of origination, the borrower had the reasonable ability to make timely payments on the [m]ortgage [l]oans." According to the PMI Complaint, the Clayton investigation "demonstrate[d] a systemic failure by WMC to apply sound underwriting standards and practices which cuts across all of the [loans in the securitization]." In the defective loans, "Clayton discovered unreasonable stated income and/or misrepresentations of income and/or employment by the borrower, the large majority of which could have been discovered by WMC prior to transfer via simple diligence procedures." Moreover, nearly a quarter of the loans sampled by Clayton were shown to contain "misrepresentations of occupancy by the borrower, another factor that could have easily been verified by WMC."

190. WMC's reckless loan originating practices were noticed by regulatory authorities as well. 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 against WMC and its principal owners individually. The Statement of Charges included a review of 86 loan files, which revealed that at least 76 loans were defective or otherwise in violation of Washington state law. 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.

191. WMC's systematic failure to issue mortgage loans in accordance with its stated underwriting guidelines has caused massive losses to Dexia. Almost 68% of the loans backing the ACE 2007-WM1 RMBS and almost 29% of the loans backing the ACE-2007-WM2 RMBS that Dexia purchased were seriously delinquent as of May 2011 as reflected in the chart below. WMC originated 100% of the loans in those RMBS.

Deal Name & Tranche	At 12 Months	At 24 Months	At 36 Months	At 48 Months	At 60 Months	May 2011
ACE 2007-WM1	28.73	61.00	71.07	68.56	N/A	67.64
ACE 2007-WM2	29.90	40.45	40.95	31.09	N/A	28.52

J. GreenPoint Violated Its Underwriting Guidelines

192. Deutsche Bank sold Dexia AAA-rated RMBS that were backed by loans originated by GreenPoint Mortgage ("GreenPoint") in four securitizations: DBALT 2005-AR1, DBALT 2006-AF1, DBALT 2006-AR4, and DBALT 2006-AR5. Loans originated by GreenPoint represented approximately $632,072,904 of the face amount of those deals.

193. The Offering Materials relied upon by Dexia in purchasing the RMBS originated by GreenPoint contained false and misleading statements of material fact regarding GreenPoint's underwriting practices and guidelines. The prospectus supplement for the DBALT 2006-AF1 RMBS described GreenPoint's underwriting guidelines, in relevant part, as follows:

> ***Generally, the GreenPoint underwriting guidelines are applied to evaluate the prospective mortgagor's credit standing and repayment ability and the value and adequacy of the mortgaged property as collateral. Exceptions to the guidelines are permitted where compensating factors are present.*** The GreenPoint underwriting guidelines are generally not as strict as Fannie Mae or Freddie Mac guidelines. GreenPoint's underwriting guidelines are applied in accordance with applicable federal and state laws and regulations.
>
> * * *
>
> In determining whether a prospective mortgagor has sufficient monthly income available to meet the mortgagor's monthly

> obligation on the proposed mortgage loan and monthly housing expenses and other financial obligations, GreenPoint generally considers the ratio of those amounts to the proposed mortgagor's monthly gross income. These ratios vary depending on a number of underwriting criteria, including loan-to-value ratios ('LTV'), and are determined on a loan-by-loan basis. ***The ratios generally are limited to 40% but may be extended to 50% with adequate compensating factors, such as disposable income, reserves, higher FICO credit score, or lower LTV's.***
>
> * * *
>
> GreenPoint acquires or originates many mortgage loans under 'limited documentation' or 'no documentation' programs. ***Under limited documentation programs, more emphasis is placed on the value and adequacy of the mortgaged property as collateral, credit history and other assets of the mortgagor, than on verified income of the mortgagors. Mortgage loans underwritten under this type of program are generally limited to mortgagors with credit histories that demonstrate an established ability to repay indebtedness in a timely fashion, and certain credit underwriting documentation concerning income or income verification and/or employment verification is waived***….Under no documentation programs, income ratios for the prospective mortgagor are not calculated. Emphasis is placed on the value and adequacy of the mortgaged property as collateral and the credit history of the prospective mortgagor rather than on verified income and assets of the mortgagor….Mortgage loans underwritten under no documentation programs are generally limited to mortgagors with favorable credit histories and who satisfy other standards for limited documentation programs.

194. With respect to the loans originated by GreenPoint, the Offering Materials also represented that the collateral underlying the mortgages was properly appraised and subject to adequate quality control procedures:

> In determining the adequacy of the property as collateral, an independent appraisal is generally made of each property considered for financing. ***All appraisals are required to conform the [sic] Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standard Board of the Appraisal Foundation.*** Each appraisal must meet the requirements of Fannie Mae and Freddie Mac. The requirements of Fannie Mae and Freddie Mac require, among other things, that the appraiser, or its agent on its behalf, personally inspect the property inside and out, verify whether the property is in a good condition and verify that

> construction, if new, has been substantially completed. ***The appraisal generally will have been based on prices obtained on recent sales of comparable properties determined in accordance with Fannie Mae and Freddie Mac guidelines.***

195. The statements set forth above were materially false and misleading. GreenPoint did not follow its stated underwriting standards, did not take steps to verify borrower data—which was pervasively misstated—and did not use disinterested appraisers to value the collateral. The DTI ratios for the loan pools were therefore much higher than represented. According to a review of GreenPoint documentation in connection with one of the numerous lawsuits against GreenPoint based on its reckless origination and underwriting practices, 93% of the GreenPoint loans suffered from serious defects.[22] Discovered defects included: (i) pervasive misrepresentations with respect to the statement of income, assets, or employment of the borrower; (ii) inflated and fraudulent appraisal values; and (iii) pervasive violations of GreenPoint's own underwriting guidelines and prudent mortgage-lending practices, including loans made to borrowers with unverified incomes and social-security numbers, and with credit scores and debt-to-income and/or loan-to-value ratios outside of the stated range.

196. That same review determined that two years after the closing of the securitized transaction, approximately 29% of the loans in the original loan pool were either completely written off or severely delinquent. Another lawsuit – brought by a former senior GreenPoint underwriter – alleged that GreenPoint forced underwriters to approve mortgage loan applications containing fraudulent information.[23]

[22] *See U.S. Bank Nat'l Ass'n, et al. v. GreenPoint Mortgage Funding, Inc.*, New York Sup. Ct., 09-600352 (Feb. 5, 2009) ("U.S. Bank v. GreenPoint"); *Bank of America, N.A. v. GreenPoint Mortgage Fundint, Inc.*, No. 3:09-cv-0071 (W.D.N.Y. Feb. 26, 2009).

[23] *Steinmetz v. GreenPoint Mortgage Funding, Inc.*, No. 08-cv-5367 (S.D.N.Y. June 12, 2008).

197. The OCC ranked GreenPoint thirteenth on the list of the worst mortgage originators in the United States based on the foreclosure rates of mortgage loans originated in metropolitan areas between 2005 and 2007.

198. GreenPoint's reckless origination practices described above have had a devastating effect on the average serious delinquency rates of the loans backing the Deutsche Bank RMBS purchased by Dexia. For example, more than 21% of the loans backing the DBALT 2005-AR1 RMBS and on average 33% of the loans backing the DBALT 2006-AF1, DBALT 2006-AR4 and DBALT 2006-AR5 RMBS, which all include a significant percentage of loans originated by GreenPoint, stood seriously delinquent as of May 2011:

Deal Name & Tranche	At 12 Months	At 24 Months	At 36 Months	At 48 Months	At 60 Months	May 2011
DBALT 2005-AR1	1.66	8.71	14.81	27.49	26.54	21.96
DBALT 2006-AF1	6.41	19.38	33.33	34.25	N/A	29.14
DBALT 2006-AR4	8.80	24.45	37.69	38.23	N/A	34.59
DBALT 2006-AR5	9.75	29.77	42.73	39.68	N/A	35.25

K. ResMAE's Violated Its Underwriting Guidelines

199. ResMAE Mortgage Corp. ("ResMAE"), was the sole originator of the loans backing the ACE 2007-HE3 RMBS, and originated 12% of the loans that comprised the ACE 2007-HE4 RMBS purchased by Dexia. ResMAE-originated loans represented approximately $403,201,337 of the face amount of those deals.

200. The Offering Materials for ACE 2007-HE3 RMBS contained false and misleading statements of material fact regarding ResMAE's underwriting standards at the time those statements were made. For example, the ACE 2007-HE3 prospectus supplement, in relevant part, stated as follows:

> ***The underwriting standards of ResMAE are primarily intended to assess the ability and willingness of the borrower to repay the debt and to evaluate the adequacy of the mortgaged property as***

> ***collateral for the mortgage loan.*** ResMAE considers, among other things, a mortgagor's credit history, repayment ability and debt service-to income ratio (referred to herein as the Debt Ratio), as well as the value, type and use of the mortgaged property.
>
> * * *
>
> ***On a case by case basis, ResMAE may determine that, based upon compensating factors, a prospective mortgagor not strictly qualifying under the underwriting risk category guidelines described below warrants an underwriting exception. Compensating factors may include, but are not limited to, low loan-to-value ratio, low Debt Ratio, substantial liquid assets, good credit history, stable employment and time in residence at the applicant's current address.*** A substantial portion of the Mortgage Loans represent such underwriting exceptions.

201. With respect to the loans originated by ResMAE, the Offering Materials also represented that the collateral underlying the mortgages was properly appraised and subject to adequate quality control procedures:

> ***The underwriting guidelines of ResMAE are applied in accordance with a procedure which complies with applicable federal and state laws and regulations and generally require an appraisal of the mortgaged property which conforms to Freddie Mac and/or Fannie Mae standards, and if appropriate, a review appraisal. . . . Each Uniform Residential Appraisal Report includes a market data analysis based on recent sales of comparable homes in the area and, where deemed appropriate, replacement cost analysis based on the current cost of constructing a similar home.*** The review appraisal may be a desk review, field review or an automated valuation report that confirms or supports the original appraiser's value of the mortgaged premises.
>
> * * *
>
> ***ResMAE conducts a number of quality control procedures, including a post funding compliance audit as well as a full re-underwriting of a random selection of mortgage loans to assure asset quality. Under the compliance audit, all mortgage loans are reviewed to verify credit grading, documentation compliance and data accuracy. Under the post- funding quality procedure, a random selection of each month's originations is reviewed.*** The loan review confirms the existence and accuracy of legal

> documents, credit documentation, appraisal analysis and underwriting decision. A report detailing audit findings and level of error is provided quarterly to loan production for response. The audit findings and responses are then reviewed by ResMAE's senior management. Adverse findings are tracked monthly and reported quarterly. This review procedure allows ResMAE to assess programs for potential guideline changes, program enhancements, appraisal policies, areas of risk to be reduced or eliminated and the need for additional staff training.

202. The Offering Documents contained materially false and misleading statements of fact related to ResMAE's underwriting standards because ResMAE systematically disregarded its stated underwriting standards and regularly made exceptions to its underwriting guidelines in the absence of sufficient compensating factors, and without regard for the ability of the borrower to repay the loan.

203. According to CW 26, a former area credit manager at ResMAE from 2004 through 2005, the sales department "push[ed] . . . through" stated income loans that listed implausible incomes. "[T]hat's where things got ridiculous, because as underwriters you were told that things have to make sense, you can't have somebody that is a waitress that is making $5,000 a month and we would say we want to go 'full documentation' and sales would say 'no' and push it through."

204. CW 26 also stated that exceptions to ResMAE's underwriting guidelines accounted for "50 percent" of all underwritten loans. "[L]oan officers and sales [department employees]," mostly requested exceptions and would take the requests to sales managers for approval." According to CW 26, this created a "dangerous" "conflict of interest" between sales

managers, who had underwriting authority, and loan officers and sales employees who were paid on commission.[24]

205. CW 27 also described problems with stated income loans and appraisals, especially in 2005 and 2006. CW 27 saw "fraud from appraisers, title companies and . . . borrowers. Yeah, they were altering documents and that kind of stuff; that was very big in 2005 and 2006. Especially the stated income, they would state that they made this income and they didn't, it was [a] misrepresentation." During the last six months of CW 27's employment at ResMAE, CW 27 saw a large percentage of exceptions as the result of "an effort to increase [loan] production."

206. Consistent with Dexia's claim that ResMAE consistently violated its underwriting guidelines and made regular exceptions without sufficient compensating factors, the OCC anointed ResMAE as the tenth worst mortgage originator in the United States based on the foreclosure rates of mortgage loans originated in metropolitan areas between 2005 and 2007.

207. ResMAE's reckless origination practices described above have had a devastating effect on the average serious delinquency rates of the loans backing the Deutsche Bank RMBS purchased by Dexia. For example, more than 40% of the loans backing the ACE 2007-HE3 RMBS and almost 50% of the loans backing the ACE 2007-HE4 RMBS, stood seriously delinquent as of May 2011. ResMAE originated 100% of the loans backing the ACE 2007-HE3 RMBS:

---

[24] CW 28, a former Senior Vice President of ResMAE from 2003 through 2006, confirmed that "exceptions were not uncommon, there were [a] significant [amount of] exceptions . . . as much as 50%." CW 27, a former regional credit manager at ResMAE from March 2004 through March 2007, agreed that exceptions to ResMAE's underwriting guidelines were commonplace and that "40% to 50%" of loans that ResMAE originated were issued pursuant to exceptions.

Deal Name & Tranche	At 12 Months	At 24 Months	At 36 Months	At 48 Months	At 60 Months	May 2011
ACE 2007-HE3	39.30	59.06	54.22	44.66	N/A	40.51
ACE 2007-HE4	38.40	59.59	51.55	N/A	N/A	49.18

L. Argent Violated Its Underwriting Guidelines

208. Argent Mortgage Company, LLC ("Argent"), a subsidiary of Ameriquest Mortgage Services, Inc. ("Ameriquest"), originated over 33% of the loans backing the ACE 2006-HE2 RMBS purchased by Dexia, representing approximately $132,595,350 of the face amount of that deal.

209. The Offering Materials for the ACE 2006-HE2 RMBS contained false and misleading statements of fact regarding Argent's underwriting standards at the time those statements were made. For example, the ACE 2006-HE2 prospectus supplement represented Argent's underwriting standards, in relevant part, as follows:

> All of the Ameriquest Mortgage Loans were acquired by Ameriquest from Argent Mortgage Company, LLC ("Argent") and were originated by Argent generally in accordance with guidelines (the "Underwriting Guidelines") established by Argent with one of the following income documentation types: "Full Documentation," "Limited Documentation" or "Stated Income." ***The Underwriting Guidelines are primarily intended to evaluate: (1) the applicant's credit standing and repayment ability and (2) the value and adequacy of the mortgaged property as collateral. On a case-by-case basis, Argent may determine that, based upon compensating factors, a loan applicant, not strictly qualifying under one of the Risk Categories described below, warrants an exception to the requirements set forth in the Underwriting Guidelines.*** Compensating factors may include, but are not limited to, loan-to-value ratio, debt-to-income ratio, good credit history, stable employment history, length at current employment and time in residence at the applicant's current address. It is expected that a substantial number of the mortgage loans originated by Argent to be included in the mortgage pool will represent such underwriting exceptions.

* * *

> During the underwriting process, ***Argent reviews and verifies the loan applicant's sources of income (except under the Stated Income and Limited Documentation types, under which programs, such information may not be independently verified), calculates the amount of income from all such sources indicated on the loan application, reviews the credit history of the applicant, calculates the debt-to-income ratio to determine the applicant's ability to repay the loan, and reviews the mortgaged property for compliance with the Underwriting Guidelines*.**

210. With respect to the loans originated by Argent, the prospectus supplement for the ACE 2006-HE2 RMBS also represented that the property collateralizing the mortgage loans was properly appraised and subject to adequate quality control procedures:

> ***The Underwriting Guidelines are applied in accordance with a procedure which complies with applicable federal and state laws and regulations and requires (i) an appraisal of the mortgaged property which conforms to the Uniform Standards of Professional Appraisal Practice and are generally on forms similar to those acceptable to Fannie Mae and Freddie Mac and*** (ii) a review of such appraisal, which review may be conducted by a representative of Argent or a fee appraiser and may include a desk review of the original appraisal or a drive-by review appraisal of the mortgaged property**.**

211. The above statements of material fact were false and misleading when made because, as demonstrated below Argent: (i) systematically failed to follow its stated underwriting standards without regard to the ability of the borrowers to repay such mortgages; (ii) allowed pervasive exceptions to its stated underwriting standards in the absence of compensating factors; (iii) fraudulently tampered with loan applications or documents; and (iv) violated its stated appraisal standards in the loan origination and underwriting process.

212. Dexia's allegations are bolstered by evidence published by the FCIC. In the summer of 2007, Citigroup acquired Argent and Argent's parent company, Ameriquest. Richard Bowen, III, was Citibank's Business Chief Underwriter for correspondent lending who supervised 220 professional underwriters and exercised direct oversight over more than $90

billion of correspondent residential mortgages annually. Mr. Bowen was involved in the due diligence for Citigroup's acquisition of Argent and Ameriquest. In Bowen's April 7, 2010 testimony before the FCIC, Bowen testified that he advised against the acquisition because "we sampled loans that were originated by Argent and we found large numbers that did not – that were not underwritten according to the representations that were there." Bowen further testified that the number of loans that contained untrue representations was significant enough to support his decision to oppose the acquisition.

213. A December 7, 2008 article in the *Miami Herald* concerning Argent's fraudulent mortgage practices further supports Dexia's claims. According to the article, employees of Argent – including an Argent vice president– actively assisted mortgage brokers in falsifying borrowers' financial information by "tutoring . . . mortgage brokers in the art of fraud." Employees "taught [brokers] how to doctor credit reports, coached them to inflate [borrower] income on loan applications, and helped them invent phantom jobs for borrowers" so that loans could be approved. According to the Argent vice president, "the accuracy of loan applications was not a priority."

214. The *Miami Herald* examined the applications for 129 Argent loans and "found at least 103 that contained false and misleading information" and "red flags: non-existent employers, grossly inflated salaries and sudden, drastic increases in the borrower's net worth." The article noted that: "The simplest way for a bank to confirm someone's income is to call the employer. But in at least two dozen cases, the applications show bogus telephone numbers for work references . . . ." Argent's lack of verification was so poor that a "borrower [who] claimed to work a job that didn't exist . . . got enough money to buy four houses." Another borrower "claimed to work for a company that didn't exist – and got a $170,000 loan."

215. Moreover, according to a May 11, 2008 *Cleveland Plain Dealer* article, an Argent employee who worked for more than two years at an Argent loan processing center near Chicago as an underwriter and account manager, noted that "some Argent employees played fast and loose with the rules" and stated "I personally saw some stuff I didn't agree with." The Argent employee "saw [Argent] account managers remove documents from files and create documents by cutting and pasting them."

216. Argent has also been the subject of several lawsuits alleging fraud in its underwriting and lending practices. In January 2010, Ameriquest and Argent participated in a $22 million settlement of fraudulent mortgage claims brought in the Northern District of Illinois by those who purchased mortgages after December 14, 2001. The lawsuit alleged that Argent and Ameriquest inflated appraisal values and borrower income or asset statements and employed aggressive and misleading marketing and sales techniques as part of a fundamental business strategy to force potential borrowers to close loans.

217. The OCC listed Argent on the OCC's "Worst Ten in the Worst Ten" list presented to the FCIC in April 2010. Argent appeared prominently on the list, ranking third, with over 10,000 foreclosures on loans originated between 2005 and 2007.

218. Argent's reckless origination practices described above have had sharp consequences on the average serious delinquency rates of the loans backing the Deutsche Bank RMBS purchased by Dexia. For example, more than 25% of the loans backing the ACE 2006-HE2 RMBS, stood seriously delinquent as of May 2011. Argent was the principal originator of the loans backing the ACE 2006-HE2 RMBS.

Deal Name & Tranche	At 12 Months	At 24 Months	At 36 Months	At 48 Months	At 60 Months	May 2011
ACE 2006-HE2	16.39	37.31	38.45	35.43	25.90	25.26

M. CIT Violated Its Underwriting Guidelines

219. CIT Group ("CIT"), which sold its Home Lending Group to Lone Star Funds on July 14, 2008, originated a portion of the mortgage loans underlying the ACE 2006-HE2, ACE 2007-HE2 and TMTS 2006-5 RMBS purchased by Dexia, representing approximately $108,176,918 of the combined face value of those deals.

220. The Offering Materials contained false and misleading representations of material fact concerning CIT Group's stated underwriting guidelines. For example, the prospectus supplement for the ACE 2007-HE2 RMBS stated, in relevant part:

> In determining the adequacy of the mortgaged property as collateral, combined loan-to-value ratio guidelines are established depending on the type of loan. The maximum combined loan-to-value ratio is determined by the loan program and credit risk rating. Generally, CIT Home Lending confirms the value of the property to be mortgaged by appraisals performed by independent appraisers or other valuation methods.
>
> * * *
>
> ***On a case-by-case basis, CIT Home Lending may determine that, based upon compensating factors, a prospective borrower not strictly qualifying under the applicable underwriting guide lines warrants an underwriting exception.*** Compensating factors may include, but are not limited to, relatively low loan-to-value ratio, relatively low debt-to-income ratio, better than required credit history, stable employment, financial reserves, and time in residence at the applicant's current address. A significant number of the mortgage loans may represent such underwriting exceptions.

221. The Offering Materials also represented that the collateral underlying the mortgages was properly appraised and subject to adequate quality control procedures:

> ***CIT Home Lending implements quality control programs in three areas: 1) lending and documentation standards, 2) re-underwriting of the loan, and 3) re-verification of employment.*** CIT Home Lending applies the lending and documentation standards quality control program to its own originations and to purchased loans. ***The quality control procedures are designed to***

> ***assure that a consistent level of quality applies to all loans in the portfolio, regardless of source.*** CIT Home Lending may vary quality control procedures based upon the business source for the loan. CIT Home Lending also performs general quality control review through a central quality control effort. These procedures include a review of a sample of originated and purchased loans from each of CIT Home Lending's production offices. Every office is audited monthly and loans originated during prior months are reviewed for compliance with lending and documentation standards. ***In addition, loans originated by CIT Home Lending are audited on a monthly basis for compliance with lending and documentation standards. In addition, CIT Home Lending re-verifies employment of its borrowers.*** These re-verifications are conducted monthly on some of the loans in the portfolio to detect fraud and to confirm the accuracy of the information provided in the application.
>
> * * *
>
> Valuation Methods and Standards by Different Lines of Business. For loans originated by CIT Home Lending appraisals are obtained from outside service companies. These appraisals may be ordered by CIT Home Lending or the broker. Such appraisals are based upon an appraiser's inspection of the subject property and verification that such property is in acceptable condition. Following each appraisal, the appraiser prepares a report which includes a market data analysis based on recent sales of comparable homes in the area and, when deemed appropriate, a replacement cost analysis based on the current cost of constructing a similar home. ***All appraisals are required to conform to FNMA or FHLMC appraisal standards then in effect. Every independent appraisal is reviewed by a CIT Home Lending collateral risk manager during the application approval process and the final funding is based on the results of that review.*** If CIT Home Lending determines that these valuations are inaccurate, it may reevaluate the appraiser or in some cases require a recourse party to repurchase the transaction.

222. The above statements of material fact were false and misleading when made. In fact, CIT Group (i) willfully disregarded its stated underwriting guidelines and issued mortgage loans regardless of the borrower's ability to repay the loan; (ii) engaged in unsound and abusive lending practices, including inflating borrowers' incomes and assets; and (iii) disregarded stated appraisal guidelines.

223. CIT knowingly issued loans in violation of its underwriting guidelines, and even such defects were identified, attempted to continue to sell those loans into loan pools to be securitized. During his interview with the FCIC, Joseph Swartz, a former vice president of Deutsche Bank's due diligence department, testified that in September 2006 CIT knowingly included non-compliant loans into a pool of loans that were to be securitized. Swartz testified that Clayton Holdings rejected the same loans in a previous transaction and "now [CIT] put them back into my pool." An additional review prompted Swart to reject about 30% of the pool. Astonishingly, despite CIT's conduct and its propensity to violate its own underwriting guidelines, Deutsche Bank continued to do business and purchase CIT originated loans for its RMBS securitization.

224. A complaint filed by Credit-Based Asset Servicing and Securitization, LLC ("C-BASS") provides further factual support for Dexia's claims (the "C-BASS Complaint"). *Credit-Based Asset Servicing and Securitization, LLC v. The CIT Group/Consumer Fin., Inc.*, No. 600733-2009 (N.Y. Sup. Ct. Mar. 10, 2009). According to the C-BASS Complaint, CIT breached several representations and warranties contained in loan purchase agreements due to, "dishonesty, misrepresentation and fraud in connection with Mortgagors' assets, income, expenses and employment, as well as errors, omissions, negligence and similar occurrences in the underwriting of the Mortgage Loans."

225. CIT-originated loans, which comprise significant portions of the ACE 2006-HE2, ACE 2007-HE2 and TMTS 2006-5 RMBS, have experienced severe levels of delinquencies and defaults caused by CIT's reckless origination practices. For instance, over 29% of the loans backing the ACE 2007-HE2 RMBS were seriously delinquent as of May 2011:

Offering	At 12 Months	At 24 Months	At 36 Months	At 48 Months	At 60 Months	May 2011
TMTS 2006-5	11.63	29.13	40.47	30.71	N/A	24.09
ACE 2006-HE2	16.39	37.31	38.45	35.43	25.90	25.26
ACE 2007-HE2	27.35	38.19	40.92	32.32	N/A	29.25

VI. DEUTSCHE BANK KNEW THE LOANS IT WAS SECURITIZING WERE DESTINED TO FAIL

226. Well before underwriting and selling RMBS certificates to investors like Dexia, Deutsche Bank had identified (but never disclosed to investors like Dexia) the rampant underwriting deficiencies at the mortgage originators discussed above, which directly contradicted the representations in the Offering Materials accompanying the RMBS sold to Dexia. In particular, Deutsche Bank was aware of the practices of its own mortgage origination arms, DBSP, MortgageIT and DB Home, as has been detailed in numerous private and government actions against those entities. Indeed, as alleged in the United States Attorney General's complaint against MortgageIT, Deutsche Bank "knowingly, wantonly, and recklessly permitted egregious underwriting violations to continue unabated" at origination arms that supplied loans backing RMBS purchased by Dexia.

227. Deutsche Bank also had extensive knowledge of the underwriting practices of the subprime lenders whose loans backed the RMBS purchased by Dexia through its multi-billion warehouse lending relationships with those lenders. Moreover, not only did Deutsche Bank's diligence undertaken in connection with those warehouse lines reveal the unsafe lending practices at those originators, but the data provided to Deutsche Bank by the loan-level reviews conducted by its third-party due diligence providers ***confirmed*** that the underwriting of the loans

backing the RMBS purchased by Dexia flatly contradicted the representations contained in the Offering Materials used to solicit Dexia's investment in the Deutsche Bank RMBS.

228. Deutsche Bank exploited its knowledge of the true nature of the RMBS it had created by developing a massive short position in securities that referenced RMBS that Deutsche Bank sold to its clients – including Dexia – and which Lippmann, a Deutsche Bank mortgage trader who rose to become Global Head of Asset-Backed Securities Trading, disparaged as "crap" and "pigs." Indeed, Deutsche Bank was able to profit handsomely off of its knowledge of the inherently risky nature of the loans it securitized to place massive wagers against those assets through what Lippmann referred to as Deutsche Bank's involvement in the "CDO Machine"—a "ponzi scheme" that enabled investment banks like Deutsche Bank to profit when the RMBS purchased by investors like Dexia failed—as well as the other proprietary trades Deutsche Bank entered into to bet against securities such as those it sold to Dexia. As Deutsche Bank expected, the value of the RMBS it sold to investors like Dexia plummeted in value as borrowers began to default on the loans they were never qualified to receive in the first place.

A. Deutsche Bank's Relationships With Key Loan Originators And Other Major Players In The Securitization Of Loans Backing the RMBS Sold To Dexia

229. Deutsche Bank's key position in the principal securitization process as well as Deutsche Bank's and MortgageIT's role as an originator for 12 of the Deutsche Bank RMBS provides compelling evidence that Deutsche Bank was well aware of the true quality of the loans that it originated and securitized into RMBS and sold to Dexia.

230. Six of the Deutsche Bank RMBS sold to Dexia were backed by loans originated by Deutsche Bank's own lending arm, MortgageIT. As set forth in the USAO Complaint filed by the U.S. Attorney for the Southern District of New York, Deutsche Bank and MortgageIT

reaped millions of dollars in illicit profits by consistently failing to adhere to the strict underwriting standards and quality control measures required by the FHA.

231. Deutsche Bank was well aware of the quality concerns that pervaded the loans originated by MortgageIT. For example, when Deutsche Bank acquired MortgageIT in January 2007, MortgageIT was at the time embroiled in litigation with EMC concerning MortgageIT's alleged failure to repurchase loans experiencing early payment defaults, or "EPDs," in violation of MortgageIT's representations and warranties to EMC. Accordingly, Deutsche Bank was on notice that MortgageIT routinely issued loans to borrowers who were unable to make even the first several payments on their mortgage loans.

232. Indeed, MortgageIT became a central part of Deutsche Bank's residential mortgage business in Manhattan, with MortgageIT's former Chairman and Chief Executive Officer, Doug Naidus, ascending to Managing Director and the Head of Mortgage Origination within Deutsche Bank's RMBS group.

233. The USAO Complaint details the systemic failures by Deutsche Bank and MortgageIT to address widespread problems in underwriting and quality control. The USAO Complaint further makes it clear that the upper management of Deutsche Bank was aware of MortgageIT's dysfunctions in quality control. Indeed, the USAO Complaint demonstrates that after Deutsche Bank acquired MortgageIT, the deficiencies in MortgageIT's quality control measures continued unabated and were, in fact, institutionalized and encouraged in the interests of increasing loan production. For example, as discussed above, MortgageIT tasked only ***one*** employee to audit its closed loans, a critical task to measure the efficacy of underwriting. By the end of 2007, Deutsche Bank had moved that single employee into production so that there was ***no*** quality control review of closed mortgage files. According to the USAO Complaint, as of February 2011, of the more than 39,000 mortgages for FHA endorsed by Deutsche Bank and

MortgageIT, more than 12,500 of those mortgages (*i.e.,* approximately a third) defaulted. Of those, more than more than 3,100 defaulted within six months, more than 4,500 defaulted within a year, and more than 6,900 defaulted within two years of closing.

234. In addition to Deutsche Bank's activities as an originator, Deutsche Bank's role as a principal in the securitization process provides further evidence of Deutsche Bank's knowledge of the true quality of the loans underlying the Deutsche Bank RMBS purchased by Dexia. Deutsche Bank's affiliate, ACE Securities, acted as the primary agent securitizing many of the securities purchased by Dexia. As revealed by the Senate Subcommittee's investigation into the causes of the financial crisis, ACE Securities was a Deutsche Bank affiliate exclusively devoted to acting as registrant, depositor, and issuer in connection with RMBS offerings underwritten by Deutsche Bank. The Senate Subcommittee expressed a particular interest in Deutsche Bank's relationship with ACE Securities, issuing an information request to Deutsche Bank for specific details regarding that relationship.

235. Through this relationship, Deutsche Bank had intimate access and knowledge of every aspect of the mortgage loan securitization process used to create the ACE Certificates that Deutsche Bank sold to Dexia, including: (i) the acquisition and selection of the loans in the pool; (ii) the creation of the securitization structure, including the segmentation of cash flows and risks into tranches; and (iii) the process of obtaining investment grade credit ratings for the certificates. Because of its central role in securitizing and selling the certificates, Deutsche Bank had exclusive access to information about the originators' defective underwriting practices and the highly risky nature of the loan pools – information that Dexia did not, and could not have, known.

236. As discussed below, due to this close relationship and intimate knowledge of the practices and quality of ACE Securities, Deutsche Bank senior executives described ACE Certificates as a "***bad name***" and "***generally horrible***."

B. Deutsche Bank's Due Diligence Identified Defects In The Loan Pools Deutsche Bank Purchased For Securitization

237. Deutsche Bank learned, through its due diligence process, that a substantial portion of the loans it securitized woefully failed to meet the stated underwriting standards of those originators, yet included those loans in RMBS sold to Dexia. In fact, Deutsche Bank's due diligence process identified a pattern establishing that the loans Deutsche Bank purchased for securitization – including those included in the Deutsche Bank RMBS purchased by Dexia – failed to meet the originator's underwriting guidelines, had other deficiencies, and violated state and federal law.

238. As described in the transcripts of the FCIC's interview of Joseph Swartz, who served as a vice president of Deutsche Bank's due diligence department that oversaw all of Deutsche Bank's residential mortgage business, Deutsche Bank relied heavily on Clayton Holdings to perform due diligence on the pools of loans that Deutsche Bank packaged into RMBS, including the securities purchased by Dexia. Deutsche Bank delegated this task to Clayton Holdings because, as the FCIC later pointed out, Deutsche Bank maintained only a small in-house due diligence department of five or less employees to scrutinize the billions of dollars in securities it underwrote. Notwithstanding its near-total reliance on Clayton's conclusions regarding the adequacy of the underwriting of the loans, Deutsche Bank rejected Clayton's credit due diligence findings as a matter of course.

239. During its review, Clayton would assign each loan a number – 1, 2 or 3 – to reflect Clayton's evaluation of the soundness of the loan. The numbering referred to three

different levels, "1" being the best, where the loan met the originators' underwriting guidelines; "2" meaning that the loan violated some guidelines, but Clayton believed that the loan was acceptable based on other compensating factors; and a "3" being a rejection of the loan as being well outside of the underwriting guidelines or, as Swartz told the FCIC, "egregious enough" that Clayton flagged the loan as unacceptable. Swartz explained in his testimony before the FCIC that Deutsche Bank's internal due diligence team routinely rejected and re-designated the grades assigned by Clayton, explaining that "there would always be loans that we would waive" Clayton's "3" grade and accept, regardless of the fact that the loan was well outside of the accepted guidelines.

240. In fact, as reflected in documents Clayton produced to the FCIC, over one-third of the Deutsche Bank-securitized loans sampled by Clayton during the height of the mortgage boom (from 2006 to mid-2007) constituted "egregious" loans that failed to meet the originator's underwriting guidelines. Moreover, the FCIC's report, based on Clayton trending reports, reveals that over this same period, Deutsche Bank overruled Clayton's findings and "waived" approximately ***50%*** of all such defective "exception" loans and securitized them into RMBS that were sold to investors like Dexia. Indeed, Deutsche Bank maintained this extraordinary "pass" rating notwithstanding the fact that, as Swartz observed, over time and particularly during the period in which Dexia purchased RMBS from Deutsche Bank, "you started seeing the level of issues growing and increasing and the severity increasing and growing as well." Deutsche Bank's 50% "waive in" rate of the loans Clayton had rejected for failing to meet originator's guidelines to the entire loan pools backing the Deutsche Bank RMBS reveals the extent to which Deutsche Bank ***knew*** the loans it had securitized were destined to fail.

241. Deutsche Bank was well aware of its stunning waiver rate. In an interview with the FCIC in September 2010, former Clayton President and Chief Operating Officer Keith

Johnson testified regarding the information contemporaneously available to Deutsche Bank and other lenders regarding the due diligence performed by Clayton. According to Johnson, the same trending reports disclosed by the FCIC demonstrating Deutsche Bank's 50% waiver rate were made available to Deutsche Bank. Deutsche Bank was one of "four or five" clients who were debriefed on the results of Clayton's trending reports. According to Johnson, Michael Commaroto, a Deutsche Bank Managing Director, was particularly unhappy that Clayton had produced the report demonstrating Deutsche Bank's abysmal record.

242. Although Deutsche Bank recognized that a large percentage of the sampled loans were graded unacceptable by Clayton, the remaining loans in the pool – which were not selected for review by Clayton – were purchased, packaged, and sold to investors like Dexia without further review. According to Swartz, the sample size of loans to be reviewed by Clayton was negotiated between the trader and the loan seller – neither of which had any incentive to increase the sample size because it could result in more loans being rejected from the pool. The traders were "very, very sensitive about sample size" and "they always wanted . . . to sample less." A sample size of 30% of the loans in pools sold by large originators like Fremont and IndyMac was considered "very good" by the due diligence group – leaving 70% unreviewed and packaged for sale.

243. As the FCIC Report concluded with regard to the Offering Materials for these RMBS:

> [M]any prospectuses indicated that the loans in the pool either met guidelines outright or had compensating factors, even though Clayton's records show that only a portion of the loans were sampled, and that of those that were sampled, a substantial percentage of Grade 3 loans were waived in. . . . ***[O]ne could reasonably expect [the untested loans] to have many of the same deficiencies, at the same rate, as the sampled loans***. Prospectuses for the ultimate investors in the mortgage-backed securities did not contain this information, or information on how few of the loans

> were reviewed, ***raising the question of whether the disclosures were materially misleading, in violation of the securities laws***.
>
> FCIC Report at 167, 170.

244. Deutsche Bank's astounding 50% "waive in" rate, and the implications for the quality of the RMBS underwritten by Deutsche Bank, rendered materially false and misleading numerous statements in the Offering Materials relied upon by Dexia set forth above in purchasing the Deutsche Bank RMBS. Each of the Deutsche Bank Offering Materials represented in sum or substance that the loans backing the Deutsche Bank RMBS were originated or acquired pursuant to the originators' stated underwriting guidelines and that exceptions to such underwriting guidelines would be granted on a case-by-case basis. Deutsche Bank knew, however, that these statements were materially false and misleading because, through its due diligence process, Deutsche Bank had determined that over one-third of the loans it sampled were exception loans that did not have compensating factors and, in fact, deliberately included over half of all such exception loans in the loan pools it securitized. Moreover, given that the loans actually reviewed by Clayton represented only a fraction of the loans Deutsche Bank actually purchased and securitized, Deutsche Bank either knew or recklessly disregarded the risk that a highly material number of the loans underlying the Deutsche Bank RMBS purchased by Dexia were not underwritten in compliance with the originator's guidelines.

245. Indeed, Deutsche Bank admittedly underreported in its prospectus supplements the delinquency rates of loans backing its securitizations, and similarly underreported the delinquency rates of loans in its static pool information (or historical loan performance data)—and continued to do so even after it had become aware of the issue. The accurate disclosure of delinquency rates is critical to investors such as Dexia because investors analyze delinquency

rate information to deduce the investment risk of a particular securitization. Because Deutsche Bank misrepresented the delinquency rates for its RMBS, the delinquency rate information for certain Deutsche Bank RMBS were much higher, and the corresponding risks much greater, than represented to investors.

246. The Financial Industry Regulatory Authority ("FINRA") censured and fined DBSI $7.5 million arising out of DBSI's underreporting of delinquency rates in prospectus supplements for six DBSI-underwritten RMBS worth approximately $2.2 billion at the time the securitization trust was created. *See* FINRA Letter of Acceptance, Waiver And Consent, No. 20080128087 (July 16, 2010) (the "Waiver And Consent"). In the Waiver and Consent, DBSI also settled FINRA charges that DBSI underreported the historical delinquency data for 16 DBSI-underwritten RMBS—even ***"[a]fter the Firm became aware that the static pool information underreported historical delinquency rates"***—including the ACE 2007-HE2, ACE 2007-HE4, ACE 2007-HE5 and DBALT 2007-AR2 Deutsche Bank RMBS purchased by Dexia at issue here. *See id.* All told, Dexia expended nearly $145 million on these RMBS.

247. According to the Waiver and Consent, DBSI falsely represented to investors in prospectus supplements for six DBSI-underwritten RMBS, that DBSI calculated the delinquency figures pursuant to a methodology that considered loans to be delinquent "as soon as a payment is not received" by the mortgagee. In reality, however, the relevant prospectus supplements for the DBSI-underwritten RMBS considered loans delinquent starting "***one month after the first payment is missed*** by the mortgagee." (emphasis in original). As explained in the Waiver and Consent, had the delinquency rates been calculated as represented to investors in the relevant prospectus supplements, the delinquency rates of the loans would have been drastically higher.

248. For example, the prospectus supplement for the ACE 2006-SL1 RMBS represented the percentage of loans to be between 30 and 59 days delinquent and 60 and 89 days

delinquent to be 3.14% and 0%, respectively. As outlined in the Waiver and Consent, had the delinquency rates been calculated pursuant to the methodology represented in the prospectus supplements for the ACE 2006-SL1 RMBS, the percentage of loans between 30 and 59 days delinquent or 60 and 89 days delinquent would have been 5.66% and 3.14%, respectively.

249. According to the Waiver and Consent, in addition to falsely reporting information in the actual prospectus supplements for many of its securitizations, DBSI also referred investors to inaccurate static pool information on its Regulation AB website with regard to 16 of its 2007-vintage RMBS—including the ACE 2007-HE2, ACE 2007-HE4, ACE 2007-HE5 and DBALT 2007-AR2 Deutsche Bank RMBS purchased by Dexia at issue here—even after DBSI became aware of the issue.[25] According to the Waiver and Consent, DBSI received an audit report in January 2007 that "indicated that four Servicers of certain securitizations underwritten by DBSI had been tracking delinquencies improperly, resulting in monthly reports that underreported delinquency rates." After confirming the underreporting of delinquency rate information, DBSI never ensured the delinquency data was updated and "continued to refer public investors through its prospectus materials to the inaccurate information." As of July 16, 2010, the date that the Waiver and Consent was accepted by FINRA, DBSI "has never corrected or disclosed the inaccurate delinquency calculations on its Reg AB website" for 16 DBSI-underwritten RMBS. As explained in the Waiver and Consent, "investors in these 16 subsequent RMBS securitizations were, and continue to be unaware that some of the static pool information published on the Reg AB website and referenced in the prospectus materials contains inaccurate historical data which underreported delinquencies."

---

[25] Regulation AB governs static pool reporting requirements and seeks to increase transparency of publicly issued asset-backed securities, such as RMBS. The information reported pursuant to Regulation AB is intended to assist investors in evaluating the investment risk of an asset-backed security by providing delinquency rate and other information.

250. According to the Waiver and Consent, because of DBSI's underreporting of the static pool information for many of its RMBS, "the fair market value, the yields on the certificates and the anticipated holding periods of each of those securitizations . . . could have been improperly evaluated by potential investors."

C. Deutsche Bank Gained Pointed Insight Into The True Quality Of The Loans Backing The Deutsche Bank RMBS Through Its Warehouse Lines Of Credit

251. Deutsche Bank also provided warehouse lines of credit to mortgage originators, including New Century, Countrywide, American Home and Ameriquest, the parent of Argent. As of 2007, Deutsche Bank had warehouse lending commitments to subprime lenders totaling billions of dollars. Of course, before providing such funding, Deutsche Bank became intimately familiar with the lending practices of these originators through extensive due diligence on their business operations.[26]

252. Not only was Deutsche Bank able to profit off of the interest it received on the billions of dollars in warehouse lending lines it provided and collect fees for arranging such financing, it also became those originators' most valued customers. For example, CW 29, a former American Home employee who dealt with loan purchasers such as Deutsche Bank between November 2004 and August 2007, said that Deutsche Bank had an appetite for risky loans that most other banks refused to purchase. According to CW 29, Deutsche Bank was willing to purchase loans with low FICO scores even in cases where the borrower's income was not verified—a high risk characteristic that led most other investment banks to reject such loans.

[26]Deutsche Bank also had other financial relationships with the originators, including serving as an underwriter for 810,000 shares of American Home common stock in August 2005, in connection with which Deutsche Bank conducted due diligence of American Home's business and operations.

253. Similarly, Deutsche Bank's $3 billion warehouse line of credit to Ameriquest, the parent company of Argent, was one of Ameriquest's largest such credit facilities and allowed Deutsche Bank to gain unique insight into the true quality of the companies' loans led Deutsche Bank to become one of the most enthusiastic purchasers of Ameriquest-originated loans. As discussed below, loans backing RMBS from this same originator were internally referred by Deutsche Bank traders as "crap."

254. According to notes of an interview published by the FCIC, former Clayton President Keith Johnson stated that investment banks like Deutsche Bank that extended warehouse lines of credit to mortgage originators in order to increase the amount of mortgage loans the investment banks could securitize and sell to investors, were particularly culpable in disregarding Clayton's findings and securitizing defective loans:

> For every hundred 3's that we found, forty were still purchased. Some firms would purchase way more (tended to be those that had warehouse lines related to them) and some would purchase way less. ***The ones with the warehouse lines had the highest.*** I think we actually talked to a law firm that was doing the prospectuses, and we said that they should disclose the due diligence, and they said that they spent 20 pages talking about the underwriting guidelines. I thought that the investors and the rating agencies would be interested in the exceptions.

Memorandum for the Record, Phone Interview with Keith Johnson, former President and COO of Clayton Holdings, (June 8, 2010).[27]

255. In a September 2, 2010 interview by FCIC investigators, Johnson offered the following hypothetical to FCIC staff member Bob Hinkley that highlights the conflict of interest

---

[27] *See also* FCIC Interview of Keith Johnson (Sept. 2, 2010) ("The one area that I think was probably abused and not disclosed correctly was the warehouse lines. So you know, I think our data would show that, you know, we saw bigger exceptions to any client that had warehouse lines.").

that drove Deutsche Bank to waive in defective loans originated by those sellers to whom it provided warehouse lines of credit:

> [I]f Bob was originating for me as the client and I had a warehouse line to Bob, I think what happened is a conflict of interest. That if I put back [or 'kicked out'] loans to you, Bob[,] and you don't have the financial capability to honor those, then I'm kind of caught; right? If I – the present value of the pain, I'm going to take a loss on the warehouse line.
>
> And what I do think happened is that maybe those warehouse lines were extended and actually increased and I perhaps bought your production and I shouldn't have. That the quality wasn't—and I don't think any of the prospectuses disclosed the relationship between the warehouse lenders and the securitizers.

FCIC Interview of Keith Johnson (Sept. 2, 2010).

256. In sum, as a result of its close relationships with loan originators – as an affiliate, multibillion dollar lender, and multibillion dollar securitization partner – Deutsche Bank knew in granular detail the origination practices, underwriting guidelines, and the quality of the originated loans.

D. Deutsche Bank Knew The DTI Ratios Of The Loans Backing The Deutsche Bank RMBS Were Materially Understated In The Offering Materials

257. As represented in the Offering Materials, Deutsche Bank obligated itself to ensure that the subprime mortgage loans it purchased, securitized and sold to investors like Dexia were originated under appropriate underwriting standards. As an institution supervised directly or indirectly by a number of federal regulators that issued interagency federal guidance on subprime lending, Deutsche Bank was well aware of these standards and was duty bound to adhere to them.[28]

[28] Indeed, entities responsible for the supervision of non-federally regulated institutions issued parallel statements incorporating substantially all of the relevant federal interagency guidelines.

258. One critical metric that Deutsche Bank focused on in evaluating mortgage loans for purchase was the maximum debt-to-income ("DTIs") levels that it believed presented an acceptable credit risk. Deutsche Bank also considered the impact of certain loan features on a borrower's DTI ratio, such as adjustable rate mortgages ("ARM") that had initial "teaser" rate periods that would reset at a higher rate. The vast majority of the mortgage loans backing the Deutsche Bank RMBS were adjustable rate mortgage loans. Because of increases in interest rates since those mortgage loans were made, mortgagees whose loans comprised the Deutsche Bank RMBS faced large payment increases once the initial two or three-year fixed "teaser" rate period ended. That was even more of a problem for interest-only borrowers who also faced higher monthly payments upon the expiration of the interest-only payment period, two to three years from origination, as they would, for the first time, also have to cover the fully-amortizing mortgage loan amount, not just interest.

259. To account for this risk, Deutsche Bank purportedly set limits on the DTI ratios it would accept, and considered borrowers with DTI ratios in excess of 50-55% to be unable to afford their loans. As reflected in a confidential Deutsche Bank presentation titled, "Shorting Home Equity Mezzanine Tranches," which was attached as an exhibit to the Senate Report (the "Shorting Report"),[29] Deutsche Bank represented that DTIs in excess of 50% leave "little [money] for the borrower to pay other expenses." Moreover, Deutsche Bank knew that, in accordance with federal guidance, this DTI ratio had to be calculated under "the fully indexed rate, assuming a fully amortizing repayment schedule."

260. Contrary to its stated policy, however, Deutsche Bank routinely purchased and securitized ARM loans that had effective DTI ratios that were well over 50-55%. For example,

[29] As noted in both the Senate Report and *The Big Short*, Deutsche Bank had prepared and begun using an earlier version of this presentation as early as September 2005.

Fremont, whose loans back two of the Deutsche Bank RMBS at issue here, routinely issued loans to borrowers based upon the loans' initial teaser rates instead of the fully-indexed rates, and qualified borrowers for loans with "features likely to require frequent refinancing to maintain an affordable monthly payment and/or to avoid foreclosure." Similarly, New Century, whose loans comprise the entirety of the ACE 2006-NC2 RMBS, "typically qualified borrowers based on the teaser rate, [and] … made no effort to qualify borrowers at the Fully Indexed Rate." Likewise, Countrywide, which acted as an originator in the DBALT 2006-AR4 and DBALT 2006-AR6 RMBS, did not qualify borrowers based on the fully indexed rate. Indeed, nearly 60% of the borrowers of Countrywide's subprime hybrid ARMs would not have qualified under the fully indexed rate and "***25% of the borrowers would not have qualified for any other [Countrywide] product***."

261. Further, each of the Deutsche Bank RMBS originators discussed above knowingly and routinely issued loans to borrowers based upon materially overstated incomes, especially in the case of stated income and "low-doc" loans. As such, because the borrowers' income was materially overstated, the DTI ratios of the loans backing the Deutsche Bank RMBS were materially understated in the Offering Materials relied upon by Dexia.

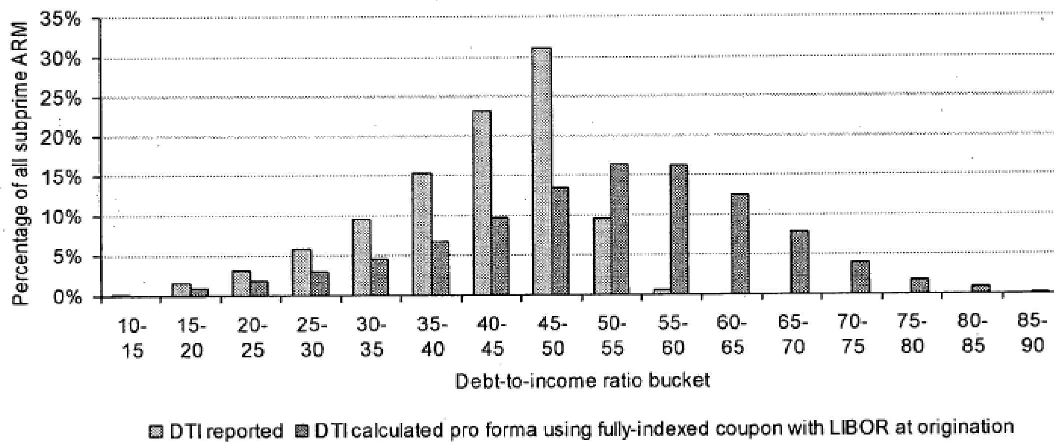
262. Indeed, Deutsche Bank knew that the DTI ratios of the loans backing the Deutsche Bank RMBS purchased by Dexia were materially understated. As stated in the Shorting Report, Deutsche Bank knew that a "[b]orrower's debt-to-income ratio may grow dramatically after resets in a typical subprime loan" and that "[w]ith a moderate growth assumption for the borrower's other debts, the borrower's total debt-to-income can grow to nearly 60% at the expiration of the [interest only] term."

263. In fact, the Shorting Report contained a chart based upon a sample portfolio illustrating the "dramatic" increase in the DTI ratios of loans should the DTI ratios have been calculated using the fully-indexed rate, as counseled by federal guidance:

Strictly private & confidential

Debt-to-income ratios for subprime mortgage borrower would become dramatically higher if calculated using payments with fully-indexed coupons

Distribution of subprime ARM originated in 2005 and 2006 by DTI



Deutsche Bank All numbers shown in this presentation are indicative and are based on a sample portfolio. Actual numbers will be different and will depend on the actual portfolios selected.

37

264. As reflected in the chart above, substantially all of the DTIs reported under the initial teaser rate were below the critical 50-55% level that Deutsche Bank believed was the upper limit that borrowers could reasonably be expected to successfully repay the mortgage loan. As Deutsche Bank knew, however, by properly calculating borrowers' DTI ratios under the fully-indexed rate, a ***majority*** of the DTI ratios exceeded the crucial 50% metric—with a meaningful percentage of borrowers applying over 70% of their income to their mortgage debt—providing compelling evidence that such borrowers would be unable to repay the mortgage loan.

265. Deutsche Bank also knew that if the DTI ratios of the loans backing the Deutsche Bank RMBS were properly calculated pursuant to the fully-indexed rate, the borrower would be unable to realistically repay the mortgage loan. The Shorting Report reflects Deutsche Bank's knowledge that the payment shock to a borrower upon the interest rate reset would severely impair the borrowers' ability to repay the mortgage loan and would have devastating consequences on the value of the RMBS backed by those loans. According to the Shorting Report, ***"in the past, about 50% of the borrowers who did not refi at the payment reset would default eventually"*** (emphasis in original) and "[m]ost of losses in collateral happen between year 2 and year 4, especially after rate-adjustment induced payment shocks." The results for borrowers and RMBS investors such as Dexia would be even more ruinous if home prices stopped appreciating given that, as wagered by Deutsche Bank, "the borrower, with LTV virtually unchanged in the existing loan and likely credit card and other debts incurred in the meantime, may find it difficult to refinance into another affordable loan."

266. The scope of the harm to borrowers and to RMBS investors such as Dexia—as well as the benefit to Deutsche Bank in placing massive bets against CDOs containing or referencing the very same Deutsche Bank RMBS purchased by Dexia, and in collecting fees for arranging such bets for preferred clients—was clear. By understating the DTI ratios, Deutsche Bank was able to obtain a higher price for the risky RMBS it sold to Dexia, and then profit off of the inevitable collapse of those securities when borrowers' interest rates reset.

267. Contrary to the explicit representations in the Offering Materials relied on by Dexia, an astonishing percentage of the loans purchased by Deutsche Bank were dead on arrival and presumptively failed to comply with federal guidance and state laws requiring lenders to

determine whether borrowers can repay mortgage loans according to their terms.[30] Given the importance of this metric, as well as the fact that the federal interagency guidelines—which, if not followed, could subject a noncompliant institution to adverse regulatory action—required that all loans be underwritten according to the borrowers' ability to repay the debt by final maturity at the full- indexed rate, such an omission could only have been intentional. Through Deutsche Bank's warehouse lines of credit with New Century and Countrywide, Deutsche Bank either knew, or recklessly disregarded, those lenders' unscrupulous qualification of borrowers based upon the initial teaser rate rather than the fully indexed rate.

268. The problems of inaccurate DTIs were especially severe in the case of stated income loans, where the borrowers' income is not independently verified by the lender through, for example, a review of an employer's pay stubs or tax returns. As set forth in the Morgan Stanley Settlement, about 36% of the New Century-originated loans reviewed by Clayton were stated income loans and, on average, the stated income of these borrowers was 42% higher than the income of fully document borrowers, with stated income borrowers reporting annual income of about $115,000. Stated income loans comprised a substantial percentage the collateral backing the Deutsche Bank RMBS purchased by Dexia.

E. Deutsche Bank Profited From Its Knowledge Of The Poor Quality Of The Loans It Securitized Through Its "CDO Machine"

269. Armed with the actual data confirming the poor quality of the loans underlying the RMBS it was arranging and promoting, Deutsche Bank's senior executives and traders formed an extremely negative view of these securities and devised a scheme to profit from their expected failure, while continuing to sell high-risk RMBS to Dexia and other investors. The

---

[30] These improperly deflated DTI levels calculated under the initial teaser rate, and not the fully indexed rate, were also reproduced in loan tapes provided to investors such as Dexia.

Senate Report provides extensive detail of Deutsche Bank's internal views on the quality of the securities it was selling to investors like Dexia, as well as the results of Deutsche Bank's practices. As detailed in the Senate Report, Deutsche Bank became one of the primary drivers of the subprime mortgage boom by creating, selling and trading complex structured finance investments—such as collateralized debt obligations ("CDOs") and credit default swaps ("CDSs")—whose values were based and dependent on the very RMBS Dexia purchased and other assets. Beginning as early as 2005, through its role as one of the primary participants in what its top trader termed the "CDO Machine," Deutsche Bank began shorting those same investments, betting that they – and the RMBS to which they were linked – would fail.

270. In a case study of just one Deutsche Bank CDO originated in 2007 called Gemstone 7, which was backed by RMBS issued from the ACE 2006-HE1, DBALT 2006-AR4 and DBALT 2006-AR5 deals purchased by Dexia, the Senate Report concluded that Deutsche Bank's practices resulted in at least "$1.1 billion of high risk, poor quality securities that are now virtually worthless." As Michael Lamont, Deutsche Bank's co-head of CDO production in the United States, later told the FCIC, his job was to be "agnostic" on whether mortgages backing the securities he created would be re-paid – instead, Deutsche Bank's business was to make "new issue fees" on mortgage securitizations and to make sure that if there was a market downturn, Deutsche Bank would be adequately hedged.

271. As explained in the Senate Report, in 2006 and 2007, Deutsche Bank's top CDO trader, Greg Lippmann, repeatedly warned his Deutsche Bank colleagues about the poor quality of the assets underlying many RMBS and CDO securities. Deutsche Bank senior management allowed Mr. Lippmann, beginning in 2005, to establish a large short position on behalf of the bank, essentially betting that mortgage related securities would fall in value. By the end of 2005, that short position stood at $1 billion; by 2007, Lippmann's short position had grown to

over $10 billion.[31] According to an extensive report by Gregory Zuckerman in his book *The Greatest Trade Ever*, Deutsche Bank executives "told Lippmann to make sure to update them on how the trade was going, keeping the leash tight on the thirty-seven-year-old trader." According to Zukerman, Lippmann discussed Deutsche Bank's billion-dollar short position directly with Rajeev Misra, who ultimately served as Global Head of Credit Trading, Securitization and Commodities at Deutsche Bank and as member of Deutsche Bank's Global Markets Executive Committee.

272. Mr. Lippmann's emails, released by the Senate Subcommittee, reveal his extremely negative views – which he repeated often and emphatically to his colleagues – regarding the poor quality of the RMBS shelves sold to Dexia and other investors. For example, these internal Deutsche Bank emails were consistently negative regarding the quality of "ACE" RMBS. In a May 2006 email, Lippmann termed them "***piece o crap***" securities and in a March 2007 email he bluntly stated "***ace is crap***." Lippmann had an extremely negative view of Fremont, the primary originator of the mortgages backing the ACE 2006-HE A2D RMBS purchased by Dexia, commenting that RMBS backed by Fremont loans were "***bad***," noting that one Fremont-backed RMBS deal "***blows***," another was a "***pig***," and yet another was a "***crap bond***." Lippmann also denigrated the entire Deutsche Bank-underwritten ACE shelf as a "***bad name***," and in another instance explained to a co-worker that the ACE deals were "***generally horrible***." In another email, Lippmann told a hedge fund client seeking to short RMBS investments that securities issued pursuant to the ACE 2006-HE2 shelf – which Dexia purchased from Deutsche Bank – were one such opportunity. According to Lippmann, this particular "deal," in which Dexia invested over $38 million, "***[wa]s a pig***!" In December 2006,

---

[31] Public reports have cited Deutsche Bank's short position as $5 billion and $10 billion. The full extent of Deutsche Bank's shorting of U.S. RMBS is known only to Defendants.

Lippmann emailed with another Deutsche Bank employee regarding the ACE 2006-HE1 security, asking, "DOESN'T THIS DEAL BLOW"? Two months later, unaware that senior Deutsche Bank management's view was that the deal "***blows,***" Dexia invested over $23.4 million in ACE 2006-HE1. In another instance, Lippmann agreed with a hedge fund client's assessment that Deutsche Bank "was one of the last ones to tighten standards on buying loans to securitize" and that the ACE deals, in particular, were ***"crap,"*** responding "INDEED . . . IT IS."

273. Other Deutsche Bank employees had an equally negative – and accurate – view of the securities issued pursuant to Deutsche Bank's DBALT shelf, as evidenced by the fact that when Deutsche Bank was unable to sell certain DBALT RMBS that it believed would perform poorly, it placed those RMBS into a CDO in order to get them off its own books. As explained by the Senate Report, by placing these securities into CDOs, "Deutsche Bank allowed [the CDO] to acquire a $10 million asset that its traders believed would perform poorly, and effectively removed the financial risk of this asset from its own inventory, shifting it to its customers."[32]

[32] Deutsche Bank's priority in minimizing its own exposure to RMBS it expected would perform poorly—even if that meant concealing the true quality from investors—was illustrated in numerous examples described in the Senate Report. For example, the Senate Report quotes a June 2007 email from a Deutsche Bank employee to Lippmann regarding one of five START CDOs that were underwritten by Deutsche Bank. The START CDOs had been created on behalf of a hedge fund investor who wished to "short" the U.S. housing market, even though other START CDO investors had bullish positions on the RMBS referenced by the CDO. According to the employee, if they were unable to sell the CDO securities Deutsche Bank had unwritten, they could create another CDO that would purchase those assets: "This along with our remaining held inventory if we can't sell away we repack into a CDO 2 balance sheet dump later this summer. Worst case we hold it but it is probably the lesser of two evils (the greater evil being our held START position)." In this example, the "greater evil" was for Deutsche Bank to retain the unwanted, high-risk assets—not deceiving investors of their quality. In another example, Lippmann was hesitant to purchase a particular CDO security because, he said, it "rarely trades," but nevertheless agreed to "take it and dupe someone" into buying it.

274. Deutsche Bank encouraged its favored investors to adopt a strategy to short these securities. Deutsche Bank's shorting strategy – which it implemented on its own balance sheet and promoted to certain investors in order to profit from both sides of the RMBS transactions – was based on Deutsche Bank's proprietary knowledge of the true facts regarding the credit characteristics of the securitizations similar to those invested in by Dexia.

275. Indeed, Lippmann used his knowledge regarding the true quality of the loans issued by Fremont, New Century, American Home and NovaStar—originators that played a prominent role in creating the Deutsche Bank RMBS—to reap massive profits for Deutsche Bank. For example, Lippmann purchased approximately $20 million of one RMBS containing Fremont-originated loans for the Gemstone 7 vehicle on December 6, 2006. Around that time, Lippmann referred to that RMBS as a "pig" that was "blowing up." Lippmann also referred to RMBS backed by New Century-originated loans as "an absolute pig" in an email Lippmann sent to an investment manager.

276. Similarly, Lippmann emailed an investment banker at Oppenheimer Funds in 2006 criticizing loans originated by American Home, explaining "you can certainly build a portfolio by picking only bad names and you have largely done that as . . . [American Home] is considered bad as is Fremont." Lippmann also criticized the true character of the loans issued by NovaStar. According to a *Wall Street Journal* article, one hedge fund manager wrote to Lippmann in early 2007 stating that "[NovaStar] is like the Plague." In response, Lippmann encouraged the hedge fund manager to bet against subprime bonds, telling the manager that "you should get some [courage] and do some shorts," because "these bonds are going much[,] much lower….." Dexia purchased over $85 million in Deutsche Bank RMBS comprised of Fremont- and NovaStar-originated loans subsequent to Lippmann's acknowledgment of the true quality of

the loans issued by those lenders.[33] Deutsche Bank and Lippmann's negative views of the RMBS purchased by Dexia, and the amounts Dexia invested in those securities, are set forth in the chart below:

Shelf/RMBS	Lippmann's and Deutsche Bank's Undisclosed Negative Views	Dexia's Investment
ACE Shelf	Lippmann wrote to Deutsche Bank colleague, Rocky Kurita, "We traded that ACE piece of crap with Ike at 380."	$482 million
ACE Shelf	An email from Lippmann regarding the ACE "shelf"—a series of RMBS created by and associated with Deutsche Bank—states that "ace is generally horrible."	$482 million
ACE Shelf	In response to a client email to Lippmann in March 2007 stating that "[Y]ou were right - ACE is crap," Lippmann responded that: "INDEED … IT IS."	$482 million
ACE Shelf	Lippmann wrote to another Deutsche Bank colleague with regard to ACE 2006-ASP3 that "this stinks though I didn't mention it."	$482 million
ACE 2006-HE1	Lippmann, and his fellow trader Jordan Milman, shared negative views of ACE 2006-HE1. In an instant message to Milman in December 2006 Lippmann asked, "DOESNT THIS DEAL BLOW[?]" to which Milman replied: "yes it blows I am seeing 20-40% writedowns."	$23.4 million
ACE 2006-HE2	An email from Lippmann describing ACE 2006-HE2 states that this "[d]eal is a pig!"	$23 million
ACE 2006-HE3	Lippmann advised an investment banker at Oppenheimer Funds that "you can certainly build a portfolio by picking only bad names," such as ACE. In that same email, Lippmann advised the investor	$40 million

[33] Lippmann was not alone at Deutsche Bank, and other traders at Deutsche Bank shared in his belief that the price of RMBS would plummet, including certain of the Deutsche Bank RMBS at issue here. Indeed, as noted in the Senate Report, "Mr. Lippmann's negative views were shared by his traders," as reflected in a November 2005 email sent by one of the traders on his desk, who interpreted Deutsche Bank's pessimistic view of the housing boom and the RMBS that helped fuel it as a parody of "Ice Ice Baby" by Vanilla Ice, with the following lyrics: "Yo vip let's kick it! CDO oh baby, CDO oh baby…. Print, even if the housing bubble looms. There are never ends to real estate booms. If there is a problem, yo, we'll solve it. Check out the spreads while my structurer revolves it. CDO oh baby, CDO oh baby." Deutsche Bank's approval of Lippmann and his strategy is also reflected in the $47 million in compensation he received for these efforts in 2007, an amount greater than Deutsche Bank paid to the rest of its senior management combined.

	which ACE securities he could "short," and that the four the investor suggested were "probably enough could add 1 more ace 06-he3)." Lippmann also recommended to the investor that he make bets against "06-he1 and 06-he2"—two of the RMBS purchased by Dexia at issue here.	
DBALT 2006-AR6	Deutsche Bank praised its sales force for placing the DBALT 2006-AR6 RMBS into Gemstone 7—a vehicle recognized by Lippmann as high risk and likely to lose value—in email stating that "[t]he Arms Desk would like to express its sincere appreciation to the sales force for an outstanding job in helping us place the bonds off DBALT 06-AR6. Thanks a lot!!"	$49 million.
TMTS Shelf	An email from Lippmann to a fellow Deutsche Bank trader gives his assessment on several shelves, including those that Deutsche Bank underwrote: "[Y]ikes didn't see that[.] … [H]alf of these are crap and rest are ok[.]" TMTS was "crap."	$9.8 million

277. As noted in the Senate Report, an early version of Lippmann's Shorting Report, dated September 2005, described to select investors a strategy of shorting (i.e., betting against) residential mortgage loans—a Deutsche Bank "strategy to cash in on a slowing housing market" by "shorting (or buying protection on)" certain securities. In this "[s]trictly private and confidential" presentation, Deutsche Bank explained that "[i]t is increasingly evident that the housing boom in the past 10 years has come to its end." According to Deutsche Bank, these expected losses in the housing market represented investment opportunities.

278. In later versions of the "Shorting Report," Deutsche Bank specifically pointed out the dangers of "[s]tated-income mortgage loans," whereby the "[i]ncome of the borrowers is not substantiated by the documentation, nor is it verified." In particular, Deutsche Bank noted that "[b]orrowers may inflate income to get loan approved." Thus, Deutsche Bank was on full notice that borrower misrepresentations were a significant concern, and this was further validated by the due diligence performed by Clayton, discussed above. Yet, despite its own knowledge and the evidence provided by third party firms, Deutsche Bank not only continued to

include these flawed loans in its securitizations but devised an investment strategy to profit from its own fraud.

279. According to internal emails, Lippmann and the traders in his department knew disclosure of those efforts would severely undermine Deutsche Bank's "new issue" business responsible for securitizing and selling RMBS and CDOs to clients. As one of Lippmann's top traders, Rocky Kurita, explained: "[W]e have to make money. Customer happiness is a secondary goal but we cannot lose sight of the trading desk[']s other role of supporting new issue and the customer franchise"—*i.e.*, ensuring that Deutsche Bank was able to sell its RMBS and CDO securitizations to investors. Lippmann pleaded with his outside hedge fund clients who were "short" the RMBS Deutsche Bank was selling to keep his strategy a secret. In one email to a hedge fund client that was interested in "shorting" various RMBS, Lippmann explained that he did not want to scare investors or CDO managers away from purchasing RMBS issued by Deutsche Bank, requesting that "[P]lease please do not forward these emails outside of your firm. . . . I do not want to be blamed by the new issue people [at Deutsche Bank] for destroying their business." Accordingly, while Deutsche Bank was able to soften the impact of the economic crisis on its own financial condition by relying Lippmann's massive short position, investors like Dexia were left holding millions of dollars in worthless securities.

VII. DEUTSCHE BANK KNEW THE CREDIT RATINGS ASSIGNED TO THE DEUTSCHE BANK RMBS MATERIALLY MISREPRESENTED THE CREDIT QUALITY OF THE RMBS

280. To bring its RMBS to market, Deutsche Bank knew that it needed to obtain the highest "investment grade" ratings possible from the credit rating agencies ("CRAs")—Moody's, S&P and Fitch—that rated Deutsche Bank's securitizations. Indeed, Deutsche Bank featured the ratings prominently in the Offering Materials and discussed at length the ratings received by the different tranches of the RMBS, and the bases for the ratings. Yet, Deutsche

Bank knew that the ratings were not reliable because those ratings were bought and paid for, and were supported by, false information that Deutsche Bank provided.

281. The ratings the CRAs assigned to the RMBS were a crucial factor in Dexia's decision to purchase the Deutsche Bank RMBS given the regulations governing Dexia's business. "Investment grade" products are understood in the marketplace to be stable, secure and safe. Using S&P's scale, "investment grade" ratings are AAA, AA, A and BBB, and represent, high credit quality (AAA), upper-medium credit quality (AA and A) and medium credit quality (BBB). Any instrument rated below BBB is considered below investment grade or "junk bond."

282. Each prospectus supplement for the Deutsche Bank RMBS Dexia purchased states that the issuance of each tranche of the RMBS was conditioned on the assignment of particular investment-grade ratings, and listed the ratings in a chart. All of the RMBS purchased by Dexia were AAA-rated tranches. The AAA rating denotes "high credit-quality," and is the same rating as those typically assigned to bonds backed by the full faith and credit of the United States Government, such as Treasury Bills. Indeed, Deutsche Bank represented in the prospectus supplements relied on by Dexia that:

> It is a condition to the issuance of the certificates that the Senior Certificates and Mezzanine Certificates receive at least the following ratings from Standard & Poor's Ratings Services, a division of The McGraw Hill Companies, Inc. ("S&P") and Moody's Investors Service, Inc. ("Moody's"):

Offered Certificates	S&P	Moody's
Class A-1	AAA	Aaa
Class A-2	AAA	Aaa
Class A-3	AAA	Aaa
Class M-1	AA+	Aa1
Class M-2	AA+	Aa2
Class M-3	AA	Aa3
Class M-4	AA-	A1

Class M-5	AA-	A2
Class M-6	A+	A3
Class M-7	A-	Baa2
Class M-8	BBB-	Ba2

283. The above statements (and the substantially similar statements appearing in all of the Deutsche Bank RMBS Offering Materials) regarding the ratings assigned to the Deutsche Bank RMBS, as well as the ratings themselves, were materially false and misleading because Deutsche Bank touted these ratings while knowing that those ratings were based on the misleading information Deutsche Bank provided to the CRAs, and on Deutsche Bank's manipulation of the rating process.

284. Until recently, the CRAs were considered conservative institutions that provided independent opinions on the credit risk of corporations to a paying subscribership. In 1975, the SEC granted certain credit rating agencies—including Moody's, S&P and Fitch—Nationally Recognized Statistical Rating Organization ("NRSRO") status. In so doing, the SEC noted that "[t]he single most important factor in the Commission staff's assessment of NRSRO status is whether the rating agency is 'nationally recognized' in the United States as an issuer of credible and reliable ratings by the predominant users of securities ratings."[34]

285. A CRA's credibility, according to the SEC, was dependent on a number of factors, including whether the CRA "is able to operate independently of economic pressures or control from the companies it rates." Historically, before 2007, investments with AAA ratings had an expected cumulative loss rate of less than 0.5 percent, with an annual loss rate of close to nil. According to S&P, the default rate on all investment grade corporate bonds (including AA,

[34] Report on the Role and Function of Credit Rating Agencies in the Operation of the Securities Markets, U.S. Securities and Exchange Commission, January 2003.

A and BBB) from 1981 to 2007, for example, averaged about .094% per year with no year higher than 0.41%.

286. However, the CRAs' business model became stagnant, which prompted a change from the traditional subscriber fee-based business to one that derived revenue largely from the issuers of the securities the CRAs rated. As described by the Permanent Subcommittee on Investigations, "[i]n th[e issuer-pays] model, the party seeking to issue a financial instrument, such as a bond or security, pays the credit rating agency to analyze the credit risk and assign a credit rating to the financial instrument." However, the pressure from issuers to obtain a certain rating, and the CRAs dependency on fees from issuers created a naturally conflicted relationship that has called both the independence of the CRAs and the reliability of their ratings into question. The FCIC concluded that the "rating agencies felt pressured to give favorable ratings so that they might remain competitive."

287. Ratings were particularly important to investors with respect to structured products in the subprime area. Deutsche Bank recognized the importance of ratings to investors, as reflected by a 2006 email, which stated that "a CDO without a triple-A rated senior tranche would be unmarketable."

288. From 2004 to 2007, Moody's and S&P – two CRAs that were regularly employed by Deutsche Bank and rated all of the Deutsche Bank RMBS at issue – produced a record number of ratings and revenues for rating structured finance products. Indeed, during that timeframe, Moody's issued over 4,000 RMBS ratings and over 870 CDO ratings, while S&P issued more than 5,500 RMBS ratings and more than 835 CDO ratings. To obtain an RMBS or CDO rating at the height of the market, CRAs charged issuers a fee ranging from

$50,000 to more than $1 million.[35] The CRAs also charged an additional surveillance fee per RMBS or CDO ranging from $35,000 to $50,000. As a result, Moody's reported an increase its gross revenues for RMBS and CDO ratings from approximately $61 million in 2002 to over $208 million in 2006. Similarly, S&P's net annual revenues nearly doubled from $517 million in 2002, to $1.16 billion in 2007, with the structured finance group's revenues tripling from $184 million in 2002 to $561 million in 2007.

289. Indeed, CRAs were heavily involved in both the creation and marketing of RMBS, including the Deutsche Bank RMBS purchased by Dexia. Although CRAs earned massive profits from rating RMBS, those ratings were heavily influenced by the investment banks that hired them. CRAs undermined their own ratings because they were dependent upon investment banks to generate business, and were vulnerable to the threat that those banks would take their business elsewhere.

290. Issuers began to leverage their ability to shop for ratings as a method of securing investment grade ratings to sell to investors. As reported by Moody's Chief Credit Officer Andy Kimball in a hearing before the U.S. Senate Permanent Subcommittee on Investigations, the practice of "ratings shopping"—or choosing the ratings agency that offered the highest ratings—became prevalent during the mortgage boom. At an internal company Town Hall Meeting for Moody's employees, Raymond W. McDaniel, Moody's Chairman and CEO, said that: "[w]hat happened in '04 and '05 with respect to subordinated tranches is that our competition, Fitch and S&P, went nuts. Everything was investment grade. It didn't really matter."

---

[35] Memorandum from Permanent Subcommittee on Investigations Chairman Carl Levin and Ranking Minority Member Tom Coburn to the Members of the Subcommittee.

291. Because rating RMBS was such a profitable business for CRAs, "keeping the customer satisfied" was of primary importance. In an article published in *The Wall Street Journal* on April 11, 2008, another former Moody's employee described the circumstances as "'a palpable erosion of institutional support for rating analysis that threatened market share.'" According to the article, "Moody's agreed to switch analysts on deals after bankers complained" so as to prevent the loss of market share. The pressure felt by CRAs was acknowledged by Moody's Chairman and CEO Raymond W. McDaniel who remarked in an interview that "[e]verybody always seeks to pressure us. Anyone with a position in the credit markets will hope that the credit-rating agencies agree with its opinion. It's a conflict of interest question. We can't avoid conflicts of interest."

292. Furthermore, as outlined in a 2008 SEC Report titled, "Summary Report of Issues Identified in the Commission Staff's Examinations of Select Credit Rating Agencies" ("Summary Report"), RMBS issuers such as Deutsche Bank and the credit rating agencies worked together so that securities would receive the highest ratings:

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

293. As a result of this collaboration with the credit rating agencies, Deutsche Bank was able to manipulate the system to achieve inflated ratings. Through repeated interactions with the CRAs, Deutsche Bank could effectively reverse engineer aspects of the ratings models

and then modify the structure of a financing to improve its ratings without actually improving its credit quality.

294. The credit ratings of the RMBS were further compromised by misinformation provided by Deutsche Bank regarding the abandonment of the originators' underwriting standards, rampant use of aggressive exceptions, Deutsche Bank's knowledge of pervasive fraud in the stated income loan programs, and the inflated appraisals assigned to the underlying collateral, as described above. The Defendants knew that the AAA and other investment grade ratings assigned to the RMBS were false because the originators did not follow their own underwriting standards and, as such, no reliable estimate could be made concerning the level of enhancement necessary to ensure that the top tranches purchased by Dexia were of AAA quality. By including and endorsing these AAA ratings in the Offering Materials, Deutsche Bank was making a false representation that it actually believed that the AAA ratings were an accurate reflection of the credit quality of the RMBS.

295. A February 2007 version of the Shorting Report—the presentation that Deutsche Bank used to solicit preferred clients to take its "short" bets against U.S. RMBS as discussed above—supports Dexia's allegations that Defendants knew the ratings did not accurately reflect loan level information that Deutsche Bank was privy to. In the Shorting Report, Deutsche Bank explained that the CRA models for "subprime mortgage lending criteria and bond subordination levels are based largely on performance experience that was mostly accumulated since the mid-1990s, when the nation's housing market has been booming. In other words, this internal Deutsche Bank report mirrored the conclusions of the Senate Report that the CRAs' flawed models "operated with subprime data for mortgages that had not been exposed to stagnant or falling housing prices." Indeed, the head of Deutsche Bank's due diligence department, Joseph

Swartz, admitted before the FCIC that Deutsche Bank had no idea how many of the new loan products it purchased and securitized, such as stated income loans, would perform:

> So, again, these were new products to me and very foreign and most people didn't really understand, even though they claim they may have, very difficult to understand how these products were going to perform because it was really new territory where we were providing hundred percent financing to so many Americans out there that had never owned a home before.

296. In an action against DBSI and Deutsche Bank AG, a New York Supreme Court considered allegations that the defendants "withheld from the rating agencies material information about the quality and default problems defendants were experiencing with subprime collateral under their control in late 2006 and early 2007," and "withheld from the rating agencies information about the extent and scope of fraud and other problems with their subprime loan-backed portfolios and that subprime originators were refusing to stand behind their contractual warranties relating to such loans." *M&T Bank Corp. v. Gemstone CDO II, LTD.*, No. 7064/08, 2009 WL 921381, at *9 (Sup. Ct. Erie Cnty. Apr. 7, 2009). The court determined that the complaint adequately alleged that DBSI made fraudulent oral and written misrepresentations of fact regarding the credit ratings assigned to the relevant certificates because DBSI "provided false information to the rating agencies." *Id.* at *11. This ruling further supports Dexia's allegations that Deutsche Bank knew that the ratings awarded to the RMBS purchased by Dexia were false and misleading when made.

297. Furthermore, Defendants knew that even after the CRA's updated their RMBS model in 2006, existing RMBS securities were not re-reviewed, despite the increasing number of Subprime and Alt-A loans in Deutsche Bank's securitization pipeline, Deutsche Bank's increased tolerance for higher LTV ratios, increased "limited documentation" and "no

documentation," and the rampant appraisal fraud that increased property values on Deutsche Bank loans used in securitizations.

298. Indeed, Greg Lippmann testified before the Senate Subcommittee that the CRAs' "decision not to retest existing securities was ridiculous." When asked about the failure of Moody's and S&P to retest existing securities after their model updates in 2006, Lippmann believed the credit rating agencies did not retest because to do so would have meant significant downgrades and "they did not want to upset the apple cart." Lippmann also stated that he was aware of the unusually high number of RMBS and CDO securities rated AAA, and did not believe the ratings were correct. However, Lippmann also said that "most people believed in the ratings," according to the Senate Report, and knew that investors—such as Dexia and the "stupid Germans" that Deutsche Bank convinced to take the long side of its CDS bets—took the rating agencies seriously and believed in the rules.

299. Deutsche Bank also pressured the CRAs to deliver ratings in time frames that did not allow for proper due diligence. Deutsche Bank used the short deadlines as part of a "ratings shopping" strategy that pressured CRAs to assign the ratings Deutsche Bank requested or face losing a client for the next RMBS offering. A March 2007 email from a Moody's analyst detailed the response from Deutsche Bank to Moody's suggested changes to the deal: "[Deutsche Bank] pushing back dearly saying that the deal has been marketed already and that we came back 'too late' with this discovery.… She claims it's hard for them to change the structure at this point." In another instance, Lippmann advised a trader at Mast Capital that the "[o]nly reasons I can think for my guys showing you a tighter level is that we are very short this one and that the June 06 deals have a taint that earlier months don[']t due to the theory that late June deals were crammed with bad stuff."

300. Subsequent downgrades confirm that the investment grade ratings reported in the Offering Materials were unjustifiably high and misstated the true credit risk of the RMBS purchased by Dexia. Every RMBS purchased by Dexia was initially awarded a triple-A rating—all have since been downgraded to junk by at least one CRA. The *en masse* downgrade of AAA-rated RMBS indicates that the ratings set forth in the Offering Materials were false, unreliable and inflated.

301. On May 13, 2010, *Bloomberg* reported that Deutsche Bank, along with seven other banks, had been subpoenaed by New York Attorney General Andrew Cuomo "to see whether they misled credit-rating services about mortgage-backed securities … [including] whether the banks manipulated the companies' ratings models." The investigative bodies involved in this probe were the New York Attorney General's office, the SEC and the U.S. Attorney's Office in Manhattan.

VIII. DEUTSCHE BANK MISREPRESENTED THAT TITLE TO THE UNDERLYING LOANS WAS EFFECTIVELY TRANSFERRED

302. An essential aspect of the mortgage securitization process is that the issuing trust for each RMBS offering must obtain good title to the mortgage loans comprising the pool for that offering. This is necessary in order for Dexia and other certificate holders to be legally entitled to enforce the mortgage and foreclose in case of default. Two documents relating to each mortgage loan must be validly transferred to the trust as part of the securitization process – a promissory note and a security instrument (either a mortgage or a deed of trust).

303. The rules for these transfers are governed by the law of the state where the property is located, by the terms of the pooling and servicing agreement ("PSA") for each securitization, and by the law governing the issuing trust (with respect to matters of trust law). Generally, state laws and the PSAs require the promissory note and security instrument to be

transferred by indorsement, in the same way that a check can be transferred by indorsement, or by sale. In addition, state laws generally require that the trustee have physical possession of the original, manually signed note in order for the loan to be enforceable by the trustee against the borrower in case of default.

304. In order to preserve the bankruptcy-remote status of the issuing trusts in RMBS transactions, the notes and security instruments are generally not transferred directly from the mortgage loan originator to the trust. Rather, the notes and security instruments are generally initially transferred from the originator (*e.g.*, IndyMac) to the depositor (*e.g.*, Deutsche Alt-A Securities, Inc.), either directly or via one or more special-purpose entities established by Deutsche Bank. After this initial transfer to the depositor, the depositor transfers the notes and security interests to the issuing trust for the particular securitization. Each of these transfers must be valid under applicable state law in order for the trust to have good title to the mortgage loans.

305. As set forth in the PSA, the trustee of the RMBS must ensure that the transfers of the note and the security instrument are proper and that all required mortgage documentation is present and complete. Deutsche Bank is one of the most prolific trustees of RMBS.

306. In addition, the PSA generally requires the transfers of the mortgage loans to the trust to be completed within a strict time limit after formation of the trust in order to ensure that the trust qualifies as a tax-free real estate mortgage investment conduit ("REMIC").

307. The applicable state trust law generally requires strict compliance with the trust documents, including the PSA, so that failure to comply strictly with the timeliness, indorsement, physical delivery, and other requirements of the PSA with respect to the transfers of the notes and security instruments means that the transfers would be void and the trust would not have good title to the mortgage loans.

308. To this end, the prospectus supplements for the Deutsche Bank RMBS relied upon by Dexia stated, in identical or substantially similar language, that:

> ***On the Closing Date, the depositor will transfer to the trust all of its right, title and interest in and to each Mortgage Loan, the related mortgage note, mortgage, assignment of mortgage in recordable form to the trustee and other related documents*** (collectively, the "Related Documents"), including all scheduled payments with respect to each such Mortgage Loan due after the applicable cut-off date. The trustee, concurrently with such transfer, will deliver the certificates to the depositor. Each Mortgage Loan transferred to the trust will be identified on a schedule delivered to the trustee pursuant to the Pooling and Servicing Agreement.
>
> * * *
>
> ***The Pooling and Servicing Agreement will require that, within the time period specified therein, the depositor will deliver or cause to be delivered to the trustee (or the custodian, as the trustee's agent for such purpose) the original mortgages and original mortgage notes endorsed in blank.*** If such original is not available or is lost, the depositor may, in lieu of delivery of the original mortgage or mortgage note, deliver or cause to be delivered true and correct copies thereof, and, with respect to a lost mortgage note, a lost note affidavit.

309. These statements were materially false and misleading when made. Rather than ensure legally effective legal transfer and assignment of the promissory note and security interest (mortgage), Deutsche Bank routinely failed to do so. This failure was driven by Deutsche Bank's desire to complete securitizations as fast as possible and maximize the fees it would earn on the deals it closed. Because ensuring the proper transfer of the promissory note and mortgage hindered Deutsche Bank's securitization process, Deutsche Bank chose to disregard the law.

310. The failure of Deutsche Bank to ensure proper transfer of the note and the mortgage to the trust at closing has already resulted in harm to securitizations underwritten by Deutsche Bank. Indeed, internal documents created by Deutsche Bank—which served as trustee for six of the Deutsche Bank RMBS purchased by Dexia—describe Deutsche Bank's difficulties

with the dramatic increase in foreclosure proceedings nationwide and the corresponding rise in the filing of defective mortgage documents, showing that Deutsche Bank ***knew*** that loan documents had not been properly transferred to the trust. For example, a series of Deutsche Bank Trust memoranda to RMBS servicers beginning in August 2007 detail increasing concerns that "good housekeeping" measures were not being followed to establish the RMBS trust's ownership of the mortgage loans, warning servicers to "take care…not to confuse the record regarding the time at which securitization trusts actually first obtain legally enforceable rights in the mortgage loans."

311. Deutsche Bank, in connection with its role as one of the largest trustees of RMBS, is currently being probed by the Attorneys General of New York and Delaware to discern whether the mortgage documentation for the loans backing the RMBS for which Deutsche Bank served as trustee were properly completed and transferred. Meanwhile, State Attorneys General from 50 states are investigating foreclosure practices after discovering that mortgage servicers used faulty or falsified paperwork to improperly seize homes from borrowers.

312. Facts disclosed in recent news reports and uncovered through government investigations and home owner foreclosure litigation over Deutsche Bank's securitizations confirm widespread problems with Deutsche Bank's and other loan securitizers' failure to ensure proper transfer of the required mortgage documentation, and highlight the damage that failure has caused to Dexia's Deutsche Bank RMBS investments. In a recent interview on 60 Minutes, Lynn Szymoniak, a lawyer and fraud investigator who has uncovered instances in which banks appeared to have manufactured mortgage documentation, explained the issue as follows:

> When you could make a whole lotta money through securitization. And every other aspect of it could be done electronically, you know, key strokes. This was the only piece where somebody was supposed to actually go get documents, transfer the documents

> from one entity to the other. And it looks very much like they just eliminated that stuff all together.

313. As part of its exposé, 60 Minutes interviewed Chris Pendley, a temporary employee of Docx who was paid $10 per hour to sign the name "Linda Green" who, on paper, purportedly served as a vice president of at least 20 different banks at one time, to thousands of mortgage documents that were later used in foreclosure actions. Pendley said he and other employees of Docx were expected to sign at least 350 documents per hour using the names of other individuals on documents used to establish valid title. Asked if he understood what these documents were, Pendley said, "Not really," and explained that he signed documents as a "vice president" of five to six different banks per day. Purported assignments bearing the signature of "Linda Green" were used to transfer American Home-originated mortgages to Deutsche Bank, which served as trustee for six of the Deutsche Bank RMBS in which Dexia invested.

314. Further illustrating the falsity of Deutsche Bank's representations in the Deutsche Bank RMBS prospectus supplements regarding proper transfer of the mortgage documents to the issuing trust is Lynn Szymoniak's letter to the Securities and Exchange Commission (the "SEC Letter") detailing the fraudulent alteration and manufacture of mortgage documents by employees of Lender Processing Services, Inc. ("LPS"). LPS is a mortgage default company located in Jacksonville, Florida that, according to Szymoniak, "produced several million Mortgage Assignments, using its own employees to sign as if they were officers of the original lenders." Szymoniak observed instances of mortgage assignments prepared by LPS employees that contained forged signatures, signatures of individuals as corporate officers on behalf of a corporation that never employed the individuals in any such capacity, and signatures of individuals as corporate officers on behalf of mortgage companies that had been dissolved by bankruptcy years prior to the assignment, among other things. Szymoniak attached to the SEC

Letter numerous examples of such fraudulent assignments including assignments to the ACE 2006-OP1 and DBALT 2006-AR5 trusts that issued RMBS purchased by Dexia.

315. The need to fabricate or fraudulently alter mortgage assignment documentation provides compelling evidence that in many cases, title to mortgages backing the Deutsche Bank RMBS purchased by Dexia were never properly transferred. Indeed, the fabrication of the mortgage assignments appears intended to conceal the actual date that the interest in the property was acquired by the RMBS trust. The fraudulent assignments uncovered in foreclosure litigation often show that the assignments were prepared and filed in 2008 and 2009, when, in reality, the mortgages and notes were intended to be assigned—albeit defectively—prior to the closing date of the trust, as stated in the Offering Materials relied on by Dexia.

316. For example, Cheryl Samons, an office manager for the Law Office of David J. Stern, a "foreclosure mill" now under investigation by the Florida Attorney General for mortgage foreclosure fraud, signed tens of thousands of documents purporting to establish mortgages assignments, including assignments for Deutsche Bank National Trust Co. and HSBC Bank as trustees for trusts that closed in 2005 and 2006 purporting to establish transfer of thousands of mortgages in 2008, 2009 and 2010 from Mortgage Electronic Registration Services, an electronic registry system that was intended to eliminate the need to file assignments in the county land records. In depositions in foreclosure actions, Samons has admitted that she had no personal knowledge of the facts recited on the mortgage assignments that were used in foreclosure actions to recover the properties underlying the mortgages backing RMBS. *See, e.g.*, Deposition of Cheryl Samons, *Deutsche Bank Nat'l Trust Co., as Trustee for Morgan Stanley ABS Capital 1 Inc. Trust 2006-HE4 v. Pierre*, No. 50-2008-CA-028558-XXXX-MB (15th Judicial Circuit, Florida, May 20, 2009). HSBC Bank and Deutsche Bank National Trust Co. served as trustee an all but two of the Deutsche Bank RMBS purchased by Dexia.

317. In another example, LPS employee Kathy Smith affixed her signature as nominee for Homestar Mortgage Lending to a loan backing the AHMA 2006-3 Deutsche Bank RMBS purchased by Dexia. Smith, however, also signed mortgage documentation as: Assistant Secretary of American Home Mortgage Servicing Inc.; Assistant Secretary of U.S. Bank, N.A.; Assistant Secretary of American Brokers Conduit; Assistant Secretary of Argent Mortgage Company, LLC; and Attorney-in-Fact for Ameriquest Mortgage Company. The fact that Smith signed mortgage documents using different titles on behalf of at least six different corporations bolsters the view that the mortgage documentation for the loans backing the AHMA 2006-3 RMBS were not properly transferred to the securitization trust at closing.

318. HSBC, which served as trustee in 24 of the 32 Deutsche Bank RMBS purchased by Dexia, has been similarly plagued by defective assignments and transfers of mortgage documents. According to HSBC's annual report for the year ended 2010 filed with the SEC, HSBC suspended its U.S. foreclosures following a joint examination by the Federal Reserve and the OCC after the regulators issued supervisory letters to HSBC that noted, according to HSBC's annual report, "certain deficiencies in the processing, preparation and signing of affidavits and other documents supporting foreclosures and in governance of an resources devoted to our foreclosure processes, including the evaluation and monitoring of third party law firms retained to effect our foreclosures."

319. Further confirming the endemic problems of defective assignments in the Deutsche Bank RMBS, servicers that act on behalf of trustees such as Deutsche Bank and HSBC have also been unable to properly foreclose on mortgaged properties that comprise Dexia's RMBS investments. For example, sworn deposition testimony from a longtime Countrywide employee regarding Countrywide-originated loans demonstrates that Countrywide systematically failed to properly transfer or assign the mortgage documents to the trustee. In *Kemp v.*

Countrywide Home Loans, Inc., et al.¸ Bankr. No. 08-18700 (D.N.J.), Linda DeMartini, a ten-year employee of Countrywide's servicing division, testified that not delivering the original note to the trustee was standard Countrywide practice, stating that the "normal course of business would include retaining the documents" and that Countrywide "transferred the rights…not the physical documents." Based on this testimony, Chief Bankruptcy Judge Judith Wizmur held that the fact that the issuing trustee "never had possession of the note is fatal to its enforcement" and, thus, that the trustee could not enforce the mortgage loan. *Kemp v. Countrywide Home Loans, Inc.*, No. 08-18700-JHW, Slip Op., at *10-11 (Bkrtcy. D.N.J. Nov. 16, 2010). Judge Wizmur further held that Countrywide Servicing also could not enforce the mortgage loan, because as an agent for the owner of the note, Countrywide Servicing had no more authority to enforce the note than its principal, the issuing trust. *Id.* at *21. Countrywide Servicing acted as a servicer of the loans backing six of the RMBS purchased by Dexia.

IX. DEFENDANTS' FALSE AND MISLEADING MISSTATEMENTS AND OMISSIONS OF MATERIAL FACT IN THE OFFERING DOCUMENTS

320. As set forth below, the Offering Materials Dexia relied upon in purchasing the Deutsche Bank RMBS contained numerous misrepresentations of material fact, or omitted to state material facts necessary to make the statements therein not misleading, regarding: (i) the originators' underwriting practices and guidelines by which the loans were originated, including the prevalence and type of exceptions to those guidelines being applied to the underlying loans, and the rampant fraud in stated income loans; (ii) the value of the underlying property securing the loans, in terms of LTV and CLTV ratios and the appraisal standards by which such mortgaged properties were measured; (iii) the due diligence that Deutsche Bank conducted into the loan sellers and the mortgage loans backing the RMBS which identified pervasive defects in the loans underlying the securitizations; (iv) the credit ratings assigned to the RMBS; (v) the

valid assignment and transfer of the mortgage loans to the issuing trusts; and (vi) the true risks of the RMBS.

A. The Offering Materials Misrepresented The Originators' And DBSP's Underwriting Guidelines

321. The originators discussed above in ¶¶67-225 originated the mortgage loans that backed the RMBS purchased by Dexia. The Offering Materials for the RMBS all contained materially similar statements of material fact regarding the originators' underwriting guidelines and practices. For example, the ACE 2007-WM1 prospectus supplement stated that:

> ***The mortgage loans have been either (i) originated generally in accordance with the underwriting guidelines established by WMC (collectively, the "Underwriting Guidelines") or (ii) purchased by GE Money Bank after re-underwriting the mortgage loans generally in accordance with the Underwriting Guidelines.*** WMC also originates certain other mortgage loans that are underwritten to the guidelines of specific investors, however, such mortgage loans are not included among those sold to the trust as described in this prospectus supplement. ***The Underwriting Guidelines are primarily intended to (a) determine that the borrower has the ability to repay the mortgage loan in accordance with its terms and (b) determine that the related mortgaged property will provide sufficient value to recover the investment if the borrower defaults. On a case-by-case basis WMC may determine that, based upon compensating factors, a prospective mortgagor not strictly qualifying under the underwriting risk category or other guidelines described below warrants an underwriting exception***. Compensating factors may include, but are not limited to, low debt-to-income ratio ("Debt Ratio"), good mortgage payment history, an abundance of cash reserves, excess disposable income, stable employment and time in residence at the applicant's current address. It is expected that a substantial number of the mortgage loans to be included in the trust will represent such underwriting exceptions.

322. The above statements of material fact and similar statements regarding the originators whose loans back the Deutsche Bank RMBS in which Dexia invested, were materially false and misleading when made because, as explained above in ¶¶67-225, they misrepresented the true facts, known by Deutsche Bank, that the originators: (i) systematically

failed to follow their stated underwriting guidelines; (ii) allowed pervasive exceptions to their underwriting standards regardless of existing compensating factors; (iii) disregarded credit quality to fuel loan originations to sell to loan purchasers such as Deutsche Bank; and (iv) routinely allowed fraudulent representations of an applicant's stated income, failed to verify a prospective borrowers documentation or statements regarding income or assets, and, in many cases, knowingly falsified the borrower's stated or documented income or assets.

323. Indeed, As the FCIC Report concluded with regard to the due diligence on the mortgage pools by third party consultant firms such as Clayton:

> [M]any prospectuses indicated that the loans in the pool either met guidelines outright or had compensating factors, even though Clayton's records show that only a portion of the loans were sampled, and that of those that were sampled, a substantial percentage of Grade 3 loans were waived in….When securitizers did kick loans out of the pools, some originators simply put them into new pools, presumably in hopes that those loans would not be captured in the next pool's sampling….Some mortgage securitizers did their own due diligence, but seemed to devote only limited resources to it....Deutsche Bank...had only [a] small due diligence team[].
>
> FCIC Report at 167-168.

324. Not only were the representations regarding the underwriting procedures and practices of the mortgage lenders that issued the loans backing the RMBS false and misleading, but Deutsche Bank also made false and misleading representations concerning DBSP's guidelines and review of mortgage loans purchased from other originators as set forth in six of the RMBS that Dexia purchased. For example, the ACE 2007-ASP2 RMBS purchased by Dexia represented DBSP's loan purchasing guidelines as follows:

> All of the Mortgage Loans were acquired by the Depositor from the Sponsor. ***The Mortgage Loans were originated by various third party originators pursuant to the underwriting standard described in this section and were reviewed by the Sponsor to ensure conformity with such underwriting standards. The***

Sponsor's underwriting standards are primarily intended to assess the ability and willingness of a borrower to repay the debt of the mortgage loan and to evaluate the adequacy of the related mortgaged property as collateral for the mortgage loan. All of the mortgage loans in the mortgage pool were also underwritten with a view toward the resale of the mortgage loans in the secondary mortgage market. ***In underwriting a mortgage loan, the Sponsor considers, among other things, a mortgagor's credit history, repayment ability and debt service-to-income ratio (referred to in this section of the prospectus supplement as the "Debt Ratio"), as well as the value, type and use of the mortgaged property.***

* * *

The Sponsor acquires mortgage loans secured by one-to-four unit residential properties made to eligible borrowers with a vested fee simple (or in some cases a leasehold) interest in the property. ***The Sponsor's guidelines are applied in accordance with a procedure which complies with applicable federal and state laws and regulations and generally require an appraisal of the mortgaged property which conforms to Freddie Mac and/or Fannie Mae standards, and if appropriate, a review appraisal.*** Generally, appraisals are provided by an approved list of appraisers maintained by the Sponsor. Additionally, review appraisals may only be provided by appraisers other than the original appraiser approved by the Sponsor. In some cases, the Sponsor relies on a statistical appraisal methodology provided by a third-party.

* * *

The Sponsor conducts a number of quality control procedures, including a full re-underwriting of a random selection of mortgage loans to assure asset quality. Under the asset quality procedure, a random selection of each month's originations is reviewed. The mortgage loan review confirms the existence and accuracy of legal documents, credit documentation, appraisal analysis and underwriting decision. A report detailing audit findings and level of error is sent monthly to management for response. The audit findings and management response are then reviewed by the Sponsor's senior management. Adverse findings are tracked monthly over a rolling six month period. This review procedure allows the Sponsor to assess programs for potential guideline changes, program enhancements, appraisal policies, areas of risk to be reduced or eliminated and the need for additional staff training.

* * *

> All of the Mortgage Loans were reviewed by the Sponsor's contract underwriters. ***On a case by case basis, the Sponsor may determine that, based upon compensating factors, a prospective borrower who does not strictly qualify under the underwriting risk category guidelines described below warrants an underwriting exception.*** Compensating factors may include, but are not limited to, low loan-to-value ratio, low Debt Ratio, substantial liquid assets, good credit history, stable employment and time in residence at the applicant's current address. It is expected that an insignificant portion of the Mortgage Loans may represent such underwriting exceptions.

325. The above statements of material fact and similar statements regarding DBSP's loan purchasing guidelines as set forth in the Offering Materials of the Deutsche Bank RMBS in which Dexia invested, were materially false and misleading when made because, as explained above in ¶¶67-96, they misrepresented the true facts, known by Deutsche Bank, that DBSP: (i) systematically and flagrantly failed to follow its stated underwriting guidelines as demonstrated through the plethora of defective loans that plague the Deutsche Bank RMBS; (ii) allowed pervasive exceptions to its purchasing guidelines, regardless of existing compensating factors; (iii) disregarded credit quality to increase the amount of loans that it could purchase to fuel Deutsche Bank's RMBS securitization pipeline; and (iv) failed to review or recklessly ignored material defects in the mortgage loans it did review as part of a full-underwriting to assure asset quality.

B. The Offering Materials Misrepresented The Appraisals And LTV Ratios Of The Securitized Loans

326. The adequacy of the mortgaged properties as security of the repayment of the loans was purportedly determined by appraisals. The Offering Materials represented that independent appraisals were prepared for each mortgaged property and that reports were prepared to substantiate these appraisals. For example, as outlined in the ACE 2006-NC2 Offering Materials:

Mortgaged properties that are to secure mortgage loans generally are appraised by qualified independent appraisers. These appraisers inspect and appraise the subject property and verify that the property is in acceptable condition. Following each appraisal, the appraiser prepares a report that includes a market value analysis based on recent sales of comparable homes in the area and, when deemed appropriate, replacement cost analysis based on the current cost of constructing a similar home. ***All appraisals are required to conform to the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation and are generally on forms acceptable to Fannie Mae and Freddie Mac. The New Century Underwriting Guidelines require a review of the appraisal by a qualified employee of New Century or by an appraiser retained by New Century.*** New Century uses the value as determined by the review in computing the loan-to-value ratio of the related mortgage loan if the appraised value of a mortgaged property, as determined by a review, is (i) more than 10% greater but less than 25% lower than the value as determined by the appraisal for mortgage loans having a loan-to-value ratio or a combined loan-to-value ratio of up to 90%, and (ii) more than 5% greater but less than 25% lower than the value as determined by the appraisal for mortgage loans having a loan-to-value ration or a combined loan-to-value ratio of between 91-95%. For mortgage loans having a loan-to-value ratio or a combined loan-to-value ratio greater than 95%, the appraised value as determined by the review is used in computing the loan-to-value ratio of the related mortgage loan. If the appraised value of a mortgaged property as determined by a review is 25% or more lower than the value as determined by the appraisal, then New Century obtains a new appraisal and repeats the review process.

*　　*　　*

The New Century Underwriting Guidelines generally permit loans on one- to four- family residential properties to have a loan-to-value ratio at origination of up to 95% with respect to first liens loans. ***The maximum loan-to-value ratio depends on, among other things, the purpose of the mortgage loan, a borrower's credit history, home ownership history, mortgage payment history or rental payment history, repayment ability and debt service-to-income ratio, as well as the type and use of the property.*** With respect to mortgage loans secured by mortgaged properties acquired by a mortgagor under a "lease option purchase," the loan-to-value ratio of the related mortgage loan is based on the lower of the appraised value at the time of origination of the mortgage loan or the sale price of the related mortgaged property if the "lease option purchase price" was set less than 12 months prior to origination and is based on the appraised value at

> the time of origination if the "lease option purchase price" was set 12 months or more prior to origination.

327. As discussed above in ¶¶67-225, the representations regarding appraisals and LTV ratios were materially false and misleading in that they misrepresented that the appraisal process employed by the originators, including, among others things, the fact that: (i) the appraisers were not independent from the respective mortgage lenders, which pressured appraisers to value the mortgaged property at a pre-determined, preconceived, inflated, and false appraisal value; (ii) the actual LTV ratios for many of the mortgage loans underlying the RMBS would have exceeded 100% if the mortgaged properties had been appraised by an independent appraiser as represented in the Offering Documents; (iii) sales managers employed by the respective originators had and utilized the authority to override and inflate an appraiser's final professional valuation of the mortgaged property; and, as such, (iv) the appraisals failed to conform to the standards set by Fannie Mae and Freddie Mac.

C. The Offering Materials Misrepresented Deutsche Bank's Due Diligence Into The Loan Sellers And The Mortgage Loans Backing The RMBS

328. The majority of the Deutsche Bank RMBS purchased by Dexia were securitized through principal securitization whereby investors such as Dexia expect the involvement of a sophisticated investment bank such as Deutsche Bank throughout the securitization process to warrant a high degree of oversight and due diligence conducted into the mortgages being selected for inclusion in the RMBS. The Offering Materials for the RMBS purchased by Dexia represented as much. For example, as discussed in the ACE 2007-ASP1 Offering Materials:

> All of the Mortgage Loans were acquired by the Depositor from the Sponsor. The Mortgage Loans were originated by various third party originators pursuant to the underwriting standard described in this section and were reviewed by the Sponsor to ensure conformity with such underwriting standards.

* * *

> ***The Sponsor conducts a number of quality control procedures, including a full re-underwriting of a random selection of mortgage loans to assure asset quality. Under the asset quality procedure, a random selection of each month's originations is reviewed. The mortgage loan review confirms the existence and accuracy of legal documents, credit documentation, appraisal analysis and underwriting decision. A report detailing audit findings and level of error is sent monthly to management for response.*** The audit findings and management responses are then reviewed by the Sponsor's senior management. Adverse findings are tracked monthly and over a rolling six month period. This review procedure allows the Sponsor to assess programs for potential guideline changes, program enhancements, appraisal policies, areas of risk to be reduced or eliminated and the need for additional staff training.

329. As outlined above in ¶¶67-225, these statements of material fact and similar statements appearing in the Offering Materials for each of the Certificates were false and misleading when made because, in truth: (i) Deutsche Bank routinely ignored the pervasive defects that its internal and external due diligence processes identified in the loans Deutsche Bank had purchased for securitization; (ii) Deutsche Bank routinely overruled the determinations of its due diligence providers and purchased defective mortgage loans to be placed in the mortgage pools backing its RMBS; and (iii) Deutsche Bank used the information developed through its due diligence into loans that failed to meet underwriting guidelines to negotiate with the mortgage originators a lower price for the relevant loan pools at the cost of investors.

D. Defendants Materially Misrepresented The Accuracy Of The Credit Ratings Assigned To The Certificates

330. Defendants represented in the Offering Materials that all of the RMBS purchased by Dexia were worthy of being rated "AAA," signifying that the risk of loss was virtually non-existent.

331. By providing ratings, Defendants represented that they believed that the information provided to the rating agencies to support these ratings accurately reflected Deutsche Bank's underwriting guidelines and practices, and the specific qualities of the underlying loans. As explained above in ¶¶67-225, this representation was false.

332. Defendants further represented in the Offering Materials, in sum or substance, that:

> It is a condition to the issuance of the certificates that the Senior Certificates and Mezzanine Certificates receive at least the following ratings from Standard & Poor's Ratings Services, a division of The McGraw Hill Companies, Inc. ("S&P"), Moody's Investors Service, Inc. ("Moody's") and Fitch Ratings ("Fitch Ratings"):

Offered Certificates	S&P	Moody's	Fitch Ratings
Class I-A-1	AAA	Aaa	NR
Class I-A-2	AAA	Aaa	NR
Class I-A-3	AAA	Aaa	NR
Class I-A-4	AAA	Aaa	NR
Class II-1A	AAA	Aaa	AAA
Class II-2A	AAA	Aaa	AAA
Class II-3A	AAA	Aaa	AAA
Class II-X1	AAA	Aaa	AAA
Class II-X2	AAA	Aaa	AAA
Class II-PO	AAA	Aaa	AAA
Class II-AR	AAA	NR	AAA
Class I-M-1	AA+	Aa1	NR
Class I-M-2	AA+	Aa2	NR
Class I-M-3	AA	Aa3	NR
Class I-M-4	AA	A1	NR
Class I-M-5	AA-	A2	NR
Class I-M-6	A+	A3	NR
Class I-M-7	A+	Baa1	NR
Class I-M-8	BBB+	Baa2	NR
Class I-M-9	BBB+	Baa3	NR
Class I-M-10	BBB-	Ba2	NR
Class II-M	NR	NR	AA
Class II-B-1	NR	NR	A
Class II-B-2	NR	NR	BBB

> The ratings on the Offered Certificates address the likelihood of the receipt by certificateholders of all distributions with respect to the underlying Mortgage Loans to which they are entitled.

333. These statements regarding the ratings assigned to the RMBS were false and misleading because Defendants stated the assigned ratings while knowing that misleading information was provided to the rating agencies by Deutsche Bank to guarantee AAA or otherwise investment grade ratings were assigned to the RMBS.

E. Defendants Made False And Misleading Statements Of Material Fact Regarding The Transfer And Assignment Of Good Title Of The Mortgage Loans To The Issuing Trusts

334. Defendants stated in the Offering Materials that the issuing trusts possessed good title to the mortgage loans. For example, as discussed in the ACS 2006-HE2 prospectus supplement:

> ***On the Closing Date, the Depositor will transfer to the trust all of its right, title and interest in and to each Mortgage Loan, the related mortgage note, mortgage, assignment of mortgage in recordable form in blank and other related documents (collectively, the "Related Documents"), including all scheduled payments with respect to each such Mortgage Loan due after the Cut-off Date.*** The Trustee, concurrently with such transfer, will deliver the certificates to the Depositor. Each Mortgage Loan transferred to the trust will be identified on a schedule (the "Mortgage Loan Schedule") delivered to the Trustee and the Servicer pursuant to the Pooling and Servicing Agreement. The Mortgage Loan Schedule will include information such as the principal balance of each Mortgage Loan as of the Cut-off Date, its Mortgage Rate as well as other information with respect to each Mortgage Loan.

335. Similarly, the INDX 2006-AR15 prospectus supplement represented the following:

> ***The seller represents that immediately before the assignment of the Mortgage Loans to the depositor, it will have good title to, and will be the sole owner of, each Mortgage Loan*** free and clear of any pledge, lien, encumbrance or security interest and will have full right and authority, subject to no interest or participation of, or

> agreement with, any other party, to sell and assign the Mortgage Loans pursuant to the pooling and servicing agreement.

336. These representations and similar representations in the Offering Materials for each of the Certificates were false because, as alleged in detail in ¶¶67-225, Defendants routinely failed to properly deliver the original promissory notes and security instruments for the mortgage loans to the issuing trusts, as required by applicable state laws and the pooling and servicing agreements. These representations were also false because Defendants routinely failed to execute valid indorsements of the documents at the time of the purported transfer, as also required by applicable state laws and the pooling and servicing agreements. The issuing trusts therefore did not possess "all right, title and interest in and to each mortgage loan" and lacked legal authority to enforce many of the mortgage loans against the borrowers in case of default.

F. Defendants' Purported Warnings Regarding The Risks Of The RMBS Contained False And Misleading Statements And Omissions Of Material Fact

337. Defendants' representations regarding the risks of the RMBS contained false statements and omissions of material fact. For example, as stated in the ACE 2007-WM2 Offering Materials:

> The Mortgage Loans were underwritten to standards which do not conform to the standards of Fannie Mae or Freddie Mac.
>
> * * *
>
> In addition, mortgage loans originated by the Originator generally bear higher rates of interest than mortgage loans originated in accordance with Fannie Mae and Freddie Mac guidelines and may experience rates of delinquency, foreclosure and bankruptcy that are higher, and that may be substantially higher, than those experienced by mortgage loans underwritten in accordance with Fannie Mae and Freddie Mac guidelines.
>
> Furthermore, changes in the values of mortgaged properties may have a greater effect on the delinquency, foreclosure, bankruptcy and loss experience of the Mortgage Loans than on mortgage loans

> originated in accordance with Fannie Mae and Freddie Mac guidelines. No assurance can be given that the values of the related mortgaged properties have remained or will remain at the levels in effect on the dates of origination of the related Mortgage Loans. See "The Mortgage Pool—Underwriting Standards" in this prospectus supplement.
>
> * * *
>
> Approximately 30.67% of the Group I Mortgage Loans and approximately 25.11% of the Group II Mortgage Loans, in each case by the related aggregate principal balance as of the Cut-off Date, had a combined loan-to-value ratio at origination in excess of 80.00%.
>
> An overall decline in the residential real estate market, a rise in interest rates over a period of time and the condition of a mortgaged property, as well as other factors, may have the effect of reducing the value of the mortgaged property from the appraised value at the time the Mortgage Loan was originated. If there is a reduction in the value of the mortgaged property, the combined loan-to-value ratio may increase over what it was at the time the Mortgage Loan was originated. Such an increase may reduce the likelihood of liquidation or other proceeds being sufficient to satisfy the Mortgage Loan, and any losses to the extent not covered by the credit enhancement may affect the yield to maturity of your certificates. There can be no assurance that the value of a mortgaged property estimated in any appraisal or review is equal to the actual value of that mortgaged property at the time of that appraisal or review. Investors should note that the values of the mortgaged properties may be insufficient to cover the outstanding principal balance of the Mortgage Loans. There can be no assurance that the combined loan-to-value ratio of any Mortgage Loan determined at any time after origination will be less than or equal to its combined loan-to-value ratio at origination.

338. The Offering Materials also made the following representations concerning credit ratings:

> Each rating agency rating the Offered Securities may change or withdraw its initial ratings at any time in the future if, in its judgment, circumstances warrant a change. No person is obligated to maintain the ratings at their initial levels. If a rating agency reduces or withdraws its rating on one or more classes of the Offered Securities, the liquidity and market value of the affected securities is likely to be reduced.

339. These and similar purported warnings in the Offering Materials were themselves materially false and misleading because they failed to convey the severity of the investment risk at the time of the offering because: (i) the stated underwriting standards and practices of the mortgage originators from which Deutsche Bank purchased the loans that comprised the RMBS, were not merely "less stringent" than Fannie Mae's and Freddie Mac's underwriting guidelines—they were completely disregarded by the mortgage lenders discussed above, resulting in loans that presented extremely high risks of default; (ii) Deutsche Bank concealed that the due diligence it conducted on the mortgage loans that comprised the relevant RMBS revealed a substantial number of defective loans; (iii) Deutsche Bank materially misrepresented the originators' rampant use of exceptions in the absence of existing compensating factors in order to generate loan volume and profits; (iv) Deutsche Bank misrepresented that it routinely purchased loans with LTV and CLTV ratios over 100%, which it would then securitize into RMBS and sell to investors; (v) Deutsche Bank concealed that the loans underlying its RMBS were issued pursuant to inflated appraisals; (vi) Deutsche Bank misrepresented that the loans comprising the RMBS were issued to borrowers regardless of the borrowers' ability to repay the mortgage loan; and (vii) Deutsche Bank intentionally provided misleading information to the rating agencies to guarantee AAA or otherwise investment grade ratings were assigned to the RMBS, such that the initial ratings assigned to the RMBS were never justified and faced an extremely high risk of severe downgrades.

340. Moreover, Defendants' purported warnings about the financial distress of the mortgage lenders that originated the loans underlying the relevant RMBS, including statements regarding Fremont and New Century in certain of the RMBS Offering Materials, were false and misleading when made because the purported warnings misrepresented: (i) that Deutsche Bank had performed due diligence on the loans backing the Deutsche Bank RMBS that revealed they

were not underwritten according to the originators' stated guidelines or with regard to a borrower's ability to repay the loan; (ii) that Deutsche Bank knew that these originators had, with increasing frequency, engaged in practices to make it appear as though defaulting loans were actually performing so they could be securitized; (iii) that Deutsche Bank in certain cases actively participated in these attempts in order to protect its own warehouse lines of credit that were put at risk by these originators' precarious financial condition; and (iv) that Deutsche Bank never ensured proper transfer of title so that when borrowers defaulted, Dexia and other Deutsche Bank RMBS investors would be unable to seek recovery on the property that served as collateral for the underlying loans through foreclosure. Indeed, the fact that Deutsche Bank secured AAA ratings for the RMBS backed by IndyMac, Fremont, and New Century loans and touted its due diligence of those loans even while purportedly warning of the particular risks relating to the mortgages originated by those lenders conveyed to investors like Dexia that Deutsche Bank had verified that the loans conformed to the originators' stated underwriting guidelines.

341. By purporting to warn RMBS investors like Dexia of matters that Deutsche Bank already knew, or recklessly disregarded, to exist at the time the RMBS were issued, Deutsche Bank misled Dexia to believe that these risks were mere potentialities and not circumstances that already existed when the RMBS were issued.

X. DEXIA'S INVESTMENT IN THE RMBS AND RELIANCE ON DEUTSCHE BANK'S MISREPRESENTATIONS

342. The Deutsche Bank RMBS for all offerings were issued pursuant to the Offering Materials, and in a few instances, private placement memoranda, which contained the false and misleading statements set forth above. These documents also generally explained the structure

and provided an overview of the RMBS. ACE Securities Corp. or Deutsche Alt-A Securities, Inc. prepared the Offering Materials.

343. The prospectus supplements contained detailed descriptions of the mortgage pools underlying the RMBS. The respective prospectus supplements provided the specific terms of the particular RMBS offering. Each prospectus supplement included tabular data concerning the loans underlying the RMBS, including (but not limited to) the type of loans; the number of loans; the mortgage rate and net mortgage rate (the mortgage rate net of the premium for any lender paid mortgage insurance less the sum of the master servicing fee and the trustee fee on the mortgage loan); the aggregate scheduled principal balance of the loans; the weighted average original combined LTV ratio; occupancy rates; credit enhancement; and the geographic concentration of the mortgaged properties. The prospectus supplements also contained a summary of the originators' underwriting and appraisal standards, guidelines and practices. The registration statements incorporated by reference the subsequently filed prospectuses and prospectus supplements.

344. In deciding to purchase the RMBS, Dexia relied on the Defendants' false representations and omissions of material fact regarding their underwriting standards and the characteristics of the mortgage loans underlying the RMBS. But for the Defendants' fraudulent representations and omissions, Dexia would not have purchased the RMBS.

345. Dexia reasonably relied upon the Defendants' representations in the Offering Materials regarding loan quality and Deutsche Bank's reputation. Dexia did not know at the time they purchased the RMBS, and could not have known, that the originators were not following their stated underwriting guidelines, leading to a drastic increase in the origination of risky loans, nor did they know that the property appraisals secured by the originators were not independent and resulted in false appraisal values. Dexia also did not know that the originators

knowingly or recklessly accepted false information about material fact such as borrowers' stated income and intention to live in the mortgaged properties, which caused the Defendants' representations to be false. Dexia did not know that Deutsche Bank's due diligence had identified significant problems with the originators' loans or that Deutsche Bank's own internal analyses had concluded that the vast majority of the loans underlying the RMBS would not be able to be repaid. If Dexia had known these and other material facts regarding Deutsche Bank's fraudulent misrepresentations and omissions of material fact, Dexia would not have purchased the RMBS.

346. Deutsche Bank's misrepresentations and omissions of material fact caused Dexia to suffer losses on the RMBS, because the RMBS were in fact far riskier—and their rate of default far higher—than the Defendants had described them to be. The mortgage loans underlying the RMBS experienced defaults and delinquencies at a much higher rate due to the originators' abandonment of their loan-origination guidelines.

347. Dexia purchased each Deutsche Bank RMBS in reliance on the information contained in the applicable Offering Materials, and based on additional information provided to Dexia's investment personnel or managers by Defendants. In connection with the offers and sales of the RMBS to Dexia, Deutsche Bank provided directly or indirectly to Dexia's investment personnel or managers in New York the Offering Materials and additional documents, such as statistical tables to be included in the prospectus supplements. These documents included term sheets, pooling and servicing agreements, computational material, data regarding the LTV and debt-to-income ratios of the pools, and computer models of the financial structures of the securitizations. Similar information was sent to and analyzed by Dexia's investment personnel and managers if the RMBS was sold to them in the secondary market.

348. Dexia reviewed and analyzed the information provided directly or indirectly by Deutsche Bank and Defendants with respect to each offering of RMBS and performed various analyses of the RMBS-specific data for each offering before deciding to purchase RMBS in the offering. The analyses conducted by Dexia before deciding to purchase a RMBS included various credit analyses based on the information provided by Deutsche Bank and Defendants with respect to both the credit characteristics of the mortgage loan pool (including, for example, geographic concentration; weighted average life; fixed- or floating-rate loans; full-, low-, or no-documentation "stated income" loans; and owner-occupied, second home, or investment properties), and the structure of the securitization with respect to the seniority and risk characteristics of the particular tranche of RMBS (including, for example, position in the payment "waterfall").

349. Thus, Dexia justifiably relied on the information in the term sheets, computational material, and other data provided directly or indirectly by Deutsche Bank and Defendants for each offering of the RMBS. These documents contained numerous statements of material fact about the RMBS, including statements concerning: (i) the mortgage originators' underwriting guidelines that were purportedly applied to evaluate the ability of the borrowers to repay the loans underlying the RMBS; (ii) the appraisal guidelines that were purportedly applied to evaluate the value and adequacy of the mortgaged properties as collateral; (iii) the LTV ratios, debt to income ratios, and purported occupancy status of the mortgaged properties, including whether the properties were "owner occupied," "second homes," or "investment properties"; (iv) Deutsche Bank's and Defendants' due diligence of the loans and the originators' underwriting practices; (v) various forms of credit enhancement applicable to certain tranches of RMBS; and (vi) the ratings assigned to the RMBS.

350. These statements of material fact were untrue because: (i) the originators violated their stated underwriting guidelines and did not originate loans based on the borrowers' ability to repay; and (ii) inflated appraisals caused the listed LTV ratios and levels of credit enhancement to be untrue. In addition, metrics such as debt-to-income ratios were untrue as a result of the other mortgage originators' acceptance of untrue information from mortgage applicants. For example, Deutsche Bank and the other mortgage originators allowed applicants for "stated income" loans to provide untrue income information and did not verify the applicants' purported income. In addition, the credit ratings on which Dexia relied were materially misleading, did not reflect the true credit quality of the RMBS and were the result of intentional manipulation.

XI. BECAUSE OF DEFENDANTS' FRAUDULENT CONDUCT, DEXIA SUFFERED LOSSES ON ITS PURCHASES OF RMBS

351. The ratings on virtually all of the RMBS have since been downgraded and they are no longer marketable at the prices paid for them by Dexia. All of the RMBS in which Dexia purchased interests were rated "AAA" at issuance and have now been downgraded to junk.

352. Further, the delinquency, bank ownership and foreclosure rates on the underlying mortgages have soared since issuance. The average percentage of loans that are currently 60 days or more delinquent, in foreclosure, or bank-owned approaches 35%. Moreover, these current performance numbers do not reflect the number of loans which have been foreclosed since issuance and which are no longer included within the loan pools. A substantial number of the original loans contained in the loan pools have been removed from the pools, largely due to either foreclosure or early payout, negatively impacting the income payable to certificate-holders.

FIRST CAUSE OF ACTION

(Common Law Fraud Against Deutsche Bank AG, Deutsche Bank Securities, Inc., ACE Securities Corp., Deutsche Alt-A Securities, Inc. and DB Structured Products, Inc.)

353. Dexia repeats and realleges the allegations set forth in the preceding paragraphs, as if fully set forth herein.

354. As alleged above, in the Offering Materials and in their public statements, Deutsche Bank AG, Deutsche Bank Securities, Inc., ACE Securities Corp., Deutsche Alt-A Securities, Inc. and DB Structured Products, Inc. (the "Defendants") made fraudulent and false statements of material fact, and omitted material facts necessary in order to make their statements, in light of the circumstances under which the statements were made, not misleading.

355. As a corporate parent, Deutsche Bank AG directed the activities of Deutsche Bank Securities, Inc., ACE Securities Corp., Deutsche Alt-A Securities, Inc., and DB Structured Products, Inc.

356. Defendants knew at the time they sold and marketed each of the RMBS that the foregoing statements were false or, at the very least, made recklessly.

357. Defendants made these materially misleading statements and omissions for the purpose of inducing Dexia to purchase the RMBS. Furthermore, these statements related to these Defendants' own acts and omissions.

358. Defendants knew or recklessly disregarded that investors like Dexia were relying on their expertise, and they encouraged such reliance through the Offering Materials and their public representations, as described herein. Defendants knew or recklessly disregarded that investors like Dexia would rely upon their representations in connection their decision to purchase the RMBS. Defendants were in a position of unique and superior knowledge regarding the true facts concerning the foregoing material misrepresentations and omissions.

359. It was only by making such representations that Defendants were able to induce Dexia to buy the RMBS. Dexia would not have purchased or otherwise acquired the RMBS but for Defendants' fraudulent representations and omissions about the quality of the RMBS.

360. Dexia justifiably, reasonably, and foreseeably relied upon Defendants' representations and false statements regarding the quality of the RMBS.

361. As a result of Defendants' false and misleading statements and omissions, as alleged herein, Dexia has suffered substantial damages.

362. Because Defendants committed these acts and omissions maliciously, wantonly and oppressively, and because the consequences of these acts knowingly affected the general public, including but not limited to all persons with interests in the RMBS, Dexia is entitled to recover punitive damages.

SECOND CAUSE OF ACTION

(Fraudulent Inducement Against Deutsche Bank AG, Deutsche Bank Securities, Inc., ACE Securities Corp., Deutsche Alt-A Securities, Inc. and DB Structured Products, Inc.)

363. Dexia repeats and realleges the allegations set forth in the preceding paragraphs, as if fully set forth herein.

364. As alleged above, in the Offering Materials and in other communications to Dexia, Deutsche Bank AG, Deutsche Bank Securities, Inc., ACE Securities Corp., Deutsche Alt-A Securities, Inc. and DB Structured Products, Inc. ("the Defendants") made fraudulent and false statements of material fact, and omitted material facts necessary in order to make their statements, in light of the circumstances under which the statements were made, not misleading.

365. This is a claim for fraudulent inducement against Defendants. As a corporate parent, Deutsche Bank AG directed the activities of Deutsche Bank Securities, Inc., ACE Securities Corp., Deutsche Alt-A Securities, Inc., and DB Structured Products, Inc.

366. Defendants knew at the time they sold and marketed each of the RMBS that the foregoing statements were false or, at the very least, made recklessly.

367. Defendants made these materially misleading statements and omissions for the purpose of inducing Dexia to purchase the RMBS. Furthermore, these statements related to these Defendants' own acts and omissions.

368. Defendants knew or recklessly disregarded that investors like Dexia were relying on their expertise, and they encouraged such reliance through the Offering Materials and their public representations, as described herein. Defendants knew or recklessly disregarded that investors like Dexia would rely upon their representations in connection with their decision to purchase the RMBS. Defendants were in a position of unique and superior knowledge regarding the true facts concerning the foregoing material misrepresentations and omissions.

369. It was only by making such representations that Defendants were able to induce Dexia to buy the RMBS. Dexia would not have purchased or otherwise acquired the RMBS but for Defendants' fraudulent representations and omissions about the quality of the RMBS.

370. Dexia justifiably, reasonably, and foreseeably relied on Defendants' representations and false statements regarding the quality of the RMBS.

371. By virtue of Defendants' false and misleading statements and omissions, as alleged herein, Dexia has suffered substantial damages and are also entitled to rescission or rescissory damages.

THIRD CAUSE OF ACTION

(Aiding And Abetting Fraud Against Deutsche Bank AG, Deutsche Bank Securities, Inc., ACE Securities Corp., Deutsche Alt-A Securities, Inc. and DB Structured Products, Inc.)

372. Dexia repeats and realleges the allegations set forth in the preceding paragraphs, as if fully set forth herein.

373. This is a claim against the above-named Defendants for aiding and abetting the fraud by Deutsche Bank AG, Deutsche Bank Securities, Inc., ACE Securities Corp., Deutsche Alt-A Securities, Inc. and DB Structured Products, Inc. (the "Defendants"). Each of these Defendants aided and abetted the fraud committed by and among all of the other Defendants.

374. The above-named Defendants knew of the fraud perpetrated by Deutsche Bank AG, Deutsche Bank Securities Inc., ACE Securities Corp., Deutsche Alt-A Securities, Inc. and DB Structured Products, Inc. on Dexia. As alleged in detail above, each of the Defendants knew that the RMBS were not backed by high quality loans and were not underwritten according to the originators' underwriting standards, conducted due diligence on the loan pools securitized into the Deutsche Bank RMBS purchased by Dexia that identified the originators' deviations from loan underwriting and appraisal standards, participated in those violations and had actual knowledge of their own acts, or participated in and had actual knowledge of Defendants' failure to convey good title to the mortgage loans underlying the Certificates to the issuing trusts.

375. Furthermore, the above-named Defendants provided Deutsche Bank AG, Deutsche Bank Securities, Inc., DB Structured Products, Inc. ACE Securities Corp., and Deutsche Alt-A Securities, Inc. with substantial assistance in advancing the commission of the fraud. As alleged in detail above, each of the Defendants participated in the violations of concealing the originators' deviations from their stated mortgage loan underwriting and appraisal standards, made false statements about the originators' mortgage loan underwriting and appraisal standards and Deutsche Bank's own underwriting guidelines, provided false information about the mortgage loans underlying the Certificates to the credit rating agencies, provided false information for use in the Offering Materials, or participated in the failure to properly endorse and deliver the mortgage notes and security documents to the issuing trusts.

376. It was foreseeable to the Defendants at the time they actively assisted in the commission of the fraud that Dexia would be harmed as a result of their assistance.

377. As a direct and natural result of the fraud committed by Defendants and the Defendants' knowing and active participation therein, Dexia has suffered substantial damages.

FOURTH CAUSE OF ACTION

(Negligent Misrepresentation Against Deutsche Bank AG, Deutsche Bank Securities, Inc., DB Structured Products, Inc., ACE Securities Corp. and Deutsche Alt-A Securities, Inc.)

378. Dexia repeats and realleges each and every allegation set forth in the preceding paragraphs above as if fully set forth herein, except any allegations that the Defendants made any untrue statements and omissions intentionally or recklessly. For the purposes of this Count, Dexia expressly disclaims any claim of fraud or intentional misconduct.

379. This is a claim for negligent misrepresentation against Deutsche Bank AG, Deutsche Bank Securities, Inc., DB Structured Products, Inc., ACE Securities Corp. and Deutsche Alt-A Securities, Inc. (the "Defendants").

380. Dexia made 36 separate investments in 32 Offerings of RMBS that the Defendants securitized and sold.

381. It is commonly accepted industry practice for underwriters of RMBS to perform due diligence of the loans backing the RMBS to ensure that quality of the loans are as represented in the offering materials provided to investors. Moreover, Defendants represented they conducted due diligence of the loans securitized in the RMBS that Dexia purchased. For example, the Offering Materials for ACE 2007-ASP2 RMBS purchased by Dexia represented that:

> All of the Mortgage Loans were acquired by the Depositor from the Sponsor. ***The Mortgage Loans were originated by various third party originators pursuant to the underwriting standard described in this section and were reviewed by the Sponsor to***

> ***ensure conformity with such underwriting standards. The Sponsor's underwriting standards are primarily intended to assess the ability and willingness of a borrower to repay the debt of the mortgage loan and to evaluate the adequacy of the related mortgaged property as collateral for the mortgage loan.*** All of the mortgage loans in the mortgage pool were also underwritten with a view toward the resale of the mortgage loans in the secondary mortgage market. ***In underwriting a mortgage loan, the Sponsor considers, among other things, a mortgagor's credit history, repayment ability and debt service-to-income ratio (referred to in this section of the prospectus supplement as the "Debt Ratio"), as well as the value, type and use of the mortgaged property.***

382. The purpose and effect of representations that Defendants performed due diligence, and the understanding that the RMBS underwriters generally perform such due diligence, was to assure Dexia that it could reasonably rely upon the Offering Materials. Moreover, by virtue of the due diligence they performed, and their extensive role in originating, purchasing, securitizing and selling the RMBS that Dexia purchased, Defendants had unique and special knowledge and expertise regarding the loans backing those securities, including their quality, the nature of the underwriting, and the value of the collateral.

383. In particular, because Dexia neither had information regarding the lenders for loans originated or acquired by DBSP nor had access to the loan files for the mortgage loans underlying the Deutsche Bank RMBS, and because Dexia could not examine the underwriting quality of the mortgage loans in the securitizations on a loan-by-loan basis, it was heavily dependent on the Defendants' unique and special knowledge regarding the DBSP loans that backed the RMBS at issue when determining whether to invest in each RMBS. Dexia was entirely dependent on the Defendants to provide accurate information regarding the loans in engaging in that analysis. Accordingly, the Defendants were uniquely situated to evaluate the economics of each RMBS.

384. Because Dexia was without access to critical information regarding the loans backing the Deutsche Bank RMBS and Deutsche Bank represented that it would perform due diligence on the loans underlying the RMBS originated or otherwise acquired by DBSP, coupled with the industry understanding that RMBS underwriters perform due diligence, Deutsche Bank had a duty to Dexia to verify the accuracy of the Offering Materials.

385. Over the course of almost two years, for thirty three separate investments, Dexia relied on the Defendants' unique and special knowledge regarding the quality of the underlying mortgage loans and their underwriting when determining whether to invest in the Offerings. This longstanding relationship, coupled with the Defendants' unique and special knowledge about the underlying loans, created a special relationship of trust, confidence, and dependence between the Defendants and Dexia.

386. The Defendants were aware that Dexia relied on their unique and special expertise and experience and depended upon them for accurate and truthful information. The Defendants also knew that the facts regarding Deutsche Bank's compliance with its underwriting standards were exclusively within their knowledge.

387. Based on their expertise, superior knowledge, and relationship with Dexia, the Defendants owed a duty to Dexia to provide complete, accurate, and timely information regarding the mortgage loans and the RMBS. The Defendants breached their duty to provide such information to Dexia.

388. The Defendants likewise made misrepresentations which they knew, or were negligent in not knowing at the time, to be false, in order to induce Dexia's investment in the RMBS. The Defendants provided the Offering Materials to Dexia in connection with the RMBS, for the purpose of informing Dexia of material facts necessary to make an informed judgment about whether to purchase the RMBS in the Offerings. In providing these documents,

the Defendants knew that the information contained and incorporated therein would be used for a serious purpose, and that Dexia, like other reasonably prudent investors, intended to rely on the information.

389. As alleged above, the Offering Materials contained materially false and misleading information.

390. The Defendants acted negligently in making the materially false and misleading to Dexia.

391. Unaware that the Offering Materials contained materially false and misleading statements, Dexia reasonably relied on those false and misleading statements when deciding to purchase the non-secondary RMBS in the Offerings.

392. Dexia purchased RMBS from ACE Securities Corp., Deutsche Alt-A Securities, Inc. and from Deutsche Bank, in the RMBS offerings, and are therefore in privity with Deutsche Bank, ACE Securities Corp. and Deutsche Alt-A Securities, Inc.

393. Based on the Defendants' expertise and specialized knowledge, and in light of the false and misleading representations in the Offering Materials, the Defendants owed Dexia a duty to provide it with complete, accurate, and timely information regarding the quality of the RMBS, and breached their duty to provide such information to Dexia.

394. Dexia reasonably relied on the information provided by the Defendants and have suffered substantial damages as a result of their misrepresentations.

PRAYER FOR RELIEF

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

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

(b) Awarding punitive damages for Plaintiffs' common-law fraud claims;

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

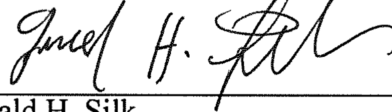
(d) Such other relief as the Court may deem just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury on all claims so triable.

Dated: July 13, 2011

BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP



Gerald H. Silk
Avi Josefson
Michael D. Blatchley
Ross Shikowitz
1285 Avenue of the Americas, 38th Floor
New York, NY 10019
Tel: (212) 554-1400
Fax: (212) 554-1444
jerry@blbglaw.com
avi@blbglaw.com
michaelb@blbglaw.com
ross@blbglaw.com

Counsel for Plaintiffs